

# The General Assembly

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When the 2017 legislative long session adjourned on June 30, it clocked in at one of the shortest on record, but the length of session was extended by reconvened sessions that took place in August, October, and January/February. The General Assembly convened on January 11 for a one day organizational session, reconvened to begin the session's work on January 25, and adjourned on June 30 with plans to hold reconvened sessions on August 3 and September 6 (although, they ended up meeting twice in August, and again in October and January/February). The number of bills filed and the percentage of those bills that were enacted also decreased.

This chapter provides an overview of the 2017 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, [lrs.sog.unc.edu](https://lrs.sog.unc.edu) under the "Legislative Summaries" link; the site will be updated as summaries are available.

## Overview of the 2017 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 convene a one-day organization session a couple of weeks before returning to conduct business during the long session.

The 2017 session welcomed 29 new members with both chambers retaining a Republican majority. The Senate membership included 6 new members, while the House had 23 new members.

On January 11, 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 25. Unlike previous long sessions where legislators took a few weeks off from voting, during the 2017 session, legislators only took a long weekend in April, adjourning on the 13<sup>th</sup> and returning to voting sessions on the 19<sup>th</sup>. When legislators adjourned on June 30, the 2017 session was the shortest since 2011; the four reconvened sessions that took place in the fall and early 2018, however, added on just over 30 legislative days.

Governor Cooper vetoed 13 bills in 2017, and as of this writing, all but three of the vetoes have been overridden. A further discussion of those bills can be found in the “The Governor’s Veto” section of this document. The Governor also allowed six bills to become law without his signature: Consumer Credit/Default Charge, S.L. 2017-45 (Senate Bill 577); Restore/Preserve Campus Free Speech, S.L. 2017-196 (House Bill 527); Budget Technical Corrections, S.L. 2017-197 (House Bill 528); Divide School Systems/Study Committee S.L. 2017-198 (House Bill 704); Improve Security/Upper Level/Parking Lot 65, S.L. 2017-199 (House Bill 719); and Changes to Education and Election Laws, S.L. 2018-2 (House Bill 90).

## The House of Representatives

The November 2016 election resulted in the election of 23 new House of Representatives members for a total membership of 74 Republicans, and 46 Democrats<sup>1</sup>, retaining a veto-proof<sup>2</sup> Republican majority. Representative Tim Moore of Cleveland County was re-elected as Speaker of the House while Larry Hall was re-elected Minority Leader. Table 1-1 lists the 2017 House officers.

The demographics of the 2017 House can be broken down as follows:

- 30 women, 4 more than in 2015
- 90 men
- 24 African Americans, one more than in 2015
- One Native American

There were several changes in House membership during the 2017 session. Representative Larry Hall resigned on January 16 in order to become the Secretary of the Department of Military and Veterans’ Affairs. MaryAnn Black was appointed to fill the seat. Representative Susi Hamilton resigned on January 26 to also become an agency head, as the Secretary of Commerce and Natural Resources. Deb Butler was named as her replacement. Stating his intention to keep his tenure relatively short, Representative Philip Lehman resigned on March 30. Marcia Morey was appointed to the seat. Finally, Representative Chris Millis resigned in late September in order to spend more time with his family. Bob Muller has been named as his replacement.

**Table 1-1. Officers of the 2017 House of Representatives**

Tim Moore, Cleveland County, Speaker
Sarah Stevens, Surry and Wilkes counties, Speaker Pro Tempore
John R. Bell, IV, Craven Greene, Lenoir and Wayne counties, Majority Leader
Stephen M. Ross, Alamance County, Deputy Majority Leader
Jon Hardister, Guilford County, Majority Whip
James L. Boles, Jr., Moore County, John R. Bradford, III, Mecklenburg County, and Chris Malone, Wake County Deputy Majority Whips
John Szoka, Cumberland County, Conference Leader
Holly Grange, New Hanover County, Deputy Conference Leader
Pat B. Hurley, Randolph County, Joint Caucus Liaison
Destin Hall, Caldwell County, Majority Freshman Leader
Brenden H. Jones, Bladen, Columbus, Robeson counties, Majority Freshman Whip
Darren G. Jackson, Wake County, Democratic Leader
Robert T. Reives, II, Chatham and Lee counties, Deputy Democratic Leader
Verla Insko, Orange County, Rodney W. Moore, Mecklenburg County, Garland E. Pierce, Hoke, Richmond, Robeson and Scotland counties, and Bobbie Richardson, Franklin and Nash counties,

<sup>1</sup> Note that this number reflects the makeup of the House during the 2017 Regular Session and does not account for Rep. Brisson changing parties from Democratic to Republican in October of 2017.

<sup>2</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.

Democratic Whips
Cynthia Ball, Wake County, Democratic Freshman Chair
Terry E. Garrison, Granville, Vance, and Warren counties, Amos L. Quick, III, Guilford County, Democratic Freshman Vice-Chairs
James White, Principal Clerk
Garland Shepherd, Sergeant-at-Arms

## The Senate

Six new members were elected to the Senate during the 2016 elections. The November election resulted in Republican's maintaining a veto proof majority<sup>3</sup>; the 2017 Senate was made up of 35 Republicans and 15 Democrats. The demographics of the 2017 Senate can be broken down as follows:

- Thirteen women, one more than in 2015
- 37 men
- Eleven African Americans, the same as 2015
- One Indian-American

The Senate saw two changes in membership. In June Senator Andrew Brock resigned in order to take a position on the State's Board of Review; in August Dan Barrett was appointed to fill the seat. Senator Bryant resigned on March 18, 2018; she was then named to the state's Post-Release Supervision and Parole Commission. Milton F. "Toby" Fitch, Jr. has been named as her successor.

The 2017 Senate officers and leadership are shown in Table 1-2.

**Table 1-2. 2017 Senate Officers and Leadership**

Dan Forest, Lieutenant Governor, President
Phil Berger, Guilford and Rockingham counties, President Pro Tempore
Louis Pate, Lenoir, Pitt, and Wayne counties, Deputy President Pro Tempore
Harry Brown, Jones and Onslow counties, Majority Leader
Wesley Meredith, Cumberland County, Jerry Tillman, Moore and Randolph counties, Majority Whip
Norman W. Sanderson, Carteret, Craven and Pamlico counties, Republican Joint Caucus Leader
Dan Blue, Wake County, Democratic Leader
Terry Van Duyn, Buncombe County, Democratic Whip
Ben Clark, Cumberland and Hoke counties, Democratic Caucus Secretary
Sarah Lang Holland, Principal Clerk
Philip King, Sergeant-at-Arms

## Statistical Comparison

A total of 1,609 bills were introduced during the 2017 legislative session, keeping it in line with the 1,666 introduced in the previous long session; when you take into account bills introduced during the reconvened sessions, the total number of bills introduced increases to 1,638.<sup>4</sup> Of the bills introduced, 310 bills, only 13% of the bills introduced, were ratified. According to the statistics kept by the General Assembly library starting in 1965, this marks the lowest long session bill passage percentage since 1965 (taking into account the bills passed during the reconvened sessions, the percentage would increase to only 14%), surpassing the former long

<sup>3</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.

<sup>4</sup> According to analysis of statistics compiled by the General Assembly library, available at <http://www.ncleg.net/library/Documents/Legislative%20statistics.pdf>.

session lowest bill passage percentage from 2007, which saw a 17% passage rate<sup>5</sup>. Table 1-3 includes an overview of the statistics from 2017 as compared to the previous five long sessions.

Table 1-3 compares the 2017 session with other odd-year sessions of the past ten years.

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

	<b>2007</b>	<b>2009</b>	<b>2011</b>	<b>2013</b>	<b>2015</b>	<b>2017</b>
<b>Date convened</b>	January 24	January 28	January 26	January 30	January 28	January 25
<b>Date adjourned</b>	August 2	August 11	June 18	July 26	September 30	June 30**
<b>Senate legislative days</b>	111	112	87	103	137	93
<b>House legislative days</b>	113	114	87	103	135	93
<b>Senate bills introduced</b>	1573	1109	785	726	722	685
<b>House bills introduced</b>	2072	1658	936	1022	944	927
<b>Total bills introduced</b>	3645	2767	1721	1748	1666	1609
<b>Laws Enacted (includes session laws and joint resolutions)</b>	619	610	405	442*	314*	210
<b>% of introduced bills enacted</b>	17%	22%	24%	25%	19%	13%

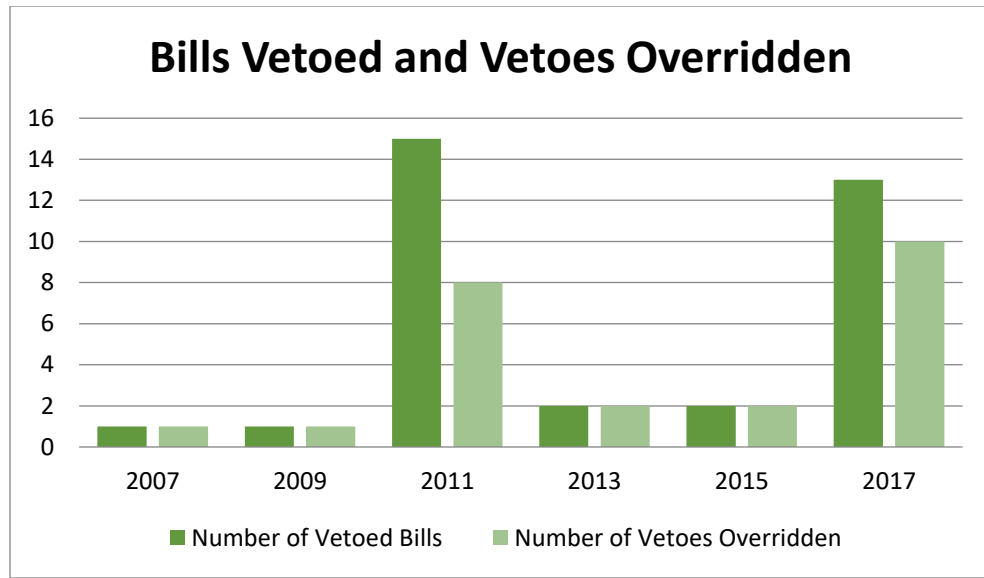
\*These totals include bills enacted during the 2013 and 2015 organizational sessions and the 2013 veto override session.

