

North Carolina Sierra Club Report on the 2019 Legislative Session



SIERRA CLUB

NORTH CAROLINA

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Introduction & Overview

The N.C. General Assembly's 2019 session came to a close in November. Legislators returned briefly on January 14, 2020, before adjourning until April 28, 2020. The Legislature operates on a biennial schedule and 2020 is the second part of biennium. Consequently, some environmental legislation proposed in 2019 but not yet resolved could be taken up in 2020.

The 2019 legislative session was one of the longest in recent history and was defined by partisan battles, many of them bitter. Republicans, who held veto-proof supermajorities in both chambers of the legislature since 2013, lost their supermajorities in the 2018 election. As a result, Gov. Roy Cooper was able to exercise his veto power to stop extreme bills in 2019. The governor vetoed 14 bills this year, some on environmental grounds. None of the vetoes have yet been overridden, including the budget. This standoff is likely to carry over to the 2020 session.

The Republican party continues to hold a majority in both chambers of the General Assembly. This means that, while the minority can sustain a gubernatorial veto, they are unable to pass legislation unless they have bipartisan support. For the environment, it meant that fewer rollbacks of state environmental protections were proposed.

There was lots of action around redistricting this year. A state court ordered the legislature to redraw about half of the state's legislative voting districts and some U.S. congressional districts after ruling them to be extreme partisan gerrymanders that violate the state constitution. Legislators filed several bills that propose different structures for independent redistricting. These bills were allowed a committee discussion but no vote. Establishing an independent redistricting commission could be considered in 2020. The N.C. Sierra Club opposes gerrymandering and supports independent redistricting.

In general, the focus of the N.C. Sierra Club was to work with environmental champions in the House and Senate, making sure they were prepared to stand strong on our issues. We also coordinated with our environmental and justice allies and state agencies to improve or stop harmful proposals, while educating and engaging Sierrans, the media, and the public about environmental legislation.

Even in this tense and partisan atmosphere, advocates had success stopping some of this year's most environmentally harmful proposals:

- Duke Energy's effort to get multi-year ratemaking failed. Despite the company's power as a state lobbying entity and major political donor, legislators removed a controversial ratemaking proposal that Duke supported. The ratemaking provision was opposed by Sierra Club and many environmental, social justice and industry groups.
- A giveaway to the billboard industry was vetoed by the governor. The House vote was so close that it appears the veto will stand.
- An effort to lift a ban on electronics waste in landfills was thwarted. The Regulatory Reform Act, when proposed, contained a repeal of the ban on landfilling electronic waste like televisions and computers. The provision was removed due to significant opposition from legislators.
- An effort to extend a wind energy moratorium was stopped. An 18-month moratorium on wind energy expired at the end of 2018. Sen. Harry Brown (R - Jones, Onslow) pushed a bill to extend the ban on wind energy development in much of eastern North Carolina. This effort saw some success in the Senate but was reined in thanks to opposition from members of the House.
- A proposal to increase fees on electric vehicles raced through some Senate committees before the House put on the brakes. The proposal would have made the state's electric vehicle fees the highest in the country.

Aside from fending off bad proposals, there were some positive developments, such as:

- The legislature required an inventory of toxic firefighting foam. After water contamination in the Greensboro area was linked to the use of firefighting foam containing per- and polyfluoroalkyl substances (PFAS), Rep. Pricey Harrison (D - Guilford) proposed a bill to ban the use of that kind of foam. Industry stakeholders would not support a ban, but a requirement for an inventory of the foam was enacted, which is a helpful step forward.
- The legislature approved Governor Cooper's appointments to the Utilities Commission: Sen. Floyd McKissick (D - Durham); Kimberly Duffley, a staff attorney for the Commission; and Jeff Hughes, an environmental finance expert at UNC-Chapel Hill. The Utilities Commission regulates Duke Energy and sets utility rates for energy across most of the state.

Unresolved legislation that may return in 2020 includes:

- The state budget: Governor Cooper vetoed the budget in June. The House voted to override the veto in September, but the Senate has not held an override vote. The budget is a mixed bag for the environment in that it includes:
 - Improved funding for conservation trust funds such as the Clean Water Management Trust Fund;
 - Limited new funding for the Department of Environmental Quality (DEQ) to deal with emerging chemical contaminants such as GenX, but not as much as Governor Cooper requested.
 - On the harmful side, the budget would delay for a year needed improvements in hog waste management like groundwater testing.
- The Farm Act: This bill is stalled in the House. It has been the subject of controversy this session due to its hemp provisions. Two provisions unrelated to hemp are opposed by environmental groups. One would make certain public records secret, and another would encourage the entrenchment of the outdated lagoon-and-sprayfield method of hog waste management.
- The Storm Recovery Act: This bill passed the House in October and primarily provides disaster relief funding to address Hurricane Dorian damage. It also includes \$5 million for hog farm buyouts in the 100-year floodplain. The N.C. Sierra Club supports getting hog farms out of the floodplain because of the risks posed by overflowing waste lagoons.

