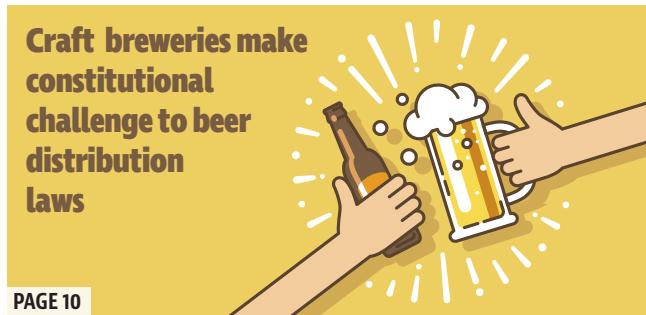




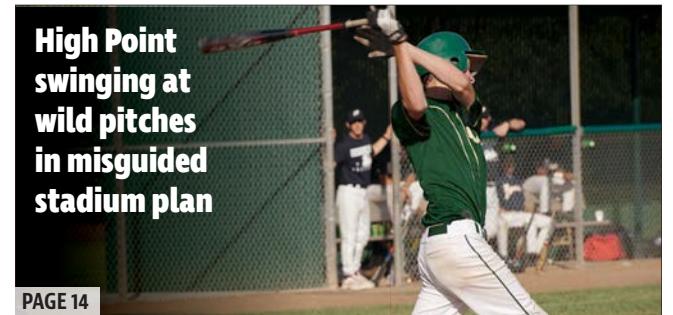
Chief Justice Mark Martin talks "Raise the Age" with Kari Travis

PAGE 18



Craft breweries make constitutional challenge to beer distribution laws

PAGE 10



High Point swinging at wild pitches in misguided stadium plan

PAGE 14

# CAROLINA

J O U R N A L



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**VOL. 26 • NO. 6**  
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## Residents worry about solar's environmental impact

SOLAR ENERGY

N.C. State soil scientist says solar plants may threaten farm ecosystem

BY DAN WAY

General Assembly attempts to require commercial solar plants to clean up spent panels



DAN WAY  
ASSOCIATE EDITOR

Julie Morgan saw the environmental hazard in her Moore County hometown by yesteryear's textile mill technology, and she saw the industrial materials that supported it.

She hopes the contaminated remnants of the crumbled Robbins Silk Mill lead to preventive studies on what advocates hail as an industry of tomorrow — the solar installation boom.

North Carolina now ranks behind only California for installed solar electric capacity.

Like others, Morgan worries whether sufficient research has been done on possible harmful materials, substances, and impacts — known or yet to be learned — on the land and water. She decries the lack of state regulations to govern decommissioning of the facilities and the safe disposal of the solar panels after they wear out.

"I'm not a tree hugger. It's your land. You do what



PHOTO BY DAN WAY

The former Robbins textile mill where U.S. Sen. John Edwards worked as a teenager is now an asbestos-laden brownfield. Town officials want to put new solar installations there, but residents wonder if those plants will cause environmental problems, too.

you want to with it," Morgan said. "But I think you have to be mindful of what its long-term effect is going to be."

Morgan has opposed two Cypress Creek Renewables solar plants — one already built just outside of Robbins' town limits, and another approved in its extraterritorial jurisdiction district in January — on environmental safeguard grounds.

"What is your decommissioning plan? If this company bellies up, who is responsible financially?" she said.

Morgan doesn't want to see the town suffer a similar blow as when the iconic textile mill, where former U.S. Sen. John Edwards worked as a high school student — and later announced his run for the presidency — burned to the ground in 2008.

Asbestos and chemicals contaminate the mounds of debris from what was once a sprawling industrial plant built in 1924. Other hazardous materials might be present inside the security fence as well. The site is now the subject of a brownfields cleanup by crews in double-lined protective suits. Their contract is paid with federal Environmental Pro-

tection Agency grants.

State Rep. Chris Millis, R-Pender, and Rep. Jimmy Dixon, R-Duplin, share Morgan's concerns over the dearth of research about potential hazards from solar installations coating 37,000 acres of North Carolina.

Dixon introduced House Bill 319 authorizing a state

Dr. Ron Heiniger isn't afraid to get his hands dirty. He has spent years as a crop and soil scientist helping hard-pressed farmers to get maximum yield and quality from their crops. The N.C. State Cooperative Extension Service professor says it's his calling in life.

These days Heiniger, who works at the Vernon G. James Research and Extension Center in Plymouth, worries that solar installations gobbling up prime farmland could do more to destabilize and diminish the agricultural economy of North Carolina than any naturally occurring threat that he deals with.

"We really don't recognize how fragile our agriculture system is. Today it's under stress," mostly from low prices, and to some degree due to young people abandoning the farming life of their fathers, Heiniger said.

Utility-scale solar energy facilities are increasing the pressure on farming by tak-

continued PAGE 12

continued PAGE 13



### New look for Carolina Journal

Fresh new design will tell stories using more photos, graphics, and links to online resources.

PAGE 20

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## AT LEAST HE DIDN'T SAY ...

**REP. DAVID LEWIS**, R-Harnett, added some extra levity to the General Assembly's May 3 joint session congratulating the UNC men's basketball team, winners of this year's NCAA championship.

During celebratory discussion of the joint resolution acknowledging the team, Lewis filed an amendment requiring underclassmen Theo Pinson and Tony Bradley to remain in school for another year and not enter the NBA draft. (Pinson later removed his name from NBA consideration.)

Channeling the folksy style of head coach Roy Williams, to peals of laughter, Lewis rose to offer a "dadgum amendment" to the resolution.

House Speaker Tim Moore, R-Cleveland, declared the amendment out of order.

Fortunately for those attending the session, Lewis didn't describe his amendment with some of the more colorful language Coach Williams is known to use.

## General Assembly overrides Cooper's veto of hog-waste bill

**THE STATE SENATE** voted 30-18 on May 11 to override Gov. Roy Cooper's veto of House Bill 467, killing a measure to limit damages property owners can receive if they win nuisance lawsuits against nearby hog farms or other agricultural or forestry operations. The previous day, the House voted 74-40 to override.

The bill passed in April. It capped the amount of compensatory damages in those lawsuits at the fair market value of the property harmed by the nuisance. The original measure would have allowed that cap to apply in a current lawsuit involving several hundred plaintiffs suing a subsidiary of Smithfield Foods, the world's largest pork producer, and several other farmers.

After a contentious debate on the House floor, the bill was amended so that it would apply only to future lawsuits and not the Smithfield matter.

Several House members worried about the way the cap would



**AT THE TROUGH.** Bill caps future lawsuits.

affect property owners who lived near hog farms, along with the narrow focus of the bill, which limits damages farmers but not other business operators must pay in some tort lawsuits.

Cooper echoed those concerns

in his veto message.

"Special protection for one industry opens the door to weakening our nuisance laws in other areas which can allow real harm to homeowners, the environment, and everyday North Carolinians."

# Supreme Court affirms ruling throwing out N.C. congressional districts, splits on details

**T**he U.S. Supreme Court has affirmed a lower-court ruling throwing out congressional district maps North Carolina used for the 2012 and 2014 elections. The lower court cited racial gerrymandering. Justices split, 5-3, on whether the ruling should apply to both of the state's majority-minority congressional districts.

New Justice Neil Gorsuch took no part in the case.

The ruling does not impact the 2016 elections. North Carolina conducted those elections under new maps drawn to comply with the original February 2016 ruling from a three-judge panel. The 2016 maps face their own legal challenge. Federal judges are scheduled to hear arguments in that challenge.

At issue in *Cooper v. Harris*, the case before the Supreme Court, was whether the 1st and 12th congressional Districts violated a constitutional prohibition against racial gerrymandering. A three-judge panel had ruled in February 2016 that both districts failed to meet the constitutional standard.

The majority opinion, written by Justice Elena Kagan, agreed with the lower court. Kagan writes that N.C. legislators misinterpreted Supreme Court precedent in designing districts with a majority of African-American voters. Kagan



**SUPREME COURT.** Justice Elena Kagan writes majority opinion

also rejected the legislators' argument that the 12th District's design was based on political, rather than racial, factors.

"Applying a clear error standard, we uphold the District Court's conclusions that racial considerations predominated in designing both District 1 and District 12," Kagan writes. "For District 12, that is all we must do, because North Carolina has made no attempt to justify race-based districting there."

"For District 1, we further uphold the District Court's decision that [Section] 2 of the [Voting Rights Act] gave North Carolina no good reason to reshuffle voters because of their race," Kagan added.

Justice Clarence Thomas joined in the majority opinion and wrote a separate concurrence. Thomas noted that, in his view, Kagan's opinion corrected a prior mistake in redistricting cases.

Justices Samuel Alito and Anthony Kennedy joined Chief Justice John Roberts in supporting part of the majority ruling and opposing part. Alito's dissent explained why the three judges disagreed with their colleagues on the argument surrounding the 12th District. Specifically, they chided their colleagues for ignoring a previous precedent that seemed to require opponents of a redistricting plan to present an "alternative" map.

"A precedent of this Court should not be treated like a disposable household item—say, a paper plate or napkin—to be used once and then tossed in the trash," Alito writes. "But that is what the Court does today in its decision regarding North Carolina's 12th Congressional District: The Court junks a rule adopted in a prior, remarkably similar challenge to this very same congressional district."

"The alternative-map requirement deserves better," Alito added. "It is a logical response to the difficult problem of distinguishing between racial and political motivations when race and political party preference closely correlate."

Even without an alternative map, Alito and the other two dissenters disagreed with their colleagues about the 12th District. "The State offered strong and coherent evidence that politics, not race, was the legislature's predominant aim, and the evidence supporting the District Court's contrary finding is weak and manifestly inadequate in light of the high evidentiary standard that our cases require challengers to meet in order to prove racial predominance."

The latest ruling says nothing about North Carolina's legislative districts, which also have been subjected to a court challenge that has reached the nation's highest court.

## STATE GOVERNMENT

## House will modify Senate's education budget, Horn says

BY KARI TRAVIS

Some education items in the Senate budget will remain, House leaders say.

But some will go.

Rep. Craig Horn, R-Union, chairman of the House Committee on K-12 Education, told *Carolina Journal* the changes are imminent.

Teacher pay gets top billing. The Senate budget provides an average 3.7 percent pay raise for teachers in 2017-18. Starting salaries for new teachers would remain at \$35,000 a year, and early- to mid-career teachers would see raises from 1.7 percent to 8.5 percent.

Teachers with more than 25 years' experience would see no change, and that's a problem, Horn said.

"The concern that I have is that we continue to put off dealing with our more experienced teachers," Horn said. "That creates some challenges for us as a legislature in conveying the message that teachers are important, and that we value experienced teachers, because we've come to understand how important mentor teachers are to the young people coming into the profession."

Horn said classroom performance is the best measure for pay raises.

"Teacher pay, like all pay, should be very much tied to outcomes. What are we getting for what we're paying?"

Horn praised the Senate's approach to teacher recruitment, a major concern for the state's low-income and rural schools.

The budget locks down \$4.6 million to fund Senate Bill 252, the North Carolina Teaching Fellows Program.

Horn, a primary sponsor of the House version of that legislation, said the program will encourage up-and-coming teachers in science, technology, engineering, math, and special education to remain in North Carolina's public schools.

The program would award eligible students forgivable college loans of up to \$8,250 annually for four years.

It's an important investment in long-term teacher recruitment and maintenance, Horn said.

"I don't want the teaching profession to be a short-term gig," he added. "That's not in the best interest of the students. The teaching profession is, in fact, a profession. That means long-term. ... People want to know that they have a future. That if they do well, they can continue to improve their economic status and raise a family and buy a home and all that."

The House also may spend more to support accessibility and



**RECRUITING TEACHERS.** Rep. Craig Horn, R-Union, at a March press conference to announce the filing of a bill to enact the North Carolina Teaching Fellows Program, a plan to help draw teachers to low-income and rural schools.

accountability in early childhood education.

Preschools are failing children across the state, said Horn, who would like to fund a new position in the Department of Public Instruction: assistant superintendent of early childhood education.

That official would oversee training for early childhood teachers and be held accountable for how those teachers perform.

"We ... need to pursue early education and particularly improve how it is melded into the K-12 environment," he said. "So what does that mean? I think we need to train our early educators better, and we need to be taking action that results in a better use of the continuum of education."

Other portions of the budget are more controversial.

Senate leaders slashed DPI's budget by 25 percent, cutting \$13.2 million from the department's more than \$52 million plan. The proposal cuts \$513,000, the equivalent of four staff positions, from the budget of the State Board of Education.

In contrast, State Superintendent Mark Johnson received an allotment of \$433,000 to fund up to five positions in his office.

State board Vice Chair Buddy Collins told *CJ* the Senate was disingenuous in its appropriation of funds.

"At the same time you're asking the state board to cut the [Department of Public Instruction], you're adding staff to the superintendent," he said.

The Senate's move is a power play spurred by recent tensions between the General Assembly and the state board, said Terry Stoops, vice president of research and education studies at the John Locke Foundation.

Earlier this year, the General Assembly passed House Bill 17, which stripped the board of some of its administrative

powers and gave them to Johnson.

Board members sued the state over the law's constitutionality.

That lawsuit is ongoing. "We believe that we have a legitimate challenge on a constitutional issue that needs to be resolved, and it's nothing personal," Collins said. "We're saying there's a dispute. There's a dispute between what the legislature thinks and what we think the constitution requires. And of course, that shouldn't carry over to the kind of policy impact or

budgetary impact on the services provided by the state of North Carolina to students and teachers."

The Senate's budget allocated \$300,000 to pay for Johnson's legal fees.

"While we wait for the courts to decide if House Bill 17 is constitutional, the Senate budget — like Thor, the god of thunder in Norse mythology — dropped the hammer on the State Board of Education," Stoops said.

The Senate plan cut other items in the state board's budget.

"While the budget proposal eliminates key positions in the state board's office, other provisions are notable," Stoops said. "For example, the Senate budget includes provisions that would limit per diem and expenses of members of the board. The budget would also prohibit the state board from using state funds to employ private counsel in litigation."

Stoops added, "I would not be surprised to see the House budget include some of the same cuts to the state board budget. After all, both chambers have been sympathetic to Superintendent Johnson."

The Senate's budget provides "a sad commentary on the current condition of what's going on between the board and the superintendent," Horn said.

But, he said, the planned cuts to DPI's budget are controversial and confusing.

Senate leaders gave the department no guidance about how to

## BY THE NUMBERS

**\$52 million**

Current budget plan for Department of Public Instruction

**▲ \$4.6 million**

Funding allocated for N.C. Teaching Fellows Program

**▼ \$13.2 million**

Senate's proposed cuts to Department of Public Instruction

**▼ \$513,000**

Senate's proposed cuts to State Board of Education

trim costs by as much as 25 percent, Horn said.

The Senate did tell DPI where *not* to cut, however. "Reductions shall not come from residential schools, community in schools."

Teach for America, the Excellent Public Schools Act, School Connectivity Program, Achievement School District, and positions appointed by and directly reporting to the state superintendent also were declared off-limits for budget cuts.

"As I look through the legislation that's been passed this year, we're asking for more information, more reports, more teaching, more professional development," Horn said. "We're asking DPI to do more. So I'll be anxious to hear from the Senate what it is they *don't* want DPI to do so that they don't spend that money."

On May 12, State Board Chairman Bill Cobey told NC Policy Watch a "25 percent cut, which I can't believe will be the result of this process, would cut into very essential services for particularly the rural and poor counties."

Cobey said "[Johnson] should be very concerned, too. Because he's the guy that manages the agency."

Cobey was traveling and unavailable for comment to *CJ* at press time.

The state board now looks to the House to scale back the Senate's proposed funding cuts.

"I'm optimistic that the House understands the functions of the Department of Public Instruction and the consequences that this may entail," Collins said. "I'm hopeful that the House and the Senate can get together, and Horn will take the lead on what's important, and that everyone will have a common idea of what it is the department should be doing."

House committees have been working on the budget and planned to wrap up their work by the Memorial Day weekend. The budget was scheduled for a vote of the full body the week of May 29.