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

The 2017 session also saw the second highest number of bill vetoes, which, when including bills passed during the reconvened sessions, falls just two short of the record set in 2011. As illustrated in Chart 1-1, a higher percentage of those vetoes, however, were overridden in 2017 than in 2011.

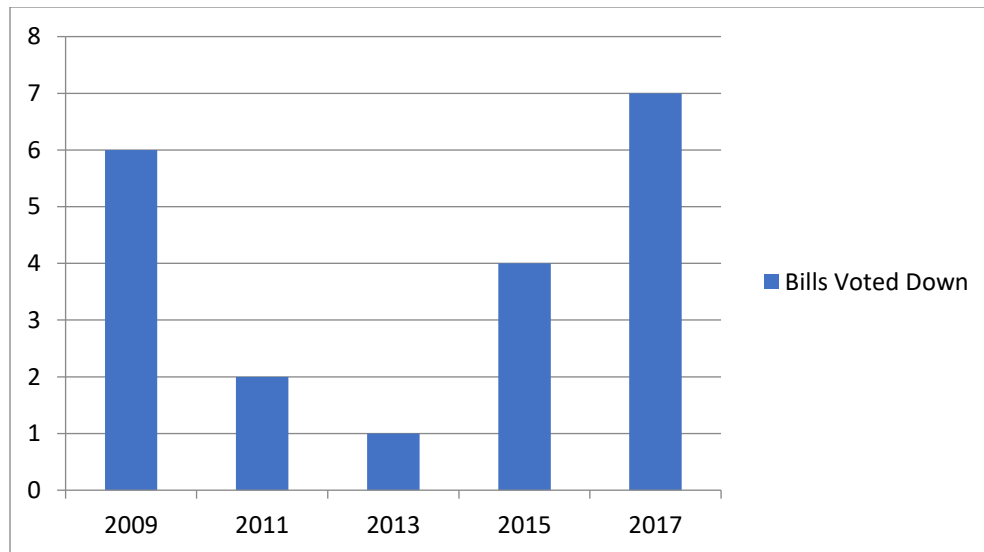
<sup>5</sup> Id.

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



While the percentage of bills that became law is similar to the last long session, there was an increase in the number of bills that were voted down in chamber. As illustrated in Chart 1-2, in 2017, seven bills were voted down on the House or Senate floor, which is the highest number of bills voted down on the chamber floor when looking at the past five long sessions.

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



The 2017 Appropriation Act (S.L. 2017-57, Senate Bill 257) was ratified on June 22, nearly three months earlier than the ratification of the 2015 budget. As seen in Table 1-4, over the most recent five long sessions, the June 22 ratification date is the earliest since the June 4th ratification of the 2011 Appropriations Act (S.L. 2011-145, House Bill 200).

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

<b>Year</b>	<b>Date of Appropriation Act Ratification</b>
2009	August 5
2011	June 4
2013	July 25
2015	September 18
2017	June 22

## **Major Legislation Enacted in 2017**

The 2017 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.

### **House Bill 2 Repeal**

S.L. 2017-4 (House Bill 142) Repeals S.L. 2016-3, commonly known as House Bill 2, which required public schools and agencies to have single sex multiple occupancy bathrooms and changing facilities in public schools and public agencies (meaning bathrooms had to be designated for use by persons based on their biological sex), and established a State law on discrimination in public accommodations taking the place of any local regulations governing discriminatory practices in a place of public accommodation. The act also had a number of employment related provisions. S.L. 2017-4 also repealed S.L. 2016-99 which repealed a portion of House Bill 2 that prohibited civil actions based upon the public policy in the Equal Employment Practices Act, and created a one year statute of limitations on claims for wrongful discharge in violation of the public policy in that Act.

S.L. 2017-4 prohibits units of government in the state (agencies, boards, offices, departments, institutions, branches of government, UNC System, Community Colleges local boards of education), from regulating access to multiple occupancy restrooms, showers, or changing facilities, except in accordance with an act of the General Assembly. The act also prohibits local governments from regulating private employment practices or regulating public accommodations until December 1, 2020.

A discussion of this legislation, written by faculty member Bob Joyce can be found here: <https://canons.sog.unc.edu/hb-2-repealed-must-north-carolina-units-government-now/>. A discussion of the contracting provisions, written by faculty member Norma Houston is also available here: <https://canons.sog.unc.edu/hb2-reset-beyond-bathrooms-local-government-contracting-limitations-repealed/>. Finally, a discussion of zoning authority implications, written by faculty member Adam Lovelady, is available here: <https://canons.sog.unc.edu/hb2-repeal-limit-zoning-authority/>.

### **ABC Law Changes**

S.L. 2017-87 (Senate Bill 155) includes many provisions related to alcoholic beverage control. One of the most discussed provisions enacts new statutes authorizing cities and counties to adopt ordinances allowing the sale of alcoholic beverages beginning at 10:00 am on Sundays (in the absence of such an ordinance, state law prohibits the sale or consumption of alcoholic beverages before 12:00 noon on Sundays). The ordinance can apply to sales of alcohol at grocery stores (although not at ABC stores) and at restaurants, depending on what the local government prefers to authorize. A more through discussion on this legislation can be found here in a blog post written by faculty member Norma Houston: <https://canons.sog.unc.edu/sunday-brunch-ordinances-cheers/>.

## **Raise the Age**

Among the provisions found in the 2017 Appropriations Act (S.L. 2017-57, Senate Bill 257) is a change to the way juveniles are handled by the court system. North Carolina is the last state to automatically prosecute 16 and 17 year olds as adults. Under changes made to the law, juveniles 17 and under remain in the juvenile courts. The juveniles that commit Class A-G felonies are automatically transferred to adult court. These changes become effective December 1, 2019. A thorough discussion of this provision can be found here: [https://lrs.sog.unc.edu/sites/lrs.sog.unc.edu/files/supp\\_content/2017%20Juvenile%20Justice%20Reinvestment%20Act\\_final.pdf](https://lrs.sog.unc.edu/sites/lrs.sog.unc.edu/files/supp_content/2017%20Juvenile%20Justice%20Reinvestment%20Act_final.pdf).

## **Autonomous Vehicles Regulation**

S.L. 2017-166 (House Bill 469) enacts new Article 18 in G.S. Chapter 20 to regulate fully autonomous vehicles, which are defined in the act as motor vehicles equipped with an automated driving system that will not at any time require an occupant to perform any portion of the dynamic driving task when the automated driving system is engaged. In addition to setting out regulations on the vehicle operation and vehicle standards, the act also establishes the Fully Autonomous Vehicle Committee within the Department of Transportation to consider matters relevant to fully autonomous vehicle technology and related laws and to make recommendations to the Department of Transportation and the General Assembly. More details on this bill can be found in the following blog post written by faculty member Shea Denning: <https://nccriminallaw.sog.unc.edu/nc-regulates-fully-autonomous-vehicles/>.

## **Social Services and Child Welfare**

S.L. 2017-41 (House Bill 630) makes numerous changes concerning social services and child welfare. The act establishes the Social Services Regional Supervision and Collaboration Working Group (Working Group), convened by the School of Government, to make recommendations to the Department of Health and Human Services on a plan for regional offices that supervise administration of social services at the local level. More information on the Working Group, including their stage one report, can be found here: <http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=370>. A discussion of the Working Group can also be found in this blog post written by faculty member Aimee Wall: <https://canons.sog.unc.edu/social-services-working-group/>.

In addition to establishing the Working Group, the act makes several changes impacting social services, including the following: development of plans to reform the State supervision and accountability for the social services system, including system reform and child welfare reform; changing county child welfare program oversight and intervention; establishing the Child Well-Being Transformation Council focused on improving coordination, collaboration, and communication among agencies and organizations that provide public services to children; creating pilot programs for the reimbursement of costs associated with the youth in care obtaining a driver's license and for the waiver of the work requirement for foster parents of children who require Intensive Alternative Family Treatment; changing the process for appeal of the termination of parental rights; changing foster care licensure timing; and requiring DSS observation before reunion. A thorough discussion of these provisions and other social services legislation can be found in the following document written by Sara DePasquale and Aimee Wall: [https://lrs.sog.unc.edu/sites/lrs.sog.unc.edu/files/supp\\_content/2017%20Legislative%20Update%202017%20v6.pdf](https://lrs.sog.unc.edu/sites/lrs.sog.unc.edu/files/supp_content/2017%20Legislative%20Update%202017%20v6.pdf).

