

NCGA 2018 SHORT SESSION SUMMARY



WHAT HAPPENED?

For a “short session” there’s certainly been a lot going on. Typically the short session is used to finish any outstanding business from the previous long session including budget modifications, but this session has been anything but typical.

Twenty thousand teachers marching for better pay and supplies convened on the General Assembly on opening day, May 16th, only to find out later a Backroom Budget had been decided before session even convened. Judicial redistricting re-surfaced as well as the resurrection of Voter ID. We saw last ditch efforts at a power grab through constitutional amendments, accusations of court packing, good bills and gubernatorial appointments being denied and other bizarre happenings which all point to a tense prelude of a midterm election like no other.

When we look back to the 2016 NC election and get a glimpse at the tactics used in December to strip the Executive Branch of much of its power, we can see that the NCGOP has become much more emboldened over the past year and a half, as they have ended this last session with even more brazen attempts to strengthen the already powerful Legislative Branch.

They have kept the public in the dark with little or no notice of committee agendas and silenced their opposition on the floor of the General Assembly. One has to assume that they believe they will remain in power for future elections to come as they are clearly not worried about the very real possibility that Democrats could once again regain control of the legislature with a Democratic governor in charge.

Fair play and good governance have gone out the window. We are in real danger of losing future access to a balanced and representative democracy here in North Carolina if we don’t fight for it right now.

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[“At the beginning of this year’s legislative session, a reporter asked Republican leaders if they planned to take any more powers away from Gov. Roy Cooper.”](#)

[“Does he still have any?” Senate leader Phil Berger asked with a laugh.](#)

[“If you have any suggestions, let us know,” added House Speaker Tim Moore.](#)

Change starts with you. Being willing to talk to your friends, neighbors and family about these issues is an important action step you can make. Share this summary and its message broadly!

Don’t forget, the most important thing you can do to re-balance power and restore democracy in North Carolina is to vote.

Want to know what you can do to help? E-mail us at: strongernorthcarolina@gmail.com and follow us for more ways to engage:



BACKROOM BUDGET

The first example of legislation by stealth this session was in the announcement *before session even started* that a budget deal had been reached between Phil Berger and Tim Moore, in secret. Because all bills must be heard publicly by committees *except* for conference committee reports, they stripped a committee bill and copy and pasted the budget into it in order to [hide the budget and pass it with no debate or amendments](#). This tactic, previously unheard of, allowed them to circumnavigate committee hearings in both chambers and the democratic process itself. The 266 page [budget bill](#) was released only two days before it was voted on, and contained very concerning and significant provisions changing education funding and more. This was a direct response and slap in the face to the 20,000+ teachers, staff and public school advocates who marched and met with their legislators the day the session opened.

Major changes in the budget bill: (which was supposed to simply amend or tweak last year's primary budget)

- [Radically alters the education funding formula](#) to let local governments divert public school funding to private and for-profit charter schools
- [Encourages racial segregation in Charlotte schools](#), by allowing wealthier suburbs to secede from the public school district
- Limits teacher pay increases, with [veteran teachers](#) between years 15-24 of service receiving **no** pay increases
- [Raids \\$50 million in early childhood development funding](#) to pay for anti-abortion [pregnancy clinics and Christian hunting clubs](#)
- [Doesn't include funding to test backlog of rape kits requested by DOJ](#)

You can read more details about the budget content and concerns in our post [here](#).

Press coverage on the historical lack of due process and budget transparency:

CBC Editorial 5/29/18: [Is NC in the Hands of Dictators?](#)

N&O Editorial Board 5/26/18: [Cut from the NC budget: Democracy](#)

WRAL.com on 5/31/18: [Acrimonious Budget Debate Roils House](#)

JUDICIAL GERRYMANDERING

Judges have ruled against the NC GOP-controlled NCGA over 15 times since Sen. Phil Berger and Rep. Tim Moore took over leadership. Tired of losing in court, Berger and Moore have responded by saying that judges will face “profound consequences.”

