

Unprecedented

TIMELINE: Looking back at North Carolina's response to the coronavirus outbreak

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REGULATION ROLLBACK

In policy fight against COVID-19, less is more



KARI TRAVIS
ASSISTANT MANAGING EDITOR

of more than 100 people — then shrank the number to 50 within a week. Races and concerts were canceled. Schools shut down. Dining rooms in restaurants and private clubs closed under executive order.

North Carolina's path forward is paved with sensible policies, JLF experts say. As the state is overwhelmed with more than 100,000 claims for unemployment insurance and hundreds of residents test positive for COVID-19, boosting free-market solutions is the best way to ensure both public and economic health.

"What makes a free society so formidable is that it lets more people in on the fight," said Jon Sanders, JLF's

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Where's my Carolina Journal?

DEAR FRIENDS AND SUPPORTERS,

Thank you for your loyal readership. The coronavirus has rocked the economy and our daily lives. With events surrounding the crisis evolving rapidly, the shelf life of our news is sometimes mere hours. As a result, we've put more resources toward publishing news and updates immediately online. Because of this, for the first time in 20 years, CJ readers won't get a hard-copy edition of the newspaper in April.

We've done some of our most important work since the March print CJ came out, as you can see with our continual coverage of COVID-19 at <https://bit.ly/2WN8MXa>.

Besides printing a monthly newspaper, we publish breaking, in-depth news and commentary every day at CarolinaJournal.com. We send daily updates by email (sign up at <https://bit.ly/2QOz8o3>). We're active on Twitter, Facebook, and LinkedIn. We felt it was more important to get you the accurate news you need and get it quickly.

This wasn't an easy decision. But we believe it's the right one. We welcome your feedback. As always, thank you for putting Freedom First and supporting our work.

Rick Henderson, Editor-in-Chief;
Amy O. Cooke, Publisher

N.C. CORONAVIRUS TIMELINE

PAGE 11: A detailed look back at North Carolina's response to the coronavirus outbreak

CORONAVIRUS POLL

PAGE 2: Civitas Institute and Harper Polling surveyed 500 likely state voters regarding their opinions on Covid-19

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Interview: Ilan Wurman

A discussion of constitutional originalism with the visiting assistant professor at Arizona State University's Sandra Day O'Connor College of Law.

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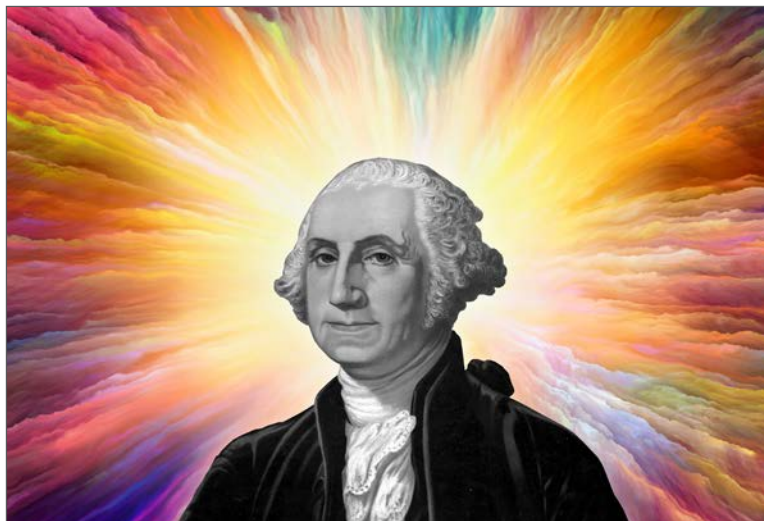
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FROM THE PUBLISHER

Freedom's moment in time: 'Now go out there and take it'



Just days ago, the term social distancing hadn't entered our lexicon. The Angus Barn was my new favorite restaurant. I enjoyed my investment statements, and my biggest concern for the baseball season was whether the Colorado Rockies would trade Nolan Arenado.

Now? Social distancing dominates our lives. The Angus Barn is closed, except for takeout. The stock market has tanked. I'm imagining a summer without the "Boys of Summer." And I'm one of the lucky ones.

The coronavirus crisis has been jarring. We're all justifiably worried about our families, friends, and communities. We can't even

take comfort in each other out of fear of transmission. I'm a hugger, and I haven't touched a person in more than a week.

In a matter of days, our state went from reveling in an economic renaissance to the fear of economic insecurity, with tens of thousands of North Carolinians wondering how they'll pay their rent and buy groceries.

Even with the economic uncertainty, a recent poll from sister organization the Civitas Institute reflects North Carolina's optimism. Likely voters are concerned about COVID-19, but not panicked.

But there's something more

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COMMENTARY BY JOHN HOOD

Easy grades produce hard landings

Walt Disney was no stranger to adversity. He grew up in a large, itinerant family of modest means. His first film studio went bankrupt. But Disney never gave up, and he never stopped learning from his mistakes.

"All the adversity I've had in my life, all my troubles and obstacles, have strengthened me," Disney once said. "You may not realize it when it happens, but a kick in the teeth may be the best thing in the world for you."

Celebrating the virtue of perseverance may sound old-fashioned. In reality, it's a sound application of modern social sci-

ence. In education, for example, there's a growing empirical case for the proposition that if we ask more of our children instead of trying to protect their supposedly fragile egos, they are more likely to enjoy success in school and beyond.

A new study of grading practices right here in North Carolina has gained significant national attention. Seth Gershenson, an associate professor at American University's School of Public Affairs, looked at the records of some 350,000 N.C. eighth- and ninth-graders enrolled in the

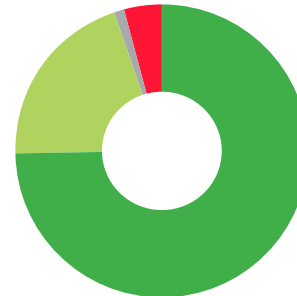
continued PAGE 21



North Carolinians on the Coronavirus

Coronavirus and Media

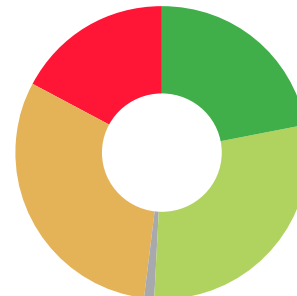
How closely are you following the news about coronavirus?



- FOLLOWING VERY CLOSELY74%
- FOLLOWING SOMEWHAT CLOSELY20%
- NOT VERY CLOSELY4%
- UNSURE/REFUSED1%

Level of Concern

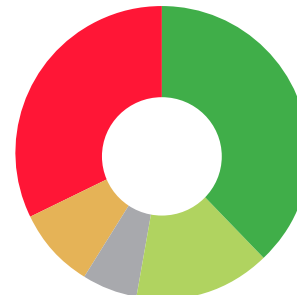
Taking into consideration both your risk of contracting it and the seriousness of the illness, how worried are you personally about experiencing coronavirus?



- NOT WORRIED AT ALL22%
- NOT VERY WORRIED29%
- VERY WORRIED17%
- SOMEWHAT WORRIED31%
- UNSURE/REFUSED1%

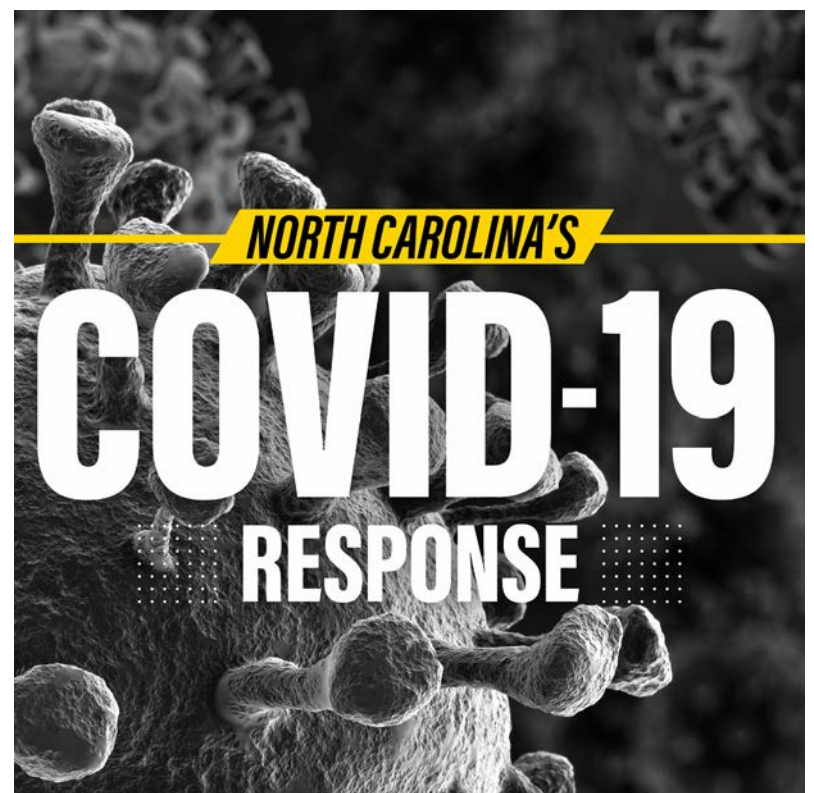
Coronavirus and Trump

Do you approve or disapprove of the Trump administration's handling of the coronavirus outbreak?



- STRONGLY APPROVE38%
- SOMEWHAT APPROVE15%
- STRONGLY DISAPPROVE32%
- SOMEWHAT DISAPPROVE9%
- UNSURE/REFUSED6%

Harper Polling, on behalf of Civitas Institute, surveyed 500 likely state voters March 15-17. The margin of error is plus or minus 4.38%. Results may not add up to 100% due to rounding.



Learn more about our response to COVID-19

Visit johnlocke.org for a series of articles detailing the free market solutions proposed by the John Locke Foundation that are already being implemented by North Carolina leaders.

CJ BRIEFS

Legislation targets licensing requirements that bar veterans from working

Regulations are hurting veterans' ability to transition into civilian life in North Carolina, a study by the General Assembly's Program Evaluation Division says.

The division recommended reforming occupational licensing barriers that prevent veterans from working. It proposed draft legislation that would help veterans and military spouses qualify for an occupational license with military training or out-of-state licenses.

The draft bill would create a 30-day expedited process for veterans and military spouses who applied for a license. It also would require licensing boards to report the number of military applicants accepted and rejected.

The chairs of the Joint Legislative Program Evaluation Oversight Committee didn't say whether they would sponsor the draft bill in the General Assembly, but co-chair Rep. Craig Horn, R-Union, said he strongly supports the reform.

North Carolina boasts the seventh-largest number of veterans

BY THE NUMBERS

707,000

Number of veterans in North Carolina. N.C. boasts the seventh-largest number of veterans in the United States.

in the nation. Some 707,000 veterans and 86,000 active-duty military spouses live in this state. It is home to six military bases, including the world's largest, Fort Bragg in Fayetteville, with some 52,000 active-duty troops.

That transition isn't always smooth, and occupational licensure can make it harder, veterans' advocates say. Applicants can't work while waiting for their application to be processed, so they lose potential income.

"It can be time-consuming and costly to have a license recognized in a new state," the report says. "For military spouses, frequent moves between states often mean reapplying for licensure every few years. With every move, the reap-

lication process results in lost income for the family and lost tax revenue."

It can also harm veterans' careers. Some 37% of employed veterans considered themselves underemployed, according to a 2017 survey conducted by Iraq and Afghanistan Veterans of America. And military spouses earn an estimated \$12,374 less than their civilian counterparts each year, costing them nearly \$190,000 over a 20-year military career.

Advocates hope to free veterans from those regulatory barriers by creating an expedited application process. Creating an expedited application process would tackle the last recommended "best practice" from the U.S. Department of Defense. North Carolina already provides temporary or provisional licensure for military spouses, and it allows licensure by endorsement. But it hasn't addressed the third best practice recommendation — yet.

CJ Staff Reports



TECH: SGT. THOMAS SWANSON/AIR NATIONAL GUARD

LICENSING REFORM. Members of the National Guard attend a job and internship fair. The General Assembly's Program Evaluation Division recommended reforming occupational licensing barriers that prevent veterans from working.



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CJ BRIEFS

Folwell says prudent management has helped state pension weather economic jitters

Fears of a global economic slowdown, fueled in part by the coronavirus outbreak, took a \$4.2 billion chunk out of North Carolina's state pension plan.

The coronavirus has sent stocks tumbling worldwide. North Carolina's pension plan is more conservatively managed than most, so it slid only 3.9% from its unprecedented \$107 billion peak in mid-February.

"The N.C. pension plan is one of the safest and most secure plans of its type in the U.S.," State Treasurer Dale Folwell said during his monthly "Ask Me Anything" teleconference March 3.

The end of February sent the stock market to its worst week since the 2008 financial crisis. The Federal Reserve announced the first emergency interest rate cut since the Great Recession, but the ensuing market rally lasted only 15 minutes. Stocks and bond

yields then resumed their fall.

Global panic over the coronavirus dragged the state pension plan's equities down 11% from their mid-February peak. Folwell himself tested positive for the coronavirus later in March. He quarantined himself while recovering from COVID-19.

Decades of conservative management have protected the state's pension investments from unexpected market jolts. North Carolina's state plan is "especially well" prepared to weather another recession, according to a stress test by Pew Charitable Trusts.

"We do not manage this plan in anticipation of viruses and volatility that none of us have ever seen in our lifetime," Folwell said. "We don't gamble with the money of those who teach, protect, and serve, and we don't have a crystal ball. This cash cushion kept the plan from losing billions of dollars more than it would have."



North Carolinians get more time to apply for REAL ID

PRESIDENT TRUMP has given the N.C. Division of Motor Vehicles and its counterparts across the nation a welcome reprieve.

Trump on March 23 said Washington will push back the Oct. 1, 2020, deadline for enforcement of REAL ID due to coronavirus concerns.

The deadline extension means there's no great rush for North Carolinians to obtain IDs, DMV spokesman Steve Abbott said. Anyone who already owns a REAL ID in the form of a passport or military ID doesn't need a new driver's license, although some people may want to get one so they don't have to carry a passport on domestic flights.

The REAL ID Act was passed in 2005 to create a federal identification standard in response to the 9/11 terror attacks. Several states objected to the law when it was first passed, and the Department of Homeland Security has repeatedly extended the deadline over the years.

When the REAL ID mandate takes effect, Americans must show a REAL ID card to board domestic flights, enter federal buildings, or enter a nuclear power plant. Forms of Real ID include passports and military ID. They also include state-issued driver's licenses featuring a yellow star in the top right corner.

NCDMV has issued 1.8 million



REAL ID. The deadline extension means there's no great rush for North Carolinians to obtain IDs from the N.C. Division of Motor Vehicles.

REAL IDs since late 2017 and would have needed to issue another 1.8 million to 2.4 million within seven months, per the department's most recent estimate, Abbott said.

Trump's announcement came after a request from governors across the country. In a letter to the Department of Homeland Security, the National Governors Association urged an extension of the REAL ID program for "no less than one year."

DHS tried to help expedite REAL IDs in February by letting DMV

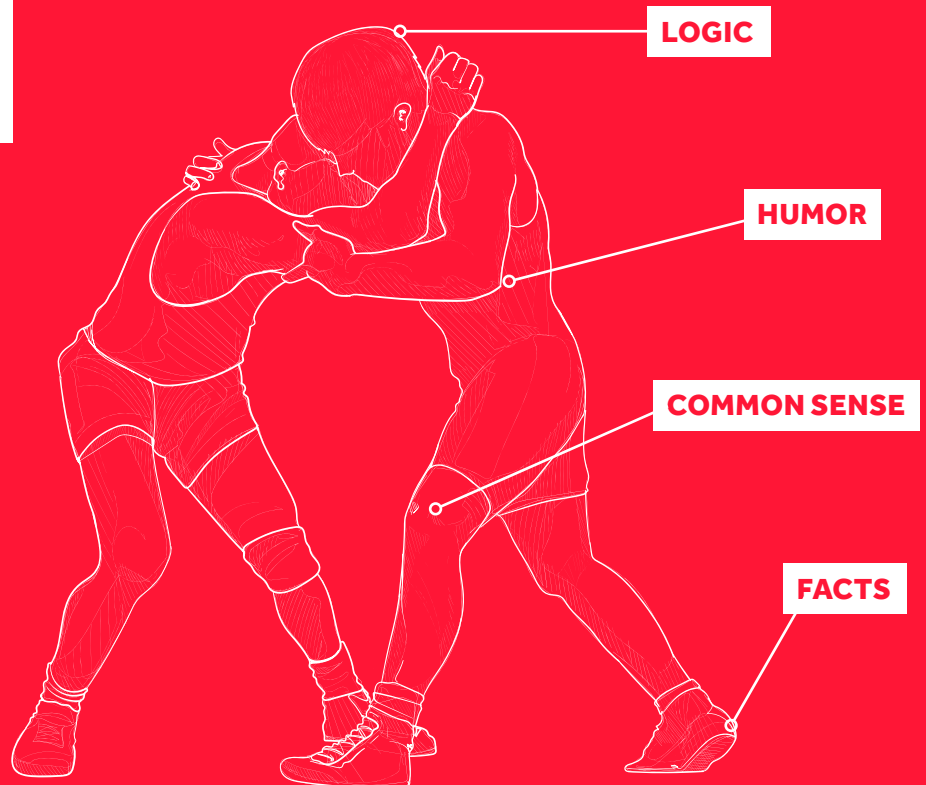
receive electronically the necessary documents, including the applicant's birth certificate and Social Security card. NCDMV officials decided an electronic system wasn't worth it. The federal government still requires applicants to visit the DMV in person with the required documents. DMV officials may save a few minutes scanning the documents themselves, but they'd still have to verify the applicant's physical documents with the ones sent electronically.