## **Criminal Law Changes**

Numerous bills were enacted that made changes to or added to the criminal law statutes. An extensive discussion of these changes, along with those made to motor vehicle laws, can be found

in the following document by faculty member John Rubin:  
[https://lrs.sog.unc.edu/sites/lrs.sog.unc.edu/files/supp\\_content/2017criminallawlegislation\\_rev\\_d\\_Oct2017.pdf](https://lrs.sog.unc.edu/sites/lrs.sog.unc.edu/files/supp_content/2017criminallawlegislation_rev_d_Oct2017.pdf).

## **The Governor's Veto**

Governor Cooper exercised his veto power 13 times since the start of the session in January; the record for the most number of vetoed bills in one year is 15, set by Governor Perdue in 2011. Ten of the vetoes have been overridden as of January; veto overrides have not been attempted on the three remaining vetoed bills. In order to override a veto, each chamber must vote to override the veto by a three-fifths vote of those present and voting. In the House and Senate both, Republicans currently hold a veto-proof majority. This section provides a brief overview of each of the bills vetoed in 2017.

### **Partisan Judicial Elections**

The first bill vetoed by Governor Cooper was House Bill 100 (S.L. 2017-3). The act requires that elections of superior court and district court judges be conducted in a partisan manner beginning in 2018. The act also changes the deadlines for submitting petitions to run as an unaffiliated candidate. In his veto message, Governor Cooper stated, "North Carolina wants its judges to be fair and impartial, and partisan politics has no place on the judges' bench. We need less politics in the courtroom, not more. Judges make tough decisions on child abuse, divorce, property disputes, drunk driving, domestic violence and other issues that should be free from politics. This bill reverses that progress. We should let people elect judges based on their experience and ability to do the job, not which party they pick. I am also concerned that judges who have chosen to register as unaffiliated voters so as to avoid partisan politics now have a difficult path to getting on the ballot."<sup>6</sup> The House voted to override the veto on March 22 and the Senate did the same on March 23.

### **Court of Appeals Judges and Court Jurisdiction**

The second bill vetoed by the Governor also impacted the court system. House Bill 239 (S.L. 2017-7) reduces the Court of Appeals from 15 to 12 judges by abolishing the first three seats held by incumbent judges that become vacant on or after January 1, 2017, and before the expiration of the judges' terms. The act also changes court jurisdiction to send cases on class action certification and orders granting or denying a petition or motion to terminate parental rights to the Supreme Court, and it allows the Supreme Court to review cases where the subject matter involves the jurisdiction and integrity of the court system. In his veto message, the Governor stated the following objection to the bill, "Fewer judges will increase the court's workload and delay people's access to timely appeals and decisions. The bill is an attempt by a political party to stack the Court of Appeals. Additionally, I believe this legislation is unconstitutional."<sup>7</sup> The House and Senate both voted to override the veto on April 26.

### **The North Carolina Bipartisan State Board of Elections and Ethics Enforcement**

Senate Bill 68 (S.L. 2017-6) consolidates the functions of elections, campaign finance, lobbying, and ethics enforcement under one quasi-judicial and regulatory agency by creating the

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<sup>6</sup> Governor's Veto message for Senate Bill 2, available here:  
<http://www.ncleg.net/Sessions/2017/H100Veto/H100Veto.html>

<sup>7</sup> Governor's Veto message for House Bill 239, available here:  
<http://www.ncleg.net/Sessions/2017/H239Veto/H239Veto.html>



North Carolina Bipartisan State Board of Elections and Ethics Enforcement. It also undoes a provision that reduced the number of Governor's appointees that are exempt from the Human Resources Act from 1,500 to 425. In his veto, Governor Cooper stated, "Similar legislation to this was held unconstitutional by a three judge panel in a unanimous decision, and I believe this repackaged bill is also unconstitutional. This legislation will result in deadlocked votes on the Board of Elections, and will undermine North Carolina's ability to conduct fair, legal elections that maximize voter participation."<sup>8</sup> The veto was overridden by the Senate on April 24 and by the House on April 25.

### **Agriculture and Forestry Nuisance**

House Bill 467 (S.L. 2017-11) limits the amount of damages that can be awarded in private nuisance actions against an agricultural or forestry operation; damages are limited to the fair market value of the property or the rental value of the plaintiff's property, depending on whether the nuisance is permanent. In his veto message, Governor Cooper stated, "The agriculture and forestry industries are vital to our economy and we should encourage them to thrive. But nuisance laws can be used to protect property rights and make changes for good. We used nuisance laws to force the Tennessee Valley Authority to stop air pollution from flowing into North Carolina and we won damages to improve air quality. Special protection for one industry opens the door to weakening our nuisance laws in other areas which can allow real harm to homeowners, the environment and everyday North Carolinians."<sup>9</sup> The House voted to override the veto on May 10 and the Senate voted to override the veto the next day, May 11.

### **Appropriations Act**

The Governor vetoed the Appropriations Act of 2017, Senate Bill 257 (S.L. 2017-57), on June 27; the veto was overridden by the Senate on the same day and by the House on the following day. In his objection message, Governor Cooper stated, "This budget neglects our schools and our economy at a time when North Carolina should be making public education stronger, not giving special breaks to those at the top. It prioritizes tax breaks for the wealthy and corporations and shortchanges our workforce and schools at a pivotal time of growth. The budget also lacks structural integrity by failing to account for population growth, inflation and looming federal reductions, by using one-time revenue for recurring expenses, and by adopting a tax plan that will cause the state to fail to fund promised teacher salary increases in future years, along with funding for early childhood education, community colleges and universities. Additionally, the Act contains provisions that infringe upon the Governor's ability to faithfully execute the laws, including the administration of this Act, as required by the Constitution, and violating the separation of powers. These shortcomings can be fixed, and I encourage the General Assembly to do so by capping tax cuts so they benefit the middle class, investing more in public education, and fixing the unconstitutional flaws in this bill. But in its current form the Act shortchanges North Carolina."<sup>10</sup>

### **Aerosolization of Leachate**

House Bill 576 would make aerosolization an acceptable method of disposing leachate wastewater collected from a lined sanitary landfill within the lined area, and make it permissible for the Department of Environmental Quality to allow the same from unlined landfills (with prohibitions on the practice for landfills that are permitted to receive coal ash or swine waste). The Governor vetoed the bill, stating his objection that, "In this bill, the legislature exempts particular technologies that could potentially better ensure the health and safety of people and the

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<sup>8</sup> Governor's Veto message for Senate Bill 68, available here: <http://www.ncleg.net/Sessions/2017/S68Veto/S68Veto.html>

<sup>9</sup> Governor's Veto message for House Bill 467, available here: <http://www.ncleg.net/Sessions/2017/H467Veto/H467Veto.html>

<sup>10</sup> Governor's Veto message for S257, available here: <http://www.ncleg.net/Sessions/2017/S257Veto/S257Veto.html>

environment. Scientists, not the legislature, should decide whether a patented technology can safely dispose of contaminated liquids from landfills. With use of the word “shall,” the legislature mandates a technology winner, limiting future advancements that may provide better protection.<sup>11</sup> While the Governor vetoed the bill on June 30, neither the House nor the Senate have attempted to override the veto as of the writing of this document.

### **Game Nights**

House Bill 511 allows nonprofits to hold game nights where prizes are awarded by raffle. It also increases the number of raffles that a nonprofit organization could hold each year, increases the annual amount of prizes that could be awarded and authorizes the sale and consumption of alcoholic beverages in the room where a raffle is being conducted. In his veto message, Governor Cooper stated, “I am not opposed to legitimate nonprofits holding an occasional “game night” to help with donations to worthy causes. However, I believe this legislation as written could cause unintended problems. North Carolina law enforcement has fought for years against the for-profit video poker industry, and legitimizing charitable gambling in this way could give video poker a new way to infiltrate our communities. Allowing the industry to masquerade as a charity could cause unintended permits to be issued, and without tough criminal penalties enforcement would be difficult.<sup>12</sup>” The Governor vetoed the bill on July 12, and an override has not been attempted by either chamber as of this writing.

### **Publication of Legal Notices**

House Bill 205 makes changes to prisoner worker’s compensation laws. The more controversial provisions, however, amend laws on the publication of legal advertisement and notices, allowing Guilford County and cities in the county to electronically give public notice instead of publishing notice in the paper. It also allows the County to post legal advertisements and notices on its website for a fee with that money to be used for local supplements for teacher salaries and other county needs. In his veto message, Governor Cooper stated in part, “Unfortunately, this legislation is another example of that misguided philosophy meant to specifically harm and threaten the media. Legislation that enacts retribution on the media threatens a free and open press, which is fundamental to our democracy.<sup>13</sup>” While legislators have not attempted to override the veto, in October they passed another bill (Senate Bill 181, S.L. 2017-210) that includes the provisions of this bill that impacted publication of notices in Guilford County.