The N.C. Sierra Club appreciates the many legislators who stood up against harmful environmental proposals, as well as our members and supporters who contacted their representatives in support of good environmental policy.

To stay in the loop, please subscribe to N.C. Sierra Club's legislative updates by emailing your state lobbyist, Cassie Gavin, at cassie.gavin@sierraclub.org. The updates are also [posted on the N.C. Sierra Club website](#).

Coalition Stops Duke Energy Proposal: [Senate Bill 559](#)

Highlight: S 559, “Storm Securitization/Alternative Rates,” would have allowed Duke Energy to at the Utilities Commission to approve up to three years of rate increases at a time and seek a new kind of cost-recovery called return on equity banding. A broad range of stakeholders opposed these proposals based on environmental, justice and consumer concerns. Despite Duke Energy’s lobbying and financial influence, the coalition won.

In October, state lawmakers passed a revised version of S 559, scrapping the “alternative rates” section - one of the most controversial proposals of the session. The House and Senate voted unanimously in favor of the revised S 559, retitled simply “Storm Securitization.” S 559 retained only a non-controversial section that will allow the Utilities Commission to permit financing for certain storm recovery costs.

Primary Sponsors: Senators Bill Rabon (R - Bladen, Brunswick, New Hanover, Pender), Ralph Hise (R - Madison, McDowell, Mitchel, Polk, Rutherford, Yancey) and Dan Blue (D - Wake)

What the final bill does: S 559 allows Duke Energy to seek authorization from the Utilities Commission to use a financing mechanism called securitization for certain storm recovery costs in order to save money on hurricane repair costs. This financial tool is used in other states in a broader way, including to close old, polluting coal plants quicker than planned. Sierra Club does not oppose the use of securitization for storm costs but advocated for its authorization to be broadened so that the utility or other entities could seek for it to be used to hasten the state’s transition to clean energy.

Our position: Opposed to the original bill, neutral on the final bill. N.C. Sierrans weighed in about this bill with more than 2,400 calls and emails to legislators.

The story: In its original form, S 559 would have protected the interests of Duke Energy shareholders at the expense of residential and commercial rate-payers having a voice in the rate-making process, while also reducing accountability and transparency. The proposed legislation did not have adequate safeguards to ensure that the public interest would be protected. Many environmental, industry and justice groups were among those who opposed the bill. In April, an unlikely coalition of 60 businesses sent a letter to Senate President Pro Tem Phil Berger (R - Rockingham, Caswell, Stokes, Surry) opposing the measure. Throughout the session, Duke Energy seemed to be the only

entity actively lobbying for the bill, which is rare for any major piece of legislation but is reflective of the lack of a stakeholder process that led up to the proposal.

The Sierra Club opposed the multi-year rate-making proposal in S 559 for a variety of reasons, one of which was that it would have reduced opportunities for the public and Sierra Club to weigh in on rate-making. Multi-year rate-making would allow Duke Energy to ask the Utilities Commission to set rates, and rate increases, for up to three years without the need for a rate case and with limited regulatory oversight. The bill as filed sought allowance for rate increases up to five years; that was negotiated down to three years. Multi-year rate-making eliminates or, at best, minimizes the use of rate cases as a mechanism for the customer and non-governmental organizations to voice their opinion and weigh in on important energy policy decisions and rates.

Customers already do not have a choice in their electricity supplier in North Carolina. While the current system of rate-making is imperfect, it empowers regulators and customers to keep the utilities and rates in check. Further, multi-year rate-making has been problematic and expensive to consumers in other states such as South Carolina, Florida and Virginia.

As the bill moved through committees and was negotiated by a conference committee, changes were made in an effort to address the concerns of groups opposed. At one point, the House amended the bill to require the Utilities Commission to study a variety of ratemaking tools including performance-based ratemaking and revenue decoupling. That amendment was proposed by Rep. Larry Strickland (R - Harnett, Johnston) and supported by many stakeholders including Sierra Club, but not by Duke Energy. The House passed the bill as amended but the Senate would not agree to the change. Then S 559 went to a conference committee and a final version was worked out by the committee in private. After passage, the sponsors promised to continue the effort to get multi-year rate-making passed.

During the final House debate on S 559, Rep. Pricey Harrison (D - Guilford) noted that she would like the legislature to expand the use of securitization for closing polluting coal plants. Securitization can help utilities pay off debt on uneconomic coal plants, save ratepayers money and provide an opportunity to create a pool of transition funds for communities that host old coal plants.

We live in a time when clean energy technologies and creative rate-making tools are developing rapidly. North Carolinians deserve to see the benefits of both. We applaud the legislators who took a hard look at a variety of ratemaking tools this session.

Result: Governor Cooper signed S 559 into law on November 6, 2019.