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CJ BRIEFS

No complaints: N.C. ABC Commission moves forward on rule for spirits tastings in stores

Spirits tastings in N.C. ABC stores have gone on without complaint or problem since September, when lawmakers amended state rules governing liquor.

Some 50 boards — 140 or so stores — around the state have allowed tastings, with about 600 more scheduled, said A.D. “Zander” Guy, Alcoholic Beverage Control Commission chairman.

Guy presided over a meeting of the commission March 11, in which the board began the process of making the tasting rules permanent. The proposed rules will be filed with the Office of Administrative Hearings for publication in the N.C. Register, and a public hearing is planned during a meeting of the commission May 13. A public comment period of at least 60 days will follow.

The ABC also ratified 86 hearing cases resulting in penalties of more than \$103,000 and/or imposition of suspension of permits for three days or more.

The tastings provision was part of Senate Bill 290, originally filed as the Distillery Regulatory Reform Bill, which became law July 29. The bill brings rules governing N.C. craft distillers more in line with those followed by the state’s breweries and wineries.

Most provisions in the law became effective Sept. 1, including the tastings, which are contingent on local approval and must be held between 1 p.m. and 7 p.m., for no more than three hours.

Lawmakers also eliminated a requirement that consumption of the tastings be limited to a designated



TASTINGS. Gov. Roy Cooper, flanked by lawmakers and distillers, signed Senate Bill 290 on July 29 at Graybeard Distillery in Durham.



The tastings provision was part of Senate Bill 290, originally filed as the Distillery Regulatory Reform Bill, which became law July 29.

area.

As the General Assembly debated S.B. 290, some lawmakers offered ominous warnings about tastings — little more than a splash of liquor — leading to myriad problems,

such as people hopping from store to store and becoming intoxicated.

Guy pointed to Bryan House, N.C. Alcohol Law Enforcement director, to ask whether he’s had reports of problems or any complications associated with store tastings.

“No sir, we have not,” House said. “As far as I’m aware, we haven’t even received any complaints.”

One of the biggest aspects of S.B. 290 allows distilleries to sell an unlimited number of bottles directly to customers and frees distilleries from the onerous process of tracking and policing every bottle sold to customers.

The law also allows distilleries to sell mixed drinks, as well as beer and wine, with appropriate permits.

New Civitas poll breaks down residents’ thoughts about coronavirus pandemic

REGISTERED DEMOCRATS are more likely to worry about the coronavirus than are Republicans, a new poll from the right-leaning Civitas Institute shows.

Harper Polling, on behalf of Civitas Institute, surveyed 500 likely state voters March 15-17. The margin of error is plus or minus 4.38%.

The poll release arrived just as the state’s share of coronavirus cases reached 137. To try to slow the spread of the virus, Gov. Roy Cooper had ordered all public schools to close for two weeks. (He later extended the closings to mid-May.) The gov-prohibited mass gatherings and ordered restaurants and private clubs to restrict service to take-out and delivery.

A large majority of respondents are tuned in to COVID-19 coverage. Nearly 75% said they are very closely following the news about the pandemic, but 20% are only somewhat closely paying attention to the coverage.

While 51% aren’t worried about COVID-19, 48% are concerned about the virus.

“Unsurprisingly, North Carolinians are concerned about the COVID-19 outbreak,” said Civitas Institute President Donald Bryson in a news release. “The heartening piece of data is that voters are showing faith in executive leadership, regardless of party, with both Presi-

51%

AREN'T WORRIED

While 51% aren’t worried about COVID-19, 48% are concerned about the virus.

dent Trump and Gov. Roy Cooper above water in approval ratings.”

Some groups are more concerned about the virus than others. Sixty percent of registered Democrats are worried about the virus, compared to 43% of unaffiliated voters and nearly 38% of registered Republicans. Women are more likely than men to be concerned.

A little more than 50% of respondents think the Trump administration is doing a good job handling the pandemic, but 41% disapprove.

Republicans and Democrats are divided on how well the Trump administration is handling the pandemic.

Nearly 90% of Republicans approve of how the Trump administration has responded to the viral outbreak, but Democrats are significantly less assured. Only 26% of Democrats think the Trump administration is doing a good job handling the ordeal.

NORTH CAROLINA

BUDGET IN PICTURES

ONLINE NOW AT JOHNLOCKE.ORG

A visual exploration of the current N.C. budget: How does state government get its money? How does it use that money? How has that changed over time? And how might that change in the future?

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ELECTIONS

NCFREE briefing sheds light on Super Tuesday's role in fall campaign

BY LINDSAY MARCHELLO

State Republicans and Democrats should hold onto their money until they know the Democratic nominee for president, Anna Beavon Gravelly, executive director of the N.C. FreeEnterprise Foundation, said during a post-primary briefing.

Former Vice President Joe Biden had a good night on Super Tuesday, winning 10 states, including North Carolina.

The best scenario for Democrats in North Carolina would be if Biden wins the Democratic nomination, Gravelly said.

He has been speaking to a demographic reflected in North Carolina's population.

Biden appeals to a more moderate, older crowd. Conversely, Vermont Sen. Bernie Sanders appeals to younger voters and is a self-described socialist, Gravelly said. Sanders has vowed to stay in the Democratic race despite Biden's recent wins.

Fourteen states, including North Carolina, held their primaries during Super Tuesday. The Tar Heel State was one of the most watched of the night.

North Carolina is the only state in the nation with new congressional and legislative election maps.

"There will continue to be more eyes on North Carolina and more money coming into the state,"



EYES ON NORTH CAROLINA. North Carolina is the only state in the nation with new congressional and legislative maps.

Gravelly said.

Some races were fairly predictable. It was no surprise Gov. Roy Cooper would emerge as the Democratic nominee, defeating challenger Ernest Reeves by a wide margin. Similarly, Lt. Gov. Dan Forest de-

feated Rep. Holly Grange, R-New Hanover, by earning nearly 90% of the vote in the race for the Republican gubernatorial nomination.

Other races were more of a surprise.

Sen. Terry Van Duyn, D-Bun-

combe, was the presumptive favorite in the Democratic primary for lieutenant governor, but Rep. Yvonne Lewis Holley of Wake County earned 26% of the vote to Van Duyn's 21%. Since no one got more than 30% of the vote, a runoff was possible. Van Duyn eventually decided against seeking a runoff.

Despite a crowded field, the Republican primary for lieutenant governor ended up with a clear winner and a relatively unknown politician in Mark Robinson.

Super Tuesday also featured some upsets, with a few incumbents losing their primaries.

The Democratic primary for House District 43 proved to be a rock-star race, Gravelly said.

Six-term incumbent Rep. Elmer Floyd, D-Cumberland, lost his primary to Kimberly Hardy, a social worker.

Floyd's district was changed dramatically by redistricting, Gravelly said.

The Republican primary for Senate District 29 also resulted in an upset. Incumbent

Sen. Eddie Gallimore, R-Davidson, was defeated by Rep. Steve Jarvis, R-Davidson. Jarvis outraised Gallimore and had a higher score than the senator in NCFREE's Legislative Business Rating.

Several races will be worth watching in November, Gravelly said. The list includes races for governor and lieutenant governor and

the U.S. Senate showdown between Republican incumbent Thom Tillis and Cal Cunningham, a Democrat.

The U.S. House 9th District race between Republican Dan Bishop and Democrat Cynthia Wallace is a race to watch.

Last year's special election, which saw Bishop defeat Democrat Dan McCready, was one of the most expensive races in the country, Gravelly said.

It drew a lot of attention both inside and outside the state, and will likely do so again.

The races for state treasurer and state superintendent of public instruction are also worth watching, Gravelly said.

The Democratic primary race for state treasurer was one of the closest races of the night. Ronnie Chatterji was able to secure 35% of the vote and will go on to face Republican incumbent Dale Folwell.

Jen Mangrum won the Democratic primary for state superintendent with around 33% of the vote. The UNC-Greensboro professor will run against Catherine Truitt, chancellor of Western Governors University North Carolina. Truitt was a top education adviser to former Republican Gov. Pat McCrory.

Gravelly also recommended watching the races for House Districts 19, 82, 74, 98, 103, and 119. She's also following the closely contested contests in Senate Districts 3, 9, 17, 18, 24, 27, and 37.

CJ PHOTO BY DON CARRINGTON

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HIGHER EDUCATION

Budget stalemate leaves community college pay stuck in neutral

BY JULIE HAVLAK

Asheville-Buncombe Technical Community College has food pantries on its campuses — for its teachers.

Full-time professors at North Carolina's community colleges earn less than K-12 teachers. Their average pay is \$51,478 — some \$2,500 less than the average salary of K-12 teachers — and community colleges say that's not enough to hire or keep teachers.

North Carolina boasts the nation's third-largest community college system, with 58 community colleges serving 700,000 students. But the state ranked just six places from rock bottom in the nation for how it pays its community college teachers. Now, those employees hope to see a 5% raise passed during the General Assembly's short session in late April.

Full-time teachers made an average \$43,382 at Piedmont Community College in 2019. That average pay jumps to \$57,365 at Johnston Community College — which ranked first for its salaries in 2018-19.

"It's really heartbreaking, that this is reality our faculty and staff face," said Beth Stewart, A-B Tech vice president of instructional services. "Unless the state as a whole makes a commitment to doing more for the community college faculty and staff, our hands are pretty much tied."

Job positions remain open for months, sometimes years. A-B Tech buffed its job descriptions and beefed up its benefits — often to no avail. And as more teachers near retirement, Stewart worries a "silver tsunami" will sweep away irreplaceable staff.

"The cost of living in Asheville is outrageous," Stewart said. "If we're not paying enough, it doesn't really matter. ... People have to live."

To hire a teacher, community colleges must compete with each other, private universities, businesses, and even public K-12 schools.



COMMUNITY COLLEGES. Peter Hans, right, visits a community shelter at Lenoir Community College in Kinston in September 2018. At the peak of Hurricane Florence, 500 displaced residents were sheltered on the campus.

Things are especially bad in short-term work force training, which community colleges credit for their first enrollment increase in almost a decade. Businesses often poach their instructors, sometimes by doubling their salaries.

"We have been struggling for years in this area," said Scott Ralls, Wake Technical Community College president. "Just this morning, we lost a key, key position because we can't even get close to the salaries offered. ... They're uniquely underfunded."

That means students aren't getting the classes they need. Ironically, education is often most inaccessible in the very fields that offer the most well-paid jobs.

"If I need to be reskilled or upskilled, I don't have two, three, four years to do that. I need to provide for myself and my family. These

short-term programs address their needs affordably, accessibly," said Peter Hans, N.C. Community College System president. "They can get a skill, get a job, and provide for themselves and their family. It's one rung on the ladder."

At Wake Tech, the waitlist for the school's automotive program is almost as large as the program itself. Ralls plans to double the size of the program to meet student demand, but he worries about recruiting instructors. He says people often laugh at his salary offers.

"If we're paying them 50% of what they would make doing the job, that's a challenge," Ralls said. "It affects students when they end up on a waiting list instead of a classroom."

But avoiding delays is critical, especially for part-time students. Fewer than a quarter of nontradi-

tional, part-time students graduate, and delays are partly responsible, said Marie Cini, president of the Council for Adult and Experiential Learning, a national nonprofit consultant.

"Momentum will keep you going," said Cini. "But if this course I'm supposed to be taking gets canceled because there's no one to teach it, I will be angry as a student, expect better, or give up, thinking I'll come back in the fall. And often [students] don't. It's an interruption, and their lives start all over again. It's particularly difficult."

As more industries require skilled labor, work force education beyond high school is critical. Businesses will need more than 665,000 North Carolina adults to earn a credential or degree by 2030, says a report from UNC-Chapel Hill's Caro-

lina Demography and the John M. Belk Endowment.

Community colleges say they could help meet that need without saddling students with massive loans.

But general funding for community colleges is calculated according to enrollment of past years — not the enrollment colleges actually expect. Prosperous years have blighted community colleges, since enrollment traditionally grows during recessions and shrinks during economic growth. Enrollment was in a steady decline until fall 2019, when it rose by an average of 4.4% across N.C. community colleges.

"We're already living close to the bone anyway, and so when you experience financial stress, it becomes critical very quickly," said Tim Wright, Wilson Community College president. "And community colleges are the primary means by which people are able to access opportunity in many, many communities."

The vetoed 2019-20 budget included a 4% raise for community college employees, but the raise remains caught in the budget stalemate between the Republican legislature and Gov. Roy Cooper. Community college leaders now hope to give their employees a 5% raise, which would cost \$62 million.

"We feel it's a reasonable request," Hans said. "It's a big price tag, but it's a great investment in our hard-working faculty and staff."

A spokeswoman for Senate leader Phil Berger, R-Rockingham, says Berger supports giving community college teachers a raise, but he remains uncertain whether Cooper would sign a bill giving raises.

"I've long thought that we should spend more on community colleges," said Terry Stoops, John Locke Foundation vice president and director of education studies. "Our community college system is the most underfunded system of education in N.C. Given how much economic impact it has for the state, it seems we would get a great return on investment."

COVID-19

In policy fight against COVID-19, less is more

continued from PAGE 1

NORTH CAROLINA POLICY SOLUTIONS // CERTIFICATE OF NEED

director of regulatory studies. “It doesn’t wait for the central government to move, and it certainly doesn’t lock the private sector out.”

JOBS AND THE ECONOMY

RECOMMENDATION: Lift ABC rules against to-go cups to help restaurants and bars hurt by Cooper’s edict and allow breweries, distilleries, and wineries to deliver bottles

WHY: To provide additional sales revenue to embattled restaurants and bars under a carry-out/drive-through/delivery order

Getting a burger for carryout from your local sports bar? You can’t order a cocktail to go with it.

Not right now, anyway. Restaurants are still allowed to provide takeout under Cooper’s executive order, and that’s great, Sanders said. But thanks to North Carolina’s Alcoholic Beverage Control laws, a bartender or restaurant server can’t pour spirits into a to-go container.

Restaurants should be allowed to serve up alcoholic drinks for takeout or delivery, the N.C. Restaurant and Lodging Association said in a recent package of policy recommendations. As restaurants and bars struggle to keep even minimal staff working curbside food options, hospitality workers need all the breaks they can get.

It’s a good idea to let restaurants sell all types of alcohol to go in closed containers, Sanders said.

“People are going to miss a good mixed drink, and some establishments have their own signature drinks,” Sanders said. “Others may serve local beers on tap that aren’t available in manufacturers’ take-home containers. Plus, if you’d care to support your favorite local establishment right now, getting a drink with your meal can’t hurt.”

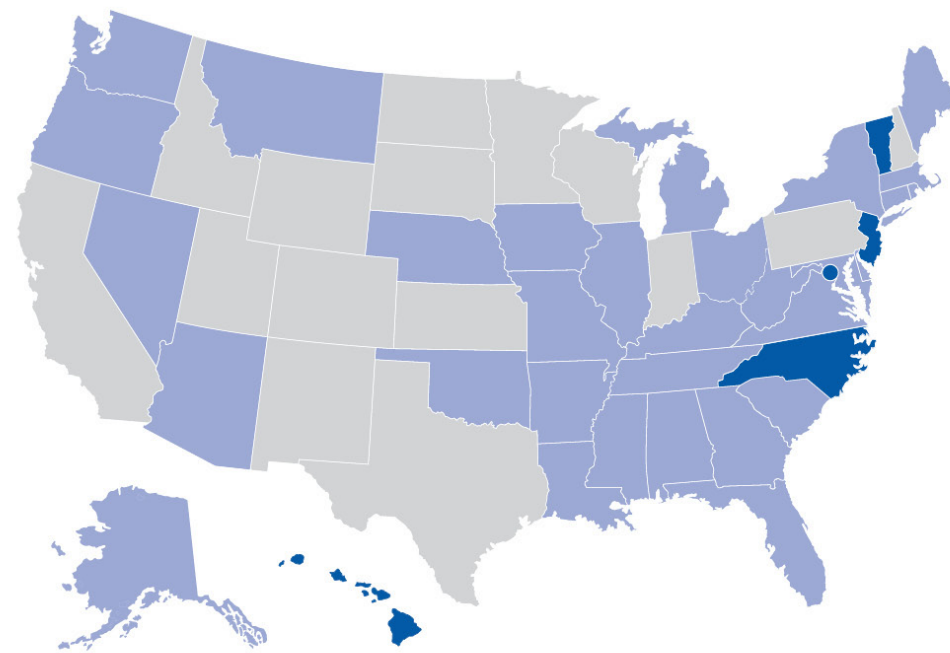
The prohibitions don’t make sense under the circumstances, he said, and lifting them could help struggling restaurants and private clubs raise profits and maintain staff. Cocktails are now available for takeout and delivery in California and New York.