### **Dental Insurance Transparency**

House Bill 140 (S.L. 2017-205) makes entities that write stand-alone dental insurance subject to current law on the disclosure and notification provisions for fees amounts, reimbursement policies, and claim submission policies. It also makes additional changes related to credit insurance. The act clarifies that “household property,” as it pertains to single interest credit property insurance includes household furniture, furnishings, appliances, and a debtor’s other personal property. The act also changes the frequency of the setting of credit insurance rate standards. In his veto message, Governor Cooper stated that, “Making small loans more expensive by expanding credit insurance can drive borrowers further into debt, especially those who can least afford it. If this bill becomes law, consumer will have higher-cost loans because they will be borrowing the money to pay the credit insurance premiums. Borrowers who need short-term loans

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<sup>11</sup> Governor’s Veto message for House Bill 576, available here: <http://www.ncleg.net/Sessions/2017/H576Veto/H576Veto.html>

<sup>12</sup> Governor’s Veto message for House Bill 511, available here: <http://www.ncleg.net/Sessions/2017/H511Veto/H511Veto.html>

<sup>13</sup> Governor’s Veto message for House Bill 205, available here: <http://www.ncleg.net/Sessions/2017/H205Veto/H205Veto.html>

should not have to pay more for unnecessary insurance.<sup>14</sup> The House voted to override the veto on August 24 and the Senate did the same on August 30.

### **Business Regulatory Reform**

Senate Bill 16 (S.L. 2017-211) includes changes concerning the Administrative Procedure Act, landfills, wastewater systems, stormwater regulations, and various occupational licensing laws. Other provisions include creating the Carolina Star Program to recognize work sites that implement effective safety and health management systems and meet standards adopted by the Commissioner of Labor. The act also includes various studies including a review of electrical safety requirements for swimming pools. The Governor, focusing on water quality concerns, vetoed the bill saying, “We should make it easier, not harder, for state and local governments to protect water quality, whether through stormwater safeguards or by giving public health departments the ability to revisit wastewater permits if needed. Rolling back ways to protect water quality is dangerous.”<sup>15</sup> The Senate and House both voted to override the veto on October 5.

### **Various Clarifying Changes**

House Bill 770 (S.L. 2017-206) started out as a bill amending various environmental laws, but ended up containing changes to many areas of law. These areas include the definition of school performance indicators, salaries of Property Tax Commissioners, funding for the Healthy Food Small Retailer Program, for specified LME/MCOs, changes to the membership of the NC Medical Board and State Lottery Commission, and several other changes. The Governor objected to the change to the salaries rules for the Property tax Commissioner and the legislature’s taking away of two appointments to the Medical Board, stating: “The special pay benefit for one employee getting two state salaries is unnecessary and unfair to other state employees. In addition, the legislature taking two appointments to the state’s Medical Board is an intrusion on executive authority and not needed.”<sup>16</sup> The House voted to override the veto on August 24 and the Senate did so the following week on August 30.

### **Environmental Law Changes**

House Bill 56 (S.L. 2017-209) contains a number of provisions related to environmental law. One provision that prompted a lot of discussion was the repeal of the ban on retailers providing customers in certain coastal areas with plastic bags. The act also included funds for the Gen-X cleanup. The Governor’s veto was focused on the bag ban repeal and Gen-X funding. According to the Governor’s veto message, “Clean water is critical for our health and our economy and this legislation fails to appropriate any needed funds to the departments in state government charged with setting standards and enforcing laws to prevent illegal chemical discharges into rivers used for drinking water. In addition, it weakens protections from river pollution and landfills and repeals a local plastic bag ban supported by local governments and businesses that was passed to protect the environment.”<sup>17</sup> The House and Senate both voted to override the veto on October 4.

### **Electoral Freedom Act**

Senate Bill 656 (S.L. 2017-214) reduces the number of signatures necessary to form a new political party and the number needed by an unaffiliated candidate in order to be added to an

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<sup>14</sup> Governor’s Veto message for House Bill 140, available here: <http://www.ncleg.net/Sessions/2017/H140Veto/H140Veto.html>

<sup>15</sup> Governor’s Veto message for Senate Bill 16, available here: <http://www.ncleg.net/Sessions/2017/s16Veto/s16Veto.html>

<sup>16</sup> Governor’s Veto message for House Bill 770, available here: <http://www.ncleg.net/Sessions/2017/H770Veto/H770Veto.html>

<sup>17</sup> Governor’s Veto message for House Bill 56, available here: <http://www.ncleg.net/Sessions/2017/H56Veto/H56Veto.html>

election ballot. In addition to various other changes, the act eliminates primaries for Justices of the Supreme Court, Judges of the Court of Appeals, Judges of the superior courts, and Judges of the district courts for candidate seeking office in the November 6, 2018 election. In his veto message, Governor Cooper stated, “This legislation abolishes a scheduled election and takes away the right of the people to vote for the judges of their choice. It is the first step toward a constitutional amendment that will rig the system so that legislature picks everybody’s judges in every district instead of letting the people vote for the judges they want. If the legislature doesn’t like the fact that judges are ruling many of their laws unconstitutional, they should change their ways instead of their judges.<sup>18</sup>” The Senate voted to override the veto on October 16 and the House voted to override the veto the next day.

## **The Legislative Institution**

### **Senate Confirmation of Cabinet Members**

During the 2016 Fourth Extra Session in December of 2016, legislators enacted S.L. 2016-126 (House Bill 17). Section 38 of that act amends G.S. 143B-9 to require the Senate to confirm the Governor’s Cabinet appointees. Under this new provision, the Governor is required, for each head of each principal State department, to notify the President of the Senate of the name of the person to be appointed. The appointment is subject to senatorial advice and consent unless it is expressly waived by an enactment of the General Assembly or a vacancy occurs when the General Assembly is not in regular session. The act sets out additional guidelines for the terms of a person appointed to fill a vacancy when the General Assembly is not in regular session. Governor Cooper objected to the legislation, filing an unsuccessful legal challenge. The first nomination to be examined by the Senate Select Committee on Nominations and the Senate body as a whole was that of Larry Hall, nominated as Secretary of Military and Veterans’ Affairs. After failing to appear before the Senate Select Committee on Nominations several times, Hall was subpoenaed to appear and was ultimately confirmed. Over a period of about three months, all ten of Governor Cooper’s nominees were confirmed by the Senate.

### **New Legislative Commissions**

While legislators were reconvened for the August 18 reconvened session, both the House and Senate created their own Select Committees on North Carolina River Water Quality. During this same period, the House established the House Select Committee on Judicial Redistricting. These Select Committees join the House Select Committees on Administrative Procedure Laws, Disaster Relief, Implementation of Building Code Regulatory Reform, Redistricting, and Strategic Transportation Planning and Long Term Funding Solutions, as well as the Senate Select Committees on Elections, and Nominations. In late October the Senate established the Senate Select Committee on Judicial Reform and Redistricting. In February 2018, the House also announced the creation of the House Select Committee on School Safety.

S.L. 2017-198 (House Bill 704) establishes the 10-member Joint Legislative Study Committee on the Division of Local School Administrative Units (Committee). The Committee is required to study and make recommendations on: (1) the feasibility and advisability of enacting legislation to allow local school administrative units that were merged from separate units to be divided into separate local school administrative units once again; (2) ways to divide a local school administrative unit; (3) whether legislation allowing such division should require as a prerequisite to the division a majority vote of the county’s voters; and (4) whether legislation allowing the division of local school administrative units should require as a prerequisite to the

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<sup>18</sup> Governor’s Veto message for Senate Bill 656, available here: <http://www.ncleg.net/Sessions/2017/S656Veto/S656Veto.html>

division a petition from a certain percentage of the qualified voters of the county. The Committee is required to submit a final to the members of the Senate and the House on or before May 1, 2018; the Committee terminates on May 1, 2018, or upon the filing of its final report, whichever occurs first.

S.L. 2017-142 (Senate Bill 78) establishes the 10-member Joint Legislative Study Commission on Efficiency and Cost-Savings in State Government (Commission), which is required to use a zero-based budgeting review process to study “whether there are obsolete programs, cost-reduction opportunities, or any cases where existing funds can be redirected to meet new and changing demands for public services in the Department of the Secretary of State.” The Commission is required to make an interim report to the 2018 Regular Session of the General Assembly and a final report to the 2019 General Assembly. The Commission terminates upon filing its final report or upon the convening of the 2019 General Assembly, whichever is earlier.

The Appropriations Act of 2017, S.L. 2017-57, establishes several new committees. The act creates the 18-member Joint Legislative Task Force on Education Finance Reform (Task Force). The Task Force is required to consult with the State Board of Education and the Department of Public Instruction in studying various weighted student formula funding models and develop a new funding model for the elementary and secondary public schools in the state based on a weighted student formula. The act sets out eight issues to be considered in the study, including determining the base amount of funds that must be distributed on a per student basis to cover the cost of educating a student in the State, identifying the student characteristics eligible for weighted funding and the associated weights for each of these characteristics, and study funding models to provide children with disabilities with a free appropriate public education. The Task Force is required to begin meeting no later than October 1, 2017, and a final report is due to the Joint Legislative Education Oversight Committee on or before October 1, 2018. The Task Force terminates on the earlier of October 1, 2018, or upon the filing of its final report.