Wind Energy Ban Fails: [Senate Bill 377](#)

Highlight: Onshore wind energy development would have been banned across much of eastern North Carolina under legislation filed by Sen. Harry Brown (R - Jones, Onslow). S 377, “Military Base Protection Act,” would have blocked the construction, operation or expansion of wind energy facilities in all or part of 29 counties including Pasquotank and Perquimans counties, which are home to the Amazon East Wind Farm. The bill saw support in the Senate but not so much in the House, where it was amended and then stalled out.

Primary Sponsors: Senators Harry Brown (R - Jones, Onslow), Paul Newton (R - Cabarrus, Union) and Norm Sanderson (R - Carteret, Craven, Pamlico)

What the bill does: S 377, as proposed, would have essentially banned wind energy in much of eastern North Carolina. Then the bill was amended to ban wind energy in the same areas of North Carolina for three years, which would have scared away wind energy investors. An 18-month moratorium on wind energy only recently expired at the end of 2018.

Our position: Opposed. Over 600 Sierrans weighed in with their legislators in opposition to this bill.

The story: The Amazon East Wind Farm, which began operating in February 2017, stretches across 22,000 acres of Pasquotank and Perquimans counties and is the single largest property taxpayer in each county. Wind energy has been a proven financial boost in the two Tier I counties in northeastern North Carolina, from the time construction began on the Amazon wind farm until today.

The Amazon wind farm was sited and approved after an extensive review that included the Department of Defense Siting Clearinghouse. The Clearinghouse exists precisely to provide the direct oversight necessary to protect any current or anticipated military activities in the United States. While the Amazon wind farm would not have been affected by S 377, the proposal would prevent other communities from reaping the economic and environmental benefits of wind energy.

The primary sponsor of S 377, Senator Brown, said that his goal was to protect military bases, but the Department of Defense already reviews wind projects to ensure they do not impact military operations and the state permitting process allows the state the discretion to deny a permit to any proposed wind project that might compromise military training space. Sen. Jim Perry (R - Lenoir, Wayne), a co-sponsor, repeatedly expressed in committee that his goal for S 377 was not to have a moratorium on wind energy, but the bill would have done exactly that.

Sen. Bob Steinburg (R - Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Pasquotank, Perquimans, Tyrrell, Washington) strenuously opposed the bill in committees and in the media along with Sen. Erica Smith (D - Beaufort, Bertie, Martin, Northampton, Vance, Warren). Sen. Floyd McKissick (D - Durham) raised questions in committee that challenged the purported need for the bill. Wind energy companies brought in speakers from the military to speak in committee about how the Department of Defense process is working well, while the bill sponsors invited other members of the military to speak about potential risks to flight paths.

After the Senate passed S 377 with a vote of 25-19, the House revised the bill to allow the commanding officer of a military base to appoint a designee to weigh in on the state wind permitting process and to require that the wind maps be considered by the state in permitting. Rep. John Szoka (R - Cumberland) and wind energy industry representatives spoke in favor of the more palatable House version of the bill that would not have resulted in a wind energy ban or moratorium.

Result: The House version of S 377 passed the House Energy Committee but was never taken up by the House Rules Committee so it did not come to a vote in the full House, a victory for wind energy companies and clean energy advocates. The main proponent of a wind energy ban, Senator Brown, announced that he will not run again in the 2020 election.

House Puts the Brakes on Higher Electric Vehicle Fees: [Senate Bill 446](#)

Highlight: S 446, "Electric/Plug-In Hybrid Vehicle Registration Fees," would have targeted North Carolinians who drive cleaner cars by proposing the highest vehicle registration fee for electric vehicles and hybrids of anywhere in the nation. The measure passed several Senate committees but did not make it to a vote by the full Senate. The proponents then inserted similar language into the Senate's proposed budget, but the House did not accept it and the effort died.

Sponsored by: Senators Jim Davis (R - Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain) and Tom McInnis (R - Anson, Moore, Richmond, Scotland)

What the bill would do: S 446 would have stepped up fees at registration for electric vehicles from the current \$130 to \$275 in 2022, and the bill would have added a brand new fee of \$137.50 to hybrid vehicle registration. These fees would have been the highest of any state in the United States and a disincentive to car buyers thinking about purchasing electric and hybrid vehicles.

Our position: Opposed. Motor vehicle emissions are now the second-largest source of climate-warming emissions in North Carolina and the leading source in the United States. Electrification of transportation reduces pollution and benefits health, so it should be encouraged. Imposing burdensome fees disincentivizes the use of electric vehicles and results in a net loss for the public and the environment.

Gasoline-powered cars emit harmful pollutants such as nitrogen oxide, carbon monoxide, volatile organic compounds, and particulate matter, all of which have numerous harmful repercussions for public health including increased asthma, lung disease and heart disease.

Further, electric vehicles contribute more than their fair share to the state highway fund. Electric and hybrid vehicle owners already pay more under the existing annual fee compared to what they would pay in gas taxes if they drove an equivalent gasoline car.