The waiver could also apply to tap rooms at wineries, distilleries, and breweries that profit from slinging drinks in-house, he said.



RECOMMENDATION: Suspend occupational licensing and rethink licensing going forward

Jurisdictions With the Most Restrictive Certificate-of-Need Laws



- Five Most Restrictive CON Law States/Jurisdictions
- Other States with CON Laws
- States with no CON Laws

Top 5 Most Restrictive Jurisdictions by Number of Services/Facilities Regulated	Count
Vermont.....	30
Hawaii.....	29
District of Columbia.....	28
New Jersey.....	26
North Carolina.....	25

SOURCE: MERCATUS CENTER



WHY: Licensure keeps out needed health professionals and other workers and raises prices on people

If you’re a nurse in Virginia, you don’t suddenly lose those skills by crossing into North Carolina. The same goes for other licensed workers, such as plumbers, electricians, hair stylists, and all other occupations that require licensing.

Cooper’s emergency order waives North Carolina’s licensure requirements for health care and behavioral health workers. That means doctors and nurses licensed in other states can get to work in North Carolina, helping test patients for COVID-19.

It’s a start, Sanders said. But such deregulation should be more than just a backup plan.

“Last year, Arizona became the first state with universal license recognition,” Sanders said. “It directs the state’s occupational licensing boards to recognize licenses from other states rather than require duplicative training and other requirements from already qualified individuals.”

North Carolina should look beyond medical professions to all other types of licensing, he said.

“Disruptions from the coronavirus are going to cause people a lot of economic pain,” he said. “A recession seems inescapable. In general, but especially now, there’s no need for the state to impose regulations causing a whole slate of services to be harder to get, harder to find work in, and more costly to people than they

should. But that’s what occupational licensing does.”



RECOMMENDATION: Give extensions for expiring driver’s licenses, expiring vehicle registrations, and other nonessential services that require in-person visits and standing in lines at government offices

WHY: To encourage social distancing

Social distancing is supposed to mitigate contagion, and people should go to the grocery store or to work only if absolutely necessary, Cooper and state health leaders have repeatedly said.

It’s time to consider waiving other nonessential trips to government buildings, Sanders said, and waiting in long lines at the Division of Motor Vehicles and other government offices is a risk worth reconsidering.

“Services and payments can be made online, but people should be given the benefit of the doubt if they cannot.”

On March 20, Cooper issued an executive order postponing DMV hearings that can be “reasonably delayed.”

The order also waived some commercial driver’s license requirements to make sure school buses could be used to respond to the crisis and called for limited appointments and some closures at smaller DMV offices.

The order doesn’t go far enough, Sanders said.

“Suspending license and registration expirations for a certain period, such as six months, would help reduce the volume of people visiting the remaining offices still open. It just makes sense.”

HEALTH CARE

RECOMMENDATION: Repeal certificate-of-need laws

WHY: Other states have, and health regulations that stand in the way of providing services in a health emergency aren’t worth keeping

In the face of coronavirus, needs are straightforward. Sick people need care. Some may even require hospitalization. But hospitals may need more beds.

That’s not an easy fix in North Carolina, where certificate-of-need laws dictate how much medical equipment a facility is allowed to buy. In March, the state temporarily lifted restrictions on hospital beds due to the threat of coronavirus.

The measure helps hospitals meet community needs without the permission of a Raleigh-based government board, said Jordan Roberts, JLF health care policy analyst.

“This regulation should remain lifted indefinitely,” he said.



RECOMMENDATION: Waive requirements for out-of-state telemedicine providers and give pharmacists the ability to test and prescribe medication for nonchronic conditions, such as strep or the flu. Grant nurse practitioners full practice authority.

continued NEXT PAGE

COVID-19

continued from PREVIOUS PAGE

WHY: Increasing access to telemedicine could help coordinate patient care and keep unnecessary visits to a minimum; freeing up primary care doctors and other point-of-contact providers will help with testing and treatment for COVID-19.

If you're sick, a quick video chat with your doctor could help maintain social distance while providing treatment. But North Carolina needs to make that option less tricky for patients, Roberts said.

On March 20, the state temporarily modified telemedicine rules to provide remote care for Medicaid patients.

The waiver loosens rules about payment, technology, and patient location. It also allows providers, such as clinical pharmacists and mental health providers, to provide video and phone sessions for patients.

These changes are a good example of how the state can provide better access to care going forward.

The General Assembly should allow out-of-state doctors to provide care via video calls and other electronic means, Roberts said. Now, a doctor in Virginia also would need to be licensed in North Carolina to practice telemedicine.

That's redundant, Roberts said. If that rule were lifted, patients could go to a CVS pharmacy website and video chat with a doctor for just \$59. But today, that's not an option.

Legislators should find ways to empower medical providers in multiple roles, Roberts said. One example is a recently enacted Florida law allowing pharmacists to test patients and prescribe medications for some illnesses.

"This could free up primary care doctors and other point-of-contact providers who will need to conduct testing and treatment for COVID-19-related illnesses," he said.

Nurse practitioners also should be granted full practice authority, he said, since COVID-19 is an all-hands-on-deck situation.

EDUCATION

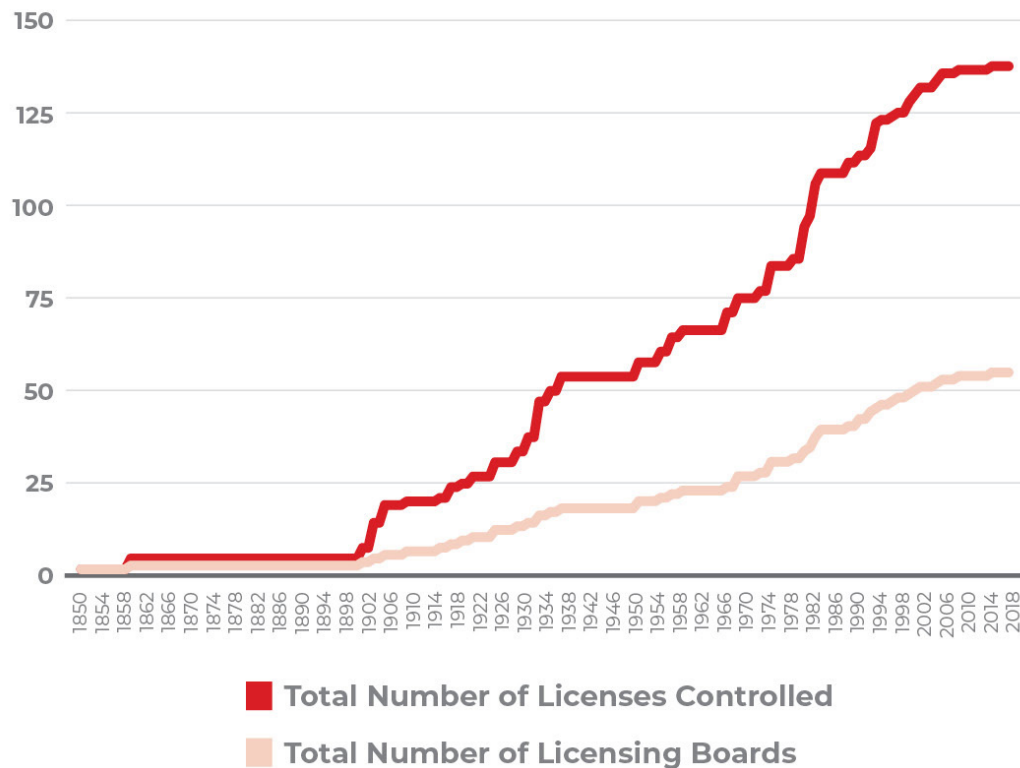
RECOMMENDATION: Allow school districts calendar flexibility

WHY: To make up time or restructure attendance requirements.

State law requires schools to wrap classes and testing by June 30. That's not going to be easy now that all schools are physically closed until at least May 15, said Terry Stoops, vice president for research and director of education

NORTH CAROLINA POLICY SOLUTIONS // OCCUPATIONAL LICENSING

Growth of Occupational Licensing in North Carolina



SOURCE: JOHN LOCKE FOUNDATION ANALYSIS



studies at JLF.

N.C. law grants emergency powers to the State Board of Education, allowing it to extend recesses and adjournment of public schools. But it's unclear how that would be reconciled with classroom time requirements and the June 30 deadline.

"As many pundits point out, we are in uncharted territory," Stoops said.

The General Assembly should provide a uniform policy response to COVID-19 closures, he said.

Two options are on the table. Lawmakers could waive the June 30 deadline, or they could reduce the number of hours students are supposed to complete in a school year.

It's likely any decisions about the school calendar this year will lead to modifications of the calendar for the next school year, particularly if the state mandates that students attend summer school or start the next school year early, Stoops said.

"In the long run, the ideal option is to dispense with the unnecessarily prescriptive start- and end-date requirements altogether and allow school districts to formulate calendars that better meet the needs of students, families, and communities."



RECOMMENDATION: Grant school employees additional leave days

WHY: To avoid penalizing teachers who used leave for medical treatment, child care, or any other need in the wake of COVID-19

North Carolina teachers earn 0.2 days of personal leave for each month they work; they can't earn more than 2 days a year.

During the coronavirus outbreak, teachers should be allowed to earn more, Stoops said.

"Lawmakers should consider granting additional leave days to school personnel by retroactively increasing the personal leave rate for the current school year," he said. "Moreover, they should work with state education officials to ensure that all public school employees have clear guidelines on key human resources issues, such as compensation, leave and sick days, and documenting work hours during school closure."



RECOMMENDATION: Increase communication about child nutrition options

WHY: To provide food for low-income and rural communities

Closed schools mean closed lunchrooms for low-income families who depend on school lunches to feed their children. All 115 N.C. school districts stepped up with plans to provide meals for their communities.

About 1,165 schools had served 1.2 million meals and 6,500 snacks as of March 21.

Meal service is optional, and there are no rules for how a district should distribute food, said Stoops.

The biggest challenge is communication, he said.

"School districts should use telephone, email, and broadcast communications to disseminate information about the availability of meals over the school closure period."



RECOMMENDATION: Use online learning as a tool, and encourage parents of school kids to read at home

WHY: Help K-12 students stay on track with learning even as public schools remain closed until at least May 15.

With schools closed, online learning may seem inevitable, Stoops said. But lawmakers shouldn't mandate digital education for districts unless leaders can

satisfy four concerns.

First, technology sets a barrier for kids in rural and low-income neighborhoods where the internet is patchy. Private companies like Charter Communications and Comcast are offering free broadband and Wi-Fi access for families with school children.

But some areas of North Carolina, such as the Inner Banks, Sandhills, and western regions of the state, don't have the infrastructure to support high-quality broadband.

Timing is another obstacle teachers must overcome, Stoops said. Cooper announced the school shutdown on a Saturday, giving classrooms little time to respond. Schools that already used online learning tools were prepared.

But those with fewer internet options didn't have a chance to print and distribute hard-copy learning packets.

Classroom teachers also must be taught how to plan for online lessons, Stoops said, as even the most skilled must adapt in-person activities to work at a distance.

The fourth barrier is special education law, Stoops said. The Individuals with Disabilities Education Act of 1973 and the Americans with Disabilities Act give rights to students who receive services for a documented disability. That includes special education programs at school.

If districts run school online for general students during the closure, they are legally required to make sure students with disabilities get the same opportunities, the law says. Schools also are required to continue providing special education.

While the state winds its way past these obstacles, parents can read with their children and encourage learning at home, he said.

"Parents who do not have access to online texts may obtain books from libraries or request books from their child's school."

STATE BUDGET AND FISCAL ISSUES

RECOMMENDATION: Don't raise taxes and safeguard unreserved money

WHY: To prepare for economic hardship in the wake of COVID-19

No one knows what will come next in the fight against coronavirus, but one thing is certain. The economy will take a big hit.

North Carolina should "keep its powder dry" and sit tight on the roughly \$3.5 billion it holds in available cash, said Joe Coletti, senior fellow for tax policy and fiscal research at JLF.

Last year's clash between Co-

COVID-19

continued from PAGE 9

per and the General Assembly over Medicaid expansion cemented the failure of a new state budget. But it also left the state with \$2.26 billion in unreserved cash, Coletti said.

In mid-March, Coletti would have recommended allocating some of that money for short-term relief. Now, he advises the legislature hold its collective horses.

Tax revenue is already falling after the federal and state governments extended tax filing deadlines into July, Coletti said.

Thousands of N.C. businesses are closing under executive orders from Cooper. Tens of thousands of unemployed workers are filing for unemployment.

“Who knows what’s going to be left of that \$2.26 billion as this progresses?” Coletti asked.

It’s more important than ever for the state to protect its savings and prepare for hard economic times, Coletti said, so that struggling taxpayers don’t face an even greater burden once the coronavirus pandemic abates.

Lawmakers shouldn’t burden residents with a sales tax increase — a tactic used in the past, Coletti said.

During the past two recessions, Democratic majorities in the legislature raised sales taxes to boost revenue. In 2001, former Gov. Mike Easley and the General Assembly raised the sales tax by a half cent while diverting state pension payments to stretch the budget.

They renewed the hike in 2003 and 2005, letting it drop partially before making it permanent in 2007. In 2009, former Gov. Bev Perdue — alongside the legislature — raised sales taxes 1 cent.

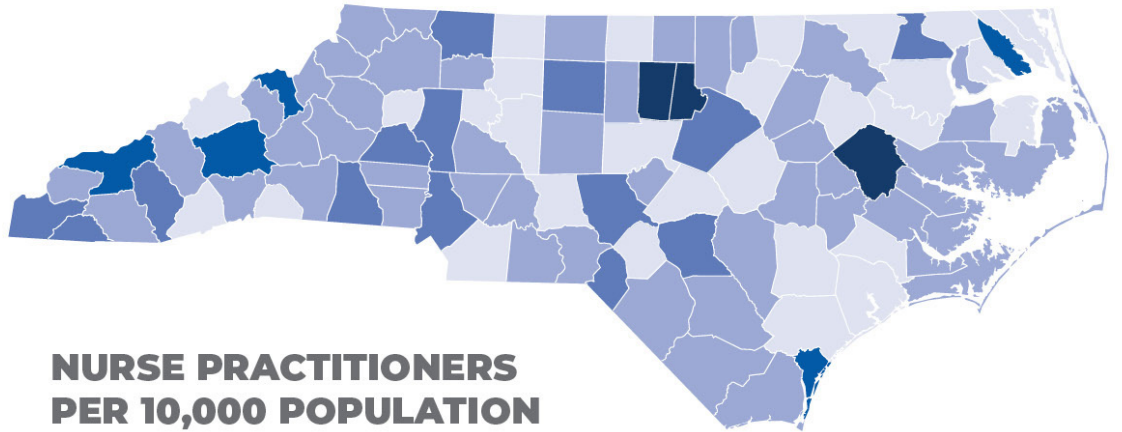
When Republicans won the legislature in 2011, they let the tax hike expire, saving taxpayers \$827 million the first year alone.

Taxpayers need every dollar now more than ever, Coletti said. As Congress pushes a \$2 trillion stimulus package to bolster the economy, North Carolina must be judicious about how it spends its money.

“Regardless of what one thinks of the federal response, no amount of state money will have anywhere near the impact,” Coletti said. “Instead, Governor Cooper and the General Assembly should shore up state and local government finances while responding to the public health and economic challenges arising from the coronavirus outbreak.”

NORTH CAROLINA POLICY SOLUTIONS // SCOPE-OF-PRACTICE REFORM

North Carolina Nurse Practitioner Workforce — 2018



NURSE PRACTITIONERS PER 10,000 POPULATION



SOURCE: UNIVERSITY OF NORTH CAROLINA, SHEPS CENTER FOR HEALTH SERVICES RESEARCH

John Locke
FOUNDATION



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HOST: *Marc Rotterman*

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COVID-19

Unprecedented

BY LINDSAY MARCHELLO

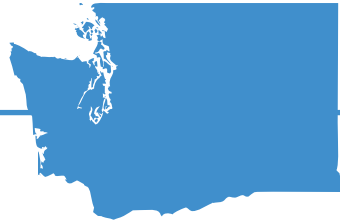
The outbreak of the novel coronavirus has dominated the news since it arrived on U.S. soil early this year. Each day brings a new story on how the pandemic is affecting lives. In North Carolina, the number of coronavirus cases, as of March 24, had surpassed 300 and likely will continue growing. Here's a snapshot of the past couple of months, looking at moves that will go on to define the state's pandemic response:

LOOKING BACK AT NORTH CAROLINA'S RESPONSE TO CORONAVIRUS OUTBREAK



Feb. 11

Gov. Roy Cooper establishes the state Novel Coronavirus Task Force to prepare for the novel coronavirus, COVID-19. Dr. Elizabeth Cuervo Tilson, N.C. state health director, and Mike Sprayberry, director of N.C. Emergency Management, co-chair the group. "Though currently the risk to North Carolinians is low, we are taking a proactive approach and are prepared for potential scenarios," Cooper said in a news release.