The act also establishes the 10-member Joint Select Study Committee on Judicial Funding, tasked with studying the effects of enacting the first editions of Senate Bill 635 (appropriating funds to provide each district court judge with one judicial assistant and to provide each superior court judge with at least one but no more than two judicial assistants) and Senate Bill 636 (increasing the annual salaries for judicial branch officials by 20% and providing benefit increases for judges and justices), or substantially similar legislation. The Committee is also required to study other issues the Committee deems relevant regarding State funding provided to the judicial branch. The Committee is required to submit a final report to the General Assembly on or before March 1, 2018. The Committee terminates upon the earlier of March 1, 2018, or upon the filing of its final report.

### **Legislative Research Commission**

In a letter dated November 21, 2017<sup>19</sup>, Speaker Moore and President Pro Tempore Berger authorized the Legislative Research Commission (LRC) to establish the following five study commissions. Unless otherwise indicated, the commissions are required to report the individual commission’s recommendations, including recommendations on legislation, to the 2018 Session of the 2017 General Assembly, with reports due to the LRC on or before April 21, 2018. In addition to establishing the committees discussed below, the letter also membership, chairpersons, and meeting requirements for the committees.

The first committee established by the LRC is the Committee on Intellectual and Developmental Disabilities, charged with studying and recommending “changes in policy for consideration by the General Assembly regarding the quality and availability of evidence-based services to support individuals with intellectual and/or developmental disabilities (‘IDD’) in

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<sup>19</sup> The letter is available here, on the LRC’s website: <http://www.ncleg.net/documents/sites/committees/lrc/2017-2018%20Committees/11-9-2017%20Meeting%20and%20Authorizing%20Documents/Revised%20Letter.pdf>

retaining employment.<sup>20</sup> The six issues the Committee may examine include current resources and program available in the state to transition those with IDD into integrated, paid, competitive employment, what services and supports are necessary to provide transition from education to employment for those with IDD, and reviewing county level coordination between programs and agencies service individuals with IDD and how to increase awareness of available services to local governments and target populations.

The second LRC committee is the Committee on Private Process Servers, required to study “the safety and efficiency of the use of private process servers in summary ejectment proceedings.”<sup>21</sup> The Committee is allowed to consider four topics, including the percentage of North Carolina summary ejectment cases where each Sheriff fails to effectuate service of process within the required five-day period, and the economic impact of delayed service of process in summary ejectment proceedings.

The third committee established by the LRC is created in response to S.L. 2017-57 (Appropriations Act of 2017). Section 24.3 of the act sets out the General Assembly’s finding that “the ability of a city or county to efficiently and effectively provide public enterprise services, particularly water and sewer services, is challenged by that local government opting to use revenues of the public enterprise for purposes other than: (1) Paying the costs of operating the public enterprise. (2) Making debt service payments. (3) Investing in improvements to the infrastructure of that public enterprise. (4) Reimbursing the unit of local government for actual direct services provided to the public enterprise.”<sup>22</sup> It also includes the finding that “any excess net revenues should be used to lower rates, advance fund debt service, and fund infrastructure improvements of that public enterprise.” The Committee to Study Rates and Transfers/Public Enterprises is required to study the issues raised in Section 24.3 and makes recommendations on specified issues. The Committee is also required to consult with several named entities including the School of Government. The Commission is required to make an interim report to the General Assembly before it reconvenes in 2018 and must make a final report to the 2019 Regular Session of the General Assembly.

The fourth LRC established committee is the Committee on Dispute Resolution Options for Homeowners, Associations, and Governing Entities. The Committee is required to study “issues surrounding the creation of a mediation and arbitration board to resolve disputes between the owners of property located in a homeowners or property owners association and the governing entities of such homeowners or property owners associations.”<sup>23</sup>

The final committee created by the LRC is the Committee on Access to Healthcare in Rural North Carolina, which is required to study issues “surrounding the access rural communities in North Carolina have to health care.”<sup>24</sup> The Committee is allowed to consider three specified topics, including the availability of eye care in rural communities and ways in increase provision of related services.

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

S.L. 2017-93 (House Bill 399) requires the Joint Legislative Oversight Committee on Justice and Public Safety to study the issue of improper disclosure of an image of a person superimposed onto another image of exposed intimate parts or depicting sexual conduct. The act requires that the study include whether any existing crimes or civil actions currently apply and whether GS 14-190.5A (disclosure of private images), as amended in the act, should be further amended to

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<sup>20</sup> Letter to Sen. Rabon and Rep. Lewis, dated November 21, 2017, available here: <http://www.ncleg.net/documentsites/committees/lrc/2017-2018%20Committees/11-9-2017%20Meeting%20and%20Authorizing%20Documents/Revised%20Letter.pdf>

<sup>21</sup> Id.

<sup>22</sup> See, S.L. 2017-57.

<sup>23</sup> Letter to Sen. Rabon and Rep. Lewis, dated November 21, 2017, available here: <http://www.ncleg.net/documentsites/committees/lrc/2017-2018%20Committees/11-9-2017%20Meeting%20and%20Authorizing%20Documents/Revised%20Letter.pdf>

<sup>24</sup> Id.

include superimposed images. The Committee is required to report its findings and any recommendations to the General Assembly by April 1, 2018.

S.L. 2017-192 (House Bill 589) requires the General Assembly to study the extent and scope of military operations in the State in order to create maps and provide other relevant data and documentation that will be used to communicate the temporal and spatial use of land-, air-, and water-based military operations. Under the act, the maps and data may be used to identify onshore and offshore areas of the State where energy infrastructure and development poses a threat to, encroaches upon, or otherwise reduces operations, training capabilities, or readiness. The study must be completed and submitted to the Legislative Services Officer on or before May 31, 2018. The act also requires that \$150,000 reserved in the budget from the appropriation for pending legislation to support the requirements of House Bill 589, 2017 Regular Session, to instead be used to support the study.

The Revenue Laws Study Committee is directed to study multiple issues. In S.L. 2017-204 (Senate Bill 628), the Committee is required to study the feasibility of providing a seller of taxable repair, maintenance, and installation services to real property with the option of paying sales tax on the property used to fulfill the repair, maintenance, and installation service at the time the property is purchased and offsetting the sales tax liability on the taxable repair, maintenance, and installation service with the sales and use tax paid on the products (as allowed on a temporary basis under the act). The Committee is required to recommend to the 2018 Regular Session of the 2017 General Assembly whether this option should be allowed on a permanent basis. The Appropriations Act requires the Revenue Laws Study Committee to study ways in which to clarify the scope of the sales and use tax exemption for mill machinery by modernizing and further defining the statutory language and by incorporating existing administrative interpretations of the Department of Revenue. The act specifies that the Committee may report its findings to the 2018 Regular Session of the 2017 General Assembly upon its convening, and allows the study to examine the criteria that had to be met under prior law to qualify for the preferential rate under Article 5F of Chapter 105 of the General Statutes and whether that criteria should be incorporated into or otherwise clarified in the corresponding sales and use tax exemption; a review of the Department of Revenue's administrative interpretations of the mill machinery statute, in all its forms, and whether and how to incorporate those interpretations into the statutes; terminology used by surrounding states in their statutory provisions that provide a sales and use tax exemption for manufacturing equipment; and any other issues the Committee deems relevant.

The Appropriations Act (S.L. 2017-57) requires two existing committees, the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Education Oversight Committee, to each appoint a subcommittee to jointly study the use of State funds to support medical education and medical residency programs. The study is to include an examination of five specified topics, including the health care needs of the State's residents and the State's goals in meeting those health care needs through the support and funding of medical education and medical residency programs located within the State, and recommended changes and improvements to the State's current policies with respect to allocating State funds and providing other support to medical education programs and medical residency programs located within the State. The subcommittees are required to jointly develop a proposal for a statewide plan to support medical education programs and medical residency programs within North Carolina in a manner that maximizes the State's financial and other support of these programs and addresses the short-term and long-term health care needs of the State's residents. The act requires each subcommittee to submit a report to its respective oversight committee on or before March 15, 2018, at which time the subcommittees terminate.

The Appropriations Act requires the Environmental Review Commission (ERC) to study the state's solid waste disposal tax, including a review of six specified issues, including a detailed history of the annual revenue generated from the tax and its distribution over time to the Department of Environmental Quality and local governments, a detailed history of expenditures by the Department of Environmental Quality and by local governments of tax proceeds received to date and plans for future work to be conducted by the Department of Environmental Quality using

tax proceeds. The ERC is required to report its findings and recommendations to the 2018 Regular Session of the 2017 General Assembly upon its convening.

The act also requires the Joint Legislative Oversight Committee on Justice and Public Safety to study the impact on State and local law enforcement efforts of the receipt of seized and forfeited assets, and report its findings and recommendations before the convening of the 2018 Regular Session of the 2017 General Assembly.