An April 2019 report by the N.C. Clean Energy Technology Center found that “electric vehicle owners are providing approximately \$30 per year more revenue than a driver of a [gasoline-powered] vehicle of similar size and model year” and that the electric vehicle owners are essentially overpaying their fair share with the current registration fee.

The story: S 446 was filed in April 2019 and considered by the Senate Transportation Committee where Sen. Bill Rabon (R - Bladen, Brunswick, New Hanover, Pender) carried the bill and strongly defended it. The sponsors said that the increased fees were intended to offset decreasing gas tax revenues. Gas tax revenues pay for roads so ensuring continuing funds is a legitimate problem, but raising electric vehicle fees is not an equitable solution. Sen. Kirk DeViere (D - Cumberland) asked tough questions in committee and raised concerns along with electric auto-maker Tesla and other auto manufacturers.

S 446 passed several Senate committees, then stalled. A similar measure was added by the Senate to the budget bill (H 966), which was still being negotiated between the chambers in April. Soon thereafter, House Speaker Tim Moore (R - Cleveland) spoke out publicly against the measure, saying he would not support electric vehicle fees in the budget or a bill, which effectively put an end to the idea for 2019.

Result: Victory. Electric vehicle fees were not increased in 2019.

New N.C. Utilities Commissioners Approved

Highlight: The legislature approved Governor Cooper's appointments to the Utilities Commission: Sen. Floyd McKissick (D - Durham); Kimberly Duffley, a staff attorney for the Commission; and Jeff Hughes, an environmental finance expert at UNC-Chapel Hill. Environmental and clean energy advocates are hopeful that these new members will lead the state away from burning fossil fuels to a clean energy future.

Our position: Supportive.

The story: The governor of North Carolina is responsible for appointing members to the Utilities Commission which regulates companies that provide electricity, telephone, gas, water and other services. In addition the Commission has some authority over the safety of gas pipelines.

The Sierra Club, along with many other environmental and clean energy groups and solar and wind energy companies, often engages as a party in official proceedings before the Utilities Commission. The Sierra Club intervenes on issues ranging from energy planning to electric vehicle infrastructure and community solar, often challenging Duke Energy's plans and pushing for more clean energy.

Governor Cooper made these appointments in May 2019 and the legislature approved them in October. There were no objections voiced about the candidates so the delay seems to have been connected to budget negotiations or other negotiations between the parties.

Result: All of Governor Cooper's appointments to the Utilities Commission were seated which may, over time, lead to changes in how utilities are regulated.

State Budget Vetoed: [House Bill 966](#) “2019 Appropriations Act”

Highlight: The legislature passed a budget on June 27, 2019, essentially along party lines. It was promptly vetoed by Governor Cooper, primarily due to disagreements about health care and education funding. In September, the House voted 55-15 to override the veto on a morning when many minority-party members were absent, causing lots of controversy. As of the legislature’s brief session in January, the Senate had not voted to override the veto and it remained unclear if the majority party has the votes to do so. In North Carolina, the previous budget continues if a new budget is not in place, so government services are generally not disrupted, though new funding does not flow.

Primary Sponsors: Representatives Linda Johnson (R - Cabarrus), Danny Lambeth (R - Forsyth), Jason Saine (R - Lincoln) and Chuck McGrady (R - Henderson)

What the bill would do: The 2019 budget allocates state funding for the biennium. In addition, budgets often include policy provisions. In previous years there have sometimes been major environmental policy provisions inserted into the budget as a way of getting them passed when they might not succeed as a stand-alone bill. There was some of this in 2019, but much less than in recent years.

Our position: Opposed to certain provisions, supportive of conservation funding.

The story: The legislature is responsible for passing a state budget that funds the state for two years. The normal process is that a budget is passed in odd years and adjustments are made in even years. The 2019 long session was a budget-focused session, but much of the debate occurred behind closed doors in conference committee. A conference committee is a select group of House and Senate members appointed by leadership who meet in private to work out differences between the House and Senate versions of bills. The conference committee process lacks transparency and accountability since there’s no way for the public to know what’s being debated. The budget was in conference for most of July 2019.

Governor Cooper made it clear that he would not sign a budget that failed to include Medicaid expansion and pay raises for teachers. The legislature’s final budget fell short in the governor’s eyes. His veto message states: “This is a bad budget with the wrong priorities. We should be investing in public schools, teacher pay and health care instead of more tax breaks for corporations.”

The House voted to override the veto in a controversial move. The speaker of the House kept the override vote of the budget on the House's calendar for over a month. During a morning session with few Democrats present, the House voted 55-15 to override the veto, over the strenuous objections of minority party members who were present. Rep. Deb Butler (D - New Hanover) made headlines and gained internet fame for loudly voicing her objections and shouting, "I will not yield" when the speaker of the House tried to silence her. The Senate has not yet held a veto-override vote but may do so later in 2020 if any Senate Democrats change position or are absent.

