

Summary

The 2015 session of the North Carolina General Assembly ended in the early morning of September 30 after the usual flurry of last minute legislative action. The long session was driven by budget disputes that led to three delays in passage of the state budget act and frequent discord between the Senate and House on large, complex policy issues such as sales tax changes, Medicaid reform, and various economic development efforts. Active participation in the legislative process by NCACC members both at home and during visits to the legislature played a key role in ensuring protection of county interests and furtherance of association goals.

For counties, the entirety of the session was defined by the conversation surrounding redistribution of local sales taxes, the intent of which was to bring additional revenue to struggling, mostly rural areas of the state. Active lobbying by local officials on both sides of this issue led to multiple plans floated containing different distribution formulas, with NCACC staff analyzing each one and regularly updating our membership, as well as meeting with legislators on the effect of each on counties.

The association and counties achieved or made progress on goals addressing economic development assistance, 911 funding flexibility, increased revenue for transportation infrastructure and dredging, increased mental health funding, progress toward implementing a statewide child welfare case management system, reform of childcare subsidy formulas, and limiting unfunded mandates. Legislation regarding other goals is eligible for the short session.

Another theme of this year was challenges to local government authority, with the legislature debating and sometimes passing proposed laws limiting local government revenue and ordinance powers. Details on all these and other subjects are included in this report.

The General Assembly returns for the second year of the biennium on April 25, 2016, about three weeks sooner than its traditional short session commencement. The earlier start date was enabled when the legislature moved the primary election date from May to March.

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## Local sales tax distribution

The legislature considered and deliberated numerous iterations of local sales tax changes during the 2015 session. These debates became quite contentious at times, pitting the Senate against the House and elected officials from struggling areas of the state against those from more prosperous regions. The Senate held two news events at the legislative building, bringing officials from local governments that would benefit from the plans to Raleigh to lobby for their passage.

The final plan, ultimately enacted as part of the state budget, expands the sales tax base to include some services and, along with an additional state appropriation, directs some of this expansion to certain counties. Specifically, it:

- Applies sales tax to repair, maintenance and installation services on motor vehicles and tangible personal property;
- Combines this additional revenue from Articles 39, 40 and 42 (\$67.2 million in FY 2017) with \$17.6 million from state sales taxes;
- Distributes the total (\$84.8 million in FY 2017) to 79 counties according to a statutory percentage that the legislature will periodically review;
- Allows counties to use this new funding for economic development, public education, and community colleges;
- Requires distribution to municipalities following the method each county uses under Article 39;
- Leaves additional revenue from Articles 43 and 46 in the originating counties;
- Begins base expansion March 1, 2016, and distribution of the new revenue July 1, 2016.

The two original versions, in S369 (Sales Tax Fairness Act) and S608 (Simple and Fair Formulas for Sales Tax Distribution), converted the two percent local sales taxes in Articles 39, 40 and 42 to a state tax, with the legislature appropriating the funds based on a 100 percent population distribution. Subsequent versions (H117 NC Competes Act and in the Senate budget) kept the two percent as a local tax, but redistributed the revenue first in an 80 percent population/20 percent point of sale formula, then as a 50/50 percent formula. NCACC opposed the conversion of the local taxes to a state tax, but remained neutral on the various redistribution formulas affecting existing revenue. In a continued effort to create a 100-county solution, the association supported the final distribution plan approved by the General Assembly, as it did not take away any existing resources.

For information on the changes, including a chart of percentage allocations by county, visit the association's [website](#).

## BUDGET

The N.C. General Assembly approved a state budget for the 2015-17 biennium that achieves several NCACC goals, with our membership and advocacy staff working diligently to mitigate negative effects on county government. Governor Pat McCrory signed the legislation the same day it passed both chambers. Lottery funding for school construction is maintained at \$100 million. The legislation fully funds teaching assistants and driver education, and budgets salary adjustments and a one-time \$750 bonus for teachers. It increases funding for film grants, restores historic preservation tax credits, and increases transportation infrastructure funding. The final budget increases autopsy and medical examiner fees paid by counties and reinvests the receipts into those programs, including training for county medical examiners. The budget amends child care subsidy policies, reduces funding to LME/MCOs and increases some mental health, public health and social service programs. It transfers state parks and attractions to the Department of Cultural Resources, and creates two new state departments – Information Technology, and Military and Veterans Affairs. To begin implementing Medicaid reform, the budget allocates \$225 million to a special fund and sets aside \$25 million in anticipation of a \$2 billion general obligation bond up for referendum in March 2016. You can find NCACC’s detailed analysis of the budget on our [website](#).

## LEGISLATIVE GOALS

### Economic Development

Debates over economic development programs lasted throughout the entire session as the General Assembly approved a package of items across multiple legislative vehicles, including the budget. The House and Senate rolled out individual economic development legislation as early as March, but finalized H117 (NC Competes Act) in the last days of session. A number of these items address county legislative goals to support efforts to grow the statewide economy through competitive incentives and investments including new approaches to economic development for rural counties, as well as restoration of film and historic preservation incentives.

The final economic development package, which passed in H117, extends the Job Development Investment Grant (JDIG) program until 2019, amends requirements to receive funds, increases the cap on JDIG funds to \$20 million per year, and \$35 million in a year that includes a "high-yield" project where a company invests at least \$500 million and creates at least 1,750 eligible positions. The legislation also amends local match requirements for One NC Fund awards, based on tier area, to drive more funds to lower wealth counties. Tier 1 counties must now match \$1 for every \$3, Tier 2 counties must provide a \$1 match for every \$2 and Tier 3 counties must provide a dollar for dollar match. As part of the budget, the legislature expanded the film grant program to \$30 million, and reinstated a modified Historic Preservation Tax Credit replacing the credit that expired at the beginning of this year.