### **Program Evaluation Division**

S.L. 2017-10 (Senate Bill 131) authorizes the Joint Legislative Program Evaluation Oversight Committee to amend the 2016-17 Program Evaluation Division (Division) work plan to direct the Division to study State law and internal agency policies and procedures for delivery of public services through State grants and contracts to nonprofit organizations. The act requires that the study include how nonprofit organizations are compensated for actual, reasonable, documented indirect costs, and the extent to which any underpayment for indirect costs reduces the efficiency or effectiveness of the delivery of public services. The study must also propose improvements to State law and internal agency policies and procedures, to remove unnecessary impediments to the delivery of public services. If the study is conducted, the Division is required submit a report on the results of the study to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Commission on Governmental Operations by September 1, 2018.

S.L. 2017-142 (S78) requires the Joint Legislative Program Evaluation Oversight Committee to consider including in the 2017-18 Work Plan for the Program Evaluation Division an evaluation of the cost of compliance with federal education funding mandates for K-12 education. If the issue is included in the Work Plan, a report on findings must be submitted to the General Assembly at a date to be determined by the Committee.

The Appropriations Act requires the Joint Legislative Program Evaluation Oversight Committee to revise Program Evaluation Division's (PED) 2017-2018 work plan to also include an evaluation of the allocation of attorneys in State Government, including the use of general counsel within State agencies, the use of private attorneys, and the use of attorneys in the Department of Justice. PED is required to submit its evaluation to the Joint Legislative Program Evaluation Oversight Committee and to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2018. The act also requires PED to conduct measurability assessments and efficiency evaluations of programs and administrative activities of the Department of Administration to improve Department accountability reporting and to recommend potential cost savings. The State Auditor is required to review draft findings and recommendations and provide a written response to be included in the Division's report. PED is required to report by March 30, 2018, to the Joint Legislative Program Evaluation Oversight Committee and Joint Legislative Oversight Committee on General Government and, upon request, to other committees.

### **Reconvened Sessions**

When the House and Senate adjourned on June 30, under the adjournment resolution (Resolution 2017-12) legislators were set to reconvene on August 3, September 6 (later changed to August 18), and possibly once again following those session in order to address redistricting. After numerous scheduling changes, legislators actually reconvened on August 3, August 18, October 4, and January 10.

#### **August 3 Session**

According to Ch. Res. 2017-12, when legislators reconvened on August 3 at noon, the issues that could be considered were limited to the following: bills vetoed by the Governor solely for the



purpose of considering overriding the vetoes; bills providing for appointments, confirmations, or appointments; bills concerning redistricting litigation and those related to litigation challenging the legality of legislative enactments; bills returned to the originating house for concurrence on or after June 28, 2017; adoption of conference reports for bills in conference on or after June 28, 2017, for which conferees were appointed by both houses on or after that date; bills for impeachment; bills subject to Article II, Section 23 of the NC Constitution that have passed second reading in the originating house, but have not been taken up for third reading; resolutions addressing organizational matters; and a joint resolution further adjourning the 2017 Regular Session or amending a joint resolution adjourning the 2017 Regular Session to a date certain.

On July 31, Governor Cooper called the legislators into a reconvened session to consider veto overrides, to take place on August 3, at 10:00 am, just hours before the already scheduled session. Under Article II, Section 22 of the North Carolina constitution, the Governor has 30 days after adjournment to take action on bills that are presented for approval during the last ten days of a legislative session. If the Governor vetoes any of those bills after the General Assembly has adjourned, the governor must reconvene the session for the purpose of considering an override of the veto. The reconvened session must be set for no earlier than thirtieth days no later than forty days after adjournment of the session. The session does not need to be called if the Governor receives written requests signed by a majority of the members of each house stating that the reconvened session is not necessary; in that instance the veto will stand. Following adjournment on June 30, Governor Cooper vetoed four bills: House Bill 576 (allow Aerosolization of Leachate), House Bill 511 (Game Night/Nonprofit Fund-raiser); House Bill 205 (Workers Compensation for Inmates/Unemployment Insurance & Workers Compensation/Newsprint Employees); and House Bill 140 (Dental Plans Provider Contracts/Transparency). The legislators adjourned the August 3 session called by the Governor without addressing any of the veto overrides<sup>25</sup>. Upon adjournment, the legislators met for the already scheduled reconvened session at noon. During the reconvened session, which lasted only one day, legislators passed the following legislation.

Two bills passed during the reconvened session made changes to tax law. S.L. 2017-204 (Senate Bill 628, Various Changes to the Revenue Laws) was agreed to by conferees and reported out during the one-day session. The 44 page bill makes numerous changes to business tax, sales tax, property tax, tax collection and enforcement, and administrative provisions. These changes include providing that the sale of a free-standing appliance is a retail sale of tangible personal property, allowing a property tax exemption for a mobile classroom or modular unit occupied by a school and used for educational purposes, regardless of the ownership of the property, creating a new crime for identify theft in the tax statutes punishable as a Class G felony or a Class F felony if a person suffers any adverse financial impact as a result of the identity theft, and allowing individuals to contribute their tax refund to be used for early detection of breast and cervical cancer. The second tax bill, S.L. 2017-202 (S 552, Omnibus Occupancy Taxes) makes numerous occupancy tax changes impacting Sanford, Saluda, Jacksonville, Hickory, Conover, Harnett County, Sampson County, Yadkin County, and Rowan County.

S.L. 2017-203 (Senate Bill 407, Employee Misclassification/IC Changes) creates the Employee Fair Classification Act that establishes the Employee Classification Section (Section) within the Industrial Commission. The Section's powers and duties include receiving and investigating complaints of employee misclassification (defined as avoiding tax liabilities and other legal obligations by misclassifying an employee as in independent contractor), coordinate investigations of such misclassification by other State agencies and assist in the recovery of money owed because of misclassification, exchange information among State agencies, and report the results of these investigations annually to the Governor and the Joint Legislative Commission on Governmental Operations. The act also requires the Industrial Commission to adopt rules and guidelines for the use of opioids, related prescriptions, and pain management treatment. The act

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<sup>25</sup> The adjournment resolution for the veto-override reconvened session is found in Ch. Res. 2017-13).

removes the requirement that the Industrial Commission study causes of work related injury and recommend ways to prevent injuries. Finally, the act delays until 2018 the requirement that employers respond to unemployment insurance claims in ten days.

S.L. 2017-200 (Senate Bill 560, Clarify Cleveland Board of Education Election) came out of the House during the session as a committee substitute to a bill that previously amended laws related to citizen's arrest warrants. The act, which now amends the process for unaffiliated petition filings for the Cleveland County Board of Education, and establishes a reduced petition requirement for 2017, was concurred to in the Senate.

S.L. 2017-201 (Senate Bill 689, 2017 Appointments Bill Modifications) makes appointments to various boards and commissions upon the recommendations of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The act also makes changes made to the already passed 2017 Appointments Bill, S.L. 2017-75.

S.L. 2017-206 (House Bill 770, Various Clarifying Changes) started out as a bill amending various environmental laws, but emerged from conference committee as a bill containing changes to the definition of school performance indicators, changes to the salaries of Property Tax Commissioners, changes to funds for the Healthy Food Small Retailer Program, changes in funding for specified LME/MCOs, changes to the membership of the NC Medical Board and State Lottery Commission, changes to the laws governing the activities of attorneys in foreclosure proceedings, and changes to various reporting requirements. The bill was vetoed by the Governor on August 14 and the veto was overridden during the reconvened session that began August 18.

S.L. 2017-211 (Senate Bill 16, Business Regulatory Reform Act of 2017) was settled on by a conference committee during the session. More details on this act, which was vetoed on August 14,<sup>26</sup> are available above in the Governor's Veto section of this document.

During the reconvened session, legislators amended the previous adjournment resolution which had set the next reconvening date as September 6. Under Ch. Res. 2017-14, the General Assembly was scheduled to reconvene on August 18 instead of September 6 to address the issues previously authorized for the September session in addition to four other topics.

### **August 18 Session**

According to Ch. Res. 2017-12, as amended by Ch. Res. 2017-14, when legislators reconvened on August 18 at noon, the issues that could be considered were limited to the following: bills revising the judicial divisions of the State, the superior court districts, the district court districts, and the prosecutorial districts and the apportionment of judges and district attorneys among those districts and containing no other matter, as well as bills revising the Senate or districts and the apportionment of Senators or Representatives among those districts and containing no other matter; bills revising districts for cities, counties, and other political subdivisions of the State and the apportionment of elected officials among those districts and containing no other matter; bills amending the constitution; bills vetoed by the governor, solely for the purpose of considering overriding the veto upon reconsideration; bills providing for selection, appointment, or confirmation; bills providing for action on gubernatorial nominations or appointments; bills for impeachment; bills concerning redistricting litigation or any other litigation challenging the legality of legislative enactments; bills returned on or after June 28 to the house in which the bill originated for concurrence; adoption of conference reports for bills which were in conference on or after June 28, 2017, and conferees had been appointed by both houses on or after that date; bills related to election laws; a joint resolution further adjourning the 2017 Regular Session or amending a joint resolution adjourning the 2017 Regular Session to a date certain. The session convened on August 18 and adjourned on August 31. During that time, new legislative districts were adopted, a conference report was adopted, and two vetoes were overridden.