Although the budget is ultimately the legislature's responsibility, governors traditionally release a recommended budget. Governor Cooper's proposed budget, released in March 2019, recommended providing the Department of Environmental Quality (DEQ) more funding to address a variety of environmental issues. The budget passed by the legislature was strong on conservation funding but not as strong on water quality funding for DEQ to address emerging contaminants and permit backlogs. It also calls for a delay of needed improvements to hog farm regulations.

On clean energy, the governor's budget proposed a study of North Carolina's potential to host offshore wind operations. The budget passed by the legislature included \$300,000 for a similar offshore wind study. Governor Cooper has said that such a study will move forward whether or not a budget is passed.

The N.C. Sierra Club advocated for the budget to provide more funding to DEQ for water quality testing to protect drinking water and to improve the environmental permitting system. A recent report, "[The Thin Green Line.](#)" by the Environmental Integrity Project found that funding for DEQ was slashed 34% in the last decade - a trend that should be reversed. We lobbied against the year-delay of improvements to hog waste management regulation, which includes new groundwater testing requirements. We support the conservation funding and study of offshore wind energy in the budget.

Delay of Groundwater Testing at Hog Farms

The budget would delay and undermine DEQ's recently updated general permit for waste management at swine and other animal operations. The most significant positive change in the revised permit is a requirement to monitor groundwater at farms that have waste lagoons or waste storage facilities in the 100-year floodplain, situations that may present the greatest risk of groundwater contamination. It's the first time the state has required groundwater monitoring of an animal waste system. The revisions to the general permit were developed over a lengthy stakeholder process

with public hearings and comments. There is no need for the legislature to wade into and delay a reasonable regulatory update.

Funding to Address Emerging Chemical Contaminants

Funding for testing and addressing emerging chemical contaminants is especially important now, since North Carolinians have experienced pollution of the Cape Fear River and Haw River, both which are drinking water supplies. Regular water testing and strong enforcement of environmental laws is needed to stop polluters from continuing to contaminate our drinking water with chemicals. Too many North Carolinians have had to live on bottled water due to GenX pollution.

The governor's budget proposed \$6.3 million for water supply testing and analysis for emerging contaminants like those that Chemours released into the Cape Fear River and that have been found in the Haw River. The budget passed by the legislature included some funding for DEQ to address emerging contaminants but much less than proposed by Governor Cooper.

Conservation Funding

Governor Cooper's budget proposed increasing support for the conservation trust funds such as the Clean Water Management Trust Fund and the Parks and Recreation Trust Fund to over \$20 million, recurring, per fund. The legislature's budget would allocate \$24.2 million in 2019-2020 and \$19.6 million in 2020-2021. It's important for clean water and land protection that this funding becomes a reality with or without a state budget. If a budget deal cannot be reached, then a separate funding bill should be passed as has been done for other important state needs.

During the Senate budget debate, most amendments proposed by Democrats were tabled, which means that the amendment was set aside and did not come to a vote. This parliamentary maneuver is used to avoid votes and accountability on controversial issues. For example, Sen. Wiley Nickel (D - Wake) proposed an amendment to delete a provision raising electric vehicle fees, but it was tabled. The provision was later removed by the conference committee. Sen. Natasha Marcus (D - Mecklenburg) proposed an amendment to provide DEQ funding to renovate a lab; it was also tabled. Sen. Mike Woodard (D - Durham, Granville, Person) spoke against the harmful environmental provisions in the budget.

The budget ultimately passed the Senate 33-15 and the House 64-49.

Result: The budget remains in limbo. The House voted to override Governor Cooper's veto but the Senate has not.

Agriculture

Farm Act: [S 315](#)

Highlight: Sen. Brent Jackson (R - Duplin, Johnston, Sampson) championed the Farm Act and the several provisions in the bill that would benefit industrial swine operations at the expense of the public and environment. There was some limited debate about the provisions opposed by environmental and justice groups but the majority of controversy around this bill concerned provisions about hemp. The bill stalled due to these disagreements but may be taken up in 2020.

Primary Sponsors: Senators Brent Jackson (R - Sampson, Duplin, Johnston), Norm Sanderson (R - Carteret, Craven, Pamlico) and Todd Johnson (R - Union)

What the bill does: The Farm Act was primarily focused on regulation of the hemp industry. That topic generated lots of debate, many committee meetings and fundamental disagreements between the House and Senate. But environmental and environmental justice groups' concerns were related to several non-hemp-related provisions.

One provision would make secret certain records, currently public, that relate to soil and water conservation programs, including documents about factory farms that may expose environmental concerns. The Sierra Club supports government transparency and opposes making public records secret.

S 315 would also allow hog farms that install biogas technology to avoid upgrading to environmentally superior technologies, as long as the farms don't increase the number of pigs on site. This would undermine a 2007 ban on construction of hog waste lagoons and sprayfields, which requires new or expanding hog production facilities to meet environmental performance standards. Environmental performance standards are meant to protect our air and water from pollutants associated with waste from industrial swine farms.

Our position: Opposed. Over 100 Sierrans weighed in with their legislators against this bill.