CJ PHOTO BY KARI TRAVIS

# CRIMINAL JUSTICE

## N.C. closer to joining all other states in 'raising the age'

Measure removing nonviolent 16- and 17-year-old offenders from adult system must be reconciled with Senate plan

BY KARI TRAVIS

North Carolina is one step closer toward raising the age for juvenile offenders.

House Bill 280, Juvenile Justice Reinvestment Act, on May 17 passed the state House in a sweeping 104-8 vote.

The bill would move 16- and 17-year-old nonviolent offenders out of adult court and place them under the juvenile justice system, effective December 2019. North Carolina is the only state that hasn't raised its juvenile age limit to 17 or 18.

North Carolina is the only state where the default age of juvenile jurisdiction remains at 16.

Cost is a main reason for lawmakers' hesitation.

Raising the age would cost roughly \$25 million during 2017-18 and \$44 million annually beginning in 2020.

North Carolina's juvenile justice system has saved the state more than \$40 million in recurring funds since 2008, bill sponsors said. System reforms and dropping delinquency rates have led to the savings.

The state can afford to make the investment, said Rep. Chuck McGrady, R-Henderson, the bill's primary sponsor.

Kids charged in juvenile court are offered state-provided counseling and rehabilitation. Parents or guardians are also required to join in the process.

When teens are charged in adult court, parents are removed from the process.

Reform is costly up front, but it will help reduce recidivism among young adults, saving the state money in the long run, McGrady said.

It's also the right thing to do, he said.

"By saddling our youth with their youthful mistakes, we limit these youths' potential for educational and [vocational] success," he said.

While the vote was overwhelmingly in favor of H.B. 280, a handful of members worried the bill would let juveniles off the hook for more serious crimes.

If 16- and 17-year-olds are old enough to drive, they're old enough to know that they shouldn't break the law, said Rep. Larry Pittman, R-Cabarrus.

"I came to protect citizens and their rights. I don't believe we can do that by going soft on crime," he said.

Juveniles convicted of any violent crime, Class A-E felonies, would be punished as adults. So would those who commit motor vehicle infractions.

Rep. Jeff Collins, R-Franklin, said some F-I felonies are too violent to be included, and the bill should cover only misdemeanors, such as "jaywalking or pranks."

"Only 3.3 percent of 16- and 17-year-olds are convicted of violent felonies," said Rep. Duane Hall, D-Wake. "It's a small percentage, and this bill does not include those."

Charging juveniles as adults doesn't mean they'll get the appropriate level of "retribution and incapacitation", said Jon Guze, director of legal studies at the John Locke Foundation. At times, doing so can even result in a lighter punishment.

"Very few adults who are convicted of such crimes are sent to prison; instead, the majority are sentenced to some sort of intermediate punishment like supervised drug treatment or house arrest — or to some form of community punishment — like community service or unsupervised probation," Guze said.

Guze said the punishments are similar for these offenses in the adult and juvenile systems. "In the juvenile system, however, they would be forced to participate in education and counselling programs that have been repeatedly shown to be effective at rehabilitating juvenile offenders and helping them become productive citizens."

Several lawmakers say H.B. 280 is a work in progress.

The legislature's fiscal analysis has overstated some of the cost projections, said William Lassiter, deputy commissioner in the N.C. Department of Public Safety.

State researchers have estimated the department will need \$10.8 million to build a 96-bed detention center.

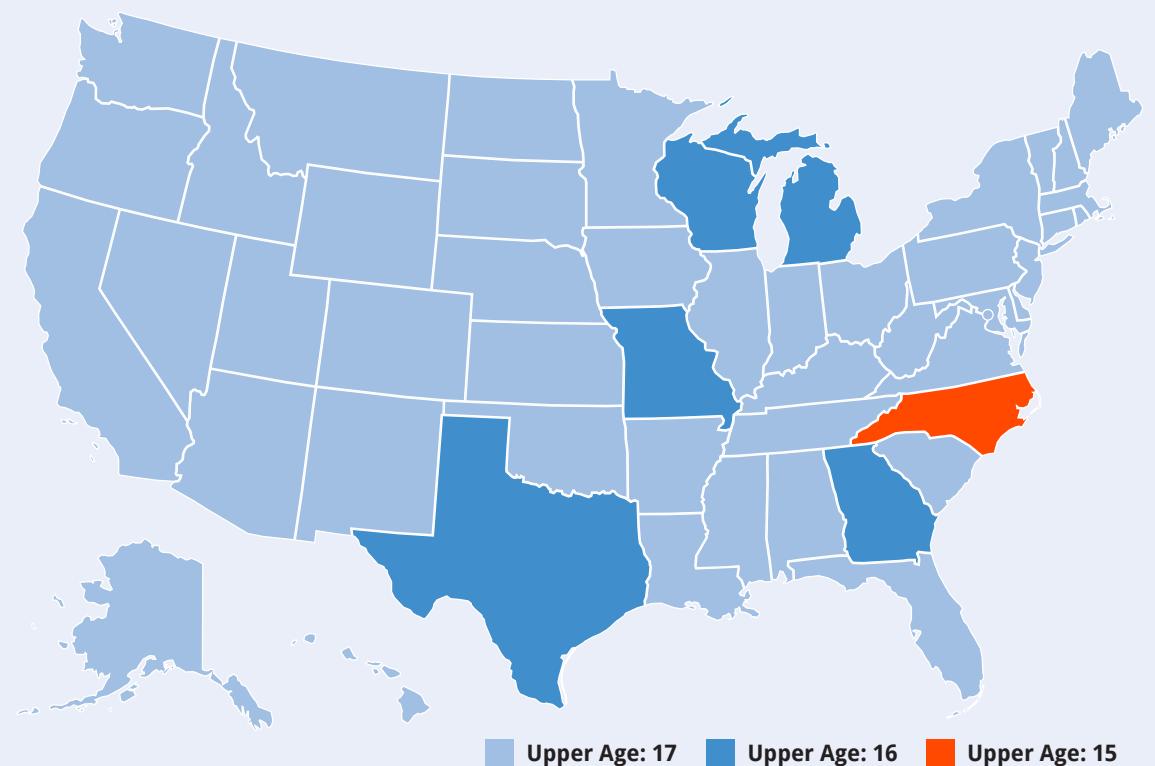
There aren't enough sentenced kids to fill that space, Lassiter said. The department has said it could work with 60 beds and add more later if needed.

The Senate has adopted a similar raise-the-age provision in its budget proposal. But that measure did not include any funding. Unlike H.B. 280, the Senate version did not include 16- and 17-year-olds convicted of nonviolent felonies.



**OVERWHELMING SUPPORT.** Rep. Chuck McGrady, R-Henderson, the lead sponsor of House Bill 280, discusses the 'raise the age' measure May 17 on the House floor.

### Age of Juvenile Court Jurisdiction by State



SOURCE: National Conference of State Legislatures

# HEALTH CARE

## Senate budget gives certificate of need the (eventual) ax

BY DAN WAY

One item in the Senate's \$22.9 billion spending plan isn't budgeted to cost the state a penny, with advocates arguing it will reduce government bureaucracy and improve access to medical services.

Indeed, the former head of the state medical society has estimated that shift — the gradual repeal of certificate-of-need laws for medical providers — would save taxpayers \$250 million annually in payments to the State Health Plan for public employees.

But the state's powerful hospital lobby says it would be harmed by that change and has launched a campaign to keep it out of the final budget. Senate Bill 257, the budget bill, immediately exempts several medical services from CON laws. Those include ambulatory surgery centers, along with outpatient gastrointestinal endoscopies and some outpatient eye surgeries. The remaining CON requirements would be phased out fully by 2025.

The idea behind CON laws is to ensure that the state offers the "right" number of medical provid-



**Research shows states with CON laws have higher death rates than those without them.**

ers — neither too many nor too few. Physician practices that want to purchase new high-end equipment or open standalone health-care facilities (such as outpatient surgery centers) must receive permission from state bureaucracies. Existing hospitals and other providers get ample opportunity and clout to oppose potential competition.

Eliminating the CON provisions "will add financial instability to hospitals and health systems across our state already challenged by uncertainty in today's health-care environment," the North Carolina Hospital Association said in a news release.

But orthopedist Dr. Richard Bruch, former president of the N.C. Medical Society, has said the CON laws force members of North Carolina's financially embattled State

Health Plan to pay a quarter-billion dollars more per year than necessary. In a medical journal article, he wrote that costs are higher for State Health Plan members because the lack of ambulatory surgery centers forces the plan to pay more than needed for routine operations in hospitals rather than outpatient facilities.

Research also shows states with CON laws have higher death rates than those without them.

The hospital association is the most vocal CON supporter. It recently formed a political organization whose mission, in part, is to raise money and back legislative candidates who favor maintaining CON laws.

The association says repealing CON laws neither would reduce costs nor increase access to care. It cited research by Ascendant Healthcare Advisors claiming North Carolina's net price per inpatient discharge is 15 percent lower than the average of all states without the law, and provider cost per outpatient service is nearly 20 percent lower.

The hospital association says North Carolina residents already

have better access to health-care services than states without CON laws. North Carolina has nearly twice as many hospitals and 40 percent more Medicare-certified ambulatory surgery centers per 1,000 square miles.

The hospital association argues in its release that 40 percent of the state's hospitals are in rural communities with high numbers of uninsured and underinsured patients. They depend on services such as outpatient surgery to offset losses in emergency departments and behavioral health care.

Removing CON protection could put an estimated 2,300 rural jobs at risk in those communities and reduce health care options, the release said.

Critics of CON laws say the complaints from the hospital association don't track the experience of other states that have gotten rid of the restrictions.

"We're not flying blind here. There are 15 states that have repealed CON," said Matt Mitchell, senior research fellow at the Mercatus Center at George Mason University. Results in those states can be used to test arguments against re-

pealing certificate of need in North Carolina.

While hospitals complain they do not operate in a free market, making it harder for new providers to enter the market is no answer, Mitchell said.

"It's one of the most well-accepted principles in economics that a supply restriction raises prices," he said, whether it's limiting a town to one pizza shop or one physician who can perform coronary bypass surgery. If regulations already limit the healthcare market, adding other distortions such as CON laws worsens the problem.

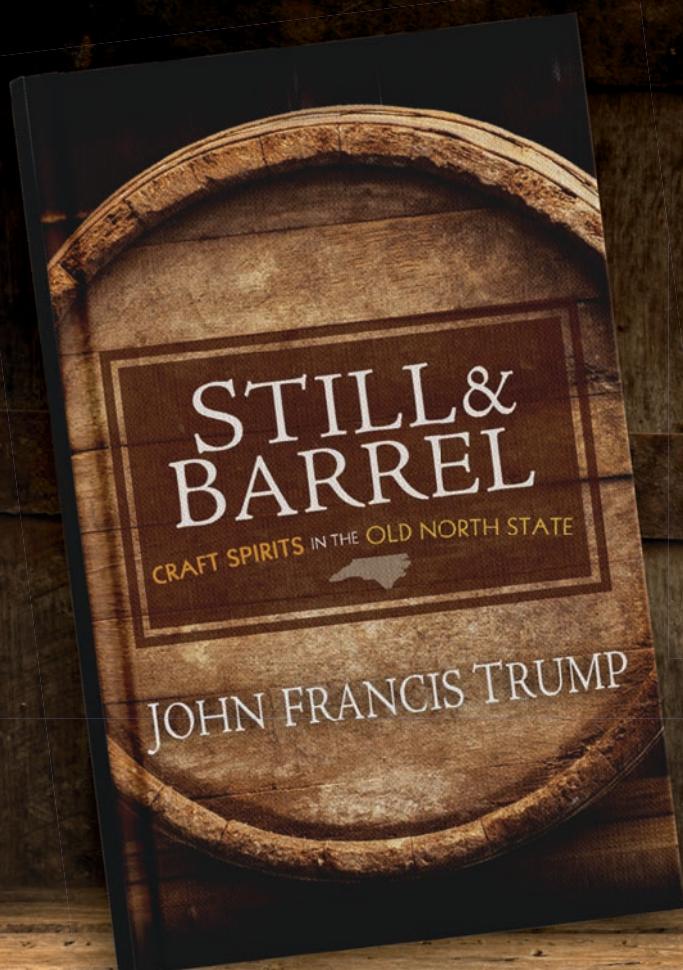
After reviewing four decades of research, Mitchell said he has found no evidence CON reduces spending. Nor does he believe it reduces prices per unit of service.

And while hospitals consistently claim rural hospitals would be devastated by CON repeal, Mitchell said rural residents would gain by having ambulatory surgery centers nearby, more choices driven by competition, and greater access to care. They're being harmed now because CON restrictions force them to travel longer distances to get treatment.

### BOOKS BY JLF STAFF



**John Trump**  
Managing Editor,  
Carolina Journal



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## CORRUPTION

# Former economic developer of Randolph megasite takes own life

BY DON CARRINGTON

Former Wilmington-area theater owner Finley Powell took his own life on April 22 at a Kure Beach house owned by his father.

He was 52 and left behind a wife and three children.

The day he died, the Greensboro News & Record published a story that Powell was living a double life.

From 2010-15, he was an economic development official in the Triad, known then by his given name, David Powell, and he was awaiting trial on charges of allegedly embezzling more than \$200,000 from the Piedmont Triad Partnership he once headed. It's possible he took much more money from the partnership, but officials have closed the criminal case against him, and the partnership has refused to disclose any financial information about the matter to *Carolina Journal*.

In 2011, Powell became the point man for the development of the 1,500-acre Greensboro-Randolph Megasite project, an industri-

al site south of Greensboro in Randolph County designed to attract an automotive plant. Along with PTP, the project involves Randolph County, the City of Greensboro, and the state-owned North Carolina Railroad.

Powell became the CEO of PTP, a 12-county economic development organization, in August 2010. Powell's salary and benefits in 2013 were \$326,000, according to a Form 990 federal tax return filing.



**He was awaiting trial on charges of allegedly embezzling more than \$200,000 from the Piedmont Triad Partnership**

According to the *N&R*, Powell first took money from PTP in October 2011. Initially, he issued checks totaling \$128,671 to numerous business entities but deposited the checks in his personal account. In 2013, he allegedly spent \$68,000 on landscaping services for his home and \$41,000 on a boat with another \$110,214 he took from PTP.

Powell resigned from the partnership unexpectedly in January 2015. In April 2015, PTP officials notified the Greensboro Police Department about financial irregularities involving Powell. In January 2016, the Guilford County district



**THEATER OPERATOR.** Former Triad economic developer David Powell operated The Throne Theater, but his father owned it. Powell, who called himself "Finley" and claimed to be a music promoter from Ohio, was charged with embezzling money from a Triad economic development partnership.

CI PHOTO BY DON CARRINGTON

attorney filed charges against Powell for embezzlement totaling \$240,000. His court date was postponed multiple times.

The full extent of Powell's alleged embezzlement isn't clear. Chief Assistant Guilford County District Attorney Howard Neumann told *CJ* that with Powell's

death, the criminal case is over. His office won't disclose a final report. "But PTP officials are free to release information if they choose," he said.

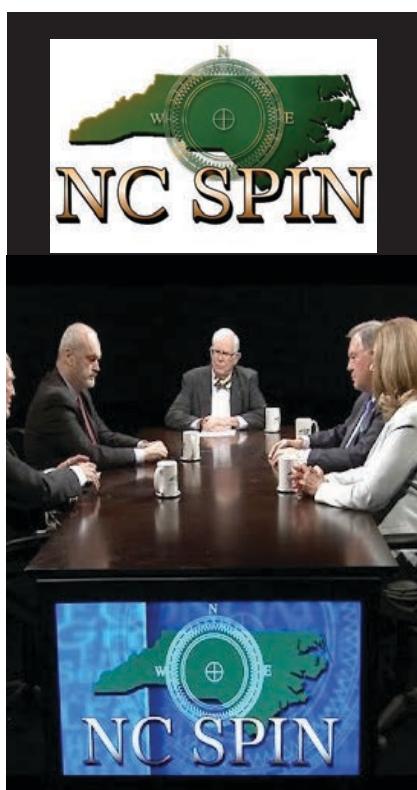
PTP officials said they will not disclose details of Powell's alleged embezzlement.

