

# TIMELINE: The battle over redistricting in North Carolina

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# CAROLINA JOURNAL

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# BEHIND THE WALLS

## Problems at North Carolina prisons have gone on for years



BY KARI TRAVIS

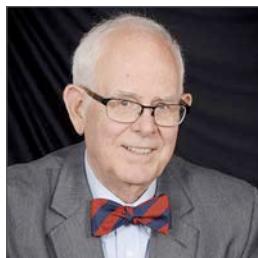
**M**ichael Kerr, starving, incoherent, and dehydrated, was loaded into a van March 12, 2014, at Alexander Correctional Institution in Taylorsville. The 53-year-old inmate was bound for a hospital at Central Prison in Raleigh.

It was a three-hour trip. He died along the way.

***“He was left in his cell for days during a psychosomatic episode, handcuffed...”***

continued PAGE 12

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### Interview with Tom Campbell

The “NC SPIN” moderator discusses his show’s recent milestone — 1,000 episodes.

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# QUICK TAKES



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## North Carolina sees 'surge' in retirement plan earnings, treasurer says

President Trump has been urging Americans to check their 401(k) retirement plans for gains, but individuals aren't alone in benefiting from the strong economy. State Treasurer Dale Folwell says the state is "seeing a surge" in retirement plan investment earnings for 2017.

"We're looking at a total return north of 13 percent for calendar year 2017. We've obviously had gains since the [new] year started," Folwell said during his monthly conference call with reporters. "We do not have the numbers in. ... It takes a little while to get everything aggregated."

That return on investment would nearly double the state's assumed rate of return of 7.2 percent.

The state's investments are riding a bull market on Wall Street that set 70 closing day records in 2017, and 90 since the 2016 election. The current investment mix is about 35 percent bonds in fixed income, and 65 percent in public and private equity, alternative investments, real estate, and other strategies.

Folwell said other state retirement systems might be reaping larger earnings. That's because of the state's somewhat cautious risk profile. Returns will never go up as much as some pension plans do, and

in bad economic times they'll never lose as much as others.

And, Folwell cautioned, profits were markedly below the target return on investment in the fiscal year that ended in June, and the one before that. The state still hasn't met its stated return on investment on average for the past 17 years.

"We still have a lot of work to do to make sure this remains one of the top-five funded pension plans in the United States," Folwell said. Plan assets total \$94 billion.

The underfunded state health plan will continue to face challenges, Folwell said. Both Gov. Roy Cooper's budget, which was not enacted, and the legislative budget that was adopted funded the state health plan at 4 percent growth. But prescription and general health costs are rising faster than that.

As chairman of the state's Local Government Commission, Folwell said he's monitoring the partnership proposed by UNC Health Care and Carolinas HealthCare System. Both publicly owned health-care giants have used the commission to gain approval for bonds.

"We need to determine how this merger impacts the bond rating," and the likelihood they will be paid back, Folwell said. Focus also is being placed on how the plan affects



**BIG GAINS.** "We're looking at a total return north of 13 percent for calendar year 2017," says State Treasurer Dale Folwell.

accessibility and affordability of health care for state employees, and its effect on the state health plan.

"We're not going to be shy about it," Folwell said.

The treasurer said he's launching a formal search for a new chief investment officer to replace Kevin SigRist, who unexpectedly resigned in July. Two acting chief

investment officers have filled the breach since then.

There have been seven CIOs in the past 15 years. Folwell speculated "you're probably doing something wrong in terms of how you're structured" with that rate of turnover, and he hopes to correct whatever issues might be involved.

*From Staff Reports*

## North Carolina tops nation with most nationally certified teachers

**NORTH CAROLINA** continues to lead the nation in the number of teachers who have earned certification from the National Board for Professional Teaching Standards, the highest credential in the teaching profession.

The national certification is a rigorous performance-based assessment taking anywhere between one to three years to complete. About 21,500 North Carolina teachers have obtained the credential, with 616 additional teachers earning the endorsement. Additionally, 890 board certified teachers in North Carolina obtained recertification.

The Tar Heel State accounts for nearly one-fifth — 18 percent — of all teachers nationally who are certified, followed by Florida, with 13,555 teachers. Washington is third, 10,018; South Carolina is fourth, 9,024; and California has 6,755.

"Our state's students are the

winner when their teachers invest the time and effort to meet the demanding standards of national certification," State Superintendent Mark Johnson said in a press release. "The certification process helps teachers strengthen their practice to be highly effective educators in their classrooms and able instructional leaders in their schools."