This bill ignores the communities who live near factory farms and who suffer environmental nuisances. Neighbors of factory hog farms have repeatedly won nuisance cases in court, but the legislature keeps offering more special treatment for the industrial hog industry instead of addressing longstanding odor and pollution problems.

The story: Traditionally, the legislature passes a Farm Act nearly every session and in recent years it often includes provisions requested by the politically powerful swine industry. When this year's Farm Act was filed, there were three environmentally harmful provisions that Sierra Club and our allies opposed. One would have unnecessarily waded into DEQ odor regulations for farms to create an exemption for farms storing waste for future waste-to-energy use. That provision was removed in the House with the help of Rep. Pricey Harrison (D - Guilford).

Another provision would exempt hog farms that install biogas digesters from permitting requirements to meet high environmental standards, as long as they are not expanding. And a provision would keep certain agricultural documents secret by exempting them from being considered public records. Senators Harper Peterson (D - New Hanover) and Mike Woodard (D - Durham, Granville, Person) spoke against these provisions and worked to remove or amend them. Sen. Natasha Marcus (D - Mecklenburg) also raised helpful questions in committee but, so far, the sponsors haven't budged on the public records or hog waste provisions.

Result: Versions of the Farm Act passed in both the House and the Senate with the environmentally harmful provisions intact. The chambers could not agree on a final version so the bill may return in 2020. Sierra Club continues to oppose the public records and hog farm provisions.

Hog Farm Buyouts in Floodplain: [Storm Recovery Act of 2019 - H 1023](#)

Highlight: In October 2019 the House passed the Storm Recovery Act, which primarily provides disaster relief funding to address Hurricane Dorian damage. The bill also includes \$5 million to match federal funds for hog farm buyouts in the 100-year floodplain. The funds would enable the state to work with interested farmers in the floodplain to voluntarily transition away from hog farming to other land uses such as crops or conservation.

Primary Sponsors: Rules Committee of the House

What the bill does: The Storm Recovery Act is primarily about allocating disaster relief funding to help North Carolina communities recover after hurricanes Dorian, Michael and Matthew. A provision provides \$5 million to the Department of Agriculture and Consumer Services for the Division of Soil and Water Conservation's Swine Buyout Program. Environmental groups and agricultural industry groups have for years supported more funding for buyouts in the 100-year floodplain. It's a positive development to see some funding dedicated to this purpose, though more is needed. Sierra Club supports removing industrial agriculture from flood-prone areas due to the risks to water quality.

Our position: Supportive

The story: A hog farm buyout program was implemented by the state after Hurricane Floyd in 1999. Hurricane Floyd killed 21,474 hogs, flooded 55 waste lagoons, and caused lagoon breaches at six farms. The program implemented after Floyd was credited with drastically reducing the damage caused by Hurricane Matthew in 2016 but more funding is needed.

Result: The House unanimously passed H 1023 in October 2019. The Senate referred the bill to the Senate Rules Committee but has not taken it up. It is eligible for consideration in 2020.

Democracy

Independent Redistricting: [H 69](#) and [H 140](#)

Highlight: Many North Carolina legislators have long supported creating an independent redistricting system like some other states have as an alternative to the political district-mapping process. But independent redistricting bills have to gain the support of leadership to make it to a vote in committee. That did not occur in 2019, but there's hope for 2020.

Primary Sponsors:

- H 69, "Nonpartisan Redistricting Commission": Representatives Robert Reives (D - Chatham), Chuck McGrady (R - Henderson), Brian Turner (D - Buncombe) and Jon Hardister (R - Guilford)

- H 140, “The FAIR Act”: Representatives Chuck McGrady, Robert Reives, Sarah Stevens (R - Alleghany, Surry, Wilkes) and Jon Hardister

What the bills would do: H 69 would create an independent redistricting commission to address political gerrymandering. It has over 67 members supporting it (a majority of the House). N.C. Sierra Club has long supported setting up a better redistricting process than the partisan system that North Carolina has now, which has led to many lawsuits and lots of map redraws. H 69 was referred to the House Committee on Redistricting but the committee has not yet held a vote. The Redistricting Committee met to discuss the bill in 2019 and it was received favorably. It is eligible for consideration in 2020.

Independent redistricting bills have been filed in previous years by both Republicans and Democrats. Nearly half of the Republicans now serving have voted for a bill like this in the past. H 69 would set up an 11-member independent commission of four Republicans, four Democrats and three members of other political parties to make voting maps with non-partisan legislative staff assistance. There would be public hearings and comment opportunities. The voting maps would be required to be compact, contiguous and in compliance with state and federal laws. The districts drawn by the commission would be voted on by the legislature and take effect in the next redistricting cycle in 2021.

H 140 has over 60 bipartisan co-sponsors. It would place a state constitutional amendment before voters that enacts a process by which the Legislative Services Office drafts redistricting plans based on non-partisan criteria and feedback offered by a temporary advisory commission and comments from the public. Other than to comply with federal law, those drawing district lines couldn't consider political affiliation of voters, results of previous elections, where incumbents or challengers live, or demographic information about voters other than population. H 140 was assigned to the House Redistricting Committee and was discussed along with H 69 but has not been brought to a vote.