### 911

#### H506 – 911 Fund Distribution.

The NCACC advocacy team followed several bills this session dealing with Public Safety Answering Points (PSAPs) and the use of 911 Funds. One such bill, H506 (911 Fund Distribution), was introduced at the request of NCACC to accomplish the counties' number one Justice and Public Safety goal (JPS-1)—to allow PSAPs greater flexibility in the use of 911 funds. Existing law allows 911 Fund distributions to be used only for the purchase of equipment and furnishings within the building where the 911 center is located. H506 would amend the current statute to include costs associated with transmitting emergency call information from the PSAP within the list of allowable 911 Fund expenditures. In particular, the bill would permit PSAPs to use 911 Fund distributions to pay for "base station transmitters, towers, microwave links, antennae, and all other transmission equipment located on or otherwise attached to any tower used to dispatch emergency call information from the PSAP."

The bill also contains a provision requiring the 911 Board to notify a PSAP in writing of a decision denying a 911 Fund distribution for expenses incurred by the PSAP. The notice would have to include the reason for the denial, a statement informing the PSAP of the right to appeal or request reconsideration of the denial, and information for filing an appeal or requesting reconsideration of the denial. The bill also directs the Legislative Research Commission to study the structure, operations and functions of the 911 Board, as well as the administration of the 911 Fund.

H506 passed the House Local Government committee early in the session, with a serial referral to House Finance. The bill was never taken up by the Finance committee, and conversations at the legislature turned to other 911 issues such as needed funding for the Next Generation 911 system and the delay in

rulemaking by the 911 Board regarding standards. It is uncertain whether H506 is eligible for consideration in the 2016 short session.

#### H730 (S.L. 2015-261) – Next Generation 911.

After lying dormant in Senate Rules for nearly three months, H730 (Next Generation 911) resurfaced in Senate Finance during the final days of session as a vehicle to address the need to fund and implement Next Generation 911, a system to enable users to reach a PSAP through alternate technology such as text or SMS. Originally opposed by NCACC, the repurposed H730 directs the 911 Board to allocate 10% of all 911 fees collected to the Next Generation 911 Reserve Fund for the purpose of supporting Next Generation 911 system projects as approved by the Board. The Fund may be used to finance statewide 911 projects or to enable PSAPs to transition to the Next Generation 911 Network, which they are mandated to do under the bill.

H730 also includes language that furthers the counties' goal of greater flexibility in using 911 funds. The bill provides that PSAP Grant Funds may be used for capital expenditures that enhance the 911 system, including construction costs and expenditures not authorized under existing law. The bill also authorizes the 911 Board to establish statewide cooperative purchasing agreements for the procurement of goods and services for the 911 system.

The 911 provisions of the bill become effective on January 1, 2016.

#### H512 (S.L. 2015-219) - Amend/Clarify Back-Up PSAP Requirements.

A bill extending the deadline for PSAPs to implement a back-up plan helps counties that are making progress towards a plan. The legislature in 2014 passed a law requiring primary PSAPs to have a back-up plan and means for call taking in the event 911 calls cannot be received and processed in the primary PSAP. July 1, 2016 was set as the deadline for implementing the plan. H512 (Amend/Clarify Back-Up PSAP Requirements) provides that if the PSAP has made substantial progress toward implementing its back-up plan by the July 1, 2016 deadline, the 911 Board may grant the PSAP an extension until July 1, 2017 to complete the plan's implementation.

While in the Senate, H512 was amended to include provisions from H730 (County Provide 911 Dispatch Services), which would prohibit a county from billing a city for 911 dispatch services that are funded in whole or in part by the city's constituents through the county's ad valorem taxes. H730 was introduced at the request of the NC League of Municipalities, which argued that billing the cities for providing these services amounted to double taxation of the cities' residents. However, after several counties voiced concerns about this language, the House voted not to concur with the Senate changes to H512. After working with NCACC and other stakeholders, the conferees appointed to work out a compromise decided to strike the provisions of H730 from the final version of H512. The remaining provisions extending the time to implement a back-up PSAP plan are in effect.

#### School Board Lawsuits

A bill was introduced this session to achieve the counties' priority goal (PE-4) to repeal the statutory authority of local school boards to file suit against the county boards of commissioners challenging the sufficiency of education appropriations. H726 (School Bds. Can't Sue County) amends the statute that

sets forth the procedure for resolving disputes between school boards and boards of county commissioners. Currently, if a school board determines that the amount appropriated by the board of commissioners is not sufficient to support a system of free public education, the chairman of each board shall arrange a joint meeting of the two boards. If no agreement is reached at the joint meeting, the matter then proceeds to mediation. If the mediation results in an impasse, the school board may proceed to file a civil action against the board of commissioners disputing the sufficiency of the amount appropriated.

H726 retains the part of the process that requires a joint meeting of the boards to resolve a budget dispute. However, the bill provides that if an agreement is not reached at the joint meeting, “the decision of the county commissioners is final.” The bill further states that “The local board of education shall not file any legal action challenging the sufficiency of the funds appropriated by the board of county commissioners to the local current expense fund, the capital outlay fund, or both.”