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<sup>26</sup> The Governor's veto message and objects can be found here:  
<http://www.ncleg.net/Sessions/2017/s16Veto/s16Veto.html>

The focus of the reconvened session was the redrawing of House and Senate legislative districts, which became necessary after courts ruled that the House and Senate elections maps created in 2011 included unconstitutional racial gerrymandering. The Governor called legislators into an extra session to commence on June 8 in order to work on legislative redistricting, but legislators did not convene the extra session. The revised maps were adopted in late August after a review that included public comment. The Senate redistricting plan is found in S.L. 2017-207 (Senate Bill 691) and the House redistricting plan is found in S.L. 2017-208 (House Bill 927).

At the start of the reconvened session, nine bills were in conference; only one of those bills, H 56, was reported out by a conference committee during the session. S.L. 2017-209, House Bill 56, Amend Environmental Laws, which was vetoed on September 21, is discussed in more detail in the Governor's Veto section of this document.

During the reconvened session, the vetoes of two bills were overridden with the final votes necessary to override the vetoes taken by the Senate on August 30. First, legislators voted to override the veto of House Bill 140, Dental Plans Provider Contracts/Transparency (S.L. 2017-205). Second, the veto of House Bill 770, Various Clarifying Changes (S.L. 2017-206), which was passed by the General Assembly during the first August reconvened session was overridden. Legislators did not attempt overrides of the vetoes of Senate Bill 16, Business Regulatory Reform Act of 2017, House Bill 205, WC Changes/Legal Notice Modernization, House Bill 511, Game Nights/Nonprofit Fund-Raiser, and House Bill 576, Allow Aerosolization of Leachate. Mover information on these bills can be found in the Governor's Veto section of this document.

When legislators adjourned the second August reconvened session, the adjournment resolution called them back into session again on October 4, 2017. The topics that can be considered during the October session are the same as those that could have been considered during the second August session, with the addition of two types of bills. The first addition is the consideration of bills making technical corrections to S.L. 2017-57 (S 257, Appropriations Act of 2017), S.L. 2017-119 (S 338, Disaster Recovery Act of 2017), or both. The second new category of bills that can be considered in October is local bills that have passed third reading in the house in which introduced, been received in the other house in accordance with Senate Rule 41 or House Rule 31.1(h), as appropriate, and not been 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.

## October Sessions

When legislators adjourned the August session on August 31, the adjournment resolution, as discussed above, established several issues that could be addressed during the session. In addition to the scheduled session at noon, the Governor called a reconvened veto session for October 4 at 10 am in order for legislators to reconsider the veto of House Bill 56.

As discussed above, House Bill 56 (S.L. 2017-209), Amend Environmental Laws, contains several provisions related to environmental law. The Governor vetoed the bill on September 21. During the reconvened veto session, both the House and Senate voted to override the veto. At the conclusion of the veto session, legislators convened for the scheduled reconvened session at noon.

Although it ran through October 17, the reconvened session's work actually took place over a period of four days, October 4, 5, 16, and 17. The House and Senate both held skeleton sessions, where no votes were taken, from October 9<sup>th</sup> through 15<sup>th</sup>. Several bills were passed during the brief session.

Senate Bill 582 (S.L. 2017-212) is a 22-page bill that contains provisions related to education, health and human services, agriculture, natural resources, economic resources, justice and public safety, transportation, as well as various state agencies. The act includes a change to ensure that the pay for principals and assistant principals is not reduced due to a loss of longevity pay, a requirement that the Attorney General handle all criminal appeals, prohibiting delegating those appeals to any district attorney's office, an elimination the sunset of the sunset for the Film and Entertainment Grant Fund, which was to end in 2020, and a requirement the Department of Administration to study the use downtown Raleigh buildings by State agencies.

The House passed House Bill 928, honoring former Representative Edward Holmes, who served in the House for four terms from 1973 to 1980 and passed away on September 19, 2017, at the age of 87.

During the October session, Senate Bill 656 (S.L. 2017-214) was passed by both chambers, vetoed by the Governor, and enacted into law after overriding the veto. The act reduces the number of signatures necessary to form a new political party and the number needed by an unaffiliated candidate in order to be added to an election ballot. In addition to setting out the procedure under which a party recognized in a substantial number of states may be established in the state and changing the timing for filing petitions to be added to a ballot, the act also reduces the threshold for a substantial plurality in primaries from 40% to 30%. Finally, the act eliminates primaries for Justices of the Supreme Court, Judges of the Court of Appeals, Judges of the superior courts, and Judges of the district courts for candidate seeking office in the November 6, 2018 election. The act became effective January 1, 2018. As discussed above, the Governor vetoed the act on October 9. The override of the veto was the focus during the final two days of the October session; the Senate voted to override the veto on October 16 and the House did the same on October 17.

Senate Bill 694 (S.L. 2017-213) makes changes to previous appointments and makes additional appointments by the President Pro Tempore and the Speaker of the House to various boards and commissions, including the Virginia-North Carolina High-Speed Rail Compact Commission, the North Carolina Sheriffs' Education and Training Standards Commission, the North Carolina Medical Board, and the North Carolina Oil and Gas Commission.

House Bill 205, includes provisions amending the workers' compensation act as it related to prisoners and newsprint employees, made changes to the publication of legal advertisements and notices, allowed Guilford County and municipalities in the county to use electronic means to provide public notices, and allowed the County to post legal advertisements and notices on a County website, with publication fees to be used to supplement teacher salaries, with additional fund deposited into the County's general fund. The Governor vetoed the bill on July 17. Instead of overriding the veto, during the October session, the House and Senate approved Senate Bill 181 (S.L. 2017-210). The act consists of provisions related to electronic publication of required notices in Guilford County and allowing Guilford County to publish legal notice on a county website, which, although not identical, are similar to the provisions in House Bill 205 (among the differences, Senate Bill 181 sets out requirements that must be met before the County may adopt an ordinance establishing the website for publishing notices and it does not include language on how the publication fees are to be distributed).

The House gave approval to an amended version of House Bill 717, Judicial Redistricting & Reinvestment Act. The act redraws the districts for the State's district courts, superior courts, and prosecutorial districts, while also amending the number of judges and district attorneys in those districts. The act also requires a study by the Administrative Office of the Courts, the Courts Commission, and the Legislative Services Commission of workload assessments for prosecutorial, district, and superior courts to assist the General Assembly in dividing the State into a convenient number of districts and divisions for the administration of the judicial branch. The act would be effective January 1, 2019. The Senate did not take up the act during the October session. The Joint Select Committee on Judicial Reform and Redistricting (Committee) was established to consider the issues of judicial redistricting as well as the issue of how judges are selected. This Committee will meet during the interim and legislation may be considered during the 2018 short session. More information about the Committee's work can be found on the Committee's website at: [http://www.ncleg.net/gascripts/Committees/Committees.asp?sAction=ViewCommittee&sActionDetails=Non-Standing\\_6719](http://www.ncleg.net/gascripts/Committees/Committees.asp?sAction=ViewCommittee&sActionDetails=Non-Standing_6719).

The final action taken during the October reconvened session was the filing of Senate Bill 698, Increase Voter Accountability of Judges. Subject to voter approval, the act would amend the State Constitution to reduce the term of District Court and Superior Court judges, Judges of the Court of Appeals, and Justices of the Supreme Court to two years, effective July 1, 2018.

Finally, during the October session, the House and Senate further amended the previous adjournment resolutions to provide that legislators will return once more prior to the 2018 short

session for a reconvened session on January 10, 2018. Issues that may be considered during the 2018 session are as follows: bills revising the judicial divisions of the State, the superior court districts, the district court districts, and the prosecutorial districts and the apportionment of judges and district attorneys among those districts and containing no other matter; bills revising districts for cities, counties, and other political subdivisions of the State and the apportionment of elected officials among those districts and containing no other matter; bills revising Senate districts and the apportionment of Senators among those districts and containing no other matter; bills revising the Representative districts and the apportionment of Representatives among those districts and containing no other matter; bills amending the constitution; bills vetoed by the governor, solely for the purpose of considering overriding the veto upon reconsideration; bills providing for selection, appointment, or confirmation; bills providing for action on gubernatorial nominations or appointments; bills concerning redistricting litigation or any other litigation challenging the legality of legislative enactments; bills returned on or after Wednesday, June 28, 2017, to the house in which the bill originated for concurrence; adoption of conference reports for bills which were in conference on or after June 28, 2017, and conferees had been appointed by both houses on or after that date; bills relating to election laws; bills making technical corrections to SL 2017-57 (Appropriations Act of 2017), SL 2017-119 (Disaster Recovery Act of 2017), or both; local bills having passed third reading in the house in which introduced, received in the other house in accordance with crossover deadlines set out in 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; and a joint resolution further adjourning the 2017 Regular Session or amending a joint resolution adjourning the 2017 Regular Session to a date certain.