After mounting public pressure Representative David Lewis said there will not be “statewide” judicial redistricting after much effort was made to do so; however, changes to Wake County judges are particularly of concern since the Wake Co. Superior Court 3-judge panel reviews challenges to NCGA actions and redistricting plans. In other words, the legislature could be appointing the judges that hear cases against them.

[Senate Bill 757](#) (vetoed by the Governor and promptly overridden) [redistricts Superior Courts in Mecklenburg, Pender and New Hanover counties and District Courts in Wake and Mecklenburg counties](#). SB757 breaks these heavily democratic counties up into “districts” which could likely result in more Republican judges. Until very recently, judicial races in NC were non-partisan, but now party designation will be on the ballot. It also appears that voters may only be able to vote for judges in their “district” even though they could possibly appear in front of *any* of the judges in the county.

In another example of stealth legislating, on June 6th, 2018, the North Carolina Senate passed a controversial judicial gerrymandering bill ([HB717](#)) without posting the upcoming vote on their website, leaving grassroots leaders and the public in the dark. Normally, the public can count on the North Carolina General Assembly staff to post if a committee or either chamber will vote on a bill. Yet on the 6th, the staff failed to post that the chamber would vote on one of the most contentious bills that activists have been fighting for over six months. The lack of transparency has been a real problem this session.

HB717 did finally pass both chambers, was also vetoed by the Governor and then overridden by the Legislature. It was changed from a statewide judicial redistricting bill to [a more targeted measure](#) that reduces the state’s judicial divisions from eight to five, redistricts some western counties, prohibits the State Board of Elections and Ethics Enforcement from labeling judicial seats by incumbents’ names and attempts to change the rotation and assignment of Superior Court judges.

North Carolina taxpayers have already [footed the bill](#) for over \$5M dollars in legal fees for legislative redistricting lawsuits and it’s likely to increase until we have an independent redistricting commission created, taking the will of the politicians out of the equation.

Some background on Wake County judges: [Special 3 Judge Panels Have a Lot of Power in NC](#), [Judicial Redistricting Bill Getting a Makeover](#), [Statewide Judicial Redistricting Off the Table](#)

NEW CONSTITUTIONAL AMENDMENTS

The NCGOP is now trying to skirt lawsuits by making constitutional changes, to avoid transparency by not showing us their intent with specific bill language, and to add in unfunded mandates just for show. On closer examination of the intent of these amendments, it is clear that they would re-allocate the balance of power entirely in their favor, stripping away even more powers granted to the Executive branch. Even [two former Republican governors](#), Pat McCrory and Jim Martin, have voiced their opposition to this continued power grab.

Six Constitutional Amendments will be on the ballot this November. Voters will be asked to seriously and fundamentally change the North Carolina Constitution (by a legislature which was elected after securing their seats through racial and partisan gerrymandering) with little research, bipartisan discussion, or a public plan for implementation.

“...by approaching these [policy issues through constitutional amendments](#) it makes it much harder for them to be altered or overturned in some way [by the courts]...Michael Bitzer, a politics professor at Catawba College in Salisbury, said the amendments are also meant to bring energy and mobilization to the Republican base.”

The NCGA adjourned this session on June 29 and has already announced that they will reconvene on November 27 at noon. If these amendments pass, the outgoing legislators will be able to craft any implementation bill language as they see fit, regardless of the election outcome, before the duly elected new representatives can be installed in January. (*Reminiscent of the Carolina Coup in Dec. 2016 when they stripped the powers of the Executive branch before newly elected Gov. Cooper was installed in office.*)

For these reasons, we’re strongly advising voters to vote NO on these amendments, which can be read in their entirety by clicking on the links. Read on below for a summary of each.

1. [HB 913 Bipartisan Ethics and Elections Enforcement](#)
2. [HB 1092 Require Photo ID to Vote](#)
3. [SB 75 Max Income Tax Rate](#)
4. [HB 551 Strengthening Victim’s Rights](#)
5. [SB 677 Protect the Right to Hunt and Fish](#)
6. [SB 814 Judicial Vacancy Sunshine Amendment](#)

You can also print out this [handy summary](#) from You Can Vote to distribute and use as you discuss these amendments with others.

