



# North Carolina Spirits Association

Legislative Report  
May 18, 2018

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The North Carolina General Assembly's "short session", gavelled in on Wednesday May 16, 2018. The short session differs from the long session in more ways than just the length of time legislators are in Raleigh. Lawmakers use the short session to adjust the second year of the State's biennial budget, to revisit some unsettled matters from the previous year, to address proposals from Interim Committees, and to hear new legislation that falls within rules of what may be introduced. Lawmakers are familiarly hinting that this year's short session will in fact be "short". This is a claim made every other year that rarely materializes, although budget writers have been meeting behind closed doors for several weeks and have agreed to a spending target.

During the short session, only certain bills are eligible to be filed. As of this morning, 62 new bills have been filed, 15 in the Senate, and 47 in the House. Below are some of the items among the list of what may be considered and filed by lawmakers.

- Eligible 2017 legislation
- Budget bills
- Constitutional amendments
- Interim and Study Committee recommendations
- Local bills
- Pension or retirement bills
- Nominations and appointments bills
- Resolutions, Joint Resolutions, and bills disapproving rules
- Bills responding to litigation
- Election law changes
- Impeachment proceedings
- Adjournment Resolutions

This week, thousands of teachers greeted lawmakers for a rally at the legislative building on the opening day of session. Realistic estimates from media outlets predicted there were between 10,000-20,000 people, depending on the source. While lawmakers were greeted by educators, those educators and the rest of the general public, will be greeted by new building security that many say is long overdue. The NCGA Legislative Building (LB) and Legislative Office Building (LOB) have long been among the most accessible State government buildings in NC, as well as among the most accessible legislative complexes in the U.S. Historically, both buildings have had minimal security at the entryways, focusing security instead on the interior of the buildings. This session however, those not employed at the NCGA will be required to go through metal detectors in order to access the LB for the first time. While the LB will have security for the short session, the LOB will remain open in the short term but will likely be given the same security upgrades in the interim ahead of the 2019-20 General Assembly.

The Legislative Research Committee, which authorizes Study Committees for the interim, met Wednesday morning to accept the reports from four Study Committees recommending legislation to the NCGA. The Intellectual & Developmental Disabilities, Private Process Servers, Resolution Options for HOA's and Governing Entities, and Access to Healthcare in Rural NC Committees each proposed legislation to be introduced. The measures still have to go through the normal Committee process before becoming law.

While the full Senate did not hold any votes this week, the Senate Finance Committee met Thursday to hear Senate Bill 715, Various Changes to Revenue Laws. The bill proposed by the Revenue Laws Study Committee, makes technical, clarifying, and administrative changes to revenue laws, particularly in light of the recent federal changes, conforming to some of the new provisions and decoupling from others. Among the changes the bill:

- Includes IRC Update to comply with provisions of the federal Tax Cuts & Jobs Act (TCJA) and the Bipartisan Budget Act of 2018
- Decouples from the federal change regarding the deferral of gain and the exclusion of gain for assets invested in an Opportunity Fund
- Decouples from the federal changes regarding the inclusion, and deduction, associated with foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI).
- Decouples North Carolina's filing requirement from the federal filing requirement
- Amends the definition of a "corporation" for purposes of the application of the franchise tax to include partnerships that elect to be taxed as a corporation
- Provides DOR with certainty as to when the Historic Rehabilitation Tax Credit can be removed from tax return forms
- Merges the imposition of sales and use tax of repair, maintenance, and installation services with the taxation of the items themselves
- Clarifies that certain activities are exempt from the sales and use tax on admission charges
- Provides a mechanism for a retailer who pays sales and use tax on property or services and subsequently resells the property or service at retail to recover the sales tax originally paid to a seller
- Provides that remedies, vaccines, medications, litter materials, feeds, rodenticides, insecticides, and other substances may be exempt from sales and use tax if purchased for use on animals and plants held or produced for commercial purposes by a qualifying farmer
- Two clarifying amendments adopted in the Committee clarified that nonprofits leasing parking spaces, particularly urban churches that lease parking during the week, are not taxable as income; and decouples from a TCJA provision to continue the State's policy of not charging sales tax on charitable deductions to educational institutions if the right to purchase tickets for an athletic event is provided

House Speaker Time Moore (R-Cleveland) and Senate President Pro-Tem Phil Berger (R-Rockingham), announced legislation Thursday to change how the State awards economic incentives. Both noted that the changes were not being made to attract any specific company, but it has been no secret the NC is on the short list for large capital and job investments from both Apple and Amazon. Apple has reportedly been very close to announcing a multi-billion

dollar investment in North Carolina, bringing up to 10,000 jobs to Research Triangle Park in Wake County. Apple has also reportedly been meeting with the Governor and legislative leaders on a robust incentive deal that will likely need approval from the NCGA. Among the proposed changes would be lowering the threshold for a “transformative project” from \$4 Billion investment to \$1 Billion investment, and from 5,000 jobs to 3,000 jobs. Sen. Berger and Speaker Moore indicated that the proposal would likely be included in the NCGA’s budget proposal.

When the budget debate does begin, appropriators will have a few extra dollars at their disposal, as the State has seen its fourth consecutive fiscal year with a budget surplus. While this is good news for the State, a surplus often prolongs budget negotiations. This is because collectively, every department, agency, and interest group in the State has hypothetically spent that money 100 times over before session even begins. The State is constitutionally required to balance the budget. Some of the issues effecting legislative budget writers include:

- The agreed to budget target for the 2018-19 budget is \$23.917 Billion
- Revenue surplus of \$356.7 Million for current fiscal year
- Projected surplus of \$276.5 Million for 2018-19 fiscal year
- Next year the corporate rate is scheduled to automatically decrease from 3% to 2.5% and the personal rate from 5.499% to 5.25%

Only time will tell how long lawmakers stay in Raleigh. There are no constitutional constraints for when a session must adjourn, but the fact that many lawmakers are running in new districts with new voters, could incentivize lawmakers to avoid controversial or time consuming matters, and quickly reach an agreement on budget adjustments. We shall see.

The legislature adjourned on Thursday and will reconvene on Monday.

### **BILLS OF INTEREST**

**Senate Bill 714, ABC Regulation and Reform**, would make various changes to the ABC laws and permit requirements to give the state ABC Commission additional tools to use against ABC permit-holders that do not follow the ABC laws. The bill would increase the fines against permit holders that commit violations of the ABC laws, would allow the ABC Commission to limit hours of operation where there are violations, would raise the age to own an ABC permitted business from 21 to 25, would allow the ABC Commission to consider how close an ABC permitted business is from a school or church when granting a permit, would change the definition of “private club” to only apply to a 501 (c) (3) non-profit establishments –essentially ending the ability of a for-profit business to just sell alcohol and not food. Existing private clubs would be grandfathered and would be allowed to continue to operate. There are a number of groups, including NCSA, that have concerns with this bill. **Introduced by Senator Wells, Randleman, and Sanderson and referred to the Senate Rules Committee.**

**House Bill 944, ABC Regulation and Reform**, is identical to Senate Bill 714 discussed above. **Introduced by Representatives Boles and Davis and referred to the House ABC Committee.**

For more information about legislation described in the legislative reports, feel free to contact me at [dferrell@nexsenpruet.com](mailto:dferrell@nexsenpruet.com) or (919) 573-7421. Information is also available on the General Assembly's website: [www.ncga.state.nc.us](http://www.ncga.state.nc.us).

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