The legislation passed a House Judiciary committee and was placed on the House calendar later that evening. Following a debate that endured for more than an hour and a half, the House voted 66-52 not to approve H726, effectively killing the bill for the remainder of the session.

The Senate revived the issue several months later by amending H561 (School System Auth. Re Legal Proceedings), to impose a five-year moratorium on school board lawsuits against county commissioners. The House did not concur in the Senate amendment to H561, and a committee of House and Senate members was appointed to hash out the differences. This conference committee did not convene before the legislature adjourned, which leaves H561 eligible for consideration in the 2016 short session.

### Broadband

To help expand broadband Internet access across the state and address a county legislative goal, NCACC worked with members of the House to introduce H432 (Counties/Internet Infrastructure), which would give counties the authority to invest in Internet infrastructure in unserved areas and lease assets to private Internet service providers. The legislation was considered in committee, but no vote was taken; however, members indicated support for more tools to expand broadband Internet access to rural areas. Counties currently have limited authority to provide grants to encourage broadband access for economic development. The budget did include \$12 million annually in additional funds beginning in FY 2017 for the state’s School Connectivity Initiative that brings high-speed wireless Internet access to classrooms across the state. The budget act also requires the state chief information officer to develop a state broadband plan, including an evaluation of current broadband access. NCACC will continue working throughout the interim and the short session to give counties tools to encourage better Internet access to homes and businesses across the state.

### School Calendars

Of the more than forty bills filed this session seeking to allow local school boards flexibility in setting school calendars, two would have fulfilled the counties’ goal (PE-6) to allow local school districts to align public school and community college calendars. Under present law, local boards of education are authorized to determine the opening and closing dates for public schools, but the dates must comply with the parameters set out in the statute. S293 (OK to Align School and Community College Calendar)

would allow local school boards to disregard the statutory opening and closing dates and align their calendars with the calendar of a community college serving their city or county.

H164 (School Calendar Flexibility) would grant local school boards flexibility with regard to the number of instructional days. Current law requires local school boards to adopt a school calendar that contains a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months. The bill would delete the requirement that school instruction calendars include a minimum of 185 days, provided they include a minimum of 1,025 hours of instruction. It would also authorize local boards to vary the number of instructional days and hours and allow a local board of education that has adopted a school calendar that concludes the fall semester prior to December 31 to administer assessments before the fall semester ends.

As in previous sessions, the Senate declined to hear any bill modifying the school calendar and referred all such bills, including S293 and H164, to Senate Ways and Means, which has not met for several years.

#### Electronic public legal notices

The NCACC and the NC Press Association were again on opposite sides over the issue of allowing counties the ability to publish legal notices through electronic means. Competing bills on this subject were filed in both chambers of the General Assembly. S210 (Notice Publication by Counties and Cities), sponsored by Sen. Trudy Wade (Guilford), is identical to one she filed during the 2013 session and would accomplish the counties' goal (GG-4). Under the bill, the governing board may adopt an ordinance allowing it to electronically publish any notice, in lieu of or in addition to publication in the newspaper, provided that certain conditions are met. S210 was referred to Senate Rules, but never got a hearing; thus, it is no longer eligible for failure to meet the crossover deadline.

A House bill, H156 (Legal Notices/Require Internet Publication) would require online publication of legal notices in addition to publication in the newspaper. Under the bill, a legal notice printed in a newspaper must be published that same day on the newspaper's website at no additional charge to the county. However, when the notice is required to be published more than once, the publishing newspaper may charge the county up to 85% of the original rate for each successive publication.

H156 passed the House and was referred to Senate Finance, where the original language was revised to include language from S210, but applied only to counties with a population greater than 150,000. After a lengthy and vigorous discussion, the committee chair decided that the bill required further review and adjourned the meeting without taking a vote. H156 is eligible for consideration next session, but it remains to be seen whether and in what form the bill will move forward.

#### Industrial Hemp bill emerges in final week

Behind the scenes work since January led to the final-week emergence of legislation authorizing farmers to grow industrial hemp in North Carolina. The House repurposed S313 (Industrial Hemp) in a committee before its approval on the floor, and the Senate accepted the House changes. The new law authorizes an agricultural pilot program to cultivate industrial hemp for the production of products such as textiles, particle board, and seed oil. It creates the NC Industrial Hemp Commission to establish, implement and oversee the pilot program. The commission shall pursue federal permits to allow growers to participate and may charge fees to support the program.

## County Omnibus

To address three NCACC legislative study goals and a goal clarifying county recycling ordinances, NCACC worked with the House and Senate to introduce companion County Omnibus legislation in each chamber. While the original bill H430 (County Omnibus Legislation) passed a committee in the House, opposition to the recycling piece delayed the bill beyond the crossover deadline. To keep the three studies eligible for the rest of session, NCACC identified a different bill as a legislative vehicle, S391, which passed the House 100-0. The bill directed studies of a statewide payment in lieu of taxes (PILT) program, a coordinated program to manage noxious aquatic weeds, and the impact of exempting properties from the tax base when acquired by certain nonprofits. These studies would have accomplished NCACC legislative goals TF-9, ENV-1, and TF-8. The Senate removed the bill from its calendar on the final two days of session and did not consider it again prior to adjournment.