Our position: Supportive.

The story: In 2016, a federal court struck down North Carolina's congressional districting plan as an unconstitutional racial gerrymander. Politicians had rigged the legislative maps to limit black voters' electoral influence and make sure white votes counted more than everyone else's. But once the court ordered legislators to draw a new map, some N.C. legislators openly and proudly declared that the new map wouldn't be a racial gerrymander, but a partisan gerrymander - drawing as many districts as

possible to favor Republicans. In a committee meeting at the time, Rep. David Lewis (R - Harnett) announced that his party was proposing a congressional plan that would elect 10 Republicans and three Democrats only because it was not possible to draw a plan that elected 11 Republicans and two Democrats.

The 2016 congressional plan was challenged as an unconstitutional partisan gerrymander in federal court. The U.S. Supreme Court heard the case in March 2019 after a lower court twice ruled the districts to be unconstitutional. In June 2019, the Supreme Court issued an opinion that found that claims of partisan gerrymandering were not justiciable for federal courts, meaning no federal court going forward could strike down partisanly gerrymandered redistricting plans on constitutional grounds. The high court's majority opinion, though, did say that such claims should be handled on the state level by state legislatures and courts.

Almost immediately after the Supreme Court made this ruling, challenges to state legislative and congressional districts were heard in state court, brought by plaintiffs who claimed the districts violated the North Carolina Constitution. The state court ordered that some state legislative districts and U.S. Congressional districts had to be redrawn and the legislature engaged in a closely scrutinized redistricting process that yielded new districts that will be used in the 2020 election.

A fair redistricting process is an environmental issue. Given how many environmental issues come up at the legislature, it's important for elected officials to be held accountable for enacting laws that harm the environment or conflict with Sierra Club's core values. However, it is difficult to hold electeds accountable if the outcome of an election is pre-determined because districts are drawn to create an extreme partisan advantage.

In the 2019 session, there were fewer proposals to rollback environmental safeguards than in previous years. Further, environmentally harmful bills that did pass were not enacted because the legislature failed to override any vetoes. Both of these facts are attributable to fairer districts being enacted by courts in 2018. Even more balanced maps are in effect for the 2019 election.

Result: After weeks of map-drawing committees, the N.C. General Assembly passed new maps to meet the court orders. The new maps are not expected to create a sea change but have changed the makeup of some districts to tilt more towards the minority party.

Water

Toxic Firefighting Foam: [H 560](#) and [S 433](#)

Highlight: The legislature balked at banning toxic firefighting foam in 2019 but required a state inventory. After seeing water contamination in the Greensboro area linked to use of firefighting foam containing per- and polyfluoroalkyl substances (PFAS) in training, representatives from the Greensboro area, along with longtime environmental champion Rep. Chuck McGrady (R - Henderson), proposed a bill to ban the foam. The chemical industry would not support a ban so that proposal has not made it to committee, but a requirement for an inventory of toxic foam passed in another bill. The Sierra Club will continue to advocate for a ban but an inventory is a helpful step forward.

Primary Sponsors:

- H 560 “Ban PFAS in Fire Retardant Foam”: Representatives Pricey Harrison (D - Guilford), Faircloth (R - Forsyth), Hardister (R - Guilford) and Chuck McGrady (R - Henderson)
- S 433 “DNCR Omnibus & Other Changes”: Senators Burgin (R - Harnett, Johnston, Lee), Deanna Ballard (R - Alleghany, Ashe, Surry, Watauga, Wilkes), and Mike Woodard (D - Durham, Person, Caswell)

What the bill does: H 560 would ban the use of fire retardant foam that contains PFAS. Communities around North Carolina are facing threats to their drinking water and health due to PFAS contamination, partly from the use of fluorine-based aqueous film-forming foam (AFFF) used in firefighting. S 433 requires the UNC collaboratory to do an inventory and study of firefighting foam to be due April 1, 2020, to the legislature.

Our position: Supportive. Nearly 600 Sierrans weighed in with their legislators in support of this bill.

The story: In April, Rep. Pricey Harrison (D - Guilford) proposed a bill to ban PFAS firefighting foam. H 560 is intended to help protect firefighters and the environment from PFAS. Little research has been done about occupational exposure to AFFF among firefighters, who may be exposed to PFAS that are in firefighting foam and used to make firefighting gear water- and stain-resistant.

PFAS contamination is strongly linked to cancer, thyroid problems, reproductive system damage and impairments to children’s growth and development. PFAS chemicals are

pervasive; they can't be broken down in the environment. Cancer is now the leading cause of line-of-duty deaths for firefighters.

Less toxic alternatives to AFFF firefighting foam containing PFAS are being used safely and effectively. Fluorine-free fire fighting foams have public health and environmental advantages over persistent PFAS-based firefighting foams. They are non-persistent, biodegradable with only short-term, localized effects versus highly persistent PFAS in AFFF, which are all toxic and bio-accumulative.