March 3

The first North Carolinian with COVID-19 is identified. A Wake County man traveled to Washington state, where he visited a long-term care facility experiencing an outbreak of the virus. The man, according to reports, is in isolation at home and doing well.



March 10

Cooper declares a state of emergency to combat the spread of novel coronavirus. The state has seven presumptive positive cases of COVID-19. "We do want people to take this seriously, but we also want people to go on living their lives, particularly those not in the higher-risk group," Cooper said during a news conference. A state of emergency declaration relaxes certain regulations and makes it easier for county health departments to get state money. Price-gouging laws are triggered.



March 11

The N.C. Medical Board approves emergency rules expediting the process for retirees to obtain temporary emergency licenses. "This is part of a preparedness effort. It is not part of any signal that we're unable to meet the medical needs of our state," said Jean Brinkley, spokeswoman for the N.C. Medical Board. "But it makes sense to be prepared." The emergency licensure is good for 90 days, with a 30-day grace period, or until the state of emergency ends. The rule takes effect March 20.

15

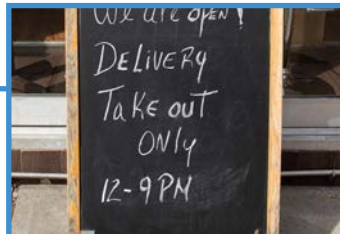
Confirmed Cases

March 12

The number of coronavirus cases rises to at least 15, Cooper says in a news conference. People are strongly advised to work from home, and gatherings of more than 100 people should be canceled. Those who are sick should self-quarantine. Meanwhile, the General Assembly advised staff to work remotely. Oversight committee meetings are postponed. Legislative leaders announce lawmakers are prepared to take any necessary budgetary action to address the outbreak.

March 14

Cooper issues an executive order banning gatherings of more than 100 people. Airports, train and bus stations, medical facilities, libraries, shopping malls, restaurants, office spaces, and grocery stores are excluded. Additionally, the executive order closes all K-12 public schools for a minimum of two weeks. At the time, 23 people in 12 counties are positive for COVID-19. Cooper sets up an Education and Nutrition Working Group to develop a plan to aid families and children while schools are closed. Cooper says he's setting up the new working group "to ensure that children have enough food to eat, families have care in safe places for their young children, and student learning continues," Cooper said.



March 17

Cooper announces during an afternoon news conference that requirements for unemployment benefits will be relaxed and all private clubs and restaurants will be closed except to provide takeout or delivery. Unemployed workers won't have to wait one week before applying for benefits and don't have to show proof that they're looking for other work.



March 18

Cooper announces a new resource for people to use to find more information about COVID-19. North Carolinians can call NC 2-1-1 by United Way of North Carolina to learn what's available in their local community relating to food, shelter, energy assistance, housing, parenting resources, health care, employment, substance abuse treatment, and resources for the elderly and those with disabilities. People can text COVIDNC to 898211 to receive general information and updates on the virus.

March 19

Health officials identify the first case of community spread in North Carolina. Someone in Wilson County contracted the disease without traveling to an outbreak zone or without being exposed to someone with the virus. The number of cases rises to 115.

JULY

15

TAX DEADLINE

March 20

The state tax filing deadline is extended to July 15 for individual, corporate, and franchise taxes to match the extension for federal tax filing. While people won't be penalized for filing their taxes after the usual April 15 deadline, tax payments will be charged, accruing interest over the period from April 15 until the date of payment.

March 16

Cooper requests that the U.S. Small Business Administration grant a disaster declaration for business owners to provide relief as the coronavirus outbreak impacts the economy. A declaration would provide loans to businesses affected by the pandemic.

Shortly after the news conference, Lt. Gov. Dan Forest challenges the restaurant and private club restrictions. Forest, who is running against Cooper for governor, said the Council of State voted against those measures before the news conference. The votes fell along party lines. "His mandate will devastate our economy, shutter many small businesses, and leave many people unemployed, especially in the rural areas of our state where food supply is already critical," Forest said in a news release.

The U.S. Small Business Administration approves Gov. Roy Cooper's request for a disaster declaration. The move allows small businesses suffering economic losses because of the coronavirus outbreak to apply for low-interest SBA disaster loans.

N.C. Speaker of the House Tim Moore, R-Cleveland, creates a bipartisan committee to respond to the COVID-19 outbreak. The House Select Committee on COVID-19 will meet remotely with crisis-policy working groups to craft immediate and long-term legislative responses to the pandemic.

The University of North Carolina Board of Governors announces it will allow schools to postpone commencement ceremonies.

March 21

Cooper waives restrictions on child and elder care to improve access, including allowing volunteers and other caregivers to help children and the elderly. Additionally, the governor permits the DMV to postpone hearings that can be reasonably delayed during the viral outbreak. The DMV can take steps to ensure proper social distancing.



March 23

The State Board of Education votes to approve submitting a waiver to the U.S. Department of Education to avoid a requirement to send standardized testing data for the 2019-20 school year.

March 24

Wake County temporarily suspends all pistol permit and concealed-carry services until April 30, and a pair of Republican lawmakers immediately raised red flags.

Wake County Sheriff Gerald Baker, who announced the move Tuesday, March 24, said law officials are suspending the services to help stop the spread of the coronavirus within the government building and to give the sheriff's office time to process a growing pile of applications. Sens. Warren Daniel, R-Burke, and Danny Britt, R-Robeson, used state law in calling on Baker to end the nascent suspension.

"State law requires sheriffs to approve or reject a pistol permit within 14 days," they said in a joint statement. "Sheriff Baker must immediately rescind his illegal decision to halt sale of pistols in Wake County."

Mecklenburg county orders its residents to stay at home to combat the viral outbreak.



March 25

Cooper announces the first N.C. deaths from the coronavirus. An individual from Cabarrus County died from complications caused by the virus. The person was in their late 70s and had underlying medical issues. Another person, from Virginia, also died of complications associated with coronavirus.

As the number of cases rise, Durham issues a stay-at-home order. Guilford county, High Point, and Greensboro issue a joint order. Wake County announces plans to order people to stay home to slow the spread of the coronavirus.

State Treasurer Dale Folwell tests positive for COVID-19.



March 26

Wake County issues a stay-at-home order, which goes into effect at 5 p.m. March 27. Businesses related to agriculture, construction, banking, health care, food services, safety, and government operations are exempt from the order. The proclamation lasts until April 17 unless extended.

March 22

Wake County declares a state of emergency. The declaration limits mass gatherings to no more than 50 people.



BUDGET AND TAXATION

More accountability needed in county sales tax referendums, expert says

BY KARI TRAVIS

North Carolina voters shouldn't be asked to approve county sales tax increases on election days where turnout is considerably low, one expert says.

But that's exactly what happened Super Tuesday.

Eight N.C. counties placed sales tax referendums on their March 3 ballots. Voters in Bertie, Chatham, Forsyth, and Madison counties said "yes" to tax hikes. Voters in Alamance, Stokes, Washington, and Wayne counties said "no."

The referendums shouldn't have appeared on the ballot in the first place, said Joe Coletti, senior fellow for fiscal and tax policy at the John Locke Foundation. Counties face few rules when it comes to scheduling tax votes. In 2013 and 2014, the General Assembly passed legislation blocking counties from holding referendums on days other than primary or general elections in even-numbered years — with just a few exceptions.

Before that law was enacted, counties were prone to schedule votes randomly — like when Alexander County sprung a Jan. 8, 2008, referendum on its residents, Coletti said. While that maneuver is illegal now, there's still room to game the system.

To boost the odds of passing a tax proposal, county leaders cherry-pick elections based upon voter turnout and political dynamics, Coletti said.

It's not coincidental that tax



GAMING THE SYSTEM. To boost the odds of passing a tax proposal, county leaders cherry-pick elections based upon voter turnout and political dynamics, experts say.

votes weren't held during the 2012 primary — when Democrats stayed home and Republicans swarmed the polls to elect a Republican presidential candidate. This year, with a Republican in the White House and an open field of candidates from the opposition party, more Democrats voted while more Republicans stayed home. Those Democrats are

more likely to favor tax increases, Coletti said.

Transparency is also a shortcoming in some cases, he said. Of this year's tax referendums, four counties held elections about which the N.C. Association of County Commissioners knew nothing. In Washington County, where 51% of voters nixed a sales tax increase,

no information about that proposal appeared on the county's website. That county already collects \$7.9 million in sales tax, Coletti said.

In Bertie and Chatham counties, voters just barely approved the tax proposals set before them. In Bertie, 52% of voting residents raised sales taxes a total of \$175,000 after commissioners promised the

For more details about the tax referendums, go online: bit.ly/2vPsCWP

money would go to teacher pay. In Chatham, 51% of voters approved a \$1.6 million sales tax hike. That money is earmarked for affordable housing and other projects.

In Forsyth County, where voters rejected a sales tax bump in November 2018, residents passed a \$14 million increase by 60% of the vote. Their approval came after Forsyth County commissioners went ahead with plans for new construction and higher taxes, Coletti said. In Madison County, 63% of voters approved a \$290,000 sales tax increase, reportedly to be used for a new high school football stadium.

When all is said and done, county leaders shouldn't be able to pick low-turnout elections to slap tax referendums in front of voters, said Coletti.

"It is getting harder to find news about local budgets and their impact on families, especially in counties like Bertie, where neither the school district [nor] county government has managed its spending well," Coletti said. "That's why it is incumbent on the General Assembly to provide a check on local spending, debt, and taxes with voter approval in high-turnout elections."

The best way for voters to know about tax increases is to put referendums on the ballot during statewide general elections in even years, he said.

CI PHOTO BY DON CARRINGTON



A power-hungry president, a constitutional crisis, and a democracy in peril...

President Jerome Elliott was elected with overwhelming support from the American people. His populist platform and soaring promises captivated voters. But now, after a series of increasingly unorthodox policy decisions and suspicions of sinister motives, a shadow gathers over the White House.

When thirty-four state governors call for a constitutional convention to reform the federal government, Elliott fears losing control. In a desperate attempt to maintain power, he orders the revered 82nd Airborne Division to march on the convention and arrest its participants as domestic insurgents. The Georgia National Guard mobilizes to stop them, and the two forces clash in the small town of Madison. These actions echo across the nation, polarizing the populace and threatening to erupt into violence between the people and their government.

Meanwhile, television reporters Nicole Marcel and Luke Harper race to discover the truth behind the president's actions, while United Nations investigator Percy Leach digs deep into Elliott's past. Chasing facts and whispers alike, they uncover the roots of dark truths that, if realized, risk sundering the very fabric of American democracy.

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HIGHER EDUCATION

UNC board member says online learning should become higher priority

BY LINDSAY MARCHELLO

Marty Kotis, a member of the University of North Carolina System's Board of Governors, for years has pushed for more online learning programs from UNC's college campuses. He hasn't gathered much support, but that may change now that the coronavirus pandemic is uprooting traditional higher education.

"I hate that this is what it takes for people to understand the importance of online learning, and also the threat of online education as a major disruptor," Kotis told *Carolina Journal*. "But I think this fall that's exactly what we are going to see."

During its meeting March 20, the UNC board voted to table plans asking the General Assembly for more money to support operations and capital projects. The decision comes in light of the ever-changing situation posed by COVID-19. As the system's 17 schools move online to block coronavirus contagion, the board's budget and finance committee is developing a separate proposal for a legislative relief and online learning package.

UNC also announced it would allow schools to postpone commencement ceremonies. Students will still be able to graduate and receive their degrees. But a traditional ceremony isn't likely any time soon.

Before the COVID-19 outbreak, UNC's primary concern was repairing and renovating its brick-and-mortar campuses. Those priorities should be reconsidered in light of the pandemic, said Kotis, a Greensboro real estate developer. Now is the time to press pause on old priorities and instead invest in online education, he said.

Universities are already pivoting to online courses to slow the spread of COVID-19. But if a more robust platform isn't developed, UNC could lose students to other established online programs, Kotis argued.

Online nonprofit colleges are on the rise, says an April 2018 report from *Inside Higher Ed*. The article points to Western Governors University, which, to date, has a national enrollment of 112,000 stu-



MARTY KOTIS OF THE UNC BOARD OF GOVERNORS. Kotis has pushed for more online learning programs from UNC's college campuses. With the coronavirus pandemic uprooting traditional higher education, he may gather more support.

dents. WGU is climbing as one of the biggest contenders in the online space. The only other nonprofit to come close is Southern New Hampshire University, which has both a traditional campus and an online school. SNHU's online enrollment hit 93,000 last year. The two schools are eclipsing the for-profit University of Phoenix, which has dwindling enrollment, dropping below 100,000 students for the first time in 15 years, the report said.

Students and their families could end up going elsewhere to find something easier, faster, or cheaper in terms of online education. The UNC System must be prepared, Kotis said. An online class that's just a live broadcast on an app won't cut it.

"It's a tourniquet when you are bleeding, but it's not the right fix," Kotis said. "The right fix is a robust online system where you are getting really close to the quality of on-campus learning and the ability

to network and share and communicate with others online."

That's why he wants to table the budget requests and look at shifting investments from brick and mortar to online learning.

A *New York Times* story published in late February discussed how public universities with large online programs are using technology to deliver more materials online. Georgia Tech is using Watson, the IBM-developed artificial-intelligence program, to create virtual tutors. SNHU is using AI for grading. Arizona State University monitors student performance with AI, warning academic advisers if students aren't keeping pace.

WGU and Boise State University enroll online students under a model unheard of in contemporary higher education: by subscription rather than semester. Students who finish course work faster pay less.

A move toward online learning is inevitable, said Jenna Robinson,

president of the James G. Martin Center for Academic Renewal.

"Universities should already be investing less in their brick-and-mortar assets," Robinson said. "Starting in 2018, one-third of all students were taking at least one online course."

While she anticipates hiccups in transitioning to more online courses, Robinson thinks the trade-offs will be worth it.

"The flexibility of online learning will outweigh some of the growing pains we're seeing right now," Robinson said.

Kotis sees an opportunity to build something out of the disruption caused by the viral outbreak, but others aren't comfortable abandoning long-term plans.

Some of these moves, such as postponing commencements, are premature, said Bob Rucho, a board member and former state legislator.

"Things are changing very fast, and a lot of things that may be to-



I hate that this is what it takes for people to understand the importance of online learning, and also the threat of online education as a major disruptor. But I think this fall that's exactly what we are going to see.

- Marty Kotis,
UNC Board of Governors

day won't be the same or could be worse two weeks from now," Rucho said.

Students and families have been planning for commencement for a long time. Postponing commencement when it's still about six weeks out isn't the right step, Rucho said.

"No one knows for a fact about any of this stuff," Rucho told *CJ*.

The board should have waited another two weeks before deciding whether to postpone commencement, Rucho said. These decisions should be based on fact — not speculation. He disagreed with tabling the budget asks, too.

"Reality is, when the coronavirus ends — which it will do — what budget do we have to run the university?" Rucho asked.

It's important for the university system to send its budget requests before the legislature if they're to compete with other agencies looking for money, he said.

The board should have submitted what was in the vetoed budget and come with a supplemental ask dealing with coronavirus emergency funding, Rucho said. Gov. Roy Cooper vetoed the \$24 billion budget last June. Included in the vetoed plan was money for new capital projects and for repairs and renovations of existing buildings.

Rucho said covering potential student refunds could be handled later.



CONSTITUTIONAL LAW

Defense of originalism requires an understanding of Founders' plan

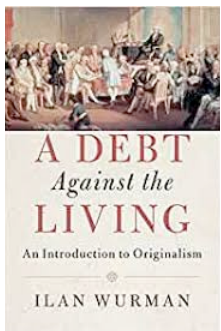
Q & A



Ilan Wurman
Law Professor
Arizona State University

If you follow the Supreme Court and constitutional law, you've probably heard about the concept of originalism. For years, it's been difficult to find a good book-length introduction to the concept.

Ilan Wurman, visiting assistant professor at Arizona State University's Sandra Day O'Connor College of Law, tries to fill that void with the book *A Debt Against the Living*. Wurman discussed the book during a speech to the Triangle Lawyers Chapter of the Federalist Society. Wurman shared key themes from his work during an interview with Mitch Kokai for Carolina Journal Radio.