## OTHER ISSUES OF INTEREST

### Medicaid reform/LME/MCO

After debating the issue for multiple sessions, the legislature and Governor reached an agreement on a Medicaid reform plan, passing H372 (Medicaid Transformation and Reorganization) in the last full week of the long session. The bill transitions Medicaid from a fee-for-service model to capitated contracts implemented by a new Division of Health Benefits within the Department of Health and Human Services. The division will award three statewide contracts to provide services to eligible citizens and 10 regional contracts for provider-led entities (PLE) to provide coverage in one of six specified regions. Mental health services will continue to be provided by existing LME/MCOs for at least four years after capitated contracts begin.

The budget included a reduction to LME/MCOs targeted to those with larger cash balances; however, this reduction may be partially offset by savings in anticipated Medicaid growth. A separate bill that popped up late in session but did not pass would have limited county flexibility to move between different behavioral health managed care organizations. Prior to implementing Medicaid reform, the federal government will have to approve the changes, which could take as long as two years. As partners in funding behavioral health programs, NCACC and our counties will work closely with the DHHS, the legislature and industry to ensure this transition moves forward without a reduction in level or quality of service for behavioral health patients and their families.

### Local government authority challenges

A recurring theme throughout the session was the state legislature's desire to further curb local government authority. This manifested in bills to redraw local electoral districts and limit the types of local ordinances allowed. Of several bills to preempt local authority to determine local governance structure, S181 (Wake County Commissioner Districts) passed and is now law. It would increase the number of Wake County commissioners to seven, redraw their districts, and shift votes from countywide to district-only. The changes will be phased in and be fully implemented for the 2018 election. Legislation setting the structure of government and method of elections for the municipalities of Greensboro and Trinity also passed, but legal action has prevented implementation of the changes in Greensboro.

In the last hours of the session, legislators made two attempts at preempting local ordinance authority, one of which became law. One provision in a wide-reaching bill pitched as "technical corrections" rewrote current law that says local governments may not pass ordinances that prohibit hydraulic fracturing, expanding the language to prohibit most local regulation of this industry. The new law allows continued general local land use and zoning enforcement, but expressly provides for challenges to these regulations if they may impact oil and gas exploration and production activities. Senate bill 119 (GSC Technical Corrections) became public and passed minutes before the early morning adjournment.

Another effort, surprise additions to S279 (Amend Qualifications/Practice Counseling), included prohibitions on ordinances addressing minimum housing standards, employee wages and hours, and landlord duties. Statewide outcry from local officials and other stakeholders prevented the inclusion of this language in the final version. Further limits on local ordinances are included in H44, summarized elsewhere in this report.

### Builders inventory exemption

Despite opposition from local governments across the state, legislation exempting from taxation most improvements to commercial and residential property for sale became law. The Senate expanded on the House's property tax exemptions in H168 (Exempt Builders Inventory), exempting value from land and structure improvements to property developed for single-family homes and residential duplexes for up to three years, and commercial subdivision and land improvements for five years. The commercial exemption ends upon issuance of a building permit or sale of the property. Residential property improvements are exempt until sale.

The owner of the property does not have to be a licensed contractor. Property that is being used for commercial purposes, such as rentals or model homes, is not eligible for the exemption. The law applies to improvements made beginning July 1, 2015, and will be reflected on tax bills beginning Jan. 1, 2017.

### Other finance changes

Alongside debates over economic incentives programs, the legislature considered a variety of additional finance changes including property tax changes and several modifications or extensions to sales tax exemptions for certain industries such as commercial aviation fuel. The final version of H117 (NC Competes Act) exempts equipment purchased for large datacenters from state and local sales taxes. To qualify for the exemption, a company must invest at least \$75 million into the datacenter. The General Assembly also approved a bill changing property tax treatment on Eastern Band of Cherokee Indian tribal land. H912 (Taxation of Tribal Land and Tobacco Products) prohibits counties from taxing any property on tribal land regardless of ownership. While counties previously had this authority, under the bill, counties may no longer tax personal property on tribal land when owned by non-tribal members. NCACC worked with the House and Senate to amend the bill to provide that a county is not compelled to provide services on tribal land absent an agreement between the tribe and county.

### Elections Changes

Legislation that establishes the procedures for conducting the 2016 primaries, including the presidential preference primary, and that makes changes to campaign finance practices, is now law. H373 (Elections) moves the date of all primaries to March 15, 2016, accommodating those who want North Carolina to have an earlier presidential primary while not burdening counties with the cost of holding two primary elections. According to the State Board of Elections, the additional estimated cost to counties of conducting a separate presidential primary would have been approximately \$9.5 million.

The candidate filing period for the 2016 primaries is from December 1 through December 21, 2015. A candidate must be affiliated with a party for at least 75 days before filing as a member of that party. If a second primary is needed, it will be held on May 3 provided it does not involve a federal election, and on May 24 if it is for a federal seat.

A separate provision in the bill generated a great deal of controversy. It authorizes the Speaker, President Pro Tem and their minority counterparts to create "affiliated" party committees outside of the state's parties to raise funds and conduct campaigns for state legislative candidates.

In other election law changes, H836 (Elections Modifications) gives county boards of elections the option to submit lists of executed absentee ballots electronically to the State Board of Elections instead of sending them by mail. It also allows the use of voting machines that create ballots electronically then print them at the place of voting, and pushes out the date by which voting machines that do not use paper ballots must be decertified to Sept. 1, 2019.

