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March 30, 2017

The Honorable Roy Cooper
Governor of the State of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Re: HB 142

Dear Governor Cooper,

As an organization deeply committed to ensuring equality for all North Carolinians, including lesbian, gay, bisexual, and transgender (LGBT) individuals, we write to you today on behalf of our more than 30,000 members and supporters to urge you to veto HB 142.

Rather than ending the discrimination endured by LGBT North Carolinians for the last year as a result of HB 2, this bill preserves it. In so doing, it marginalizes and stigmatizes an already incredibly vulnerable population, and perpetuates a harmful myth that transgender individuals are to be feared rather than accepted. While we appreciate your efforts to work with legislative leaders to find a solution to the myriad of problems caused by HB 2, this bill does not represent a satisfactory resolution. Amid pressure from the business community and the NCAA, it's crucial that you not lose sight of the fact that those most directly harmed by HB 2—and who will continue to be harmed by HB 142—are our LGBT friends, family, and neighbors.

The almost four year moratorium on local non-discrimination ordinances included in the bill ties the hands of local governments who would otherwise have the ability to pass ordinances that make sense for their communities, including protecting people from real and persistent discrimination. In essence, this bill enables and encourages LGBT discrimination in our state until at least December 1, 2020. A one-size-fits-all solution doesn't work for North Carolina's diverse communities. Every community is different, and local government is best suited to respond to the unique needs of each community. Enabling laws in the North Carolina General Statutes provide local governments with substantial power to issue ordinances that govern a host of local matters.¹ While this local power is not without its limits—local ordinances must be consistent with the laws and constitutions of the state and federal governments—it is certainly not insignificant.

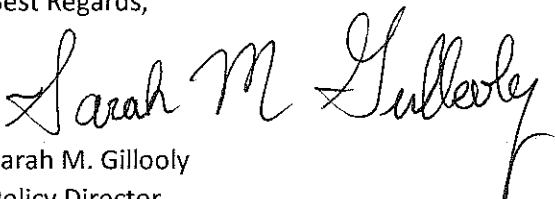
¹ For example, cities and counties may "define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city [or county]." N.C.G.S. § 160A- 174(a); N.C.G.S. § 153A-121(a).

Likewise, the preemption of any regulation of multi-occupancy restrooms or shower facilities by local municipalities strips them of the power to ever offer fully inclusive public accommodations protections to transgender residents—even after the moratorium sunsets at the end of 2020. It continues to single out transgender men and women for discriminatory treatment in our state, and feeds the fearmongering that overshadows their very existence. Transgender men are men, and transgender women are women. They deserve to use the appropriate restroom in peace. And public accommodations protections that include access to the appropriate restroom are not just a matter of practicality, but one of safety too—68 percent of transgender respondents in a recent survey have experienced verbal harassment in gender-segregated public restrooms, and 9 percent have experienced some form of physical assault when accessing or using gender-segregated public restrooms.²

As you know, the ACLU of North Carolina, on behalf of its members and four LGBT North Carolinians, challenged the anti-LGBT provisions of HB 2 less than a week after its initial adoption. That litigation has already resulted in a federal court partially blocking the enforcement of HB 2. Our request for broader relief will be heard by the Fourth Circuit Court of Appeals on May 10. In short, there are means beyond negotiating with the architects of HB 2 to stop the damage this law has caused to our state and its people. HB 142 is not a means to that desired end and, in fact, raises its own serious constitutional concerns.

For the reasons above, the ACLU of North Carolina and our more than 30,000 members and supporters ask that you veto HB 142.

Best Regards,



Sarah M. Gillooly
Policy Director
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² See Jody L. Herman, Gendered Restrooms and Minority Stress: The Public Regulation of Gender and its Impact on Transgender People's Lives 71, The Williams Institute, UCLA School of Law *available at* <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Gendered-Restrooms-and-Minority-Stress-June-2013.pdf>.