A Debt Against the Living

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MK: Why did you write this introduction to originalism?

IW: The short answer is there wasn't a book like this. So the first question really is: Why isn't originalism — this idea that we should interpret the constitution according to its original meaning, right, the way its words would have been understood by the framers who wrote it and the public that ratified it, that's what this originalism is — why isn't it taught more in the law schools? It's kind of surprising, right?

We have federal judges who are originalists. Probably more than half the Supreme Court at the moment is originalist. So much of the public, I think, considers themselves to be originalist, or they understand intuitively that we should care what the framers said, and so on.

But it's not taught in the law schools. ... So, as a student, as a law student, I had to research this on my own. I had to look into it on my own. I had heard about this originalism thing. It made sense to me, and I had to strike it out on my own. I didn't find an introduction. I looked for one. I couldn't find one. I had to read all of these very interesting books on particular theories of originalism and so on, but there was no one, single volume, short narrative introduction to originalism. It's an introduction to and defense of originalism and the founding.

So I have done all the work for you in this short book. If you want an introduction, there wasn't one before, and now there is one. So that's why I thought I had to do it.

MK: You mentioned the founding. How important is the American founding to originalism?

IW: There are different kinds of defenses of originalism, many of which don't talk about the founding. I think that's wrong. I think a complete defense of originalism requires also a defense of the founding. The way the argument of the book works, it's kind of a two-step argument, right?

The first question is: Look, how do we interpret



law in our legal system? Ordinarily, we first figure out what does this law actually say? What does it mean? What does it do, whether it's a contract, or a statute, or a treaty, or a constitution?

And then there's the question of: OK, well, are we bound by that law? Are we bound to this contract? We're bound even by Congress' bad laws, right? So the question is: We interpret legal texts, I argue, the way we interpret any communication intended as a public instruction, with its original public meaning, right? Not a secret meaning. Otherwise, it would be a pretty ineffective instruction.

That's how we interpret these documents. But that doesn't answer the question of: Well, should we be bound by that document at all? Someone might say, "Well, OK, fine, I get that the original meaning of the Constitution is X, Y, and Z, but we don't care. We don't want to be bound by what a bunch of long-since-dead white men wrote."

So, to fully defend originalism, you have to argue that the Constitution is binding law, the same way that the laws of Congress are binding, such that we should care what it says and we should follow its original meaning. Because the best nonoriginalists will say, "We're OK with judges updating the meaning and content of the Constitution over time, and so be it." You know, they're even OK distinguishing the Constitution from ordinary laws. The Constitution's different. It's old, and it's hard to change.

That's the premise, right?

So to fully defend originalism, I think the originalist has to defend the binding nature of the Constitution. And that requires a defense of the founding, and my claim is that the Constitution is binding if it successfully balances self-government and liberty.

MK: Why should we care about either originalism or the founding? Why not just say majority rules?

IW: In a free society, like ours, we don't just care about what a majority of the people want. Why do we have constitutions? What does a constitution for a free society have to accomplish? The answer is two things. It has to successfully create a regime of self-government — this is what you were getting at — a regime by which we the people can choose who we want to be, and govern ourselves, and decide who we want to be politically, morally, socially, culturally, economically, what have you.

But, at the same time, this exact same document, this exact same piece of paper, also has to preserve a large measure of liberty, of natural liberty. Otherwise, why would we get out of the state of nature into this thing called civil society if we got a raw deal, if we gave up too much of that freedom we had in this state of nature? We would never leave the state of nature.

So a free constitution has to balance these two things, self-government and liberty.

And I say balance. Why? Because these objectives are in tension with each other. It's often popular majorities that infringe on the rights of minorities. So writing a constitution that successfully balances these competing objectives is no easy task. And I argue that the framers were remarkably successful at achieving a balance between self-government and liberty, such that the Constitution is legitimate and binding today, even if it's imperfect.

I mean, here's the point. This is the key takeaway: Something must make a constitution binding. It can't be that no constitution is ever binding. The society would fall apart. That can't be right. But it also can't be the case that a constitution is only binding if it says exactly what you personally would want it to say. That's also crazy. Three hundred million Americans might have a different opinion about that. There must be some middle ground, something that makes a constitution legitimate, and therefore binding, even if you think it's imperfect in certain provisions or particulars.

My claim is the Constitution is legitimate and binding in the sense if it meets this threshold balancing of self-government and liberty, these two objectives of a free society, even if you would do things a bit differently on either side of the equation.

MK: All your research suggests to you that this Constitution and originalism are pretty good?

IW: Today we have all of these movements to, "Well, we need to change the Constitution. Why do we care about what a bunch of dead white men said?" "But the Constitution is insufficiently democratic," they might say.

Here's what's so crazy and insidious about this. The people who want to change the Constitution, who think the Constitution is bad, some bad document, they say two things. They say it's insufficiently democratic. We need better democracy. We need to get rid of the equal representation in the

Senate. We need to get rid of the Electoral College. It's insufficiently democratic. But at the same time, these same people want to make sure that democratic majorities can't do certain things. You can't decide on moral issues, like abortion or gay marriage, so we want better democracy, but only if it leads to progressive results. I mean, that's crazy. That's typically the approach.

As I was reading about the founders and their political philosophy, it turns out that when you have these objectives, first of all, it was itself an incredible achievement to say, "We want self-government, and we want liberty, and it requires a balance." "Republican remedies for the diseases most incident to Republican government," as Madison says in Federalist 10. Simply stating this objective and understanding that they are in tension with each other, these two objectives, is itself an innovation, and we're indebted to them for that.

Then they did a pretty darn good job of striking this balance; a pretty amazing job through ingenious mechanisms that were novel at the time — separation of powers, checks and balances, the enumeration of power, and this division of federal and state power. The representative mechanism itself was a novelty at the time. And, of course, the provisions in the Bill of Rights were also a novelty. But more than that, what's so great about the Constitution of our founders is they wrote it in such a way that it would continue to strike a successful balance between self-government and liberty long into the future. On both sides of this equation, right?

Look at the liberty side of the equation. The rights-protecting provisions of the Constitution are written in sufficiently broad terms to be applicable to changing circumstances. Why do you think the First Amendment applies to the speech made on the internet? Why do you think the Fourth Amendment — unreasonable searches and seizures — applies to G.P.S. devices that police officers put on cars, right? Many things the founders couldn't have conceived of.

COMMENTARY

The promise and limitations of online learning



DR. TERRY STOOPS
VICE PRESIDENT FOR RESEARCH
JOHN LOCKE FOUNDATION

On March 14, Gov. Roy Cooper issued an executive order directing all public schools to close for at least two weeks. (That order was later extended into May.) He further directed the N.C. Department of Health and Human Services, the Department of Public Instruction, and the State Board of Education to “work together to implement measures to provide for the health, nutrition, educational needs, and well-being of children during the school closure period.”

None of these mandates is more challenging than meeting educational needs of 1.5 million public school children during an extended closure. Online education — also called digital learning, distance learning, virtual schooling, or cyber schooling — may hold the key to minimizing learning loss during this period.

Online learning is a general term used to describe internet-based learning environments that allow students to complete assignments and assessments, interact with educators, and collaborate with classmates sometimes without ever setting foot in a physical classroom. Students use an internet-accessible device such as a computer, tablet, or smartphone and a reliable internet connection to access class materials, lectures, notes, assign-



ments, handouts, and audio and video content on a secure website operated by an online learning provider. Certified teachers offer one-on-one communication with the student.

Online schools and programs may be operated by a state entity, nonprofit, or for-profit company. Some offer full-time programs, while others provide a part-time or “blended” approach. All are subject to performance standards and regulations, including teacher certification requirements, grade-level restrictions, enrollment caps, defined course offerings, and student-to-teacher ratio guidelines. Funding mechanisms vary significantly, as well.

North Carolina is one of the nation’s leading states for online education. The N.C. Virtual Public School is a state-operated

online school that began as a pilot program in 2005. Today, more than 32,000 high school students enroll in one or more of the about 150 courses that NCVPS offers. It’s the second-largest state-operated online school in the country.

NCVPS doesn’t offer full-time online education, but North Carolina has two online charter schools that do. N.C. Virtual Academy and N.C. Cyber Academy (formerly N.C. Connections Academy) are popular full-time programs authorized by legislation approved by the N.C. General Assembly in 2014. Both programs are subject to caps on student enrollment and teacher-student ratios, as well as other requirements. Online charter school enrollment is approaching 5,000 students this year.

While thousands of public school students throughout North

Carolina take advantage of online education opportunities, there are three limitations to quickly extending these opportunities to all public school students in an emergency.

The first barrier is technological. The N.C. Department of Information Technology notes that every K-12 school in the state has high-speed internet access, and 98% are served by dedicated fiber lines, allowing students to access NCVPS courses and other online content easily. But some residences, particularly those in rural and low-income communities, don’t have access to a reliable internet connection. Mostly private internet providers have made notable gains in boosting broadband availability and quality, and companies — including Charter Communications and Comcast — have even offered free broadband and wi-fi access to families with children in school. Still, the Inner Banks, Sandhills, and western regions of the state lack the infrastructure needed to support high-quality broadband. Moreover, low-income families are less likely to have a suitable internet-accessible device at home, making it more difficult for disadvantaged populations to access online content during school closure.


The second barrier is timing. Cooper issued his executive order on a Saturday, closing schools on the following Monday. Had he announced the closure sometime during the week before, teachers would have had time to print and distribute packets of assignments for students to complete over the period. This is not necessarily an issue for schools that already require students to use online

tools regularly. Those teachers can send messages through apps like ClassDojo or Remind and distribute materials using Google Classroom, Edmodo, or Blackboard Learn. In cases where technological barriers hinder access to online tools, however, hard-copy packets may be the only way to ensure that some students obtain instructional materials from their teachers. Because of the timing of the decision, teachers would have to mail materials to families or coordinate pickup and delivery.

The third barrier is planning. Online educators understand how to use internet-based resources to deliver content effectively. It takes experience and talent to learn how to do it well. On the other hand, classroom teachers design lessons for classroom settings. This includes the presumption that students will be in class to receive face-to-face instruction from their teacher and will engage in meaningful interactions with both the teacher and classmates. Even the most skilled classroom teacher with meticulously planned lessons may find activities that succeed in conventional classrooms may require extensive revision to work well in an online setting.

I suspect online education will become so integrated into the classroom experience of the next generation that temporary closures will have little effect on the delivery of high-quality instruction. Until then, North Carolinians will have to work through the messy — and thankfully temporary — transition from classroom instruction to online learning necessitated by the outbreak of coronavirus.



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EDUCATION

In education politics, mad mamas are on the move



KRISTEN BLAIR
COLUMNIST

The relatively new year, 2020, has ushered in some surprises. Hold for another, this one in education politics: Parent power is rising. This isn't PTA power. This parent power aims to disrupt the status quo on a grand scale. Parents are mobilizing in new ways, demanding voice and choice in education.

Get ready, K-12 establishment. Here come the mad mamas.

Advocacy from mad mamas (and mad dads) isn't new, certainly. The National Congress of Mothers was founded more than a century ago, later becoming the National PTA with an "Every child. One voice" tagline. More recently, parent groups have mobilized to fight excess testing, failed reading strategies, and more. Mad mamas launched the war against Common Core. But frustration, in our political moment, has reached a tipping point. Advocacy is activism.

The Powerful Parent Net-



ADVOCACY. The Powerful Parent Network, led by Sarah Carpenter, center, pushes Democratic presidential contender Joe Biden on charter schools.

work, led by Sarah Carpenter, an African-American grandmother and head of Memphis Lift, has taken demands for educational choice, quality, and accountability directly to presidential candidates. In February, PPN mobilized a Freedom Ride for Education Equity before South Carolina's primary. A reported mantra: "Our children, our choice."

"We believe it's time for new power in education, and the new power is parent power. ... Our

children deserve the same rights other people, including many of these candidates, have exercised for their own families," noted a PPN statement.

In January, the National Parents Union launched as a network for parent groups and activists. Featuring the tagline, "Our kids. Our voice," NPU was founded by two moms: Keri Rodrigues, mom-in-chief of Massachusetts Parents United, and Alma Marquez, co-founder of the Los Angeles

Parent Union.

Meanwhile, in recent years, myriad other parent groups have organized, pushing reform. Fueling frustration: Parent voices are disenfranchised by the K-12 system, candidates, and elected officials.

Circumstances are emergent. Progress has stalled on narrowing racial achievement gaps in reading and math, according to 2019 federal test scores. Political support for charter schools — which enjoy bipartisan support from voters — is eroding. For parents and activists who are Democrats and usually live in Democratic strongholds, part of the frustration is the feeling that their views are being ignored by elected officials, says Todd Ziebarth, senior vice president for state advocacy and support at the National Alliance for Public Charter Schools.

"The political apparatus in both parties has obviously been moving away, and on the Democratic side, it's being driven by the teachers' unions primarily," Ziebarth says. "On the Republican side, it's actually more being driven by other priorities that people like [President] Trump and [Education Secretary Betsy] DeVos have around reducing the size of the federal government and increasing support for private school choice."

Data from Open Secrets, an initiative from the Center for Responsive Politics, show the enormous, unprecedented power teachers' unions, which oppose private school choice and charter growth, wield in politics and policy. Most political contributions come from the two major unions — the National Education Association and the American Federation of Teachers. In 2000, union contributions were under \$7 million. In 2016, contributions jumped to \$36 million. For the 2020 cycle, contributions have already reached \$14 million, 98% going to Democrats.

Money talks. But moms and dads talk, too; their voices are louder now. Millions of students nationwide benefit from educational choice, with more than 3 million enrolled in charter schools alone. Parents want to safeguard choices. Greater numbers mean greater impact, if parents come together, says Ziebarth: "They're harder to ignore."

Time to listen. COVID-19 developments mean activism, for now, will largely be online. But parent power is rising. Still.

Kristen Blair is a Chapel Hill-based education writer. Disclosure: She does consulting work for a charter advocacy organization.

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EDUCATION

The ever-growing costs of mandatory student fees



WILL RIERSON
COLUMNIST

North Carolina public universities are more than just institutions of higher learning. They are each small cities of young adults with Olympic-level athletic franchises, massive dining and fitness clubs, and special-interest hobby communities supported by extensive human and physical infrastructure.

To fund the perks and benefits of university life, schools charge extra fees beyond tuition and room and board. In the University of North Carolina System, students at each of the 16 member institutions pay, on average, more than \$2,500 annually in mandatory fees.

Mandatory student fees are slowly going up at N.C. public uni-

versities, making attendance more expensive and raising questions about the true need and value of the amenities they help provide. Those fees have risen by 16.9% since the 2015-16 academic year, on average, and schools are planning another markup set to take effect this fall.

UNC System mandatory fees pay for a variety of university costs, including:

- Athletics
- Health services
- Student activities
- Education and technology
- Campus security
- Debt service
- Association of Student Governments (\$1 per student)

The Board of Governors discussed mandatory student fee increases for the 2020-21 academic year during its January meeting. With approval, fees will rise by an average of 2.4% across the system, from \$2,611 to \$2,674.

Athletics fees may have the widest variation in cost and have a large impact on student life



In the University of North Carolina System, students pay, on average, more than \$2,500 annually in mandatory fees.

from school to school. They are commonly the most expensive fees that students pay, yet their benefits are unevenly shared.

Those fees support athletic scholarships, staff salaries, travel, and facility maintenance and operation. Each system school, except for the University of North Carolina School of the Arts, has athletic programs and mandates these fees.

On average, schools have proposed a 2.8% increase in athletics fees, from \$735 to \$755 for the 2020-21 academic year.

Most students who don't play a sport will never get to use the locker rooms and practice facilities for which they paid.

They can attend athletic events and get a discount compared to public tickets, but not all students care about sports and would rather spend their time socializing, working, or studying. Of course, students must pay athletics fees whether their school's teams win or lose.

East Carolina University students would see the greatest increase in athletics fees, a 6.5% hike from \$773 to \$823. The East Carolina Pirates recently completed a round of major athletic facility updates, including a \$60 million upgrade to the school's football stadium.

East Carolina, though, doesn't have the highest athletics fee in the UNC system. Elizabeth City State University takes the prize, instead.

Students there are facing a 3.7% hike in athletics fees from \$899 to \$932 to support the Vikings' 11

varsity athletic programs.

On the other end of the scale, North Carolina State University and UNC-Chapel Hill have the lowest athletics fees, charging \$232 and \$279, respectively.

Athletics fees can comprise a large chunk of an athletic department budget. At East Carolina, 34% of the budget is thanks to student fees. At UNC-Chapel Hill, only 7% of its budget comes from student fees.

There are far more data points that can be investigated on this subject, but it's clear that mandatory student fees at North Carolina's public universities fund aspects of university life outside of education, like student activities and athletics, that can be of subjective value.

Those fees make students attending a UNC System school pay thousands of dollars more than they otherwise would. As fees continue to creep up, UNC leaders need to be mindful of the financial burden it puts on students trying to earn a degree.