### Bonds

This session the General Assembly authorized the first statewide general obligation bond in 15 years, passing H943 (Connect NC Bond Act), which directs a \$2 billion bond referendum for the March 2016 primary elections. The House initially put forth a larger bond package of \$2.8 billion, including \$500 million for school construction projects. The final package did not include funds for K-12 school construction, but did contain \$350 million for construction projects across all 58 Community Colleges and \$309.5 million for water infrastructure projects. For community colleges in Tier 1 counties, the local government must match \$1 for every \$3. Tier 2 counties must provide a \$1 match for every \$2 while Tier 3 counties must provide a dollar for dollar match. Of the \$309.5 million for water infrastructure projects, \$100 million will go to the Water Infrastructure Fund while the remaining funds will help provide low-interest loans to counties and cities across the state.

### Various regulatory reform

The legislature approved two major measures addressing regulatory issues this session, one focused more on local governments and the other on statewide regulations. H44 (Local Government Regulatory Reform 2015) passed both chambers and was signed by the Governor within the last two weeks of session, but had been debated throughout the session. Provisions of note to counties are as follows:

- Streamlines the pre-audit process for counties by exempting electronic payments, pay cards and payroll expenditures from pre-audit certification;
- Repeals a public health funding requirement that limited county budget flexibility;
- Requires counties to notify adjacent property owners at least 15 days prior to beginning a new construction project except in certain cases including maintenance, repairs, emergencies and projects noticed at a county meeting;
- Limits county ability to require private well interconnection with public water systems; however, counties may still require interconnection in certain cases including well failure, contamination, or if the water system is in the process of expanding to the well within two-years;
- Prohibits counties from requiring compliance with voluntary regulations adopted by state departments and commissions;
- Limits county ability to regulate signs affixed to construction site fence wraps;
- Removes zoning ordinances from an exception in last session's permit choice statute;
- Prohibits county ordinances from defining "bedroom" more stringently than state rule or law;
- Gives counties more flexibility when entering development agreements.

H765 (Regulatory Reform Act of 2015) addressed various statewide regulatory issues. Of note to counties, the final bill does not include a repeal of the state's electronics recycling program, nor does it limit local flexibility when considering materials used in water infrastructure projects. Instead, the new law directs a study of the state's recycling requirements for discarded electronics and lists NCACC as a

participant. A last minute addition to the bill reiterates that counties cannot regulate issues where a court has disapproved county authority to regulate, or without explicit legislative authority to regulate.

### Taxpayer Bill of Rights (TABOR)

Three days of passionate debate yielded to Senate passage of legislation that would have placed a constitutional amendment before voters next fall concerning how the state raises and spends funds, but the House never considered S607 (Taxpayer Protection Act). The legislation would reduce the personal and corporate tax rate cap from 10% to 5%, tie annual growth in the state budget to a formula using growth in population and inflation, and establish a new “rainy day fund” that would require a two-thirds vote in both the House and Senate to access. State Treasurer Janet Cowell opposed the legislation, saying it put the state’s AAA bond rating in jeopardy. The bill remains eligible for the 2016 short session.

### Local revenue options

To expand local option sales tax flexibility for counties, NCACC worked with former NCACC president Rep. Howard Hunter, along with Reps. Ed Hanes and Jason Saine, to get H518 (County Sales Tax Flexibility) introduced. The bill expands Article 43 sales tax eligible uses from public transportation to general purpose by creating a new 1/4 cent Article 43A sales tax. It also allows enactment of this Article, Article 43 and Article 46 sales taxes by resolution or referendum. While the House never considered H518, it passed S605 (Various Changes to the Revenue Laws) which includes similar flexibility. The bill expands Article 43 eligible uses to educational purposes, and increases the Article 46 amount from 1/4 to 1/2 cent. Both Articles would still require a local referendum vote. The bill passed the House 103-6 on September 28; however, the Senate did not consider the bill before adjourning on September 30. This is an issue that NCACC will continue to work on throughout the interim; the bill is eligible for the short session.

### Magistrates/Register of Deeds Changes

S2 (Magistrates Recusal for Civil Ceremonies) allows magistrates to opt out of performing all legal marriages and registers of deeds to opt out of issuing all marriage licenses if they have a “sincerely held religious objection” to performing these responsibilities. The official’s recusal will continue for a period of at least six months and must be rescinded in writing before these duties may be resumed. In instances where all magistrates in a jurisdiction have opted out of performing marriages, the Administrative Office of the Courts is required to ensure that a magistrate is available in the district to perform marriages during those times as required by law. The bill further requires each register of deeds to ensure that marriage licenses are issued for all qualified applicants. Officials who elect to recuse themselves under this law will not be subject to prosecution for failure to perform these duties.

The Governor vetoed S2, and the legislature voted to override the Governor’s veto on June 11, 2015. The bill became law and took effect on that date.

S332 (Register of Deeds-POA Indexing Fees), imposes an additional \$2 fee for each entity listed in an instrument containing excessive recording data, i.e. one with more than 20 distinct entities. According to the bill sponsor, the rationale for the bill is to account for the additional staff time required to index and cross-index names on documents with excessive recording data. The typical instrument with two or three entities takes only minutes to index, while instruments with hundreds of names, such as an

amendment to a residential restrictive covenant, can occupy a register of deeds staff person for 2-3 days

S386 (Register of Deeds/UCC Recording Fees) specifies fee amounts for filing instruments covered by the Uniform Commercial Code (UCC) with registers of deeds. The UCC regulates the recording of security agreements in which a financial loan is secured by collateral. The bill removes the cross-reference in the uniform fees for register of deeds related to instruments governed by the UCC and inserts the specific fee amounts in their place.