HB 913 BIPARTISAN ETHICS AND ELECTIONS ENFORCEMENT

“Constitutional amendment to establish a bipartisan Board of Ethics and Elections to administer ethics and election laws, to clarify the appointment authority of the Legislative and the Judicial Branches, and to prohibit legislators from serving on boards and commissions exercising executive or judicial authority.”

While anything “bipartisan” sounds good, and that is their intention with this word choice, what they are intending is a Board of Ethics and Elections that will be deadlocked with a 4-4 equal split of Democrats and Republicans, without the current 9th Unaffiliated member. This could allow for challenges to elections laws to be dismissed.

In addition, the language is misleading in that it does much more than “clarify” appointment authority. It is a blatant power grab by the legislature, solidifying appointment powers for every board and commission in the state (over 350 of them) and turning the executive branch into purely an administrative function. Not only does this fundamentally challenge the foundation of democracy in the separation, equality and independence of the branches, it gives completely unchecked power to a legislature fraught with conflicts of interest and abuses of power. We already have a strong legislative and a weak executive branch and this solidifies an even more powerful legislature. We should be moving towards a more equal split of the three branches, not more imbalance.

As seen at the end of this session, the legislature refused to confirm 3 of Gov. Cooper’s 4 highly qualified appointments as a signal that they would prefer to be the ones making appointments instead.

<https://www.newsobserver.com/news/politics-government/article214020504.html>

“The legislative powers of the State government shall control the powers, duties, responsibilities, appointments, and terms of office of any board or commission prescribed by General Assembly Of North Carolina...”

This proposal would mean [the governor would no longer have a say](#) in elections board membership or any other board designed to manage important issues (education, labor, environment, etc) for our state. And, as Representative [Darren Jackson has pointed out](#), “the second part of the amendment creates an eight- member elections and ethics board (currently, there are nine) and divides them evenly between the two major parties.”

Unaffiliated voters, which are the [second largest group in NC](#)- larger than the Republican party- would not have a spot at the table.

HB 1092 REQUIRE PHOTO ID TO VOTE

“Constitutional amendment to require voters to provide photo identification before voting in person.”

Sounds ok, right? And indeed it will appeal to most conservative voters. But we know voter ID laws disproportionately affect poor, rural, minority, and [women voters](#), and indeed that’s why the courts struck down this legislature’s 2013 voter ID law for discriminating against African Americans [“with almost surgical precision.”](#) This legislature cannot be trusted to enact fair voter ID laws.

The NCGOP is refusing to show its hand with the bill language upfront. They have provided no indication of the types of ID they will approve, or how they plan to ensure that all eligible voters are able to get an approved ID without hardship. Mandating a “photo ID” in our constitution is also restricting the options for future technologies to be implemented. Giving them carte blanche to re-write the [2013 Monster Voting Law](#) this November will likely end up with the issue in the courts again for years, taking us beyond the 2020 election and any chance for expanding access to the polls for the next presidential election.

Having this requirement in the constitution would insulate it from state court challenges. [“Such an amendment would have no effect on federal court challenges to a voter ID requirement.”](#)

Recent press on this issue:

- From [Ari Berman at Mother Jones](#)
- From [WRAL.com](#)
- From the [News & Observer Editorial Board](#)
- Statement from the [Southern Coalition for Social Justice](#)
- Statement from the [Wake Co. League of Women Voters](#)
- Fact Sheet from the [Wake Co. League of Women Voters](#)

SB 75 MAX INCOME TAX RATE

“Reduce the income tax rate in North Carolina to a maximum allowable rate of seven percent (7%).”

The current constitutional cap on state income tax is 10%, where it has been since 1936, and the state corporate tax rate is 3%, which is on a downward trend. It’s a radical move towards a flat tax that has not been debated or analyzed fully. If income taxes are limited in times of need, then it is more likely that sales and other taxes will increase, placing far more burden on lower and middle income individuals. Further, it inhibits the state from raising taxes when necessary for infrastructure, education, natural disasters, and so on. This is on top of [additional federal tax cuts](#) already in place.