In Wilmington, the decline of community college leadership



ANTHONY HENNEN
COLUMNIST

SOMETHING IS ROTTEN in the county of New Hanover.

Cape Fear Community College, the fifth-largest in the state, is experiencing very public governance issues. Faculty and staff have accused CFCC President Jim Morton of creating a hostile work environment built on favoritism and bullying. The "toxic culture," as multiple sources put it, has made employees afraid to criticize leadership for fear of retaliation.

College leaders have framed the accusations as exaggerated media reports of a few disgruntled ex-employees. And the Board of Trustees, which appointed Morton, stands behind him.

The problems, however, can't be so easily dismissed. In reporting this story, the sources that the Martin Center spoke with — current and former faculty and staff — asked to stay anonymous for fear of hurting their job prospects or getting friends at Cape Fear fired. They described a discontented faculty and staff, a board set in its ways that's unwilling to admit past mistakes, and incompetence in running a large community college.



Cape Fear Community College

"I do not have faith in any of the current administration," a current faculty member said. "I worked for another community out of state, and none of this went on there."

After Ann McAdams, an investigative reporter at WECT-TV in Wilmington, interviewed two former employees who resigned over leadership concerns — human resources director Sharon Smith and IT director Kumar Lakhavani — almost three dozen current and former employees contacted her with their "concerns about Morton's leadership and a hostile work environment."

Those concerns aren't taken seriously by Cape Fear's Board of Trustees. At a January board meeting after WECT's report, board member Pat Kusek said, "It's unfortunate that we have one network and one

reporter" pushing an agenda. The rest of the board echoed Kusek.

One possibility, mentioned by multiple sources who spoke with the Martin Center, is to have the State Board of Community Colleges step in and adjudicate problems.

"It is difficult to respond to an anonymous allegation. However, the State Board of Community Colleges is aware of concerns raised by some former employees at Cape Fear Community College," Peter Hans, president of the N.C. Community College system, said in an email. "I have advised the college to undertake a climate survey of faculty and staff confidentially administered by an independent third party."

A climate survey is a start, but stronger action may be necessary. "The trustee board has taken

a hands-off approach to run the school," said a former senior-level individual who has worked with staff, faculty, and board members, "particularly the former and current chair of the board, who commanded board members to refrain from any action or oversight of the daily running of CFCC."

Former and current employees repeatedly mentioned four issues when criticizing CFCC:

- The choice by the Board of Trustees to appoint Morton president without a formal search
- The lack of long-term contracts for most employees
- Low morale among faculty members, who say they don't feel supported in the classroom or in raising their concerns
- The high salary of Morton's executive assistant, Michelle Lee, who earns \$104,556. Lee earns more than even executive assistants in the University of North Carolina System. Only Minda Watkins, executive assistant to the president of the UNC System, has a higher salary — \$108,000.

Those who want change have turned their hopes to the State Board of Community Colleges.

The state board could spark minor changes or major reforms. It has the authority to adopt and administer policies and regulations for all community colleges. For example, the state board could lis-

ten to the complaints about Cape Fear Community College and set up an anonymous reporting line in its office for faculty, staff, and students to raise their concerns. North Carolina has 58 community colleges scattered across the state. Keeping tabs on them all is extremely difficult.

The state board can also withdraw or withhold state funding if college officials can't maintain the college's standards. The state board can also choose the "nuclear" option by removing the entire Board of Trustees and appointing a new one, as authorized by chapter 115D of state law. If Cape Fear's Board of Trustees feels more loyal to a president they appointed rather than to their responsibility for oversight, the state needs to be clear that such a choice has consequences.

In a college with about 23,000 full-time and part-time students, it's inevitable that some employees will be unhappy about leadership changes. But when the complaints come from dozens of current and former workers with decades of experience, it's necessary to consider them. Sneering and stonewalling aren't acceptable behavior in education governance.

The state board deserves praise for taking action when the local Board of Trustees wouldn't. That praise needs to be qualified, though, until larger reforms are made that can prevent another Cape Fear from happening.

COMMENTARY

Disruption, though painful, can lead to innovation



BECKI GRAY
SENIOR VICE PRESIDENT
JOHN LOCKE FOUNDATION

Most of us can't remember a time of such widespread disruption. The spread of coronavirus has wreaked havoc on the economy, on families, on how and where we work, on how we live and communicate. Our health care system is fragile and stretched.

The roles of government and private markets, however, are being clarified and, in some cases, rewritten.

As we've watched the virus spread, we've also watched how leaders respond and residents react. We learned from the outset government has a role, an important one, to protect the public health and safety and to implement measures in emergency situations.

Some officials and entities do it better than others. Distributing information, allocating money, and enacting emergency measures clearly fall under government purview, but we also know government is often slow, inefficient, and bulky.

Congress approved an \$8.5 billion emergency spending package to help curb and slow the spread of coronavirus. Subsequent stimulus packages address economic assistance for hospitals, small businesses, displaced workers, and harmed industries. The president's declaration of a state of emergency frees billions more.

The federal government has waived interest payments on student loans. Some Medicare, Medicaid, or CHIP requirements are waived. Medications and vaccine trials are on a fast track for approval and distribution to people testing positive for the coronavirus. Tax deadlines have been extended, aid to small businesses are sped up, and medical research is fast-tracked.

State government has acted, too. Declaring a state of emergen-



TELEMEDICINE. Dr. Gina Tobalina now works from her home via telemedicine. Telemedicine is growing as more people are quarantined and the risk of health care workers contracting the virus grows.



ONLINE LEARNING. Students are learning online, and private companies are shoring up connectivity.

cy, Gov. Roy Cooper closed K-12 schools, ordered bars and restaurants to close — except for takeout and delivery — restricted gatherings of people, requested federal money to help small business owners, and eased unemployment benefit requirements for people who are out of work. Most government offices are now virtual, and nonessential state services are suspended.

Local governments are allocating money and delivering some services virtually to address needs in their communities. Local school boards are getting food to students and providing child care where needed.

North Carolina waived certificate-of-need restrictions that capped the number of hospital beds allowed. The governor also waived N.C. license requirements

for health care providers with a license from another state, encouraged private labs and universities to expand COVID-19 testing, and allowed more health professionals to conduct testing.

Telemedicine and telehealth are growing as more people are quarantined and the risk of health care workers contracting the virus grows. This could very well be the future of health care and is clearly a way to increase access to care while relieving the burden on the system, in addition to reducing costs. Taking it a step further, we should allow out-of-state providers to administer care across state lines.

Schools are closed, and parents and teachers are struggling to ensure students don't fall behind. Students are learning online, and private companies are shoring up connectivity.

The legislature has authority to appropriate funds as needed. Because of smart fiscal decisions, North Carolina has a substantial amount of money in its rainy-day fund and in unreserved cash balance to offer immediate help, additional funding over the coming months, and money for next year, when we may very well face reduced revenue.

Oftentimes, the best thing government can do is to get out of the way, either to remove restrictions it put in place or to make way for the private sector to step in and do what it does best.

Local doctors and pharmacists are stepping up to close the COVID-19 testing gap. Private companies are donating tens of millions of dollars for relief and medical efforts. Charter Communications and K-12 are examples of companies and entities that are stepping up, offering free service to students whose parents are new broadband customers. Restaurants are offering free meals to kids out of school. People are buying gift certificates for goods and services they'll use later to shore up small businesses today. Sports teams and athletes are making sure arena workers are paid.

NextDoor, a neighborhood networking app, is packed with people offering to run errands,

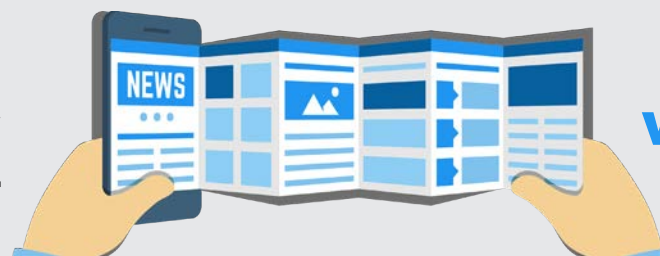
deliver groceries, or help with medical visits. People out of work are picking up some money doing chores, babysitting, and helping with home repairs and lawn work.

But where will we be when the disruption ends, and what lessons will we have learned? We'll know government has a role, but it's still too cumbersome and too far removed to do it all. Money distributed to states in block grants rather than expansion of government programs — allowing us to decide where the needs are and how to allocate those resources — is a more effective and cost-efficient way to offer relief and help. State government works best when the executive branch and the legislative branch work together — within their designated authority. Local governments know best about community needs and about ways to meet them.

Rules and regulations, no matter how well-intentioned, often lead to restriction of freedoms, innovation, and efficiency. If CON laws are a barrier to access to health care, let's repeal them. If telemedicine offers a good way to provide health care, let's allow more of it. If qualified medical providers from other states can provide health care in an emergency, why not all the time? Why not extend license reciprocity to all professions? If waivers from federal regulations ensure better health care, why not remove the regulations? If online learning offers more opportunity for students, let's explore ways to use it even more, and let's welcome competition between technology innovators and providers in the private sector.

North Carolina can be a national model for dealing with this crisis. Our government can enact measures to protect public health and safety and provide resources we need while North Carolinians are coming together to help North Carolinians.

We'll get through this. When it's over, there will be changes and opportunities to re-evaluate roles of government, the private sector, and individuals in our everyday lives. Disruption, though painful, can lead to innovation and enhance opportunity. We should embrace it.



COMMENTARY

Case of highway drug bust offers interesting split within N.C. Supreme Court



MITCH KOKAI
SENIOR POLITICAL ANALYST
JOHN LOCKE FOUNDATION

Judicial candidates on the campaign trail in North Carolina tend to avoid harsh criticism of their opponents. In contrast, written judicial opinions often feature pointed jabs.

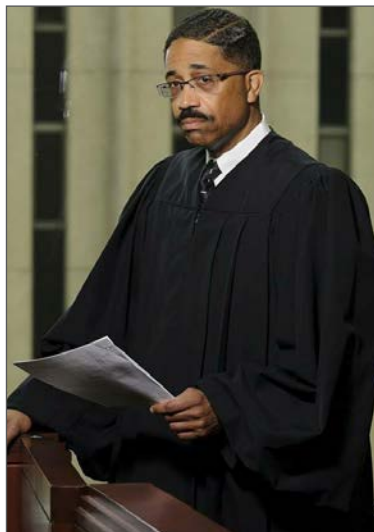
The N.C. Supreme Court's recent decision in *State v. Reed* offers a good example.

The case stems from a 2014 traffic stop that turned into a drug bust on Interstate 95 in Johnston County. The issue North Carolina's highest court addressed in a Feb. 28 ruling was whether evidence in the drug case should have been thrown out because a State Highway Patrol trooper violated a driver's Fourth Amendment rights.

Defendant David Michael Reed was driving 78 miles per hour in a 65 mph zone when Trooper John Lamm stopped him during a weekday morning rush hour. Reed had a New York driver's license and was driving a rental car. Reed's fiancée and passenger had rented the car in her name. The rental agreement limited the car's use to New York, New Jersey, and Connecticut. The couple were traveling with a pit bull, and dog food was scattered along the car's floorboard.

While conducting the traffic stop, Lamm had Reed sit in his patrol car, at one point ordering Reed to close the door. After confirming information about the car rental, Lamm indicated that the traffic stop was over. He planned to write Reed a warning ticket.

At this point, Lamm said, "I'm going to ask you a few more questions if it is OK with you." Lamm testified during Reed's trial that Reed had been free to leave at that point, but the trooper admitted he



JUSTICE MICHAEL MORGAN: "The officer impermissibly prolonged the traffic stop without a reasonable, articulable suspicion to justify his action."



JUSTICE MARK DAVIS: "The majority fails to offer any explanation as to why these factors ... were not enough to meet the relatively low standard necessary to establish reasonable suspicion."

never offered Reed the chance to go.

Lamm's testimony also indicated he would have continued to detain Reed, even if Reed had refused a request to search the rental vehicle and had asked to leave. At one point, a second state trooper arrived and positioned himself outside Lamm's car door near Reed.

Lamm secured the fiancée's permission to search the car. He found enough cocaine in the back seat to file trafficking charges. Reed pleaded guilty. He was sentenced to nearly six years in prison and a \$100,000 fine.

Reed appealed, and a divided panel of the N.C. Court of Appeals agreed the drug evidence never should have been admitted into court. Two of three appellate judges concluded Lamm never should have extended the traffic stop past the point of deciding to issue the warning ticket.

In its first 4-3 split ruling this year, the Supreme Court agreed with the Appeals Court's majority. "The officer impermissibly prolonged the traffic stop without a reasonable, articulable suspicion to

The debate surrounding *State v. Reed* might offer voters more clarity about where these justices stand on issues linked to law enforcement and Fourth Amendment rights.

justify his action to do so and without defendant's voluntary consent," concludes Justice Michael Morgan in his majority opinion. Chief Justice Cheri Beasley and Justices Anita Earls and Robin Hudson joined Morgan.

The case produced two separate dissents. Justice Mark Davis, joined by colleagues Sam Ervin IV and Paul Newby, chastises the majority for concluding that Lamm had no reasonable suspicion about Reed. Davis cites seven different facts in the case that were consistent with drug-dealing activity. (Among them: Drug dealers often scat-

ter dog food in a car to throw off drug-sniffing dogs.)

"The majority fails to offer any explanation as to why these factors — when looked at together — were not enough to meet the relatively low standard necessary to establish reasonable suspicion," Davis writes. "Instead, the majority examines each factor individually and in isolation despite the wealth of case law cautioning against such an approach. Not surprisingly, the majority fails to cite any case in which either this Court or the United States Supreme Court has held that reasonable suspicion was lacking in the face of anything close to the combination of circumstances presented here."

"Here, the undisputed evidence showed that Trooper Lamm is an experienced law enforcement officer who has been employed by the State Highway Patrol for over 11 years, three of which were spent in the drug interdiction unit," Davis adds. "I believe the majority errs in failing to take into account whatsoever his training and experience upon being confronted by these circumstances."

Davis warns of potential negative consequences for future law enforcement work. "Under the majority's analysis, Trooper Lamm somehow acted unconstitutionally simply by responding in accordance with his training upon his recognition of seven factors that were suggestive of criminal activity," he writes. "Based on the majority's opinion, law enforcement officers in future cases who similarly observe a combination of circumstances that they have been taught to view as suspicious will presumably be forced to ignore their training and forego further investigation for fear of being deemed to have acted without reasonable suspicion."

Newby chimes in with a separate dissent. "After the paperwork has been returned at the end of a traffic stop, can an officer ask an individual for consent to ask a few more questions?" Newby asks. "The

majority seems to answer this question no, holding that asking for permission to ask a few more questions unlawfully prolongs the traffic stop. In so holding, the majority removes a long-standing important law enforcement tool, consent to search."

"A traffic stop can be lawfully extended based on reasonable suspicion or consent," Newby adds. In addition to the factors for reasonable suspicion articulated in Davis' dissent, "I would also uphold the search of the car based on defendant's consent to prolong the stop to answer a few more questions and the subsequent valid consent to search the car."

Morgan responded to his colleagues' criticism. "[W]hile the dissenters couch our decision in a manner which they view as creating uncertainty among law enforcement officers and upsetting established law regarding the concepts of reasonable suspicion and consent to search, their collective desire to extend and to expand the ample discretion afforded to law enforcement officers to utilize their established and recognized authority in the development of reasonable suspicion and the attainment of consent to search would constitute the type of legal upheaval which they ironically claim our decision in this case creates," he writes.

"Clarity regarding a detained individual's freedom to leave serves to preserve and to promote the safety of both the motorist and the investigating law enforcement officer; the equivocal, presumptive, and inarticulate observations of the trooper here which the dissenters would implement as legal standards would serve to detract from such clarity."

Davis, Newby, and Beasley all appear on the November election ballot. The debate surrounding *State v. Reed* might offer voters more clarity about where these justices stand on issues linked to law enforcement and Fourth Amendment rights.



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FROM THE PUBLISHER

Freedom's moment in time: 'Now go out there and take it'

continued from PAGE 2

that my John Locke Foundation colleague Jon Sanders nailed in a recent blog post. "This isn't a fight we expected, but know this: It's a war a free society is uniquely geared to win." He goes on to quote President Reagan in his first inaugural address: "We as Americans have the capacity now, as we've had in the past, to do whatever needs to be done to preserve this last and greatest bastion of freedom."

In a free society, with great challenges comes great innovation.

At the John Locke Foundation, we didn't wait for some grandiose, centralized governmental plan to deal with this crisis. Within days, our policy innovators released a series of free-market solutions to help elected officials make sound decisions as we all navigate these uncharted waters.

We're seeing the results now, as state leadership relaxes regulation and saves lives. We're witnessing the creativity and innovation of the private sector from bringing online classes to kids to telemedicine to doctors opening their own drive-through clinics. Some companies already have changed their business model to survive.