### State health plan

The General Assembly this session approved legislation permitting local governments to participate in the State Health Plan, which has been a goal of the counties in prior sessions. Since 2004, eighteen local governments have been authorized to enroll in the State Health Plan, but without any specific uniform conditions for their participation. H154 (Local Governments in State Health Plan) allows any county or municipality with fewer than 1,000 employees and dependents enrolled in health coverage to participate in the plan, provided that they meet certain conditions outlined in the bill. The bill caps the total number of local government participants at 10,000 and gives any local government currently participating the option to elect to be subject to the new requirements.

### E-verify

Final language in H318 (Protect North Carolina Workers Act), a bill to address several issues regarding undocumented immigrants, ameliorates concerns held by local governments regarding contract provisions. To meet requirements put into law in 2013, counties and municipalities may include contract terms that require contractors and subcontractors to comply with E-verify. It also clarifies that local government travel expenses and contracts for the purchase of goods and equipment are not subject to the same E-verify requirements as contracts for services such as construction and landscaping.

In addition, the legislation limits the documents government officials and law enforcement may use to determine identification and residency, and prohibits local governments from enacting “sanctuary” ordinances that restrict the enforcement of federal immigration laws.

### Food and Nutrition Services waivers

A surprise addition to H318 (Protect North Carolina Workers Act) prohibits the state Dept. of Health and Human Services from seeking waivers to time limits for food and nutrition benefits for able-bodied adults without dependents. Counties will likely experience an increased workload cost, for which they have not budgeted, to process and track repeated changes in client status. County staff may also need training on the change, including how to handle the new process in NCFast. The original date for cessation of the waiver was Jan. 1, 2016. After requests from NCACC, DHHS, and individual counties, the implementation date was delayed first to March 1, then ultimately July 1.

### Charter Schools

In the waning days of the session, a House bill that would allow local school boards to make school playgrounds available to the general public was transformed in the Senate into a bill that would make a

number of changes to the way charter schools are funded. Existing law provides that if an LEA (local education agency) fails to comply with the per pupil transfer requirements when a student attends a charter school, the charter school may file a civil action to compel compliance.

H539 (Charter School Funding) states that in an action between the charter school and the LEA regarding the transfer of the per pupil share of the local current expense fund, the court would have to award the prevailing party liquidated damages in an amount equal to 5 percent of the monies that should have been transferred. The bill would also remove the requirement that the amount of the per pupil share consisting of revenue from supplemental taxes only be transferred to a charter school located within the tax district where the taxes are levied and the student resides. Additionally, H539 would make changes to the categories of funds that must be included in the local current expense fund and those separately held funds that are not subject to transfer as part of the per pupil share.

The bill appeared and was pulled from the calendar multiple times before it was heard and ultimately approved by the Senate. The House elected not to take it up and instead referred it to the Rules committee on the final day of session. H539 is eligible for the short session, but it is unclear what action, if any, the House will take on the legislation.

#### School Bus Cameras

Legislation that would allow a board of county commissioners to adopt an ordinance authorizing the use of school bus safety cameras for the civil enforcement of stop arm violations is parked in the House Appropriations committee. Current law requires motor vehicles to stop for a school bus that is displaying a mechanical stop arm while stopped in order to board or discharge students. S298 (School Bus Camera/Civil Penalties) provides that a county may enact an ordinance to impose civil penalties against a driver who passes a stopped school bus in violation of the law when the violation is not prosecuted criminally. The bill would impose a penalty of \$400 for the first offense, \$750 for the second, and \$1,000 for any subsequent offense. A civil penalty for violating the ordinance could not be imposed on a person charged with a criminal violation of the school bus stop arm law that is based on the same facts.

A local school board in a county that has adopted an ordinance to civilly enforce the stop arm law is authorized to install and operate automated school bus safety cameras on its buses to detect violations. The school board itself may equip the buses with cameras or it may contract with a private vendor for this purpose. All fines assessed under the ordinance would be remitted to the county school system.

The bill underwent a thorough and provocative debate in House Judiciary III, where the committee voted 8-3 to give it a favorable report. S298 was re-referred to Appropriations and remains eligible for consideration next session.

#### Uber - S541 (S.L.2015-237)

The so-called “Uber bill”, S541 (Regulate Transportation Network Companies), was introduced this session at the request of the ride sharing services industry. Under the bill, a transportation network company (TNC) is defined as “any person that provides prearranged transportation services using an online-enabled application or platform to connect passengers with drivers.” Currently, three TNCs are known to do business in North Carolina—Uber, Lyft, and Sidecar.

The bill requires each TNC to have a valid permit issued by the NC Division of Motor Vehicles in order to operate in the state. The permit application fee is \$5,000, and permits must be renewed annually at a cost of \$5,000. TNCs are also required to maintain liability insurance coverage similar to that required of other for-hire passenger vehicle companies. In addition, a prospective driver for a TNC must undergo a local and national criminal background check and driving record review before being permitted to drive for the company.

#### Law Enforcement Officer Privacy – S699 (S.L. 2015-225)

S699 (Protect LEO Home Address/Other Information), exempts certain personal information of local law enforcement officers from being disclosed as part of their personnel files. Existing law generally regards the personnel files of present and past local government employees as confidential. However, certain information in the personnel file is deemed to be public and must be disclosed upon request. This information includes the employee's name, age, dates of employment, title, salary, and the reasons for certain specified disciplinary actions.