*N&R* reporter Richard Barron

documented Powell's new life in a story titled "Lost and found: Former exec David Powell, charged with embezzlement in Greensboro, resurfaces in Wilmington."

"My fellow reporters and I were heartbroken by his suicide. I think

**continued NEXT PAGE**



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 Statesville, WAME-AM 550, Sunday 5:30 am  
 Valdese, WSVM-AM 1490, Monday 6 pm  
 Wanchese, WYND-FM 97.1, Sunday 7:30 am  
 Wilmington, WAAV-AM 980, Sunday 5:30 pm

# CORRUPTION

continued from PAGE 6

David Powell's death sent a shockwave through our newsroom like nothing I've seen in a long time," Barron told *CJ*.

The *N&R* reported that sometime in 2016, Powell moved in with his parents at their home in Kure Beach, just south of Wilmington. Powell's life then revolved around The Throne Theater, a downtown nightclub purchased in July by his father, Orville. David Powell used the name Finley Powell and told people he was an Ohio-based events promoter and marketer who had owned a house in Kure Beach for many years. Finley Powell lowered his profile in the Wilmington area after Orville sold The Throne Theater in late 2016.

The Kure Beach police report states the department was notified at 1:03 p.m. April 22 that Powell was found dead at his parents' home.

"A half-hour after my story published online at 8 p.m. I started getting calls about his death."

Barron reached Powell's lawyer, Locke Clifford, who confirmed the suicide.

"I drove in to write his obituary on Sunday, reflecting that his death was a stunning conclusion to one of the most baffling stories about a top businessman that I've covered in 30 years of business news," Barron said.

## 'Lost and found' background

Barron said he first learned of concerns about Powell from Dustin Pendleton, a Wilmington real estate agent. Pendleton said his fiancée's father became friends with "Finley" Powell and immediately



**SUICIDE.** The Kure Beach home owned by Orville Powell, where his son David assumed a new identity and, on April 22, killed himself. David Powell was awaiting trial for allegedly embezzling more than \$200,000 from the Triad economic development partnership involved with the Greensboro-Randolph megasite.

CJ PHOTO BY DON CARRINGTON

recognized Powell when they met. Pendleton had family connections in Greensboro and regularly read the *N&R*'s website. Barron said Pendleton began passing him leads about Powell's new life — and his effort to hide his previous life in Greensboro.

Barron began making calls about Powell in late March this year. Barron and his editor thought there would be great interest about a once-prominent local businessman. "The charges against Powell and his resignation were already big news here as people became

fascinated about the economic development leader who had moved in circles that included CEOs, university presidents, and other major local figures," he said.

Powell gained notoriety in the Triad because of his leading role in the megasite project. Barron has reported on the project for the *N&R*. *CJ* published several stories over the past year about the project.

Pendleton put Barron in touch with former employees of The Throne Theater. Barron said he learned Powell had become a prominent man in the Wilmington club

scene, with a charming style, tales of past success, and a grand vision for his new venture.

"But the most interesting of the people I interviewed declined to go on the record and, because we don't publish off-the-record sources, I was still struggling. By the time we began work on the story, Powell had washed his hands of the theater and sold it to a Carolina Beach cardiologist named Damian Brezenski," he said.

"On my first call to Brezenski, however, he said he would 'love' to talk to me but that his lawyers

advised against it. He wouldn't say why," Barron said.

Barron and an *N&R* photographer traveled to Wilmington in late March to get a flavor of Powell's environment. By then, he had been unsuccessful in contacting David or Orville Powell.

Eventually Brezenski came around and gave Barron theater contracts that David Powell had signed as Finley — something Orville had said that Finley wasn't allowed to do.

The day after Easter, five days before David Powell killed himself, Orville called Barron.

"Orville Powell explained the structure, admitted he had signed for the theater and borrowed the money to buy it. But he said he never authorized his son to sign any documents or act as the owner of the theater — which David Powell had clearly done as Finley," Barron said.

With the materials Brezenski provided and the phone conversation with Orville Powell, the *N&R* was ready to report the story.

*CJ* asked PTP if the organization planned to issue a report on the extent of Powell's activities, including the source of the funds he allegedly embezzled and if any of the money was recovered. On May 17, PTP said it would not.

"We have taken the investigation seriously, cooperating fully with law enforcement as this matter moved through the legal process. During the investigation, we maintained focus on bringing jobs and investment to the Triad. The investigation has ended. Under the circumstances, it is not appropriate for PTP to comment further or answer questions about legal matters," the organization said in a statement to *CJ*. ■

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## REGULATORY REFORM

# Craft beer in North Carolina

## Obstacles and detours slowing, frustrating brewers

North Carolina's craft brewers — some 200 of them — are thriving, but they've taken a long, difficult, and circuitous route to credibility and prosperity.

BY JOHN TRUMP

**A** first big step for the brewers — save the official end of Prohibition in North Carolina in 1938 — came in August 2005, when then-Gov. Mike Easley signed House Bill 392, which lifted the allowed percentage of alcohol — alcohol by volume — from 6 percent to 15 percent.

North Carolina, by the way, was the first state to enact Prohibition — in 1908. North Carolina didn't get its first brewpub until 1985, when Weeping Radish began selling its beer in 1986 in Manteo.

Several followed, including Red Oak Brew Pub, which opened in Greensboro in 1991 and at that time was called Spring Garden Brewing.

Since then, as the industry has grown, brewers have sought a level playing field with the big brewers, as well as some leniency to operate more freely in the three-tiered distribution system — brewers, wholesalers, and retailers. The brewers' efforts become part of the Craft Freedom movement.

Here's a quick look at brewers' efforts to exert more control over their product, specifically a law that effectively limits production to 25,000 barrels before brewers must, by law, procure an outside distributor.



Scott Craddock, head brewer at Raleigh Brewing Co., works on another batch of craft beer.

CJ PHOTO BY KARI TRAVIS



Tim Kent, executive director of the N.C. Beer and Wine Wholesalers Association, has led the fight to maintain the cap on brewers distributing their own product.

CJ PHOTO BY KARI TRAVIS

### 1986

General Assembly passes bill allowing craft brewers to self-distribute up to **3,000** barrels.

### 1992

Lawmakers raise barrel limit to **10,000**.

### 2003

Barrel limit reaches **25,000**.

### 2011

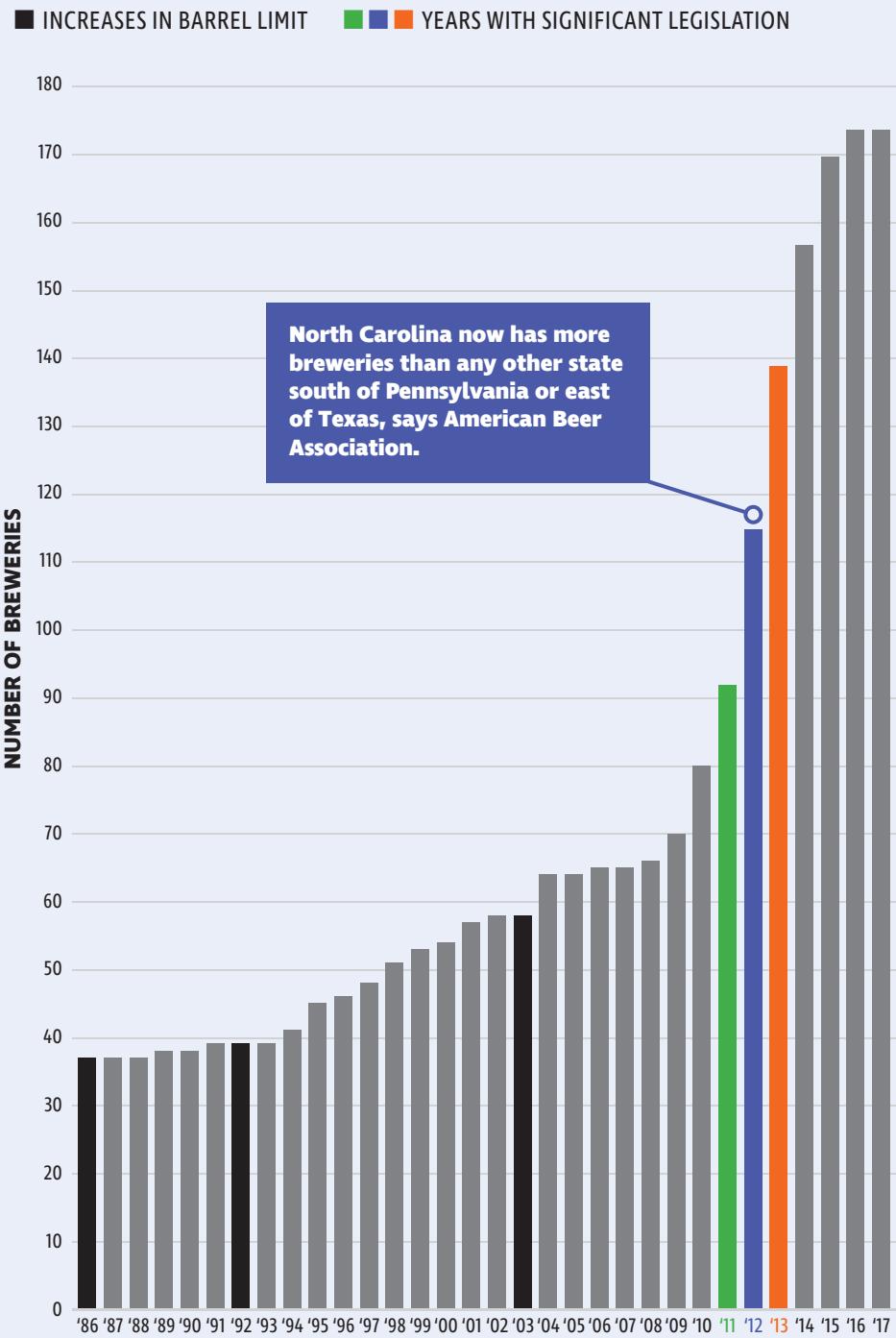
In a special session the week after Thanksgiving, *Carolina Journal* reported, the General Assembly tweaks North Carolina's liquor laws to allow midsize and large breweries to offer tastings and sell their beer on site. Brewers producing fewer than 25,000 barrels a year are allowed to do so under prior rules. The law was changed as an attempt to attract two midsize breweries — Sierra Nevada and New Belgium — to the state. The California- and Colorado-based companies say they won't move to North Carolina unless the state allows them to sample and sell their beer at the brewery sites. The strategy works.

### 2011

Red Oak Brewery owner Bill Sherrill again speaks out about the state's 25,000-barrel limit for self-distribution. Should the cap be lifted, he told *CJ*, he would invest a half-million dollars in eight new brewing tanks. He floats plans to develop the 12.5-acre property around his Whitsett brewery to include a restaurant, beer hall, museum, and hotel. He admits his efforts to lobby lawmakers amounted to an uphill battle and distributors will fight back hard. "They don't want the law changed because we're a hell of a competitor," he says.

# REGULATORY REFORM

## Growth of North Carolina breweries over time (1986-present)



SOURCE: North Carolina Craft Brewers Guild

## The state of craft beer today...

**AT LEAST THREE** North Carolina craft breweries — Red Oak, along with Olde Meck and NoDa in Charlotte — say they are approaching the 25,000-barrel threshold. They say they want to continue control over their distribution and plan to halt growth if the law isn't changed.

A survey of 800 likely voters, prepared for Craft Freedom by Strategic Partners Solutions and overseen by Republican political consultant Paul Shumaker, finds the more voters learn about the impact of the production cap on North Carolina breweries, support for the production cap nearly completely vanishes.

Lawmakers, led by Rep. Chuck McGrady, R-Henderson, file House Bill 500, which primarily would lift the so-called cap on brewers and allow them to distribute their own beer from 25,000 barrels to 200,000 barrels each year. Under current law, brewers reaching the 25,000-barrel threshold must sell every ounce of beer through a wholesale distributor, who acts as a middle man and, along with the retailer, is part of the three-tiered distribution system.

North Carolina lawmakers strip from the bill a provision to lift that cap on the state's most successful brewers and effectively allows distributors to retain control of the retail market. McGrady called parts of the current law for the state's more than 200 brewers "arcane." But the bill won't pass, primarily, because distributors won't consent to the increased limits. It also adds mostly uncontroversial language easing the rules, for example, on brewers in relation to tours and tastings.

Rep. John Bradford, R-Mecklenburg, holds an 11th-hour news conference and says he wants to reach a compromise on House Bill 500, which was gutted of a provision that would have lifted the cap on the 25,000 bar-

rels craft brewers are allowed to self-distribute each year.

The bill, which at first carried much hope and optimism for beer brewers, was drained of nearly all its substance. "The parties on both sides of the bill got together at the direction of leadership and their own coalition and have come together to be supportive of H.B. 500, the new [proposed committee substitute]," said McGrady. The House voted 95-25 to approve the watered-down plan,

**The more voters learn about the impact of the production cap on North Carolina breweries, support for the production cap nearly completely vanishes.**

which heads to the Senate. "Politics is the art of the possible, and compromise is often a necessary part of the process," McGrady said in an Alcoholic Beverage Control Committee hearing. The state's distributors — who said the increase would place their own businesses in jeopardy — along with religious objectors who see alcohol as morally abhorrent — persuaded lawmakers to eliminate the provision. The scant remains of the bill include provisions that authorize tastings during brewery tours, give brewery

taprooms the option to sell other alcoholic beverages, and let "farm breweries" in dry counties or cities sell their products on the premises. Farm breweries are breweries on agricultural land that use some of the grains or fruits grown on the property in their beer or cider.

Craft Freedom LLC, The Olde Mecklenburg Brewery LLC, and NoDa Brewing Co. sue the state over distribution and franchise laws, despite a last-minute attempt to compromise. Craft brewers say North Carolina is suppressing economic growth and point to two state laws, which, they say, are unconstitutional and nothing more than economic protectionism. The complaint seeks a permanent injunction against enforcement of the state's distribution cap and franchise laws.

### 2012

Sierra Nevada of California, enticed by a \$1.25 million tax-funded grant, announces the opening of an East Coast brewery in Mills River, near Asheville.

### 2012

North Carolina gives New Belgium of Colorado \$1 million to open a brewery in Asheville. Both are grants from the One N.C. Fund, and both come under the administration of then-Gov. Bev Perdue.

### 2012

The General Assembly passes a compromise beer distributorship agreement changing the state's decades-old beer franchise law. While the bill still makes more than two dozen changes to the beer franchise law, brewers have flexibility in promotional activity for their products and flexibility in choosing a distributor if there is a change in the distributor's ownership. Red Oak's Sherrill said the law should have allowed breweries to distribute how they want. "It didn't do anything for us," Sherrill said of the bill, calling the distributorship system a "state-sanctioned monopoly."

### 2013

Brewers designate April as Craft Beer Month in North Carolina. More breweries and brewpubs began popping up around the state.

### 2017

Lawmakers, led by Rep Chuck McGrady, R-Henderson, file House Bill 500, which primarily would lift the so-called cap on brewers and allow them to distribute their own beer from 25,000 barrels to 200,000 barrels each year. Under current law, brewers reaching the 25,000-barrel threshold must sell every ounce of beer through a wholesale distributor, who acts as a middle man and, along with the retailer, is part of the three-tiered distribution system. The proposed barrel increase is ultimately stripped from the bill.

**READ MORE** in sidebar "The state of craft beer today"

## REGULATORY REFORM

# Craft breweries make constitutional challenge to beer distribution laws

BY JOHN TRUMP

Craft brewers say North Carolina is suppressing economic growth and have filed a complaint saying that two state laws are unconstitutional and nothing more than economic protectionism.

The complaint, filed May 15 in Wake County Superior Court, seeks a permanent injunction against enforcement of the state's distribution cap and franchise laws. It says the distribution cap and franchise laws are inflicting injury and threaten to impose additional damage to the brewers.