### **January/February Session**

As discussed above, the resolution adjourning the October reconvened sessions brought legislators back into session on January 10. On January 10, the House and Senate gave approval to a total of four bills, all of which were related to legislative and gubernatorial appointments. Senate Bill 308 (S.L. 2018-1) makes five appointments to various boards, upon recommendation of the Speaker of the House, and corrects the term of a previously made appointment. Senate Bill 699 confirms an appointment to the Board of Agriculture, and Senate Bills 700 (Ch. Res. 2018-1) and 701 (Ch. Res. 2018-2) confirm appointments to the Utilities Commission. The House also approved House Bill 189, which includes a number of studies, directives, and funding related to emerging contaminants and the GenX contamination. The House sent the bill to the Senate which did not take action on the bill until February.

Following session on January 10, the House and Senate entered into a nearly month long period of skeleton sessions, during which no votes were taken. Voting sessions resumed on February 7<sup>th</sup> and the session was adjourned on February 13<sup>th</sup>. During this time in February the following bills were acted upon.

When legislators met on January 10, the House passed a bill addressing GenX contamination (House Bill 189 discussed above), but the Senate did not act on the issue at that time. In February, the Senate passed their own version of House Bill 189. The only provision the acts have in common is the directive to the Division of Water Quality (DEQ) to and share water quality information with nearby states. The Senate version of the act requires the Department of Health and Human Services (DHHS) to consult with specified entities including the US EPA and the North Carolina Policy Collaboratory at UNC-Chapel Hill (Collaboratory), which is tasked with coordinating with faculty experts across the UNC on DHHS's process for the establishment of health goals for per- and poly-fluoroalkyl substances. DEQ is directed to cooperate with any audit of its NPDES permitting program by US EPA and required to work with US EPA to examine the adequacy of the program. The act also requires DEQ to review its NPDES permitting program and requires relevant UNC expertise, technology, and instrumentation, including mass spectrometers, to be used in analyzing and research water quality. Finally, the act allocates funds to be used by DEQ for the collection of air and water quality samples related to GenX and other emerging

contaminants and to address NPDES permitting backlogs. The bill has been sent back to the House, which has not taken further action on the bill.

The Senate passed Senate Bill 709 and Senate Bill 684, confirming appointments to the Board of Trustees of the North Carolina Teachers' and State Employees' Retirement System. Both chambers also considered but had to postpone a resolution calling them into joint session to confirm the Governor's appointments to the State Board of Education (Senate Bill 707).

The House and Senate welcomed the NC A&T football team to congratulate them on their undefeated 2017 football season and on their 2017 Celebration Bowl victory (Senate Bill 708).

House Bill 90, S.L. 2018-2, is one of the six bills that the Governor allowed to become law without his signature. It was reported out as a conference report and reviewed during a joint meeting of the House and Senate Appropriations Committees. According to the Mitigation Project Memorandum of Understanding by and between Governor Cooper and Atlantic Coast Pipeline, LLC, dated January 25, 2018 (MOU), funding in the form of a gift, voluntary contribution, or otherwise was to be used for: (1) mitigation for the unavoidable effects of the Atlantic Coast Pipeline (ACP) on the environment and natural resources of the communities along the ACP's route; (2) support and funding for economic development in the counties that would be impacted by the ACP; and (3) extension of renewable energy projects into certain local communities which may stand to be affected by the ACP's operation. In this act, the General Assembly requires that the funds be given to schools located in whole or in part in counties through which the ACP runs, with half of the funds allocated among the school units based on the allotted average daily membership for the 2017-18 fiscal year and remaining funds allocated among the school units based on linear ACP miles, according to specified formulas. These provisions were made effective January 25, 2018.

The act also makes changes to the class size mandate, which had already been amended earlier in 2017 to delay the smaller class size requirements that had been established in the 2016 Appropriations Act. This act delays the existing class size mandate, making gradual changes over the next four years. In 2018-19, the average class size for kindergarten through third grade classes would be 20 students, with individual classes prohibited from exceeding 23 students. In 2019-20 school year, the average class size for kindergarten through third grade will be reduced to no more than 19 students, with individual classes not to exceed 22 students. That number goes down again by one in 2020-21 school year, with the average class size for kindergarten through third grade set at no more than 18 students, with individual classes not exceeding 21 students. Finally, in 2021-22 and beyond, the class size requirements would be as already set forth in G.S. 115C-301, which are one teacher per 18 kindergarten students, one teacher per 16 first grade students, and one teacher per 17 second or third grade students.

The act creates an allotment category for kindergarten through fifth grade program enhancement teachers separate from the allotment category for classroom teachers and sets the allotment ratio at one program enhancement teacher for every 191 students. Program enhancement is defined to include arts disciplines, physical education and health programs, world languages, and other supplemental classes as defined by the State Board of Education. The act allows the allotment to be used for any type of classroom teacher until July 1, 2021, after that funds for program enhancement teachers for kindergarten through fifth grade are allotted only through the program enhancement teacher allotment. The act provides \$61,359,225 from the unappropriated fund balance of the General Fund for the program enhancement allotment for kindergarten through fifth grade teachers. The allotment funds are then increased annually to the following percentages of the funding required for the allotment: 50% in 2019-20, 75% in 2020-21, and 100% in 2021-22 and thereafter. The act also makes changes to the allowable types of transfers out of the program enhancement for kindergarten through fifth grade teacher allotment.

The act also makes changes to the eligibility requirements for the North Carolina Personal Education Savings Accounts Program (Program). The final change to education made in the act is an increase in his would increase the NC Pre-K budget in 2019-20 and again in 2020-21.

In response to the decision of the North Carolina Supreme Court on January 26, 2018, in *Cooper v. Berger* (No. 52PA17-2), the act amends membership on the Bipartisan State Board of Elections and Ethics Enforcement (State Board) by increasing membership from eight to nine

individuals, with four members registered with the political party with the highest number of registered affiliates in the State, four members registered with the political party with the second highest number of registered affiliates, and one member who is not registered with either of those parties, to be appointed by the Governor from a list of two nominees selected by the other eight State Board members. The act also allows State Board members to be removed by the Governor at the Governor's discretion instead of only being removed for misfeasance, malfeasance, or nonfeasance. The terms of office for members appointed to the State Board in 2018 begin March 1, 2018, and expire April 30, 2019, with the State Board required to hold its first meeting in March 2018.

When legislators adjourned the January/February session on February 13, 2018, they adjourned until the regularly scheduled 2018 short session (Ch. Res. 2018-4).

## The 2018 Session

The General Assembly is currently scheduled to return for the short session on Wednesday, May 16, 2018, at noon. According to the adjournment resolution (Ch. Res. 2017-12), 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 2018-19, as long as they are submitted to the Bill Drafting Division by 4:00 P.M. Friday, May 18, 2018, and introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. on Thursday, May 31, 2018; (2) bills proposing an amendment or amendments to the State and containing no other matter, proposing an amendment to the State Constitution and containing no other matter other than statutory conforming changes to implement such bills, or solely making statutory and transitional changes to implement bills under this subdivision; (3) bills and resolutions introduced in 2017 and having passed third reading in 2017 in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule 31.1(h) (setting the crossover deadline), 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 study commissions, authorities, and statutory commissions authorized or directed to report to the 2018 Regular Session; the General Statutes Commission, the Courts Commission, or any commission created under GS Chapter 120 that is authorized or directed to report to the General Assembly; the House Ethics Committee; select committees; or the Joint Legislative Ethics Committee or its Advisory Subcommittee. These bills must be submitted to the Bill Drafting Division by 4:00 P.M. Thursday, May 17, 2018, and be filed for introduction in the Senate or introduced in the House of Representatives by 4:00 P.M. Wednesday, May 30, 2018; (5) any local bill that has been submitted to the Bill Drafting Division by 4:00 P.M. Thursday, May 24, 2018, and is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Thursday, June 7, 2018, and is accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and 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; (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; (9) a joint resolution authorizing the introduction of a bill pursuant to subdivision (8); (10) any bills primarily affecting any State or local pension or retirement system, if the bill has been submitted to the Bill Drafting Division by 4:00 P.M. Tuesday, May 22, 2018, and is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Tuesday, June 5, 2018; (11) joint resolutions and simple resolutions authorized for introduction under Senate Rule 40 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 of 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 GS Chapter 123 ; and (17) a joint resolution adjourning the 2017 Regular Session, sine die. This list was expanded upon in Ch. Res. 2018-4 (Senate Bill 710), which was given final approval on February 13, 2018, to also allow for consideration of bills revising the judicial divisions of the State, the superior court districts, the district court districts, and the prosecutorial districts and the apportionment of judges and district attorneys among those districts and containing no other matter; bills revising districts for cities, counties, and other political subdivisions of the State and the apportionment of elected officials among those districts and containing no other matter; bills revising the Senate districts and the apportionment of Senators among those districts and containing no other matter; bills revising the Representative districts and the apportionment of Representatives among those districts and containing no other matter; and bills revising the districts for the election of members of the House of Representatives of the Congress of the United States and the apportionment of Representatives among those districts and containing no other matter.

Ch. Res. 2017-12 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 2017-19 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 may 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: <http://www.ncleg.net/documentsites/legislativepublications/Legislative%20Analysis%20Division/Crossover/Crossover%20List%202017.pdf>.

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