S699 adds a new provision to the statutes governing personnel files for county and city employees that would prohibit disclosure of information pertaining to sworn law enforcement officers:

1. Information identifying the address of the officer;
2. Emergency contact information for the officer; and
3. Other specific types of personal identifying information as delineated.

The bill further provides that the prohibition against disclosure does not apply to records of criminal investigations, records of registers of deeds, or when disclosure is necessary for the personal safety of the officer or another person residing in the officer's home. The bill was amended in the House to include within these protections the mobile telephone numbers issued by a local, county or state government to a sworn officer or non-sworn employee of a public law enforcement agency, a fire department employee, or any emergency response personnel.

## Goals Status Summary

### **Agriculture**

*AG-1: Support state funding and staffing for agricultural research, Cooperative Extension services and other agriculture-related efforts to support the largest economic driver in North Carolina.* The budget includes \$500,000 in additional funding each year for the Agricultural Water Resources Assistance Program (AgWRAP). The bond includes \$85 million for the NC State University Plant Sciences Building.

*AG-2: Support legislation to authorize farmers to grow industrial hemp as a cash crop.* S313 Authorizes a pilot program for the industrial hemp growth and creates the Industrial Hemp Commission.

### **Environment**

*ENV-1: Seek legislation to study and fund a comprehensive statewide approach to control invasive aquatic noxious weeds in the state's waters.* H430 County Omnibus included a study on noxious weeds. The legislation passed the House with no opposition but was not considered by the Senate.

*ENV-2: Seek legislation to establish a mechanism for local governments to recover costs associated with providing services or reversing negative effects on the community related to natural gas and oil exploration industry and coal ash storage.* No legislation was introduced related to costs associated with natural gas exploration and coal ash storage.

*ENV-3: Seek legislation to clarify that counties have the authority to establish by ordinance a program for the collection of residential recyclable materials and to charge fees to recover the costs.* H430 County Omnibus originally included a clarification of county recycling fees that was removed as the issue is already covered in statute.

### **General Government**

*GG-1: Oppose any shift of state transportation responsibilities to counties.* No efforts were made regarding this shift. NCACC will continue to monitor the issue.

*GG-2: Support legislation, regulations and funding that would preserve local option and authority where needed to deploy community broadband systems and ensure community access to critical broadband services.* H432 Counties/Internet Infrastructure was discussed in committee but never considered for a vote. The budget contains \$14M more for school connectivity and requires the new state CIO to develop a plan that includes an evaluation of current broadband access, best practices in establishing broadband access as well as methods and resources for funding improved access.

*GG-3: Support new or expanded state funding streams that will provide sufficient revenues to adequately fund the state's transportation infrastructure needs also to include coastal infrastructure, i.e. coastal storm damage reduction and shallow draft inlet maintenance.* Budget raises DMV fees, reduces transfers from the Highway Fund into the General Fund, increasing the annual revenue for transportation. Also increases the amount of motor fuels taxes into a dredging fund from one-sixth of 1% to 1%.

*GG-4: Support legislation to grant all counties the option to provide notice of public hearings and other legal notices through electronic means in lieu of required publication in any newspaper. H156 Legal Notices/Require Internet Publication is in Senate Finance and eligible for consideration during the short session.*

*GG-5: Seek legislation to authorize special elections in any year in which there is an election. No legislation was introduced.*

*GG-6: Oppose collective bargaining programs for local government employees. No efforts were made in this area. NCACC will continue to monitor the issue.*

*GG-7: Seek legislation to amend NCGS 132-1(b), "Public Records" by changing "the people" to "its citizens." No legislation was introduced addressing public records laws.*

*GG-8: Support adequately funding the North Carolina Military Affairs Commission so it may continue to address the statewide priorities it has established. The budget creates the new Department of Military and Veterans Affairs by shifting and consolidating programs in several areas of state government.*

*GG-9: Seek legislation to increase state funding of local county Veterans Service offices. The budget appropriates \$200K recurring for county veteran's services programs.*

## **Health and Human Services**

*HH-1: Support continued state funding of Medicaid and support efforts by the state to provide healthcare access for all citizens. Anticipated Medicaid growth is fully funded at the state level, and no efforts were made to push service costs down to the local level.*

*HH-2: Support the current model of public mental health administration, ensure adequate state funding for services and facilities at the local level, and structure appropriate county participation in governance. Medicaid reform in H372 maintains current mental health care structure and rates. Legislation limiting county flexibility to transfer between LME/MCOs did not pass.*

*HH-3: Support legislation to adequately fund Public Health Services at the Local Health Department level for programs and services considered mandated and/or essential to the Public's Health under N.C. GS 130A-1.1 and 10A NCAC 46.0201. The budget includes targeted funding for public health programs to expand certain services and set up new programs, including an electronic death records system.*

*HH-4: Support legislation to ensure adequate Medicaid reimbursement levels from the state to cover cost of services and use federal guidelines for determination of medical necessities. No immediate changes; however, Medicaid reform transforms program at the state level from fee-for-service to capitated contracts.*

*HH-5: Oppose shifting or cutting money from federal and state block grants, including TANF, SSBG, CCDBG, HCCBG and WCH for mandated services. Budget includes some transfers from TANF block grants, but among these are transfers in to county social services, foster services and child protective services. NCACC will continue to monitor the issue.*

*HH-6: Seek legislation to improve financing and regulatory issues for the purpose of ensuring the viability of rural hospitals. Concerns over the closure of two specific rural hospitals led to passage of S698. NCACC continues conversations with stakeholders on the issue.*