[From the NC Justice Center's Budget and Tax Center:](#) This proposal would threaten N.C.'s future. ([Read the factsheet](#))

Here are some more reasons why:

- Reason #1: It would put our children's education at risk. [Learn more](#)
- Reason #2: It would threaten our state's bond rating. [Learn more](#)
- Reason #3: It could force property and state taxes to increase. [Learn more](#)
- Reason #4: It could hurt homegrown small businesses. [Learn more](#)
- Reason #5: It would hit women particularly hard. [Learn more](#)
- Reason #6: It would undermine equity. [Learn more](#)
- Reason #7: It would put the health and well-being of North Carolinians at risk. [Learn more](#)
- Reason #8: It would make N.C. ill-prepared to care for our elders. [Learn more](#)
- Reason #9: It would threaten our state's natural resources and quality of life. [Learn more](#)
- Reason #10: It would threaten our democracy. [Learn more](#)

[HB 551 STRENGTHENING VICTIM'S RIGHTS](#)

"Constitutional amendment to strengthen protections for victims of crime, to establish certain, absolute basic rights for victims, and to ensure the enforcement of these rights."

This amendment, also known as Marsy's Law, includes a slate of provisions delineating rights of people who are victims of crimes. These include (from [Longleaf Politics](#)):

- Being notified of criminal proceedings against the accused perpetrator
- The right for the victim to speak at all hearings involving plea, sentencing, parole, or the release of the defendant.
- The right to "full and timely" restitution.
- The right to be "reasonably protected" from the defendant.
- A "prompt conclusion" in the case.
- Victims' attorneys can petition the court to enforce any of these provisions.

Many of these provisions already exist under current NC laws, and we can see a lot of value in incorporating most of the others. However, a document that detailed the projected cost (\$30M annually) was marked confidential, and was forbidden from discussion during the reading, and no bipartisan amendments were allowed. Enacting laws through constitutional amendments without planning or budgeting is highly irresponsible. It is also possible this unfunded amendment was added to make a "Vote No On All Amendments" campaign difficult.

In other states that have implemented "[Marsy's Law](#)", [there are a multitude of issues](#) such as judicial delays because victims could not be located (undermining due process for the accused), raising privacy issues, especially in cases where minors are involved, and an increase in costs and burdens on law enforcement without all the benefits the law promises. We'd love to see some of the elements of Marsy's law added, but the research and implementation is inadequate and a blank constitutional amendment is the wrong way to enact policy.

SB 677 PROTECT THE RIGHT TO HUNT AND FISH

“Constitutional amendment protecting the right of the people to hunt, fish, and harvest wildlife.”

We’re not sure that there was a need for this, especially as those activities are already governed by licensing requirements from the NCGA. We’re also unclear if this means the state would refuse federal requirements and laws, especially environmental protections. [Senator Floyd McKissick](#), Jr. has stated the architects of this bill conceded that they created this amendment specifically to drive voter turnout among their base, and not for any other need for it.

Article I of the North Carolina Constitution is a declaration of rights. This bill would add a section to Article I of the North Carolina Constitution protecting the right of people to hunt, fish, and harvest wildlife, including by using traditional methods, and is subject only to laws and rules from the General Assembly promoting wildlife conservation and management and preserving the future of hunting and fishing. So essentially they are giving us the right to hunt and fish, except when they say it’s not covered under their laws.

SB 814 JUDICIAL VACANCY SUNSHINE AMENDMENT

“Implement a nonpartisan merit-based system that relies on professional qualifications instead of political influence when nominating Justices and judges to be selected to fill vacancies that occur between judicial elections.”