The complaint says the "arbitrary" distribution cap punishes craft breweries for their own success by forcing them to relinquish distribution rights if they sell more than 25,000 barrels each year. The franchise law results in "oppressive, one-sided contracts with distributors that literally last forever."

Craft Freedom LLC, The Olde Mecklenburg Brewery LLC, and NoDa Brewing Co. are named as plaintiffs against the state. Raleigh attorney and former state Supreme Court Justice Bob Orr is representing the plaintiffs.

It wasn't known immediately who would represent the state.

The state House voted 95-25 on April 26 to approve House Bill 500, a watered-down plan that originally would have raised the barrel limit to 200,000. The state's distributors said the increase would place their own businesses in jeopardy and persuaded lawmakers to eliminate the cap-raising provision.

"We've been at the table since day one, but you can't negotiate with yourself," John Marrino, who owns Olde Mecklenburg brewery in Charlotte, told *Carolina Journal* as lawmakers debated the measure. NoDa is in Charlotte, as well.

North Carolina operates under a so-called three-tier system — breweries, distributors, and retailers. The state's weathered laws rein-



**CRAFT FREEDOM.** Raleigh Brewing Company, a leader toward freeing the craft beer industry from regulations, held an event April 19 to raise awareness about the legislation that would aid the industry's growth.

force that system and truly define distributors as the middle men.

"As is typical for middle men whose role is not market-driven, the distributors' profit margin has always been, and continues to be, enormous," says the complaint.

Orr said the complaint doesn't challenge the three-tier system directly, but it definitely implicates it.

"[W]e've tried to draw the complaint as narrowly as we could in the interest of our clients."

"With more than 200 breweries in North Carolina, the industry is experiencing rapid growth and fierce competition," the complaint says. "Nevertheless, the old laws aimed at preventing a few megabreweries from capturing 100 percent of the market also apply to each of North Carolina's more than 200 breweries, which hold a tiny percentage of the beer market.

"As a result, the old laws that were intended to promote competition and benefit consumers now actually suppress competition and harm consumers," the complaint says.

North Carolina didn't get its first brewpub until 1986, when Weeping Radish began selling its beer in Manteo. Several followed, including Red Oak Brew Pub, which opened in Greensboro in 1991 and at that time was called Spring Garden Brewing. Red Oak owner Bill Sherrill has publicly fought the barrel limit for years.

Similar battles have been fought elsewhere around the county, but, with the May 15

complaint, North Carolina is charting new legal territory.

"As we note in the complaint, the craft brewery industry is really relatively

new as a type of industry here in North Carolina," Orr told *CJ*.

The barrel cap, say the plaintiffs, takes from brewers distribution rights, brand control, and future profits. Many breweries prefer to

self-distribute because, the complaint says, if they don't "they must relinquish all control over distribution and sales of their beer to the distributor."

The franchise law then requires the distributor to

take "control over all aspects of sales, marketing, delivery, distribution, quality control during transportation, and even pricing."

"Without self-distribution, there is a tremendous disincentive for entrepreneurs to invest in a craft brewery, because the brewery's access to market rests in the hands of other private companies that have no vested interest in the success of the brewery."

The franchise law, the complaint points out, imposes territorial exclusivity, meaning the distributor gets exclusive distribution rights in a certain area. The brewery, then, can't supply its own products to retailers within that territory. The franchise law also makes distribution rights perpetual, the complaint says.

In other words, "a distributor who acquires distribution rights is entitled to keep them forever. ... Even a change in a brewery's owner-

ship will not permit a change in the distribution rights."

The law allows termination based on a "good cause" requirement, but, the complaint says, the burden falls on the brewery to show a distributor breached an agreement that was "reasonable, material, not unconscionable, and 'not discriminatory when compared with the provisions imposed, by their terms or in the manner of enforcement, on other similarly situated' distributors."

"As a practical matter," the complaint says, "meeting this standard becomes impossible."

Further, if a brewery exceeds the cap but later falls below it, it can self-distribute again only if it agrees to buy back the distribution rights.

As for the N.C. Constitution, the complaint cites several violations, including aspects of the exclusive emoluments clause, the taking of private property, substantive due process, and fruits of their labor clause, which guarantees residents "the enjoyment of the fruits of their own labor."

"So," said Orr, "even though there hasn't been a brewery or alcohol-related challenge like this, I think the constitutional principles are longstanding. There's certainly established precedent for these kinds of economic liberty lawsuits."

Tim Kent, executive director of the N.C. Beer and Wine Wholesalers, said in a text he had not read the complaint and would refrain from comment.

Kent has said H.B. 500 would open a barn door the size of a football field toward allowing big brewers such as InBev and MillerCoors to swoop in and take advantage of North Carolina brewers and, in effect, the laws passed specifically to help the state's craft beer industry.

Representatives for the brewers and distributors reportedly met in an 11th hour effort to compromise. But that effort failed.

CJ PHOTO BY KARI TRAVIS

# ENTREPRENEURS

## *Beer geeks upset with Wicked Weed should calm down and order something else*



**JOHN TRUMP**  
MANAGING EDITOR

**G**ood for Wicked Weed. The Asheville-based brewer has sold to Anheuser-Busch InBev, which, like its counterparts, is gulping down craft brewers in an apparent effort to offset waning sales for Budweiser and other mass-produced adjunct beers.

Beer geeks aren't pleased.

In mid-May Wicked Weed canceled its July Funkatorium Invitational after almost 50 brewers, who were to take part in the event, backed out.

The event has helped Eblen Charities, a nonprofit, provide families with, for example, medical and emergency assistance.

"[I]t has become clear that we can no longer host the festival with the original vision in mind," Wicked Weed writes on its website. "We respect the decisions of those who have decided to no longer attend, and we understand that the impact of bringing this community together is more important than Wicked Weed.

"Just like the sour beer community, Eblen Charities is still of paramount importance to us. With that in mind, we will evolve the Funkatorium Invitational and host a reimagined festival to raise money for Eblen's cause [Sept. 16]."

Beer drinkers — and many brewers — are upset about the perceived "sellout," and many talk as if they have a stake in the company or a say in the brewers' decision.

They don't, but Wicked Weed's owners did. And they decided to sell.

The idea that entrepreneurs toil and sweat and scrimp and save to build a business to achieve only limited profits and marginal



**The idea that entrepreneurs toil and sweat and scrimp and save to build a business to achieve only limited profits and marginal growth is as naïve as it is selfish and unfair.**

growth is as naïve as it is selfish and unfair.

Wicked Weed makes fantastic beer, which, considering InBev's purchase of the brewer, should be obvious. If, in fact, Wicked Weed had failed to build its brand and churned out mundane beer, there would be no such interest from corporations with deep pockets and a willingness to pursue new strategies to compete.

So, why not capitalize on that

interest? Why not take advantage of a free market that rewards entrepreneurship and innovation? What began as a family operation about five years ago could well gain a national and even international following.

That's all good.

Will the product suffer? There's always that possibility, but who knows?

Further, Wicked Weed jumped at the chance to distinguish itself in a bloated market.

The country had 92 breweries in 1990, according to the Brewers Association. Today, there are more than 5,000, including more than 200 in North Carolina alone, the ninth most in the nation. Asheville itself has around 30, and Raleigh will soon have that many.

The immense challenges of standing out in that crowd, building a brand, and gaining and keeping loyal customers can't be discounted.

Craft beer aficionados will continue to eschew Wicked Weed,

and that's their prerogative, just as it was the brewers' prerogative to sell to InBev. There are plenty of choices in beer.

But don't view the brewers, who have contributed much to their community and the state, as bad people or "sellouts" or greedy profiteers. See them as smart business people who have done and will likely continue to do big things.

Regardless, who knows what happens next? The brewers may take the money from the purchase and apply it toward another venture. Maybe they'll make an even more innovative and funky line of beers, because the InBev sale will allow them to do that.

Many people drinking craft beer today aren't old enough to remember a time when craft beer didn't exist. Instead of whining and complaining about Wicked Weed, they would do well to take in the infinite choices available. Taste, compare, buy, and drink up.

Then grow up. Or, order a Coors Light.

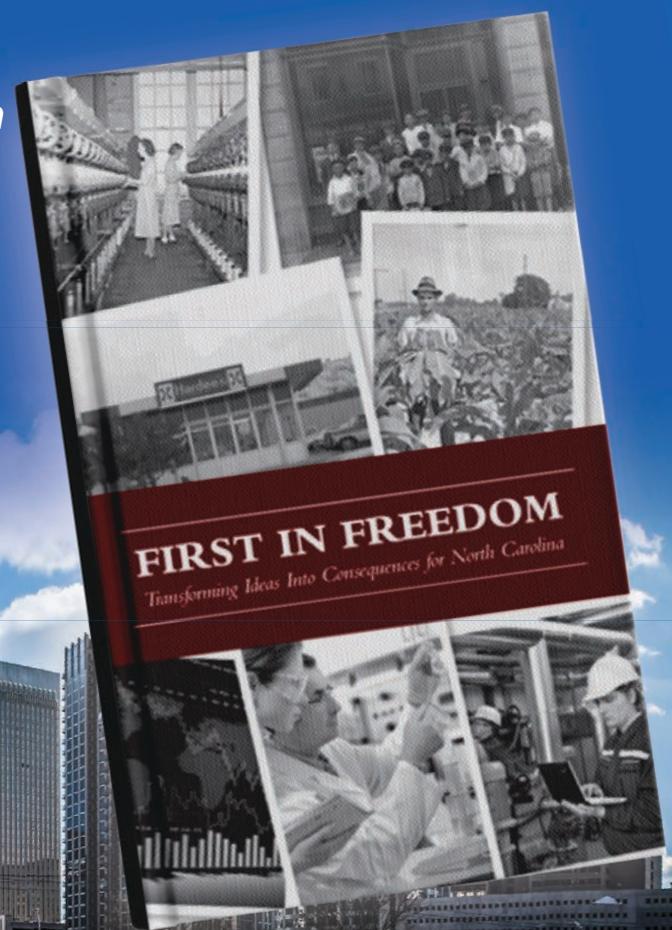
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## ENERGY & ENVIRONMENT

# Environmental impact of solar energy

continued from PAGE 1

Environmental Review Commission study of decommissioning and safe disposal issues.

Millis is lead sponsor of House Bill 745, which requires proper decommissioning of utility-scale solar plants after they close, reclamation of the land to its original condition within two years, and posting financial guarantees to ensure the work gets done.

Only five states require a decommissioning plan, said Steve Goreham, a climate change and energy expert, and author of two books.

"They don't have any rules. They just require a plan," Goreham said.

Solar industry advocates strenuously resist the call for statewide regulations. Some insist their contracts guarantee they're responsible for end-of-life considerations. Solar lobbyists say more than 50 counties have adopted a solar development ordinance that covers decommissioning but acknowledge it is an unenforceable template.

"As regulation-happy as California is, it does not require a decommissioning bond for solar facilities or any statewide permitting scheme that is being contemplated here," solar lobbyist Alex Miller said during committee debate on Dixon's bill.

Solar lobbyists say much of the material in solar facilities can be recycled to recoup cleanup costs or safely disposed of in landfills. They try to placate concerns by assuring that market forces eventually will determine how to fill a present void of abundant options.

But the industry's position on that is unclear.

"We have not as a group taken that up," said Michael Brinck, vice president of the North Carolina Chapter of the Solid Waste Association of North America.

Travis Ward, president of the Recycling Association of North Carolina, did not return repeated calls for comment.

Goreham said there's "a fair amount of value" in recycling solar materials, but it doesn't come close to cleanup costs. For example, he said, a 3 megawatt project in Sacramento County, Calif., cost owners \$220,000 to clean up even after they got \$375,000 for recycled materials. A 20 MW solar project in Maryland cost \$2.1 million to remove after recycling revenue.

Because of those steep costs, Goreham recommends landown-



**HEALTH HAZARDS.** Rep. Chris Millis, R-Pender, worries that after solar installations are no longer useful, they may become health hazards, much like Superfund sites, which can cost millions of taxpayer dollars to clean up.

ers get a decommissioning plan in writing from solar companies stating they will be responsible for all removal and land reclamation.

But the solar industry has its friends in the General Assembly.

Rep. Bob Steinburg, R-Chowan, opposed Dixon's environmental study bill, saying it was "very puzzling." Republicans historically are champions of personal property rights and a business-friendly regulatory climate, he said. Researching potential environmental concerns makes it appear the solar industry is irresponsible.

But Millis said some solar companies have negotiated 15-year property leases with landowners, after which they transfer ownership of the facilities to the landowner. The companies sometimes claim solar panels will last 40 years, and they don't warn about costs to dispose of the tons of aging materials after they degrade below profitability.

"I haven't seen that anywhere in

## Solar Facility Cleanup Costs



the world," Goreham said of the 40-year life span claim. He said a solar panel's useful life is 20 to 25 years, when it has degraded to about 80 percent of its productivity.

Without a required decommissioning and a bond to secure it, huge swaths of land could become riddled with dead solar panels, Millis said. "The fear is that this may become the next Superfund site for the taxpayers."

Millis said he opposes burdensome regulations but supports

proper rules to protect the health, welfare, and safety of people and the environment.

Dixon said many of the 37,000 acres of solar panels are built atop what was prime farmland. He worries the land could take years to reclaim for agricultural purposes, and research shows peanuts never could be grown on the land again due to zinc leaking from the installations into the ground.

"We really don't recognize how fragile our agriculture system is,"

said Ron Heiniger, a crop science professor and researcher at N.C. State University. Agriculture already is under stress from low prices, and taking land out of production that is needed to maintain an economy of scale could further disrupt the system.

Science should serve as a guide as to where solar panels fit into the ecological landscape, Heiniger said. "Right now we're just locating them next to the power substations."

# ENERGY & ENVIRONMENT

## Solar plants may threaten farm ecosystem

continued from PAGE 1

ing land out of production needed to maintain a delicate economy of scale, viability, and profitability. At some stage the system will start to break down, but the question is when the decline reaches a point of no return, he said.

Some farmers struggling to make a living off the land yield to the temptation to enter a lucrative lease with solar companies and take part or all of their fields out of production.

But many farmers depend on leasing neighboring land from absentee owners or nonfarmers to grow crops and graze animals. Those landowners are increasingly finding it more profitable to lease to solar installations, cutting tenant farmers out of fields needed to stay in business.

For that reason, the spread of solar installations across the farm belt doesn't necessarily help farmers to remain viable, as the solar industry claims. Often it makes it more difficult, Heiniger argues.

If farmers lack sufficient land to remain viable, they will leave the field, literally. That will create a tumbling domino effect, Heiniger said.

"What's going to happen to the equipment dealer, feed retailers, fertilizer distributors, people who bring in limestone on rail cars and by the truckload?" Heiniger asked. "They're not going to be in the business."

If enough farmland is taken out of production, the infrastructure would collapse, and grain and animal production would move to other states or offshore. By the time 20-year solar installation leases expire, it would be extremely difficult to recreate the agriculture infrastructure from scratch, Heiniger warns.

"Everybody tells me that that's the worst-case scenario. Perhaps it is, but we have lots of examples of that," Heiniger said, pointing



**SCIENTIST'S WARNING.** Ron Heiniger of N.C. State University warns that large solar installations like this 5 megawatt plant in Robbins are taking productive croplands out of circulation. Heiniger is not sure how quickly the land can be recovered to grow food safely after the solar panels are removed.

CI PHOTO BY DAN WAY

quickly to the disappearance of most of North Carolina's dairy farms following a government buyout program as one example. The buyout program ended a decade ago, but small dairy farms never revived.

"I think it's a fear that needs to be addressed as they think about the solar industry disrupting the agriculture community," he said.

But many county commissioners lack sufficient knowledge about the complex interplay of solar installations on the economic, ecological, environmental, and cultural dynamics of a community as solar companies woo them for siting approvals with promises of jobs and revenue.

"Right now it's neighbor against neighbor, commissioner against solar that's sort of being played out in these little communities," Hein-



**If enough farmland is taken out of production, the infrastructure would collapse, and grain and animal production would move to other states or offshore.**

iger said. "I don't know if I've seen rural people get as upset about an issue as they have over these solar and wind issues. ... It's just a real battlefield out there."