When we put our faith in the brilliance of individual ingenuity versus the command and control of a massive bureaucratic state, we solve problems and people thrive. We can't stop every crisis from happening, but we can create an atmosphere of freedom that encourages creativity and innovation to lessen the impact.

As we rebuild our economy, we have a once-in-a-lifetime moment to expand freedom.

Imagine a North Carolina with no certificate-of-need laws, where doctors decide what equipment they need to best treat their patients.

Imagine a North Carolina where parents have a slew of unrestricted options on how best to educate their children that aren't dependent on a lottery or a limited Opportunity Scholarship.

Imagine a North Carolina where taxpayers have a voice in the size and scope of government they want and are willing to fund.

Imagine a North Carolina where every resident pursues a profession of his or her choosing,

free from burdensome licensing requirements and regulations.

Imagine a North Carolina where worker freedom is enshrined in our constitution. These are just a few examples. There will be more freedom-forward policy suggestions.

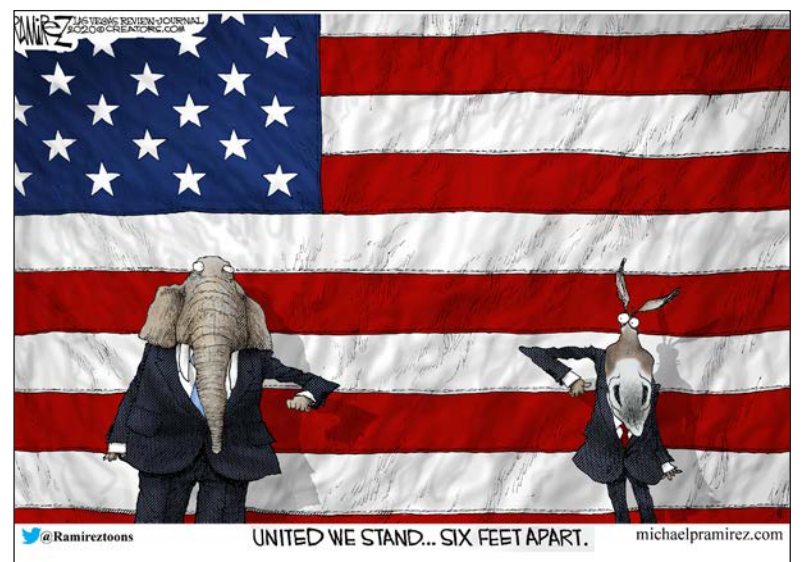
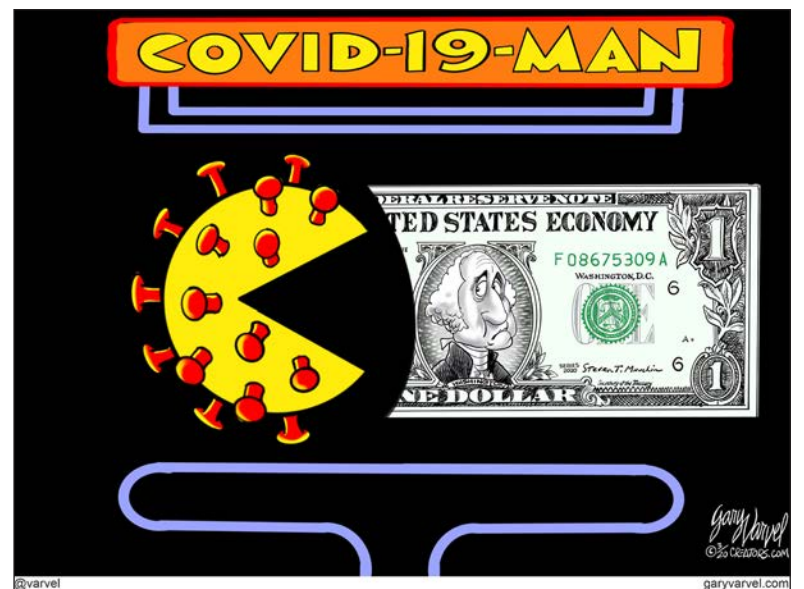
Naturally, we'll have detractors who desire a very different state that preys on collective fear, seeing this crisis as their opportunity to force us into a top-down, governmental command-and-control regime.

They've already published their goal to "seize the initiative in building new, strong, and lasting systems that are largely insulated from the political fray and designed to work automatically — regardless of who is in power." These systems are to be "global" in scope, stripping us of our state and national identity and leaving us with no recourse to vote these "systems" out of power when the controlling body becomes tyrannical or unresponsive to our needs.

Of course, there is a role for government, as is clearly defined in the U.S. and state constitutions. That's the battle.

As coach Herb Brooks said to the 1980 USA hockey team that pulled off the Miracle on Ice, "Great moments are born from great opportunity." Or, in our case, great challenge. We have a moment to usher in an era of expanded freedom. This is our time. Now we must go out there and take it.

CARTOONS

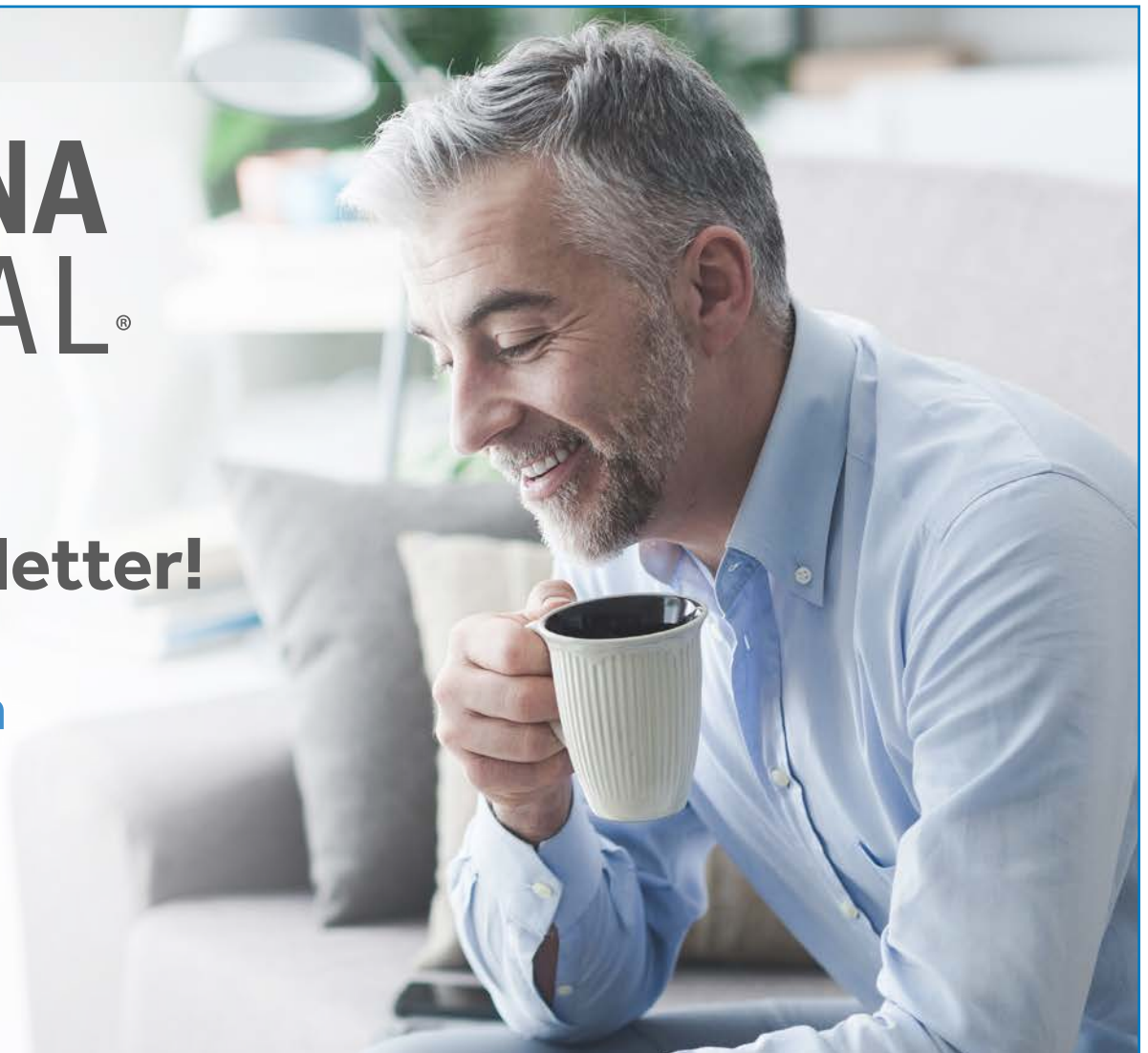


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COMMENTARY BY JOHN HOOD



Easy grades produce hard landings

continued from PAGE 2

state's Algebra 1 course from 2006 to 2016. Gershenson chose these students because they had the same teacher for the whole year and were required to take an end-of-course test to assess their mastery of the subject.

For all 8,000 public school teachers covered in the study parameters, Gershenson averaged the grades they gave their students and used a variety of statistical controls to adjust for student background and prior performance, teacher background and credentials, and other variables that might influence grades. He then compared those average grades to the performance of the same students on the end-of-course test for Algebra 1.

The idea, in other words, was to see if the students of tougher-grading teachers were more or less likely to succeed than were students of easier-grading teachers — all other things being held equal.

Gershenson's results suggest tougher grading practices are an example of "tough love." By expecting more at the front end as a student takes Algebra 1, the teacher makes it more likely that student will eventually achieve mastery in the subject.

On average, students assigned to the toughest-grading quartile of N.C. teachers scored 17% of a standard deviation higher on the exam than if those same students had been assigned to the easiest-grading quartile of teachers. And the benefits of higher academic expectations extended across all racial and family backgrounds.

That last point is particularly important in light of another of Gershenson's findings: Tougher grading standards aren't equally distributed across public schools. Suburban schools and those with relatively low shares of poor students tend to have teachers who give lower grades. Rural and high-poverty schools tend to have teachers who give higher grades.

As North Carolina students leave high school for college or the workplace, what matters most is how well they retain and apply what they've learned, not how students feel about themselves. Easy grades early in life can set them up for a hard landing.

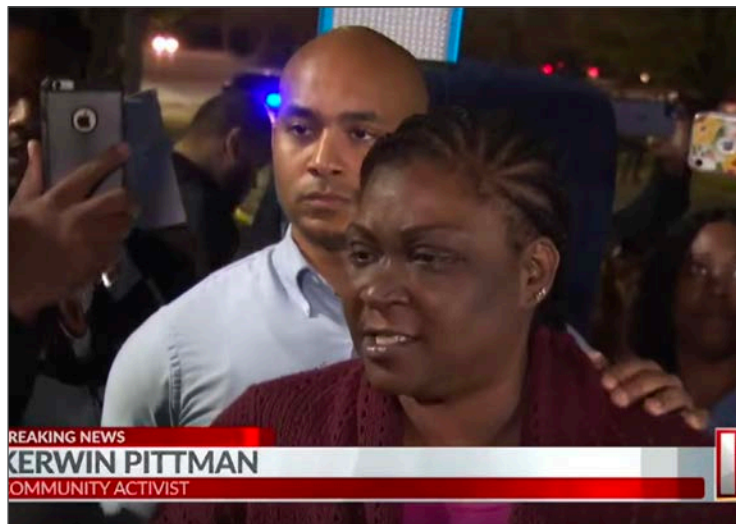
Believing rumors can be dangerous

If you draw your information about current events only from politicians, news outlets, and social-media influencers that share your world-view, you will be poorly informed. If you act on that information, you and others may come to regret it.

I could, of course, be talking about COVID-19. Not just in the United States, but around the world, the amount of misinformation in the early stages of the coronavirus outbreak was mind-boggling. But today I'll offer you a different example that happened here in North Carolina just weeks ago.

Around 6:45 p.m. March 10, police officers responded to a 911 call about a man flashing a gun at a group of other men at a shopping center in east Raleigh. When the officers arrived, they found a 26-year-old named Javier Torres. He had a pizza box in his hands and a pistol tucked into his waistband.

When Torres saw the police, he took off. At some point, he drew his gun as he ran, rebuffing repeated commands by the officers that he halt and drop his gun. When Torres, still brandishing the gun, ran directly at one of the officers, the officer fired a



MISINFORMATION. A large crowd of protesters gathered in Raleigh after social media ringleaders spread false information regarding the arrest of Javier Torres in Raleigh.

single shot, striking Torres in the abdomen.

The police subdued him, confiscated the gun, administered first aid, and called for an ambulance. He is charged with several gun-related crimes.

In the hours after the incident, social media was full of misinformation. Irresponsible people spread rumors that Torres was an unarmed 16-year-old kid shot in the back while leaving a restau-

rant.

Political activists soon flocked to the scene, comparing the incident to prior, high-profile police shootings in Raleigh and other cities around the country.

A large crowd of protesters soon formed in downtown Raleigh. Some marched to surround the homes of Raleigh's mayor and police chief, demanding that the officials come out to listen to the protesters' grievances and defend

the actions of the police. Later, the mob converged on the executive residence of Gov. Roy Cooper, where some protesters tore down the American flag and burned it.

"Whose streets? Our streets!" they shouted. For the moment, at least, they were right — appallingly, outrageously right.

I hope the ringleaders of the protests, and those who foolishly followed their lead, will learn something from this incident and change the way they think and react to things they see on social media.

Alas, they may reject the lesson. But that doesn't mean the rest of us have to reject it.

Perhaps you would never stomp your feet outside a mayor's house in the middle of the night. Surely you would never tear down a flag from the governor's mansion and burn it in the street. But when you see something outlandish in your news feed from a like-minded friend, media outlet, or political figure, do you give it instant credibility?

Although we all have the impulse to believe people more if they think the way we think, we all also have the ability — and the responsibility — to resist that impulse.

CONSTITUTIONAL RIGHTS

Freedom extends beyond just words

I AM ABOUT as close as you can get to a First Amendment absolutist. When it comes to "the freedom of speech, or of the press," the framers of the constitutional amendment chose to be unambiguous: "Congress shall make no law" abridging these freedoms.

Add in the federal protection against state abridgement of personal liberty incorporated in the 14th Amendment, as well as the state protection of "freedom of speech and press" by the N.C. Constitution, and it should be obvious to even the most obtuse politicians that they have no legitimate power to restrain our freedom to say, print, broadcast, blog, or tweet whatever we please.

I'm glad that free speech receives such broad and deep protection. But contrary to what some claim, freedom of speech is not the most important right enjoyed in a free society. Protecting freedom of speech, while praiseworthy, is far from sufficient.

What's more important? Freedom of action.

After all, if some tyrant decides



it would be expedient to confiscate your home, imprison your family members, and march you off to the gallows, he doesn't magically transform himself into a libertarian by asking if you'd like to utter any last words before you swing.

In a free society, you should be free to make your own decisions about your own life and that of your family as long as you don't infringe on the equal rights of others to do the same. You have the freedom not just to think



In a free society, you should be free to make your own decisions about your own life and that of your family as long as you don't infringe on the equal rights of others to do the same.

what you want, and to say what you want, but to act on it.

This is not just a quibble. To suggest that freedom of speech is the fundamental guarantor of liberty is implicitly to grant the right of someone else to determine your scope of action. Sure, you may get to make your case to that authority — but so does everyone else.

I am no anarchist. Just as most human beings possess natural impulses to trade, barter, reproduce, and entertain each other, there is also a natural human propensity

toward violence as a means of settling conflicts, obtaining resources, or exacting revenge. It has always been so. As far as anyone knows, it will always be so.

The question becomes, then, how that propensity for violence is to be restrained and channeled into institutions of justice rather than into barbarity. To accept the inevitability of government is to accept that one's freedom of action may be limited to the extent necessary to carry out legitimate ends of that government. That is, not only does my freedom to swing my fist end in the vicinity of your face, but I also have an obligation to surrender a portion of my earnings to fund the enforcement of anti-fisticuffs laws and other legitimate government programs.

My point is simply that maximizing the freedom to speak, while valuable, is less important than maximizing the freedom to act — which includes the right not to have to justify your actions to the government. In other words, it means the freedom to say nothing at all.

COMMENTARY

Virus further exposes ABC system as flawed, irreparable



JOHN TRUMP
MANAGING EDITOR

I've written volumes over the past few years about the way North Carolina controls distilled spirits.

There's little need to recount the many problems here, other than to say the coronavirus and the ensuing consumer panic have exposed the N.C. Alcoholic Beverage Control system for what is.

It's draconian and harsh. Arcane and unfriendly to small producers and consumers.

All of that.

But the ancient, unique-in-the-U.S. system, in which 170 boards around the state control the flow of liquor to consumers, is existentially flawed and irreparable. It's beyond 80 years old, yet calling it outdated is an insult to understatement.

It's all now become as clear as a Carolina summer sky, preternaturally blue and transparent.

The system of local ABC boards — and, until just recently, their exponential growth — further muddies a monopolistic system twisted up in red tape.