This sounds great, but it fundamentally alters the balance of power, reducing the executive and judiciary’s power and giving it to the already powerful legislature by way of changing who can appoint judicial vacancies. We also expect the NCGA to [pack the Supreme Court with two extra seats](#) and appoint the new justices through this mechanism. Currently the NC Supreme Ct has a 4-3 Democratic majority, following the election of Justice Mike Morgan in 2016. The motivation behind a court packing scheme lies in a very competitive Supreme Court election this November, with social justice advocate Anita Earls on the ballot. If Anita Earls wins, there will be a 5-2 Democratic majority on the Supreme Court. If two additional seats are added, as currently allowed in the Constitution, the balance could move to 5-4. For this reason the NCGOP has already started a slanderous campaign against her as it is their only hope to swing the balance back to a 5-4 GOP majority should she lose.

If SB814 passes, legislators would essentially get to pick who fills those two seats through a [nominating commission](#) (yet to be named). This commission would send nominees to the legislature who would then choose two names for the Governor to select from. With a GOP supermajority in place it is easy to determine that the choices would be ideologically conservative. In cases where the vacancy occurs right before an election, the chief justice of the N.C. Supreme Court (currently Mark Martin, a Republican) would make the pick instead of the governor. This would be the same court to hear challenges concerning redistricting, Voter ID and other important cases concerning the representation rights of citizens.

NOTABLE MENTIONS

[Padding pockets of bail bondsman and taking away income for schools](#)

When criminal defendants out on bond fail to appear in court, the bail bond agent forfeits the money, which is used by the state for additional school funding. Or it did- to the tune of [\\$11M in 2016-2017 FY year](#). House Bills [131](#) and [382](#) would make it easier for bondsmen not to pay the forfeiture. Governor Roy Cooper's veto of the bill was overturned by the legislature.

Critics of the for-profit bail bond system argue it's immoral to profit off another's incarceration, creates an unfair system of justice for lower income arrestees, and creates conflicts of interest, particularly within the legislature. "Lawmakers were the beneficiaries of more than \$300,000 in political contributions from the industry between 2002 and 2016. During that period, the North Carolina Bail Agents Association took credit for helping to pass 60 laws "helping N.C. bondsmen make and save more money and protect their livelihood."

These bail bond bills were passed as part of an omnibus package of bills, which made it harder to vote against- one notable exception was Rep. Darren Jackson (D) who urged the House to sustain the veto.

[No school bond to raise funds for school repairs despite bi-partisan support](#)

"School districts identified \$8 billion in construction needs when advocacy groups went before state legislators last year to ask for the \$1.9 billion school bond. The last statewide school construction bond referendum was in 1996.

The proposal initially met with broad support. Legislation calling for a November 2018 school bond referendum had both Republican and Democratic sponsors when it was filed in spring 2017.

"We need this school bond not only because there are many districts that need additional schools, but poor districts have great renovation needs to ensure that the school house is both safe and adaptable to 21st Century learning concepts, primarily the use of technology," said Rep. Craig Horn, a Union County Republican and one of the primary sponsors of the school bond legislation. Horn said the problem is that "there's always a group of people who run away from any bonds or indebtedness."

Unfortunately, the opportunity to add the bond referendum has come and gone.

Additional notable mentions from the [News & Observer](#):

Farm Act: This law passed over Cooper's veto and limits when and how neighbors of farms and forestry operations can file nuisance suits and creates tougher restrictions for neighbors wanting to sue. This is a response to a \$50 million jury verdict — later reduced — against pork giant Smithfield, one of dozens of lawsuits working their way through the courts now over smells and other impacts brought on by hog farms. The bill also brought debate on whether dairy-free milk substitutes should be labeled as milk. Makers of the plant based products such as soy, almond and coconut beverages now won't be able to label them as milk.

Opioids: The Heroin and Opioid Prevention Enforcement Act puts money toward addiction programs and allows greater police access to the state's prescription database during investigations. Some patients and doctors worried the access is a violation of privacy; supporters including lawmakers and Attorney General Josh Stein said the bill would help combat the opioid epidemic.

Rape kit tracking: A rape kit tracking system was approved overwhelmingly after law enforcement reported having 15,160 untested rape kits. Stein has said testing one kit costs \$700. Some lawmakers tried unsuccessfully to add more money for testing.