Currituck County even enacted a solar installation ban after the issue blew up among residents there.

The solar industry minimizes

environmental concerns, Heiniger said. While he is neither a solar opponent nor an alarmist, he said long-term issues must be addressed with dispassionate scientific research.

Many solar panels are supported by galvanized steel platforms. That steel oxidizes over time and releases zinc into the soil, which can be toxic to plants at certain levels.

That has been documented in cases where other types of galvanized steel structures were removed, and crops didn't grow or didn't fare well, Heiniger said. Significant soil remediation had to take place to return that land to production.

It is uncertain if the solar panel structures would have that same effect, but it is something that demands study, he said.

Most croplands in North Carolina must be spread regularly with alkaline limestone to neutralize their inherently acidic nature. Solar installations do not perform that practice, and after 20 years or more of nonagricultural use the acid content of soil would spike.

A farmer wanting to reclaim the land would have to make a significant investment in limestone and other nutrients. Whether that would be economically feasible would depend on agriculture prices being high enough to sustain the outlay, Heiniger said.

The data show the solar panels "channelize water," causing it to leave the site faster and infiltrate neighboring properties, Heiniger said. Some farmers have confirmed their fields became wetter than before the placement of a nearby solar facility, and they were having difficulty getting in to till their land to prepare it for the growing season.

Grass and plant cover at solar facilities would prevent a lot of erosion, but water leaving the site carries some particulate, Heiniger said.

Frequent mowing to control vegetation can make soil more compact and more resistant to absorbing water. Wider buffering around the site can offset much of that runoff. Putting in a subsoil also would help, but that can't be done until the solar panels are removed at the end of their useful life, and cost to do so would be an issue.

Heiniger said some solar installations were placed above lakes or ponds, which become infiltrated with runoff. If runoff occurs in sufficient volume, spillways of overwhelmed ponds could be threatened.

"Right now we're just locating them next to the power substations," Heiniger said. He has been telling the solar industry scientific land use research is needed to determine best siting practices. "We've at least got a dialogue started."



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## LOCAL POLITICS

# High Point swinging at wild pitches in misguided stadium plan

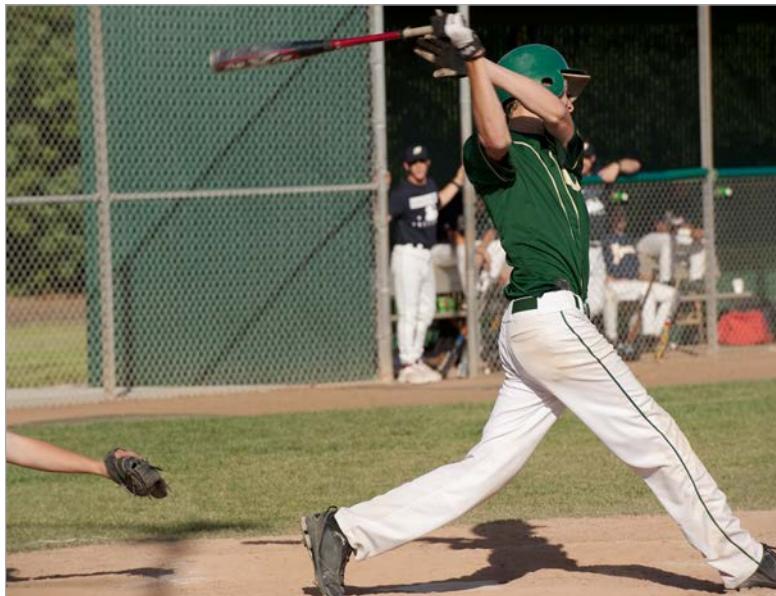


### JULIE TISDALE

CITY AND COUNTY POLICY ANALYST  
JOHN LOCKE FOUNDATION

Spring, in my mind, means one thing — the return of baseball. A few years ago, there was a campaign to make Opening Day a federal holiday. I signed the petition. From April through October, more often than not, there's baseball on in my office during the afternoons, at home in the evenings, and on the radio in the car while I'm driving between the two. Six weeks in, I've already been to both Major and Minor League Baseball games, and before the summer is out, I'll have gone to more of each. My family tends to plan our vacations around ballparks and team schedules.

So you might think that I'd be excited about the way that High Point City Council marked Opening Day this year. On Monday, April 3, as teams across the



**SWINGING AT WILD PITCHES.** Spring is all about baseball, but not taxpayer-funded ballparks.

country opened their seasons in front of excited fans, High Point voted, 8-1, to spend \$15 million on a downtown ballpark project. The whole thing will actually cost the city more like \$30 million, but this was the first \$15 million for land acquisition. And despite my love for the game, I was saddened by the news.

Over the past year, I've looked at various ballpark projects around North Carolina. This time last year, I was thinking about a different ballpark project in High Point. Then came Fayetteville and bizarre plans for funding. And now it's back to High Point, where the city is convinced building a ballpark complex would act as a

catalyst to bring about tremendous economic development and rejuvenate downtown.

And who exactly is going to play in this ballpark? Well, if you know anything about how baseball leagues are structured, you'll know that Major League Baseball (MLB) teams have Minor League Baseball (MiLB) affiliates that they use, essentially, for player development. Which means that all the major and minor league teams, at all their various levels, are part of one enormous system. The people running that system are concerned, among other things, about territory.

High Point, it turns out, is too close to the Winston-Salem Dash and the Greensboro Grasshoppers, so MiLB won't let them have an MLB-affiliated team. Instead, High Point's going with an independent league, a small group of eight teams mostly concentrated in the Northeast. Some of these guys used to play big league ball. Others might someday in the future. But these aren't guys in the pipeline for major league contracts.

And that's OK. I'm sure the games will be a lot of fun. They'll probably attract some local fans.

But there's a reason MiLB doesn't allow too many teams too close together. It's because too much supply can outstrip demand. You end up spreading the fans too thin, and none of the teams does very well in terms of attendance or revenue.

But that hasn't stopped High Point from committing \$15 million in taxpayer money to this. It's one thing for a private investor or business to make that gamble. It's a whole different matter for cities to do so with limited taxpayer money with which they've been entrusted.

High Point should have steered clear of this project. Grant the zoning and permits and such that a private company would need to build the ballpark downtown? Sure. Work with them on parking? OK. But much as I believe that baseball is magical, I also know that it's business. Local governments shouldn't use taxpayer dollars to build ballparks for teams any more than they should build a store for Target or a restaurant for McDonald's. These are private businesses, and the right source for funding them is private investors.

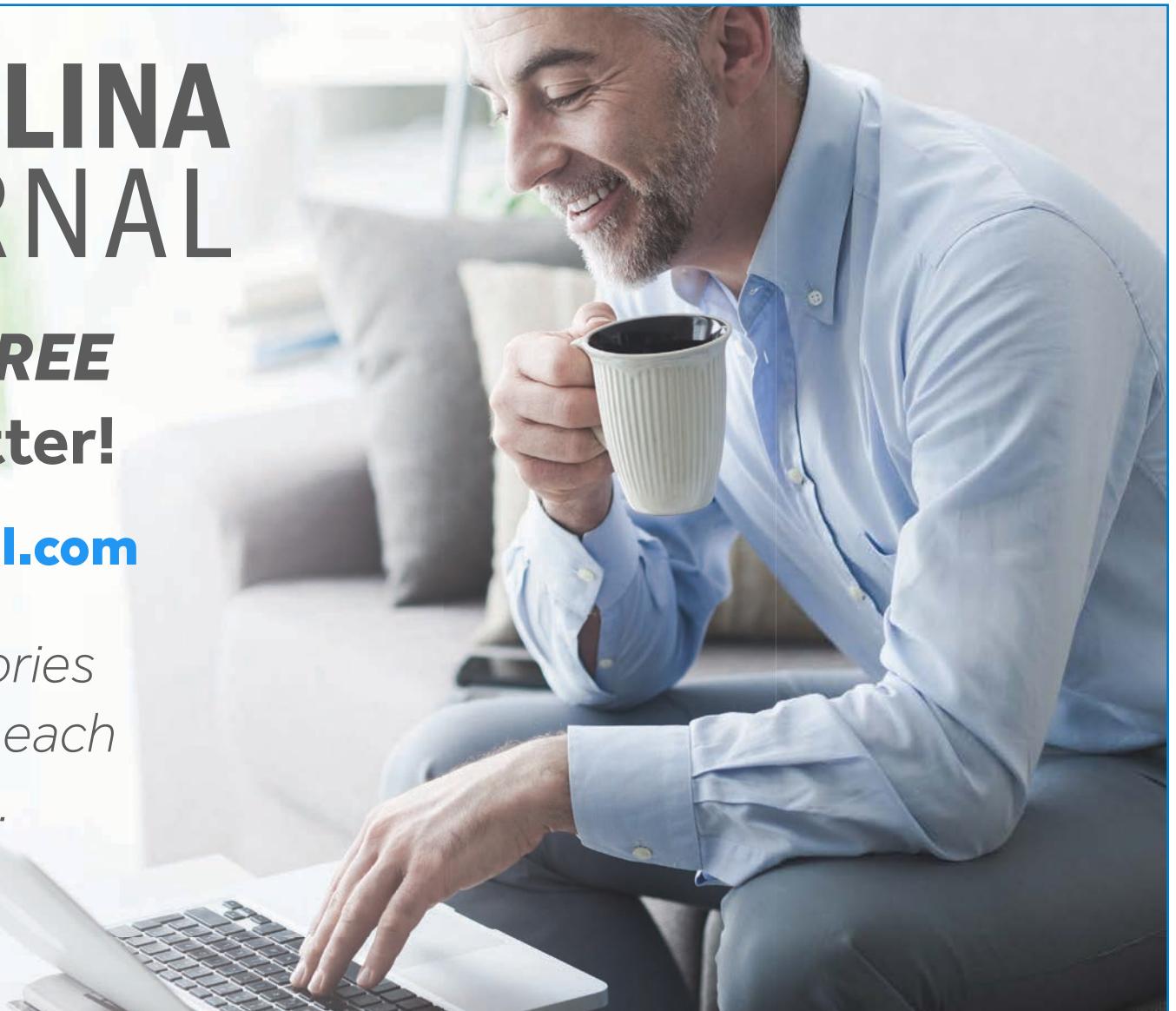


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## SECURITY & TERRORISM

# Former ambassador hopes his family's story bolsters fight against terrorism



**MITCH KOKAI**  
SENIOR POLITICAL ANALYST  
JOHN LOCKE FOUNDATION

Jim Cain didn't feel any sense of urgency when he noticed his daughter had texted him on the morning of March 22, 2016. Nor did her immediate follow-up phone call cause concern.

The former U.S. ambassador to Denmark was talking to a friend while waiting at Raleigh-Durham International Airport. He had scheduled an early flight to New York. Neither the text nor the call interrupted the conversation.

Once Cain had a chance to read the text, he still didn't grasp the significance. Cameron Cain had written that Alex, her boyfriend of four and one-half years, "was on the flight in Brussels."

Not too long after reading that message, Cain started to piece together the facts that led to the story he recounted May 12 in Raleigh. That story, told for the first time on U.S. soil and only the second time ever, led off a panel discussion on "Terrorism and Security" during the John William Pope Foundation and Jesse Helms Center's one-day conference on "Foreign Policy and Trade Challenges in the Age of Trump."

It's a story of fear, uncertainty, a bittersweet secret revealed, and dysfunctional government. But it's also a story of resolution in the face of anguish. It's a story that stands today with a legal fight against one of the world's largest social-media companies. It's a story that features a plea for the Western world to get serious about terrorist threats and for the United States government to support victims of terrorism — wherever they might be.

There were no murmurs or side conversations in the room as Cain detailed the steps that helped him discover that Alexander Pinczowski and his sister Sascha were standing in line at a Delta Airlines ticket counter in Brussels the day that terrorists affiliated with ISIS bombed the airport. Attacks on the airport and a metro station killed 32 people and injured hundreds.

Cain made one more significant discovery. As he and his wife and daughter searched frantically



**FEAR, UNCERTAINTY, AND A BITTERSWEET SECRET.** Former Ambassador Jim Cain only learned of his daughter Cameron's marriage to Alexander Pinczowski after the terrorist attack in Brussels where Pinczowski lost his life.

for information about Alex and Sascha, "Cameron pulls her mother and me close on the sofa, and she says, 'I've got something to tell you, Mom and Dad.' We said, 'What's that?' She said, 'A year-and-a-half ago, Alex and I were secretly married in New York.'"

The search for a missing boyfriend had turned into the search for a missing son-in-law and husband.

And the search wasn't easy. The Cain family flew to Brussels and spent a day-and-a-half searching local hospitals for Alex and Sascha. "Words don't describe adequately how horrible an experience that was," Cain recalled. As 20 families from 17 different countries using at least a dozen languages huddled in the "horrible hot" basement of a military hospital, Cain noted "an abysmal lack of what you might call customer service." There was no counseling. No therapy. No support.

At one point, a nurse told Cain's wife that four victims in the hospital remained unidentified, but the special prosecutor handling the case would not allow any family members to see them. Eventually, the hospital produced a list of living victims and told the families they could presume that anyone not named on the list was dead. "It was that ... compassionate."

Cain learned later that Alex and Sascha were killed in the first bomb blast. "Their identities were known to the first responders within an hour or two of the blast," he said. "So before we ever even left New York to fly to Brussels, the first responders knew that they had been

killed, but the bureaucracy of Belgium didn't allow them to tell anybody."

The search for "purpose and meaning" in the aftermath of these events drove Cain toward several messages for American officials.

The first involved the fight against terrorists. "In this fight against ISIS, against terror, the world has to get serious about it and America has to lead."

The Brussels bombers were part of an ISIS cell that had attacked Paris in November 2015. "We knew who they were," Cain said. "We knew where they were. The Turks knew where they were. The Israelis knew where they were. We had shared that information with the Belgian authorities. Belgium ignored it."

In addition to American leadership in a more serious Western approach toward terrorism, Cain offers a second point. "To fight this threat effectively, we have to disable the social media network that's built and owned by America that these terrorists operate on."

That's what prompted Cameron Cain in January to serve as lead plaintiff in *Cain v. Twitter*. "We know that the terror plots in Paris and Brussels, including those that killed Alex and Sascha, were planned and plotted and funded and recruited and carried out by ISIS exclusively using Twitter," Jim Cain said. He contends that Twitter hosted 40,000 active ISIS-related sites in 2016.

The suit intends "to shut down

this terrorist platform that gives ISIS and its henchmen a way to plot, plan, and execute their global strategy," Jim Cain told the Raleigh audience.

The former ambassador offers one final lesson from his family's recent ordeal. "America needs to support its victims of terrorism wherever they are," he said. As Cameron Cain visited her husband in a Brussels morgue on March 25, 2016, U.S. Secretary of State John Kerry was "laying flowers at the airport about a mile away," Jim Cain said. "Our daughter never heard from John Kerry. She never heard from anybody with the administration or the State Department. There's no program in America to support American victims of foreign — or, really, domestic — terrorism."

A revival of the U.S. support program instituted after 9/11, or a new program modeled on one used worldwide today for British terrorism victims, could provide comfort to Americans who have suffered devastating losses.

Cain will never interact with Alexander Pinczowski as his son-in-law. He hopes his family's experience can lead to changes that make similar stories less likely in the future.



**James P. Cain**  
Former Ambassador to Denmark  
2005-2009

James P. "Jim" Cain is a former United States Ambassador to Denmark. He was appointed by President George W. Bush on June 30, 2005. He is a former president of the National Hockey League team, Carolina Hurricanes, a position that he held before becoming an ambassador. Cain was born and raised in High Point. He earned a bachelor's degree in Politics and a law degree from Wake Forest University, where he was a member of Sigma Chi Fraternity.

PHOTO COURTESY OF AMBASSADOR JAMES CAIN

# EDUCATION

## Graphic novels are trending in English departments, and that's a problem



**SHANNON WATKINS**  
COLUMNIST

Many English departments are beginning to offer courses on graphic novels, which integrate text and visual imagery. Graphic novels are increasingly studied alongside traditional literature, in some cases supplanting more standard text-based curricula.