*HH-7: Support Medicaid reimbursement to EMS for mental health and substance abuse transport to crisis centers. NCACC is working with DHHS to address at federal level with Centers for Medicare and Medicaid Services.*

*HH-8: Seek legislation to require the NC Dept. of Health & Human Services to adjust the current accounting, reporting and expenditure requirements to allow counties to realize the full benefits from consolidation efforts as outlined in HB438. NCACC is pursuing an administrative solution with DHHS.*

*HH-9: Advocate for implementation of statewide case management system(s) for both Child Welfare and Adult Protective Services. The budget continues a pilot project for child protective services information sharing between DHHS and the Government Data Analytics Center. They are tasked with developing a dashboard, and integrating information about the child, family and household from DHHS and CJLEADS.*

*HH-10: Oppose legislation that would weaken county management of nonemergency Medicaid transport. The House's budget originally contained a provision for statewide contracting of NEMT; however, this was amended out of the bill with NCACC's support. The final budget preserved the existing model for NEMT.*

*HH-11: Advocate for adequate state funding for services to vulnerable older adults and disabled adults needing protective and public guardianship services. The budget includes SSBG funds for Adult Protective Services and sets a process for licensing and inspecting adult overnight respite service facilities.*

*HH-12: Seek legislation to reverse changes made to the childcare subsidy program available to working families. The state budget reverses some changes by removing non-parent relative income from formulas for child-care subsidies.*

## **Justice and Public Safety**

*JPS-1: Seek legislation for greater flexibility in county governments' use of 911 funds and protect current funding streams. H730 allows PSAP grants to be used for non-eligible expenses.*

*JPS-2: Seek legislation to reimburse counties for participating in the Statewide Misdemeanant Confinement Program at the rate of \$75 per day. The budget includes \$22.5 million to the Statewide Misdemeanant Confinement fund, but does not increase the fee.*

*JPS-3: Support state funding for gang prevention, adolescent substance abuse and domestic violence prevention, intervention and treatment. No legislation was introduced.*

## **Public Education**

*PE-1: Seek legislation to restore the statutory requirement that 40% of the net lottery proceeds be allocated to counties for school capital needs and increase the annual appropriation of lottery funds until*

*the 40% allocation is restored.* The budget continues \$100 million appropriation of lottery funds for school construction needs.

*PE-2: Oppose shifting of the state's responsibility for replacement of school buses.* No legislation was introduced. NCACC will continue to monitor the issue.

*PE-3: Support legislation to fully fund state-mandated education programs from state revenue sources.* No legislation was introduced. NCACC will continue to monitor the issue.

*PE-4: Seek legislation to repeal the statutory authority under N.C. G.S. 115C-431(c) that allows local school boards to file suit against a county board of commissioners over county appropriations for education.* H561 passed the Senate but did not receive agreement in the House. The bill is eligible for consideration in the short session.

*PE-5: Support realistic ADM Growth projections as part of the continuation budget.* The budget fully funds ADM growth.

*PE-6: Seek legislation to provide flexibility to local school districts to align public school and community college calendars.* A number of bills were introduced but did not pass. NCACC will continue to work on this issue during the short session.

## **Tax and Finance**

*TF-1: Oppose unfunded mandates and shifts of state responsibilities to counties.* The legislature passed minimal unfunded mandates this session.

*TF-2: Support legislation to grow North Carolina's statewide economy through sound state investments, including public infrastructure funding, competitive incentives, and coordinated efforts with county economic development services. (a) Adopt new approaches to economic development incentives to include rural counties; (b) Restore the film and historic preservation tax credits and; (c) Maintain grant funding for rural infrastructure projects.* The budget and H117 reinstate the Historic Preservation Tax Credit, increase film grant funds to \$30 million, and expand JDIG funding and rural economic development grants.

*TF-3: Oppose legislation that erodes the existing local revenue base.* NCACC opposed the builder's inventory property tax exemption legislation throughout session and worked to improve it prior to its eventual passage.

*TF-4: Seek legislation to authorize local option revenue sources already given to any other jurisdiction.* NCACC supported introduction of H518 giving sales tax flexibility to counties by expanding Article 43 to general use, and supported S605 which gives Articles 43 and 46 flexibility to all counties. S605 passed the House and is eligible for the short session.

*TF-5: Support legislation to restore state aid funding of public libraries to the pre-2011 level of \$15.7 million and eliminate special provisions that distribute state aid outside of the equitable formula developed by the State Library Commission.* The budget provided an additional \$1,000,000 in library grant funding bring total grant funding to \$14,207,033 annually.

*TF-6: Seek legislation to expand local option sales tax by allowing for Board of Commissioners resolution or public referendum. NCACC supported introduction of H518, which allows commissioners to enact sales tax by resolution or referendum. The legislation did not move.*

*TF-7: Seek administrative or legislative solution to ensure accurate reporting of sales tax by county. NCACC is working with the Department of Revenue on an administrative fix for this issue.*

*TF-8: Seek a legislative study of the impact to local government finances of exempting previously taxable properties from the property tax base when acquired by nonprofits. H430 County Omnibus included study on tax exemptions for non-profits who acquire for-profit facilities. The bill passed the House but was not considered by the Senate.*

*TF-9: Seek legislation to renew the study of compensation to counties for property acquired by the state and removed from the ad valorem tax base. H430 also included a study on this issue.*

*TF-10: Seek legislation to prevent title transfers of vehicles on which property taxes are owed. No legislation was introduced.*