Gifted classes: Low-income students will now have better access to advanced math classes. Public schools will now be required to give students who earn the highest score on state math exams the opportunity to take advanced classes. Both Republican and Democratic lawmakers said the bill passed as a response to a Charlotte Observer and News & Observer series, "Counted Out," which revealed that thousands of bright, low-income kids were being excluded from advanced classes.

Charter schools: A bill that set off a flurry of debate allows four majority-white, suburban towns outside of Charlotte to create charter schools and give preference to the town's residents. Lawmakers separately allowed cities to fund their local schools. Charter schools have already faced criticism over segregation, and critics said this proposal would create racially segregated schools. Supporters said Charlotte-Mecklenburg Schools isn't responsive to those towns.

Early voting: Republicans attempted to eliminate voting hours on the final Saturday before Election Day, but later restored those Saturday hours for the 2018 elections. African-Americans tend to disproportionately vote on the Saturday before elections.

GenX: A chemical being released into the Cape Fear River by the company Chemours, GenX has found its way into some North Carolinians' drinking water. A bill aiming to address the pollution was added to the state budget; some environmentalists criticized it as inadequate.

GOOD BILLS SILENCED

These recent bills, all sponsored by Democratic legislators, have been moved to the Graveyard Committee on Rules and Operations this session:

Special acknowledgement to these two critical pieces of legislation:

[S800. Actually Draining the Swamp](#)

Sponsored by Senators Jeff Jackson, Terry Van Duyn and Erica Smith, and includes provisions to:

- Establish an independent redistricting commission
- Reenact legislation establishing nonpartisan judicial elections
- Reenact public financing of judicial campaigns
- Extend the waiting period for former legislators who become lobbyists
- Modernize the voter registration process
- Increase transparency by requiring forty-eight hours notice of meetings of all legislative committees
- Provide live video and audio streaming of all legislative committee and commissions meetings

[HB976. Extreme Risk Protection Order](#)

Sponsored by Rep. Marcia Morey, who tweeted:

“Speaker shuts down all sensible amendments to HB976. NC House fails to address sensible gun regulations. My Extreme Risk Protective Order amendment ruled out of order. Sorry kids.”

Here are just a few other bills that will not see a vote this year (for a complete list see [this chart](#) sorted by bill date):

- [S726. Go Big For Early Childhood](#), Senators Jackson, Foushee, and Waddell
- [S736. Preserve Net Neutrality / Statewide Broadband](#), Senators Chaudhuri and Woodard
- [S737. Safer Schools. Healthier Kids Act](#), Senators Chaudhuri, McKissick and Jackson
- [S745. Fully Fund School Counselors and Psychologists](#), Senators McKissick, Chaudhuri and Foushee
- [S755. Voter Freedom Act](#), Senators Clark, Woodard and Van Duyn
- [S764. UNC CH Monument Relocation](#), Senators Foushee and Woodard
- [S767. Medicaid Expansion / Healthcare Jobs Initiative](#), Senator Clark
- [S782. NC Adopt Equal Rights Amendment](#), Senators McKissick and Van Duyn
- [S783. NC Equal Pay Act](#), Senators McKissick and Van Duyn
- [S784. Affordable Housing Act](#), Senators Chaudhuri, Robinson, McKissick
- [S786. Healthy Mother & Child Shackling Prohibition](#), Senators Smith, Foushee and Van Duyn
- [S787. Small Farms to Healthier Schools Initiative](#), Senators Smith, Woodard and Waddell
- [S794. Hate Crimes Prevention Act](#), Senators Chaudhuri and Foushee
- [S801. Revoke Consent / Intercourse and Sexual Acts](#), Senator Jackson
- [H968. Legislative Response to Emerging Contaminants](#), Reps. Butler, Harrison, Richardson and Floyd
- [H1060. Ensure Safe Handguns](#), Reps. Insko, Harrison and Morey
- [H1067. Polluter Pay Legislation](#), Reps. Harrison, Ager, Butler and Richardson