The boards were created — when my long-dead grandfathers were still young and spry — to appease county, town, and religious leaders wary of the state's moonshine past and the inevitable legalization of wicked whiskey.

Now, especially, the problems with the board system are left

standing naked in the square, even the smallest of its flaws exposed for public view and consumption. Now, probably more than ever, is the time to lay the sick patient on the table and bring out the knives, however sharp and unforgiving.

The ABC system not only inhibits but rather brushes to waste any morsel of innovation or free will. The ABC commission in Raleigh manages by fiat the onerous rules, laws, and regulations surrounding pricing, storage, distribution, and enforcement, yet leaves control over sales and selection to myriad politically entrenched boards.

This disconnected system removes any command and control the state may have over the local boards, which have wrongly come to depend on revenue from alcohol sales to prop up and replenish dwindling coffers.

The boards continue operating the stores — as of this writing, anyway — sans conceivable rhyme nor reason. Some boards are cutting hours, even as a growing propensity to hoard intensifies. Some have ABC workers meeting customers at the door and limiting access to store aisles. I guess that's OK if you're loyal to a specific brand or product, but the idea dissuades bourbon scouts or customers seeking variety or a rare surprise from venturing out. Why bother?

People can still get that cheap bottle of vodka, but wasn't the ABC system set up to curtail that type of consumption in the first place?

Some boards have made a way for people to browse online, but those are few. Private stores would be best, but a centralized state



WICKED WHISKEY. Prohibition agents stand with a confiscated still and mason jars. North Carolina's ABC system was designed to appease county, town, and religious leaders wary of the coming legalization of alcohol.

system, such as Virginia's, would at least be a step forward.

Virginia is, like North Carolina, an alcohol control state, of which there are 17 in the U.S. The Virginia ABC operates as an authority, though it still reports to the secretary of public safety. The governor appoints members to its board.

The big difference, when comparing Virginia's system to North Carolina's, is the absence of local boards.

"Virginia ABC made a decision back in the late '90s to operate like a business, as close to a private-sector business as they could," Curtis Coleburn, who heads government relations for the Virginia Distillers Association, has told me.

Virginia offers consumers an online catalog, applying to all stores, so people can search and find products before leaving home. A bill weaving its way through the

Kentucky legislature would allow residents to order spirits — beer and wine, too — online for delivery to their homes. Conversely, Pennsylvania has closed its state-run liquor stores, and I fear North Carolina isn't far behind.

Black market, anyone?

N.C. distillers are now literally fighting to survive, shifting production to hand sanitizer and brainstorming ways to sell their spirits from closed distilleries and tasting rooms. Some are offering drive-up service, while others explore online options, although North Carolina now bans direct online sales.

It's dire, says one state business owner. "I've accepted the fact that I'm completely done," said the entrepreneur. The supposed cure for our ordeal, they told me, is wreaking untold havoc.

A state of freefall.

In 1979, lawmakers lifted a ban

on the legal production of liquor in North Carolina.

It took some time — about 25 years, actually — before a small group of impassioned women and men got to serious work.

All with myriad visions but similar goals. All with an eye toward the state's rich, moonshine-soaked history.

Spurred, at least in part, because of looser rules governing beer and wine, North Carolina's first distilleries began opening around 2005. Today we have about 80, while along the way all have tripped over rotting wooden hurdles and old rules hard as granite. Some are left by the wayside, an understood inevitability of the free market.

But listen to their stories.

North Carolina's distillers continue to face intransigent ABC boards and a dearth of shelf space. Always dodging the big guns of Crown, Beam, and the like. Traveling the state for a chance to place their products in far-flung stores. Developing networks and partnerships to better traverse the uneven and pockmarked roads laid over 80 years by scores of lawmakers and bureaucrats. Cajoling those lawmakers and bureaucrats and simultaneously fending off prohibitionists and ideological lobbyists.

Still, N.C. distillers marched on. Some grew slowly, and some even flourished, all the while clutching a collective, albeit worn and frayed, mantra: Rising waters lift all ships.

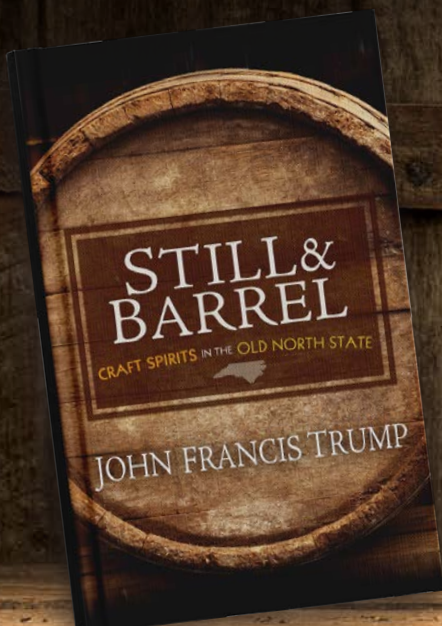
Until they don't.

John Francis Trump, Carolina Journal managing editor, is author of Still & Barrel: Craft Spirits in the Old North State.

BOOKS BY JLF STAFF



John Trump
Managing Editor,
Carolina Journal



Still & Barrel: Craft Spirits in the Old North State

"John Trump, a skilled journalist and storyteller, chronicles the North Carolina comeback of intoxicating spirit manufacture in a book that profiles pivotal characters, charts historical currents, and makes clear that the next step after farm-to-table dining is crop-to-fifth drinking."

— John T. Edge,
Author of The Potlikker Papers

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COMMENTARY

Democrats could get wins in November, but the farm league is thin



ANDY TAYLOR
COLUMNIST

Super Tuesday has come and gone, and the Democrats get closer to anointing a presidential candidate. In North Carolina, we have now selected the folks running in down-ballot races this fall. The contest for U.S. Senate will be between incumbent Republican Thom Tillis and Democrat Cal Cunningham.

Cal Cunningham: Not a name that rolls off a Tar Heel's tongue. If you have a good memory, you might recall the 2010 Democratic Senate primary when he took Secretary of State Elaine Marshall to a run-off. As the youngest legislator at the time, Cunningham also served one term in the state Senate and served tours of duty with the Army in Iraq and Afghanistan. But despite this — and his good looks and stellar academic background — he's hardly someone even well-informed citizens know much about.

It's not as though his primary victory was a fluke. He faced what

turned out to be nominal challenges. The party rallied around Cunningham, and he vacuumed up the money. Erica Smith, a state senator in her third term and Cunningham's "toughest" opponent, found little solace in Super PAC ads from a Republican-leaning group touting her as Tillis' opponent in November.

This is a puzzle. You would think the Democratic nomination for U.S. Senate would be extremely valuable. North Carolina is purple, and Democratic candidates frequently win statewide office here — although the last time they won a U.S. Senate seat was in 2008. Whoever he faces this fall — particularly if it's former Vice President Joe Biden — President Trump will be in a competitive contest. Trump's approval rating continues to decline in the state and is now in the 40s.

Tillis is also quite unpopular. Many North Carolinians are unsure of what they think of him, but at just 34% in a recent Morning Consult poll he has the lowest figures of any sitting senator. Trumpistas don't seem to have a great deal of confidence in him, particularly since he wrote an op-ed, now effectively retracted, for the *Washington Post* in February 2019 criticizing the president's use

of emergency funds to help pay for the border wall with Mexico. I'm not doubting Cunningham's resume or qualities. But his victory says a lot about where the state's Democratic Party finds itself. The bench is thin. The 2010s marked a decade of the Republicans in North Carolina. The GOP had solid majorities in the General Assembly, occupied 10 of the 13 U.S. House seats and both Senate slots since 2014, and slowly expanded its presence on the Council of State. The only real negatives for the party were the



Cal Cunningham

loss of the governor's mansion to Roy Cooper in 2016 — albeit by just 10,000 votes — and a surge of Democratic judges, including on a Supreme Court that now seats a solitary Republican.

Most of the prominent Democrats were already "spoken for" going into the Senate campaign. Attorney General Josh Stein is surely running for governor in 2024, when, even if he is re-elected, Cooper will have to step down due to term limits. Stein's perch is an ideal one for a successful run at the state's chief executive office. Cooper and a recent predecessor, Mike Easley — who served two gubernatorial terms starting in 2001 — both headed the N.C. Department of Justice.

The others are old and comfortable. One product of gerrymandering is that minority-party lawmakers get elected by large margins. Congressional Democrats G.K. Butterfield, David Price, and Alma Adams won by 40, 48, and 46 percentage points, respectively, in 2018. They are 72, 79, and 73 years old. State Senate Minority Leader Dan Blue was House speaker in the early 1990s but is now 70. State House Democratic leaders, Darren Jackson of Wake County and Robert Reives of Durham, are young but still

learning the ropes. Last year's court-mandated redistricting has also presented an incentive for Democrats to run for the U.S. House. The Second and Sixth districts are now thought to favor Democrats instead of the GOP. Deborah Ross, who ran respectably against incumbent Sen. Richard Burr in 2016, won the nomination for the Second in Wake County, and Kathy Manning, who raised lots of money and came close to winning the 13th in 2018, will be the Democratic candidate in the Sixth, situated in the Triad. The popular Dan McCree, who nearly won the controversial Ninth District in suburban Charlotte in both 2018 and 2019, has a profile much like Cunningham's — he is, for example, an Iraq War vet. But he's out of politics for the time being.

Cunningham can beat Tillis, a possibility increased by the coronavirus volatility. Recent polls are conflicted on who's leading. But by nominating Cunningham, N.C. Democrats reveal just how much they need to stock their farm league.

Andy Taylor is a professor of political science at the School of International and Public Affairs at N.C. State University.

Could a virus take down the economy?



MICHAEL WALDEN
COLUMNIST

THE CORONAVIRUS has been dominating the headlines for weeks, and people are worried. The worry is understandable. Viruses are scary things. I've read my share of medical thrillers based on some new virus spreading throughout the globe, killing millions, destroying businesses, and almost ending civilization until heroes contain it at the last minute.

We only have to look back 100 years to find a real example of what an unchecked virus can do. The 1918-20 influenza pandemic, also known as the Spanish flu, killed at least 50 million people worldwide, with some estimates putting the number as high as 100 million. In the U.S., almost one out of three people became infected, and 500,000 died. Even for those who survived, there were numerous cases of long-term physical disability.

To date (mid-March), the numbers of infections and deaths in the U.S. and worldwide have been relatively small. There's also some evidence the apparent origin of the virus — China — has contained the outbreaks.

So if the virus is not that bad, why has our daily reading of the economy — the stock market — reacted so negatively? This is because even without large numbers of infections and deaths, the virus can still have adverse business and personal economic impacts. These economic impacts come in four forms: from the reduced availability of products from infected countries, from reduced sales to those same countries, from changes in consumer spending based on fears about the virus, and from changes in financial markets, particularly the stock market. Let me explain and evaluate each.

In today's globalized economy, many products we buy — from clothing to toys to electronics — are made in other countries.

Countries with sick or confined workers can't make these products, which means U.S. businesses reliant on those products can't use or sell them. Such a break in the "supply chain" can curtail domestic firms' sales and profits, possibly leading to worker layoffs.

On the flip side, many U.S. businesses, such as manufacturers and farmers in North Carolina, rely on selling products in foreign markets. With the signing of an initial trade agreement with China late last year, there's been optimism foreign sales of U.S. products would increase. Now, with the

coronavirus, there are questions about when these sales will occur.

Spending of consumers drives the economy. Significant declines in consumer spending are usually the most direct cause of recessions. Consumers reduce spending if their incomes fall, for example, as a result of higher unemployment. But consumers can also reduce spending simply as a result of fear. That is, nothing actually "bad" has to happen. Instead, if there are widespread worries that something very bad has a high chance of occurring, that's enough for consumers to cut back on spending. The coronavirus could do this.

Last is the impact of the virus on the stock market.

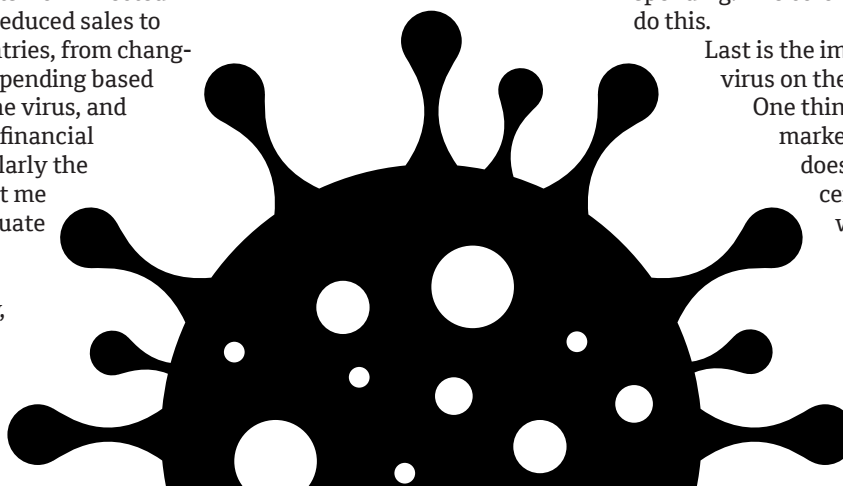
One thing the stock market absolutely does not like is uncertainty. Until we have a good idea of how much the virus will spread and whether containment efforts will be suc-

cessful, the likelihood of investor losses will be high.

One piece of good news is that the economy was strong before the coronavirus hit. Still, many economists think the accumulated economic effects of the virus could easily cause the economy to contract in the first quarter (January through March). This would not create an official recession — two consecutive contracting quarters are usually required — but it would be the first quarterly reduction in six years.

My conclusion is the coronavirus should be monitored, and precautions should continue to be taken to prevent its spread. A reduction in new cases would be a sign the virus is running its course. Also, don't be surprised if the economy takes a couple of backward steps. But if we're careful — and lucky — the backward steps don't have to send us over the edge to a full-fledged recession. An early-year pause in growth can set the stage for a strong comeback later in the year.

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HEALTH CARE

Assessing the future of Obamacare



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Polls consistently show health care is one of the top issues among likely voters. It's no surprise, given the vast sum that Americans spend on health care each year, about \$3.6 trillion in 2018. While it was already likely that health care would remain as one of the top issues for voters during this election, an unexpected turn of events will ensure this is the case: The Supreme Court has agreed to hear a fresh challenge to the Affordable Care Act, or Obamacare, in 2020.

Several events led us to where we are today. Rewind to 2017. Congress passed the Tax Cuts and Jobs Act, which included a provision that zeroed out the tax penalty for Obamacare's individual mandate, the provision in the law forcing people to buy insurance or pay a penalty. Readers may remember

one of the original challenges to the ACA failed when the Supreme Court held the individual mandate was legal because it fell under Congress' power to tax.

Following the elimination of the tax penalty, 20 Republican state attorneys general, governors, and a few individuals filed suit alleging the elimination of the tax made the individual mandate unconstitutional; therefore, the court should strike down the entire law. A district judge in Texas agreed with the plaintiffs and did strike down the law. An appeal of this decision moved the case in front of a three-judge panel in the U.S. Fifth Circuit Court of Appeals. The judges agreed that, indeed, the individual mandate was now unconstitutional, but disagreed with the district judge that the entire law should be struck down. This decision was then appealed to the U.S. Supreme Court, where the justices agreed to add the case to the 2020 docket.

What this means is there's a chance the Supreme Court will hear oral arguments sometime around the 2020 election. There likely won't be a decision until sometime in 2021. But one certain thing is the case will catapult health care and the future of the



ACA back as one of the defining issues in the upcoming election.

So what does this mean for the future of the law? This nonattorney observer sees a few possible scenarios. It's going to come down to the questions of standing and severability. First, do the plaintiffs in this case even have standing to sue? If so, the question would then move to the individual mandate. Is the individual mandate unconstitutional now that there is no tax-

ing power? If so, can this piece be severed from the rest of the law, or should the whole law be scrapped? Much of the outcome will depend on how the justices answer these questions.

While a legislative method of repealing the law would be much more preferable than a court striking down the law, I believe the law needs to be repealed in favor of a far less centralized system. Obamacare hasn't accomplished

its goals. As I have written in these pages before, it's even more crucial now that congressional Republicans show an interest in reforming the health care system instead of just criticizing the shortcomings of Obamacare.

Those on the left have dominated the health care debate in recent years, and those on the right have ceded ground in this important policy arena. Traditionally, congressional Republicans have been unable to coalesce around a clear vision for the future of the American health care system. Nowhere was this more apparent than when Sen. John McCain gave his famous "thumbs down" vote on the floor of the Senate while voting on the future fate of Obamacare. Now, it's more important than ever for congressional Republicans to rally around a health care plan they can bring to the American people as a meaningful alternative.

Obamacare's future remains uncertain. But what is certain is the effect, financial sustainability, and legality of the law will all be thrust back into the national debate during the 2020 election as President Obama's signature piece of policy is again challenged in court.

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