For example, one course at UNC-Chapel Hill titled "The Visual and Graphic Narrative" can be taken to satisfy the literary appreciation part of a student's general education requirements. (Students are required to take only one literary appreciation class.) The university also offers a course titled "Comics as Literature" as a first-year seminar.

Given these courses' rising popularity among students, administrators and instructors may view them in terms of their ability to renew student interest in the humanities. But while graphic novels do have artistic merit, and are of aesthetic interest, the rise of undergraduate courses on graphic novels is problematic.

One reason is the majority of graphic novels tend to advance political agendas. The graphic novels found on course syllabi and on reading lists often deal with



**Learning to be critical and to think conceptually and rigorously do not come easily to the young but are hard-fought victories.**

- Neil Postman

controversial political issues such as social justice, immigration, gay rights, etc. This is part of a larger trend in the humanities, where the focus often is on oppression and identity politics.

For example, *Bitch Planet* by Kelly Sue DeConnick appears often on syllabi and has been described as an "intersectionally feminist text." The graphic novel is about "a woman's failure to comply with her patriarchal overlords."

Of course, there is nothing inherently wrong with reading about these topics or with discussing them. But what is particularly concerning about assigning these politically charged books is it seems to be part of a larger push to rid the university of its traditional focus, and to push a social justice agenda.

For example, last semester N.C. State University English professor Maggie Simon gave a talk titled "Comics and Graphic Novels — The New Literature." In her talk, Simon praised graphic novels because, in her view, "such texts invite



**THE PROBLEMATIC RISE OF GRAPHIC NOVELS.** Graphic novels only complement traditional literature.

students to encounter complex and often uncomfortable iterations of marginalized identities."

In addition to the fact graphic novels often are used to further a political agenda, it seems they don't possess the same merit as traditional literature. Given students' limited time in college, it's pressing they be presented with more intellectually demanding readings. This is especially true when a student's general education course may be the only exposure to literature he or she receives during college.

As Neil Postman argues in his book *Amusing Ourselves To Death*, "learning to be critical and to

think conceptually and rigorously do not come easily to the young but are hard-fought victories."

Even though there are many ways to learn, Postman suggests the written word is most effective in training students to think about complex ideas.

His primary argument in favor of the written word is that "[reading is] essentially a rational activity" and thus is most conducive to developing strong and coherent reasoning skills. It's difficult to believe reading a graphic novel could do the same in this regard as having to digest, say, *The Iliad*.

Texts without pictures require students to exercise abstract

reasoning in comprehending the meaning of the text, leaving the accompanying visualizations to their own imagination. The images found in graphic novels, on the other hand, remove much of the need for students to exercise their intellects to process the main ideas.

While graphic novels are not capable of the same literary complexity as written books, this does not mean they don't have their own aesthetic value. Although they should not constitute the entirety of a student's exposure to literature in college, their artistic qualities are worthy of being studied, even in a university setting.

Perhaps instead of being used to fulfill general education requirements, it would be more reasonable that graphic novels be studied in upper-division elective courses. In other words, such courses should build upon the student's already firm foundation in books from the literary canon.

Graphic novels should not substitute for written texts in satisfying students' literary arts requirements, especially when the motive behind the assignments is often political in nature. Universities should instead present students with works of literature that will truly challenge their minds and strengthen their ability to reason. Graphic novels can complement, but cannot replace, the canon in fulfilling this role.

*Shannon Watkins is a policy associate at the James G. Martin Center for Academic Renewal.*



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# EDUCATION

## Summer reading: It schools the mind



**KRISTEN BLAIR**  
COLUMNIST

Languid summer days are near at hand. For students finishing the traditional academic year, time — free and fallow — beckons. But as days slip into weeks and months, something else accrues alongside rest and refreshment: a skills drop-off that erodes learning gains.

Low-income students are most at risk. Unlike their more affluent peers, they lack widespread summertime access to books or enrichment. This summer inequity explains much of the income-based achievement gap, research shows. But any student can fall behind if summer becomes a wasteland of mindless entertainment or unstructured indolence.

How can students forestall the summer slide? Read. Repeat.

Reading for fun, and often, has significant, sustained, and positive impacts on achievement. No epiphany, this still bears repeating. On the most recent National Assessment of Educational

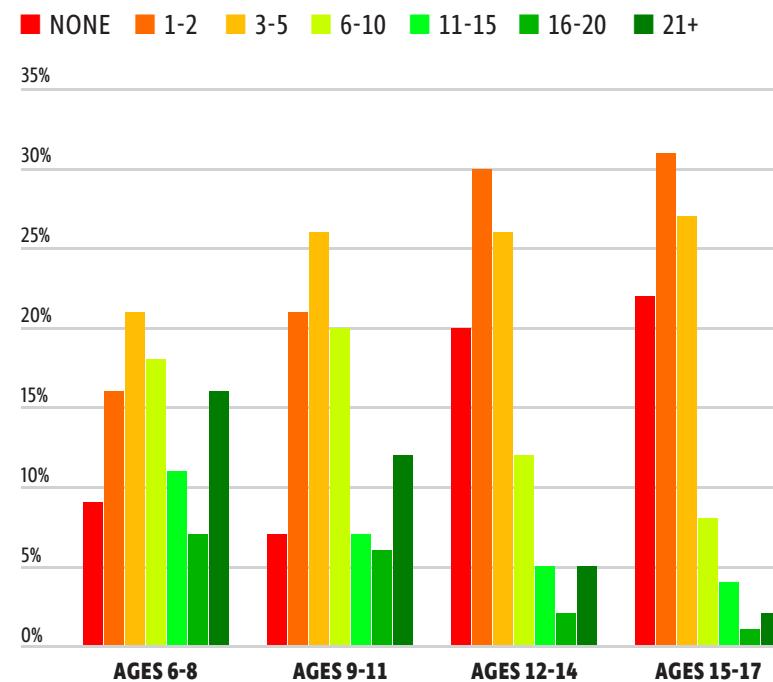
Progress in 2015, just 34 percent of eighth-graders and 36 percent of fourth-graders scored at or above proficient levels in reading. Eighth-grade scores have declined since 2013; fourth-grade scores have flatlined.

There's no sign of a reading revival. Reading for fun has declined among kids of all ages since 2010. That's according to Scholastic's 2017 "Kids and Family Reading Report," a biannual survey of more than 2,700 parents and children.

What promotes reading? Access to books. In Scholastic's survey, frequent readers had far more books at home than infrequent readers (141 books, on average, compared to 65 books). Trends hold true across cultures and continents. Research by M.D.R. Evans and colleagues, published in 2014 in the journal *Social Forces*, found greater family book ownership was linked with higher scores on an international reading test for 15-year-olds in 42 countries.

How can schools foster book ownership and summer reading? Literacy expert Richard Allington's seminal research, published in *Reading Psychology*, found that giving low-income students 12 self-selected books at an end-of-year book fair was as effective as summer school in boosting reading performance. It's also much less expensive.

### Number of books children have read over the summer



SOURCE: Scholastic's 2017 "Kids and Family Reading Report"

WAKE Up and Read, a community collaborative launched in 2012, builds on research — targeting summer learning loss at high-need schools through a partnership with Wake County Public Schools. Now and through the end of June, WAKE Up and Read is giving away 112,427 community-donated books to children at

10 elementary schools (as well as at child care and community centers), according to Jane Small, the group's Summer Learning Action Team co-chair. "Each student gets to select 10 books to keep forever. In total, we will provide books to more than 7,000 students in Wake County," says Small.

Parents also might want to

dust off that library card. A 2015 Library of Virginia study found that rising fourth-, fifth-, and sixth-graders who participated in summer reading programs performed better than nonparticipants on state reading tests, even two years after participation.

What else? Evidence points to reading at least five books. Adult guidance and encouragement are critical, but kids should choose books themselves. Some choices might make literature mavens cringe. The children Allington studied preferred books about pop culture or series such as "Captain Underpants."

Of course, choices vary based on age, interests, and gender. Boys, who trail girls in pleasure reading, are hooked by science fiction, sports, fantasy, war — even topics adults might find silly or a bit revolting. One American Library Association boys' reading list proclaims, "Reach your reluctant readers with bodily functions and blood and guts." A confession: I laughed my way through it.

Classics have their well-earned place, but summer books need not be by Dante or Dickens to school the mind. What must they be? Accessible. Enjoyed. And read — again and again.

*Kristen Blair is a Chapel Hill-based education writer.*

## Apprenticeship program offers big potential at small cost



**ALEX CONTARINO**  
COLUMNIST

**A BILL WAS INTRODUCED** recently in the state legislature to shift control of the state's apprenticeship program from the Department of Commerce to the community college system. The goal is to streamline the program and make it more aligned with some of the colleges' work force development initiatives.

The program, "ApprenticeshipNC," has been receiving more attention lately, as lawmakers pivot to vocational training programs as a way to boost the education and earning potential of recent high school graduates. The program helps provide students with more postsecondary options and gives them an effective, low-



### North Carolina's investment per pupil in the program is quite small, less than \$100.

cost alternative to the traditional college pathway.

North Carolina's apprenticeship program is relatively straightforward. Students indicate their interest in the program and desired career path, and ApprenticeshipNC matches them with a suitable company. Together, along with a local community college, the student and company arrange a class and work schedule. The company generally covers the cost of schooling and pays the apprentice a wage. It lasts one to four years, depending on arrangements

the apprentice and company decide. Apprentices can work to become, for instance, machinists and electricians, all while gaining experience with regional and even national companies.

Costs appear to be minimal. Currently, the state sets aside \$500,000 annually in Commerce's budget to administer the program. The most recent data indicate more than 5,000 students sign up for the program each year. This means that the state's investment per pupil in the program is quite small, less than \$100. This compares quite favorably, for example, to state investment per pupil in the state's university system, which is about \$17,000 annually.

If there's one knock against ApprenticeshipNC, it's that retention within the program appears to need improvement. Only about 50 percent of participants continue after their first year. (It should be noted that a 50 percent retention rate is not far off from the six-year graduation rates of some North Carolina universities, or the na-

tional six-year average.)

Relatively low retention rates could be expected in these apprenticeships, since the student often invests little personally into his or her education, and the company generally picks up the tab. In other words, the cost of leaving apprenticeship programs is quite small for both the student and the taxpayer. This is not the case when it comes to dropping out of college, where the opportunity costs and wasted resources can be significant.

At any rate, North Carolina is not alone in offering an apprenticeship program. Nineteen other states offer one. And the U.S. Department of Labor has set up a program of "registered apprenticeships" that ensures students who complete a recognized program are able to use their trade nationally. It also helps regulate completion requirements across state programs. In North Carolina and elsewhere, 2,000 hours of work and 144 classroom hours are the standard.

Apprentices can expect to boost lifetime earnings by around \$300,000 over their peers who complete only high school. Private companies investing in the program also receive the benefit of creating a pipeline of trained, highly skilled workers who are familiar with their operations.

With so much to gain and so little to lose from apprenticeships, it's encouraging the North Carolina legislature is beginning to pay more attention to them. If matching students to careers is the goal, the legislature should continue to explore ways to improve and expand North Carolina's apprenticeship program. Rather than spend millions on the fantasy that college is for everyone, the state could receive big returns by investing in the postsecondary education most suitable to the fields in which many North Carolinians will eventually find work.

*Alex Contarino is a research assistant at the James G. Martin Center for Academic Renewal.*

# JUDICIAL REFORM

## INTERVIEW

# Chief justice speaks about “raise-the-age”



**MARK MARTIN** was elected chief justice of the North Carolina Supreme Court in November 2014, three months after Gov. Pat McCrory appointed him to serve the remainder of retiring Chief Justice Sarah Parker's term. Two years ago, Martin, who has served on the court since 1999, convened the North Carolina Commission on the Administration of Law and Justice, a 65-member panel of attorneys, academics, and nonlawyers to address the state's handling of civil justice, criminal investigations, legal professionalism, technology, and public trust in the courts. Earlier this year, the commission delivered a report to the General Assembly urging, among other reforms, legislation raising the default age teenagers charged with nonviolent offenses would be tried in adult courts from 16 to 18 years old. At press time, legislation making that change had passed the House and a version of it was included in the budget passed by the Senate.

Martin spoke with *CJ* Associate Editor Kari Travis in early May at his office. The first installment of the interview deals with juvenile justice reform. The second part, covering the use of technology and improving public confidence in the judicial system, will appear in the July print edition of *CJ*.

**It's fairly unprecedented for a chief justice to take such a strong position of leadership on legislation related to a judicial reform. What inspired you to take this on?**

First and foremost, we've had generational studies for the court system. The all-important Bell Commission ... began in the 1950s and ran into the 1960s. The Bell Commission spawned the General Court of Justice, a unified court system for the entire state that replaced a hodgepodge of municipal court systems that were totally nonuniform.

So you would have a case in Bryson City that could potentially be handled very differently than in the city of Raleigh. ...

And then we came into the 1990s, and we had another systemwide review. The Medlin Commission took another look at the system of justice ... and began to realize that the court system had really fallen behind. It had fallen behind the private sector in terms of technology. There were alternative dispute resolution procedures that were being used around the country and had not yet been fully incorporated into our system here.

So we came up to 2015, and I realized that it had been about 20 years since we had conducted this systemwide review. [So we performed] a 15-month study with a 65-member commission that was fully interdisciplinary. It was far beyond just lawyers and judges.

And the committee that looked at juvenile justice began to realize early on that we had a real problem.

In the age of the internet, we were charging 16-year-olds with nonviolent offenses. These were offenses that would be quickly resolved. And so a young person and their parent would think, "Well, that's behind us, and we've done some community service," only to find five or six years later that the very minor offense was now leading to problems with this college graduate actually getting a job.

The commission used a data-driven analysis [that looked at] the outcomes in adult court for these young people. Let's compare it to the results in juvenile court where at times we have dysfunctional families, and these young people have need for a role model or someone who can help them to look at why this incident happened. Because often the incident is a consequence of something much deeper.

And so utilizing these resources, we can not only resolve the charge — just like we could do in adult



**CHIEF JUSTICE MARK MARTIN** says the judicial reform panel he convened in 2015 quickly concluded that raising the age North Carolina tried many teens in the juvenile justice system was an easy call.

court — but we have better results moving forward.

So that data showed that we'd cut the recidivism rate. Remember, for each person we keep in an adult prison, that's going to be tens of thousands of dollars a year. So the key is [turning] around some of these young people so that they can be ... a contributor to society, rather than someone who is in the prison system as an adult.

The second reason is that despite what we'd accomplished with the Bell Commission — a unified court system — we already had 11 counties that were using administrative diversionary programs to raise the age in local areas. So imagine how unfair it is to be a young person in one of the other 89 counties where you're being taken to adult court, whereas in 11 counties you were already getting the benefit of the juvenile court approach.

I do believe that [juvenile justice reform is] ultimately a policy decision for the General Assembly. But as the judge responsible for making sure that the system is working right for the people of North Carolina, I had the conclusion of this commission which saw people from all walks of life unanimous in their recommendation that this modest measure [should be taken.] And

secondly, when I realized that what keeps me going as a judge is my quest to uphold the constitution to apply the law well, and we call that justice. And I feel [it's unjust] if I'm presiding over a ... situation where young people are being treated differently depending on what part of the state they happen to live in.

**Why has it taken North Carolina so much time to catch up with the rest of the country?**

I think that our state government over time has done a very good job of trying to be frugal. And there are some initial up-front costs. The studies that I've [seen show] over time we save money. But initially, it's just like any investment.

**Your recommendation for juvenile justice reinvestment enjoys unprecedented support from groups that historically had opposed this effort. Why?**

Every now and then, even in this current area where there has been a lot of divisiveness, there's an issue where if everybody looks at the same data ... and then you say, "Well, maybe this is just one of those issues where there really is only one reasonable answer." And I

say that there are a lot of specifics that the General Assembly can still determine. They are taxed with the obligation to decide which categories of cases will go to juvenile court. Some proposals include misdemeanors only. Some of them include nonviolent felonies. I've always believed that's a legislative question. ...