Some states are taking action to end the use of toxic PFAS-containing firefighting foams and take back products stockpiled at airports and fire stations. For example, the state of Washington enacted a law that bans the use of AFFF where not required by law.

Result: H 560 did not get a hearing in a House committee in 2019, but a provision was added to S 433 "DNCR Omnibus & Other Changes" that requires the inventory. H 560 is eligible for consideration in 2020.

Billboards

Governor Vetoes Billboard Bill: [H 645](#)

Highlight: The legislature passed "Revisions to Outdoor Advertising Laws" to protect the interests of the billboard industry at the expense of trees, local government authority and scenic beauty. Thankfully, Governor Cooper vetoed the bill and there has been no attempt to override the veto, likely due to the close House vote of 60-54.

Primary Sponsors: Representatives Jason Saine (R - Lincoln), Brenden Jones (R - Columbus, Robeson) and Michael Wray (D - Halifax, Northampton)

What the bill does: The bill would limit local ordinances designed to protect drivers from tall, bright, flashing digital billboards. Overall, H 645 would restrict the ability of local communities to control billboards, allow more cutting of trees along our highways, and open the door to taller digitized billboards.

Our position: Opposed. Sierrans weighed in with their legislators against this bill over 500 times. North Carolina's local governments should be able to control the safety and appearance of their roadways, and local ordinances should be respected.

The story: The billboard industry has a tradition of putting forward a bill on a nearly annual basis to help the industry.

In the Senate, Sen. Chuck Edwards (R - Henderson, Buncombe, Transylvania) got a helpful amendment passed that limited digital billboards. Sen. Mike Woodard (D - Durham, Person, Caswell) sought even stronger protections against digitization of billboards but the Senate would not go along. Sen. Natasha Marcus (D - Mecklenburg) spoke up against the bill in debate because of concerns about scenic corridors, trees and digital billboards. Sen. Harry Brown (R - Jones, Onslow) and Sen. Jerry Tillman (R - Guilford, Randolph) were advocates for the bill in the Senate. Senator Tillman argued that billboards are needed to “find the Cracker Barrel.”

The House ultimately rejected many of the most harmful provisions in the original bill. Amendments added in the House restricted where billboards may be relocated, prevented relocated billboards from being digitized, and removed a provision making the bill retroactive. An amendment by Rep. Chuck McGrady (R - Henderson) helpfully eliminated provisions that would have permitted a significant expansion of tree-cutting on public right-of-ways to improve the visibility of billboards. Representatives Joe John (D - Wake) and Darren Jackson (D - Wake) amended the bill to remove or fix some harmful provisions.

Despite the positive House changes, the bill still would have weakened local government control over billboards and resulted in more tree-cutting along roads. As a result, many legislators voted against it - so many that it's unlikely that House support would be strong enough to override a veto.

Result: Governor Cooper vetoed H 645 and there was no attempt to override the veto in 2019, though it's possible that an override vote could be attempted in 2020.

Recycling: Electronics Waste Recycling Defended: [S 553 Regulatory Reform Act](#)

Highlight: When filed, S 553 contained, among many provisions, a repeal of the ban on dumping electronic waste such as televisions and computers in landfills. Enough legislators objected to this provision that it was removed.

Primary Sponsors: Senators Norm Sanderson (R - Carteret, Craven, Pamlico) and Andy Wells (R - Alexander, Catawba)

What the bill does: S 553 would have removed the landfill ban on certain electronic waste, which would have essentially ended the manufacturer-funded electronics recycling program.

Our position: Opposed.

The story: N.C. Sierra Club was instrumental in enacting the electronics waste landfill ban and the producer-responsibility statute that requires the producers of certain electronics to fund recycling. Along with allies, we have successfully opposed repeated efforts to repeal this recycling program.

All of the first-generation flat panel televisions and monitors, known as LCDs, contain mercury lamps. This amounts to millions of devices spread in households, businesses, and government offices all over North Carolina. These devices are beginning to be collected by county programs.

According to DEQ, the recycling of televisions and computers creates many jobs and investment in the state. Six counties (Anson, Iredell, Catawba, Granville, Stanly, Rowan and Rockingham) host electronic waste recycling facilities, worth \$55 million in private investment.

Senators Harper Peterson (D - New Hanover) and Mike Woodard (D - Durham, Granville, Person) were helpful in speaking up in committee against this proposal. Senator Peterson noted that mercury and lead can leach out of these products, so legislators should prioritize public health by keeping the ban in place. Mercury can become an airborne source of pollution.

When the bill was up for a vote in the Senate, a friendly amendment was made to remove the electronics waste provision along with other provisions that members objected to in order to move the bill along.

Result: S 553 passed without the electronics waste landfill ban repeal. Governor Cooper vetoed the bill because of concerns about two unrelated provisions. The Senate failed to override the veto in January 2020.

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