**Are you making any headway persuading those who worry about the short-term costs of boosting juvenile justice services and facilities?**

I think you're talking in terms of a \$23 billion budget, and you look at the number that was given to me on this, which is about \$20 million. ... My concern is that it seemed to be challenging to assess the exact cost.

You have to know the cost. And it may be that you have to include fewer offense categories initially to make it work. But I think the data are overwhelming.

The Department of Public Safety conducted a study in which it learned that over 90 percent of adults in North Carolina already thought that you were an adult for criminal court purposes when you were 18. Not when you were 16. So 90 percent of our parents, if this data are accurate, were quite shocked when their teenager was in trouble and they weren't talking about a juvenile court experience.

**As the chief justice, do you feel that our courts are well situated to handle this reform?**

... I think we're totally prepared. I wasn't sure of that 15 months ago. And then during the process of, not only the Commission on the Administration of Law and Justice, but also Gov. [Pat] McCrory had asked the secretary of health and human services and me to chair a substance use and mental health task force. Both panels came back recommending that we needed to raise the age for nonviolent offenses.

[I]n the juvenile justice division ... you quickly realize that you've got to do something that's more effective than having them come to adult court. Oftentimes — to really turn someone's situation around — there has to be more than just an hour in court. There needs to be a program. There needs to be a requirement to comply with certain conditions.

Two years ago, I had my doubts, possibly, about whether we would be ready to administer this new program. I have no doubts now that we can do so.

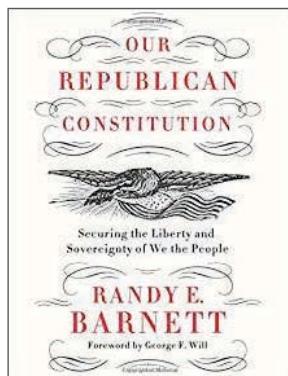
C PHOTO BY DON CARRINGTON

# CONSTITUTIONAL LAW

## Fundamental constitutional conflicts driving political debates of today



Many of today's most heated political debates involve contrasting views of the role of the United States Constitution. Those views reflect disagreements that go back to the nation's earliest days. **RANDY BARNETT**, professor of constitutional law at the Georgetown University Law Center and director of the Georgetown Center for the Constitution, explains the contrasting views in the book *Our Republican Constitution: Securing the Liberty and Sovereignty of We the People*. Barnett shared key themes from the book during the 2017 John W. Pope Lecture at N.C. State University. He also discussed the topic with Mitch Kokai for Carolina Journal Radio.



**OUR REPUBLICAN CONSTITUTION**  
by Randy Barnett

**KOKAI:** We all know that we're very politically divided in the United States. Your book, *Our Republican Constitution*, says it shouldn't surprise anyone who's looked at the history and sees these longstanding debates about how our government should be run, including what the Constitution means. Were you surprised to see how divisive things have become in recent years?

**BARNETT:** No, not at all. I mean, I think not only are we divided as a people, among the two conceptions of the Constitution I describe in my book — the republican conception and the democratic conception — but most people are actually divided within themselves about this. That is, most people carry around within them a democratic conception of the Constitution and an inconsistent republican conception of the Constitution. They tend to favor one when it comes out for them one way, and they favor the other when it comes out the other way.

**KOKAI:** Two fundamentally different conceptions: What are they?

**BARNETT:** Right. They're based on two different notions of popular sovereignty, which is the idea that it's we the people who are the sovereign. And these are two different notions of popular sovereignty based on two different conceptions of "we the people." If you view "we the people" as a group, and then you say what popular sovereignty means is that we the people, as a group, are entitled to rule, then the only thing that could possibly mean is that a majority is entitled to rule. Rule according to the people's will must be the will of the majority because you can't have rule by everybody.

And then what we need is a constitution, a democratic constitution, that will provide the structure by which the will of the people will be expressed, oftentimes in the form of representation, representative legislatures. And, in fact, legislatures could be thought to represent the will of we the people on a microcosm basis. So we need a democratic constitution to represent the will of we the people.

If you have that view, then the role of judges in such a regime is kind of problematic because judges are not elected, and they don't represent the will of the people. They're not supposed to. And so there's the idea that judges should not get in the way, if they can possibly help it, of the will of the democratic majority. That's the democratic concep-



**RANDY BARNETT.** Professor of constitutional law says we need a constitution to check the powers of our servants in government.

tion of the Constitution based on a collective view of "we the people."

**KOKAI:** There's an individual view as well?

**BARNETT:** Right. The other one is the individual view of "we the people." It still starts with popular sovereignty, but it views "we the people" as individuals, each of whom are "endowed by their creator with certain unalienable rights." Among those are "life, liberty, and the pursuit of happiness." That may sound familiar to your audience.

All those rights, by the way, are individual rights. The rights to life, liberty, and the pursuit of happiness belong to the individual. And then the book focuses on the next sentence of the Declaration of Independence, which says, "To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." So, first come rights, and then comes government to secure

these rights.

This vision of government is a government as the servant of the people. The government is not us. They don't necessarily represent our will any more than the garbage people that we pay to come collect our garbage reflect us and our will — except our will that we want the garbage gone.

We delegate the responsibility of disposing of our trash to a subset of us. And government is a subset of us. They are what we might call the "agents," or, how's this, the "servants" of we the people. ... They're tasked with a job: accomplish certain beneficial public ends, but first and foremost, secure the "rights retained by the people." That's what the Declaration tells us.

Now, if you take this view, what we need a constitution for — a republican constitution — is, on the one hand, to empower the government to do what it needs to do but, on the other hand, to constrain its power so it doesn't violate the rights



**We start with rights. These are individual rights: "life, liberty, and the pursuit of happiness."**

that it's been created to secure, which are the individual rights of each and every one of us.

Under this view of the Constitution, judges fit in quite nicely because judges themselves are agents or servants of the people, and they have a job to do. Their job is to be a fair and impartial magistrate when a member of the sovereign public, us, we the people, an individual, comes into conflict with one of their agents or servants. A judge is supposed to be an independent tribunal of justice in order to adjudicate fairly a dispute that the citizen has that says, "You know, you and the government, you've exceeded your 'just powers,' in the words of the Declaration." And the judge should be neutral.

And so the fact that the judge doesn't represent the will of the people is actually a good thing because we don't want the judges to be biased in favor of one party or the other. That's the republican constitution.

Here's what ends up happening: When the majority is on your side, people like to assert the will of the people and get mad at judges for getting in the way. Now, when the majority is not on your side, people talk about the tyranny of the majority. And they hope the judges will be there to protect their rights against those tyrannies.

Those are the two competing conceptions we carry within us. This book is an argument for why the republican conception is the right one and the democratic conception is not.

**KOKAI:** Why do you say the republican view of the Constitution is the better one?

**BARNETT:** Because I think the Declaration is right. We start with rights. These are individual rights: "life, liberty, and the pursuit of happiness." Government is correctly viewed as our servants. So we need a constitution to protect us from our servants, to ensure that they don't exceed their proper powers. And so that's what we need judges for. I think that's right.

# COMMENTARY



garyvarvel.com

## Should lawmakers get behind bill targeting slow-poke drivers?

**JOHN TRUMP**  
MANAGING EDITOR

**A** move to increase penalties for people driving slow in the fast lane passed the House Transportation Committee and continues along the jam-packed legislative highway.

A driver deemed as impeding the flow of traffic would face a fine of \$200. The House version would also set aside \$50,000 in nonrecurring funds to teach people about the new rules.

Sponsors of the bill, House Bill 827 — and companion Senate Bill 303 — would prefer to keep this measure moving merrily along.

But maybe they should slow down, or even pull over and think about this. Should we have any rules at all relating to how fast we can drive on our highways, beyond obviously reckless and careless drivers?

Rep. Jon Hardister, R-Guilford, is a primary sponsor of H.B. 827. He describes drivers who ride slowly in the left lane as moving roadblocks.

“This is problematic because it causes traffic congestion, which increases the chances of an accident,” Hardister wrote in an email. “Even if the law is not enforced 100 percent of the time, it is important for people to know what the laws are.

“Some people say that this bill condones speeding, but it does not,” Hardister writes. “If you are riding in the left lane and a car comes up behind you, the best thing to do is to move over and let them by. If they are speeding, it is up to law enforcement, not a private citizen, to enforce the law.”

Each state has a basic speed statute requiring drivers to operate their vehicles at a speed that’s reasonable and prudent for conditions, says the Federal Highway Administration.

Speaking anecdotally — and not from any legal perspective — state troopers generally are lenient, offering a cushion of 5 or 10 mph. But, again, who’s to know how fast is too fast? Anything more than 65 mph is, technically, a breach of the law.

So, then, how can troopers determine — by applying any type of metrics, analytics, or science — whether a slow poke truly is impeding traffic?

The Highway Patrol will devise a methodology, of course, but the result can be nothing but a practice in subjectivity. Much like the process of determining which speeders to pull over and when.

On its face, H.B. 827 is a fine idea, and most drivers would welcome its passage.

But do we really need more laws? “There may be other laws related to traffic safety that can be changed or eliminated,” Hardister writes. “I am open-minded to any suggestions. But the left-lane passing bill makes sense. We need to allow traffic to flow more freely, which will reduce the likelihood of accidents on the highway.”

# Welcome to the new-look Carolina Journal

If you’re a regular *Carolina Journal* reader, you’ve probably noticed a big change in the look and feel of this issue.

The first thing that may catch your eye: Every page is in full color, rather than the four or eight color pages in previous editions. It’s a more expensive process, but the payoff is worth it, we think. We’ll have the opportunity to present more compelling images and use them to complement our storytelling.

A fresh, clean design will highlight the visual and verbal aspects of our coverage, thanks to the vision and efforts of Designer Greg de Deugd, Managing Editor John Trump, and input from the rest of our editorial team.

As for the content, we’ll use these pages to do more analytical reporting and analysis of North Carolina government and politics. *CarolinaJournal.com* should remain a staple of your daily media diet, with our reporters and editors offering incisive takes on North Carolina news, politics, and policy — and our Daily Journal writers continuing to offer the sharpest commentary you’ll find anywhere in the state.

But our print edition will take a longer view of these important events and trends. The paper will provide more of



the “why” behind the stories we cover. Why these ideas and policies matter, why elected officials, local leaders, and North Carolina residents are taking action, and — most of all — why you should care.

We’ll also provide more connections to *CJ*’s past, with references to stories we’ve published over the years that remain relevant, along with updates to our reports for those of you who wonder what happened to an elected official or tax-funded program we’ve highlighted.

*CJ* began in 1991 as a 16-page slick magazine, published six times a year, mailed to a few hundred readers, filled with commentary, some original report-

ing, and a handful of cartoons and photographs. By 2001, *CJ* shifted to the tabloid newsprint format, with a greater focus on statewide news and investigations but with an appearance that often seemed dated, even for its time.

With our new design, we get a chance to show and tell more stories that matter.

You’ll keep seeing familiar bylines and faces in these pages: Don Carrington, Dan Way, Kari Travis, John Trump, Mitch Kokai — and, of course, John Hood, our regular contributors, and me.

We’re also delighted to add a new person to the team: Lindsay Marchello, a 2016 graduate of Columbus State University in Georgia who helped run the *Bayonet and Saber*, a short-lived newspaper serving the community in Fort Benning, Ga. Earlier this year, she did fine work for *Reason* magazine in Washington, D.C., in the internship program founded and funded by Winston-Salem native Burton Gray.

You’ll see Lindsay’s work in these pages, online, and in social media.

As always, we couldn’t tell any of these stories without your generous support. Every month we circulate nearly 30,000 copies of *CJ* by mail, another 15,000 as inserts in community newspapers, and another 1,200 through newsstands or other outlets. Last year, we had more than 1 million visits to *CarolinaJournal.com*.

Thank you for helping us tell the stories that can make North Carolina First in Freedom.

— Rick Henderson, editor-in-chief

# COMMENTARY

## Both parties have age barriers

**WHEN IT COMES TO** electoral strength, is demography destiny? Leaders of both major political parties often seem to think so.

Republicans in North Carolina and across the country have enjoyed significant success in recent elections in part because older voters are the group most likely to cast ballots — especially in midterm election cycles — and have become more likely than not to vote for GOP candidates.

Republicans expect to continue to benefit from this trend as older voters form an increasing share of the electorate. For example, as demographer Rebecca Tippet of University of North Carolina at Chapel Hill has pointed out, our state is projected to gain nearly 2 million new residents by 2035, taking North Carolina's population to about 12 million. Nearly half of them, 910,000, will be 65 years old or older.

Surveying this political landscape, Democrats in North Carolina and across the country console themselves by arguing that Millennials are a large voting bloc and lean leftward. Over time, they will deliver more and more electoral victories for Democrats, the argument goes.

But when it comes to predicting the political future, humility is in order. Republicans ought not to assume they will always carry older voters by large margins. Democrats ought not to assume they will always carry Millennials by large margins. Circumstances could change. Issues or personalities could emerge that scramble the deck.

Rather than extrapolating a few statistical trends into the future and then waiting for political prizes to fall into their laps, successful candidates and parties will take nothing for granted. They will mobilize their partisan bases, to be sure, but they won't ignore the critical work of finding cost-effective ways to reach and persuade swing voters to come their way.

Yes, demography matters. But it is no substitute for the thoughtful practice of politics.

## Average pay isn't the point



**JOHN HOOD**  
CHAIRMAN  
JOHN LOCKE FOUNDATION

**T**he average pay received by public school teachers in North Carolina this year was \$49,837, up 4 percent from the 2015-16 school year. That was the largest pay hike for teachers in the U.S. and boosted North Carolina's ranking in average pay to 35th. Adjusted for cost of living, we rank 31st in the nation.

Keep in mind that these figures reflect actions taken last year by the General Assembly and former Republican Gov. Pat McCrory. His Democratic replacement, Roy Cooper, and the state Senate have already released 2017-18 budgets that include another large increase in teacher compensation. So it's likely that, unless many other states enact large pay hikes this year, North Carolina's ranking in average teacher pay adjusted for cost of living will end up close to the national median next year.

If you focus on that, you'll be missing the real story.

I support the legislature's teacher-pay raises, but if the intent were simply to raise average pay to some national benchmark, it would be wrongheaded. Most peer-reviewed academic studies of the issue find no statistically significant relationship between

average teacher pay and educational outcomes.

It's the quality of teaching that matters. But teachers are no different from any other professionals, in that they vary in quality across what statisticians would call a "normal distribution." A few teachers are spectacular. Some are very good. Many are average. Some are ineffective. A few are disastrously bad.

Teachers don't underperform because they are underpaid. In most cases, raising their salaries won't make them better teachers. On the other hand, high-performing teachers often have many other career options, both inside and outside education. Paying them more won't necessarily make them better teachers, either, but it may keep them teaching in our classrooms instead of decamping to greener pastures.

The real story of the past several years is that state lawmakers have been restructuring the pay scale for teachers in ways intended to attract and retain high performers. For example, lawmakers have increased pay more for teachers early in their careers, which is when the largest gains in teacher performance tend to occur. Later in their careers, additional years of experience don't appear to correlate with increases in teacher effectiveness, which again isn't unique to education but is evident in other professions, as well.

North Carolina lawmakers have also funded pay increases and bonuses for teachers based on demonstrated high performance.



**THE QUALITY OF TEACHING MATTERS.** Some teachers are spectacular, many are average, and a few are just bad.

At the same time, they've gotten rid of compensation practices that don't result in higher teacher effectiveness or student gains, such as pay bumps for teachers who acquire graduate degrees.

If you think of school employees as a political constituency lobbying against other interest groups to get as much tax money as possible during the legislative process, then these distinctions don't matter a great deal. You may well think largely in terms of average teacher pay and cite the state's national ranking when it is low enough to sound like a persuasive argument for more money.

But if your goal is to expand and enhance educational oppor-

tunity in North Carolina, then these distinctions are of primary importance. Over time, you want to structure the compensation and personnel systems of schools so that they encourage high-performing teachers to stay — and to work in our most challenging classrooms — while encouraging low-performing teachers either to improve rapidly or to find some other occupation better suited to their talents and skills.

There's plenty of room for debate about whether the specific policies enacted in North Carolina over the past three years will work as intended. But to fixate on national rankings in average teacher pay misses the point entirely.

### LAW & REGULATION

## North Carolina should raise age

**A**lmost exactly one year ago, South Carolina's Senate was presented with a measure to raise the default age at which those accused of committing crimes were treated as adults rather than as juveniles. For decades, that age was 16 in South Carolina.

The distinction matters a lot. If a 16-year-old is charged as an adult, his parent or guardian will be notified, but other than that the case proceeds as if the kid isn't a minor. Unless released before trial, he may be held in jail with hardened criminals for

months. And all records of the case are public, even if the kid is never convicted.

If that same 16-year-old is arrested as a juvenile, the process unfolds differently. Parents or guardians are involved at each step. Depending on the offense, the juvenile may be diverted immediately into special programs, counseling, mediation, or other procedures that don't look much like criminal court. The case is sealed, thus ensuring that juveniles are not dogged by criminal records — or even arrest records that never lead to convictions — as they



**North Carolina is the only state where the default age of juvenile jurisdiction remains 16.**

seek to enter college or the work force.

Whether such cases end up in the juvenile or adult systems is a decision affecting future rates of crime, family formation,

and government expenditure. While juvenile settings can cost more in the short run, they appear to result in lower rates of recidivism — of young offenders committing more crimes in the future. Those additional crimes can cost taxpayers far more in the long run, while of course subjecting the victims of future crimes to material and emotional losses.

On April 27, 2016, S.C. senators voted unanimously to approve a bill to raise the age of juvenile jurisdiction to 18 for most crimes, while continuing to charge 16- and 17-year-

olds as adults in cases of violent crimes and other serious felonies. On May 4, the S.C. House voted unanimously for the bill.

With the recent passage of "raise the age" bills in other states, too, that leaves North Carolina as the only place where the default age of juvenile jurisdiction remains 16. House Bill 280 would set the default age for juvenile jurisdiction in North Carolina at 18, except in cases of serious felonies.

South Carolina lawmakers passed their reform. Can North Carolina let them show us up?

# COMMENTARY



## What determines county jobless rates?



**MICHAEL WALDEN**  
COLUMNIST

The unemployment rate is one of the most closely tracked of economic statistics. But in any given month in North Carolina, the unemployment rate varies by a wide margin among our 100 counties. In February of this year, the jobless rate ranged from a low of 4.1 percent in Alexander and Orange counties to a high of 15.3 percent in Hyde County.

What's behind this big difference? At the top of the list is education. This is because the nature of work has changed. Jobs requiring physical strength (like my late father did) are now being done by machines and technology. More and more human work today requires cognitive skills learned in school, which often means the worker needs a college degree. Even more, employers often use

a college degree as "screening device" indicating an individual with enough training to be productive.

Significantly, the percentage of adults (age 25 and over) with college degrees varies widely among the state's counties, from a low of 8 percent to a high of 56 percent.

Employers not only prefer workers who are trained in needed skills, but they also want workers who won't cost them with higher health care expenditures or greater absenteeism. Two potential measures of these issues — obesity levels and serious alcohol and drug usage — also show big differences across the state's counties.

Of course, job growth is logically tied to population growth. The more people living in a county, the greater the need for jobs to provide the products and services used by those folks. While several North Carolina counties have had population growth since 2010 approaching 10 percent, more than a third of the state's counties have actually lost population in recent years.

Last, the economic prospects of industries are different. At any time, some industries may be



**The percentage of adults with college degrees varies widely among the state's counties, from a low of 8 percent to a high of 56 percent.**

growing and adding jobs while others are declining and cutting jobs. Therefore, in analyzing the differences in unemployment rates among counties, it's important to recognize the differences in the industrial makeup of the counties.

To disentangle the effects of these various factors on county unemployment rates, I performed statistical tests of the impacts of measures of the factors on recent North Carolina county jobless rates. For educational attainment, I used the percentage of adults with a bachelor's degree or higher. County obesity levels and the percentage of the county population being treated in alcohol and drug

centers were used to capture personal characteristics that might deter business hiring. Population growth was measured since 2010. The percentage of total county business earnings in key economic sectors controlled for differences in the industrial mix of the counties.

The statistical results were exactly as predicted. On average, every additional percentage point in the adult population with a bachelor's degree or more is associated with a 0.05 percentage point lower unemployment rate. Every additional percentage point in county adults classified as obese is related to a 0.1 percentage point higher jobless rate. But every additional percentage point in county individuals being cared for at alcohol and drug treatment centers correlates with an amazing 5 percentage point higher county unemployment rate.

Counties with faster population growth were also found to have lower jobless rates. Specifically, a 1 percentage point higher population growth rate during the past five years relates to a 0.07 percentage point lower county unemployment rate.

Regarding economic structure, counties with a higher concentration of manufacturing activity were found to have lower jobless rates. This is probably because manufacturing has enjoyed a strong rebound since the end of the Great Recession.

So what are the conclusions from this analysis of county unemployment rates? First, today's job market values education. One of the challenges for high-unemployment counties is losing their best and brightest to the state's big cities.

Second, the results are consistent with businesses preferring a fitter and "cleaner" work force. Anything job-challenged counties can do to reduce obesity and addictions among their work force can help in job recruitment.

Last, population growth matters. Over one-third of our state's counties are losing population. It's difficult to increase jobs and lower unemployment in this situation.

*Michael Walden is a Reynolds Distinguished Professor at N.C. State University. He does not speak for the university.*

## COMMENTARY

## Seeking protection, rather than competition



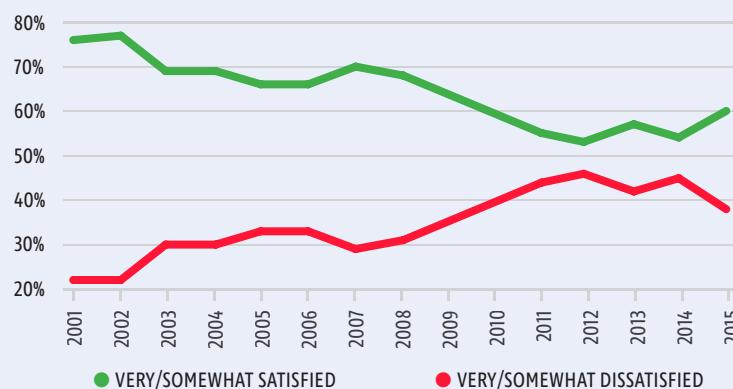
**ANDY TAYLOR**  
COLUMNIST

Americans are upset. Some are just mildly unhappy, others seem miserable, many are plain mad. The NBC News/*Wall Street Journal* poll reports that more than half have believed the country is “on the wrong track” in every month since February 2005. A Pew survey reveals most of us have been “dissatisfied” with the way things are going ever since January 2004. Several polls show that large majorities of Americans are currently “angry” at the federal government, the political parties, and just the way things are in general.

But why? This clearly isn’t episodic, caused merely by the election of Donald Trump or concern about war breaking out on the Korean peninsula. It is deep and enduring, the result of two prominent features of American life today.

The first is the lack of economic growth. For a record 10th consecutive year, in 2016 the United States experienced an increase

### How satisfied are you with the opportunity in this nation to get ahead by working hard?



SOURCE: Gallup Research

of less than 3 percent in gross domestic product. In the 1950s and 1960s, 6 percent growth was not unusual; during the second half of the 1990s, 4 percent was normal. Now policymakers and economists seem satisfied with 2 percent.

Growth is critical because it will stop us from squabbling. If the pie isn’t expanding, we often fight with each other over the size of our slices. Americans always will engage in philosophical debates over fiscal policy, but the distribution of economic resources must be positive-sum to prevent deeper conflict. We will be happier if we, or at least most of us, are better

off than we were in the past.

Readers of this publication undoubtedly understand the policies needed to generate this level of growth. They include low taxes, few regulations, a skilled labor force, and a culture of innovation. Unfortunately, that list seems very different from the country’s recent economic strategy. Tax rates have stabilized, but for corporations, especially, they remain too high. Companies and workers are tied in red tape. Our education system is losing ground to global competitors, and few Americans feel comfortable starting their own businesses.

Many of these policies would

help alleviate the second source of our anger: the feeling that we have lost control of our personal destinies. As recently as a decade or so ago, Americans believed that if they worked hard, made smart decisions, and persevered through life’s inevitable mishaps, they would be psychologically happy and financially prosperous. Today, there are growing doubts. According to Pew, around the turn of the millennium two-thirds of us disagreed with the statement “success in life is pretty much determined by forces outside our control.” By 2014 only 57 percent of us did. Gallup reports that in 2002, 77 percent of respondents were “satisfied” that Americans can “get ahead by working hard.” By 2014 the proportion had dropped to 54 percent.

Americans used to believe compensation largely was related to talent and work. You were rewarded for the value you added, not who you knew, what you looked like, or what you might have done in the distant past. We don’t seem to think any of that is true now.

As a result, Americans are eschewing risk and effort. We are led to believe the Internet economy is incredibly fluid and that anybody can be the next Steve Jobs or Jeff Bezos, but in 2016 the number of U.S. businesses started hit a 40-year low. Social

mobility has slowed dramatically as well. The odds of children at 30 and 40 years old making more than their parents have decreased greatly from levels in the 1970s and 1980s. Regulation gives pause to those who wish to hire. We now seek protection rather than competition, leading those who are best suited to take advantage of an economy that rewards talent and industry to become what economist Tyler Cowen calls “the complacent class.”

Americans remain inherently optimistic. The proportion of us who believe the future will be better is greater than in most other rich countries. But we’ve lost much of our buoyancy. That should be a warning to whoever has political power. Voters in a sour mood will turn on you unless matters are reversed. The president pushed expectations into the stratosphere during the campaign. Formulating and implementing policies to reverse the underlying causes of our discontent will take time. The presidential election of 2020 is only 3 ½ years away. The 2018 midterms are even closer. It’s time to get to work.

*Andy Taylor is professor of political science at the School of International and Public Affairs at N.C. State University. He does not speak for the university.*

## Good government built on honesty, openness, transparency



**BECKI GRAY**  
SENIOR VICE PRESIDENT  
JOHN LOCKE FOUNDATION

“SUNLIGHT IS SAID to be the best of disinfectants.”

Credited to Louis Brandeis from *Harper’s Weekly* in 1913, it was true then, and it’s true today. Shedding light on government leaves it transparent, open, accessible, and accountable.

It’s also harder to do bad things when you know someone is watching.

I’ve heard concerns from legislators about where flexible funding for universities has gone. What happened to money designated for smaller class sizes, and was enterprise money from airport facilities

going toward supporting those facilities, or to something else?

In every case I’ve answered: I don’t know.

Sure, piles of agency documents are available in dusty corners of state government buildings, record requests are available, and websites hold the buried information. But there’s a void of easily accessible, user-friendly records of how, when, and where our state governments spend money.

We have a General Fund budget, which is filled with lines of appropriations to pay \$22.9 billion in services, programs, and benefits. When you add the federal money, transportation, and other fees, our total state budget exceeds \$50 billion. We know what that money goes for, but do we know who it goes to? Do we know where all the block grant money goes? Are funds designated for one thing diverted for something else? Who gets the state contracts, and is the bidding process fair? Do vendors give polit-

ical contributions to campaigns for elected officials deciding who gets the contract?

It seems as if no one ever thought making this information available is important.

Imagine my delight when in 2015 a provision in the budget, Session Law 2015-241, set up “Governmental Budgetary Transparency/Expenditures Online.” It established a state budget transparency website to provide information on budget expenditures for every state agency for each fiscal year starting with 2015-16. Counties, cities, and local education agencies would coordinate with the Local Government Commission to compile and standardize their information on the website.

With monthly updates, it was required that all information be user-friendly, that it include all budgeted amounts and actual expenditures, as well as information on receipts and expenditures to and from all sources. The 2015-16

budget included \$814,000 to implement the website, which was to up and running by April 1, 2016.

Imagine my dismay when, at the beginning of this legislative session, legislators asked me: What happened to the money for this project or that? I learned the government budget transparency website was never implemented.

Imagine my delight to see “Government Budgets Transparency/Accountability/Reporting” in the 2017 Senate budget, Senate Bill 257. The provision requires a detailed report on what happened to the 2015 requirement, an update of the coordination efforts with counties and local education agencies, and an explanation about the fate of the \$814,000.

It reiterates the provision from 2015 and requires state officials to do as they were commanded — set up a website to provide all budget expenditures for each state agency. The website must be fully functional by Jan. 1, 2018. There’s

a nonrecurring appropriation of \$2 million “to support the full implementation of the government transparency initiative.”

Budget proposals include significant tax cuts, millions of dollars set aside in savings in case we’re hit with a natural disaster or economic downturn, pay increases for teachers, and millions of dollars to ensure all students have an opportunity for a great education. There also are investments in infrastructure and regulations rolled back so businesses continue to create jobs — all good things that continue to keep North Carolina’s economy strong and growing.

Yet I would argue that a small provision found on page 344 of the Senate budget will have the greatest impact on North Carolina moving forward. Honesty, openness, and transparency are the foundation of good government, and without good government, we don’t have much else. Let the sunshine in.

# CJ PARODY

## Solar farms, vineyards entwine to promote agritourism

BY SUNNY DAZE

ENVIRONMENTAL CORRESPONDENT  
ELIZABETH CITY

The North Carolina Solar Power Association is battling the perception that utility-scale solar installations, also called solar farms, are “just plain ugly,” the group’s spokeswoman, Caitlyn Vines, told *Carolina Journal*.

The group announced a two-phase campaign, named “Sun to Sip,” linking the state’s solar farms with its vineyards and wineries. The state’s lead tourism promoter, Visit North Carolina, and the non-profit Golden LEAF Foundation will join NCSA in the effort.

Phase One is an “awareness campaign” that will promote solar farm tours in conjunction with vineyard and winery tours. “With more than 400 vineyards and 185 wineries here, you can map your way through our wine trails, savor every stop, and, possibly, use free electricity to charge a mobile phone from a nearby solar farm,” Vines said.

Many of North Carolina’s more than 300 solar farms are near commercial vineyards and wineries.



SUN TO SIP: Here's to wine and solar farms.

NCSA has developed several regional tours the group says would interest wine aficionados who also appreciate the benefits of renewable energy.

Phase Two of the campaign would build a joint-use demonstration project with grape vines and solar panels on the same property,

funded in part by Golden LEAF.

The General Assembly established the Golden LEAF Foundation to collect a portion of lawsuit settlement funds from cigarette manufacturers. It makes grants for a variety of economic development projects across the state.

Golden LEAF’s board of direc-



**Phase Two of the campaign would build a joint-use demonstration project with grape vines and solar panels on the same property, funded in part by Golden LEAF.**

tors in April approved an \$18.4 million grant that will go to the organization developing the most promising solar panel/vineyard joint-use project.

Golden LEAF President Dan Gerlach told *CJ* his organization would be a natural to help underwrite the “Sun to Sip” initiative.

“Solar farms and vineyards have been created on land that may have been used for tobacco farming, so we were happy to take the lead on this project,” Gerlach said.

Gerlach said his board expects

the site to be a major tourism draw. After the tour is over, visitors can enjoy a complimentary glass of wine while they use some free solar electricity to charge their mobile devices.

Gerlach said he envisioned a layout similar to a “checkerboard pattern,” with rows of panels separated by similar-sized grape trellises. He said the project should be efficient, as workers could clean the panels when they were not tending the vines.

While the competition for the Golden LEAF grant is open to any organization in North Carolina, he believes the state might have some perfect sites ready to go. “I believe the state’s megasites, originally established to attract automobile manufacturing plants, would be suitable locations for the joint use project, and there is no way North Carolina is going to attract three or four automakers,” he said.

Visit North Carolina, a business unit of the Economic Development Partnership of North Carolina, leads the state’s tourism development program under contract with the North Carolina Department of Commerce.

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