Becoming nationally certified is voluntary, but in North Carolina teachers who are certified receive a 12 percent salary supplement to their regular pay for the 10-year life of the certification. Certified teachers also received eight continuing education credits and can receive two more credits when they are recertified. Out-of-state teachers who are employed in North Carolina can obtain a state teaching license from the State Board of Education if they are nationally certified.

*From Staff Reports*



**PERKS TO GETTING CERTIFIED.** Becoming nationally certified is voluntary, but in North Carolina teachers who are certified receive a 12 percent salary supplement to their regular pay.

## QUICK TAKES

### N.C. a national leader in protecting free speech on campus, report says

North Carolina is a national front-runner in protecting campus speech rights, a recent report from the Foundation for Individual Rights in Education shows.

FIRE, a nonprofit research and legal organization, examines more than 450 public and private universities each year. Schools are rated based on the constitutionality of their speech policies.

Red-light schools have restrictive policies — such as free-speech zones or bans on “offensive speech.” Yellow-light schools hold vaguely worded policies — such as rules against “verbal abuse” that may be used to restrict free expression. Green-light schools have written policies posing no threat to the First Amendment.

Just 35 out of 461 surveyed schools received green lights this year. North Carolina is home to eight green-light schools, far and away the national leader, Samantha Harris, FIRE spokeswoman, told *Carolina Journal*.

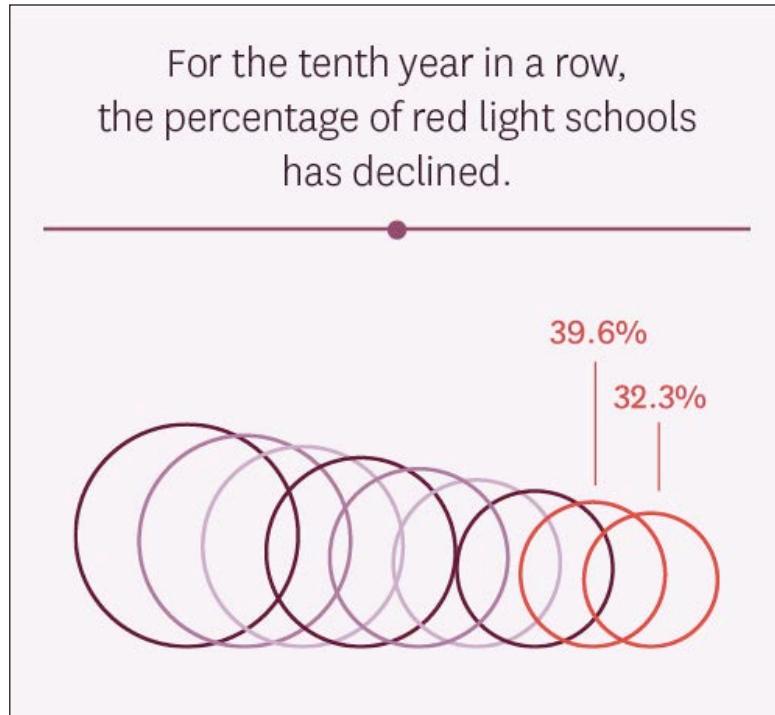
Pennsylvania is next with four, followed by Indiana and Virginia, with three each.

The latest ratings are encouraging, Lt. Gov. Dan Forest, who has worked with FIRE to bolster free speech across the University of North Carolina’s 16 schools, told *Carolina Journal*.

North Carolina surged up the ranks last year when several UNC schools overhauled policies choking speech.

In 2016, only UNC-Chapel Hill was ranked green. In May 2017, UNC-Greensboro and N.C. Central, formerly ranked as red-light schools, saw their lights turn green.

Appalachian State University, UNC-Charlotte, East Carolina Uni-



GRAPHIC COURTESY OF THE FOUNDATION FOR INDIVIDUAL RIGHTS IN EDUCATION

versity, and UNC-Wilmington were green-lighted later that year.

Duke University is North Carolina’s only private school with a green light.

In 2008, only eight schools in the nation were rated green. But while speech rights are gaining traction on campuses, roadblocks remain, FIRE says.

“Since public colleges and universities are legally bound to protect their students’ First Amendment rights, any speech codes — red or yellow light — are unacceptable,” the report states.

This year, 93 of 357 public universities were ranked red, and 233 were yellow. Only 31 got a green light.

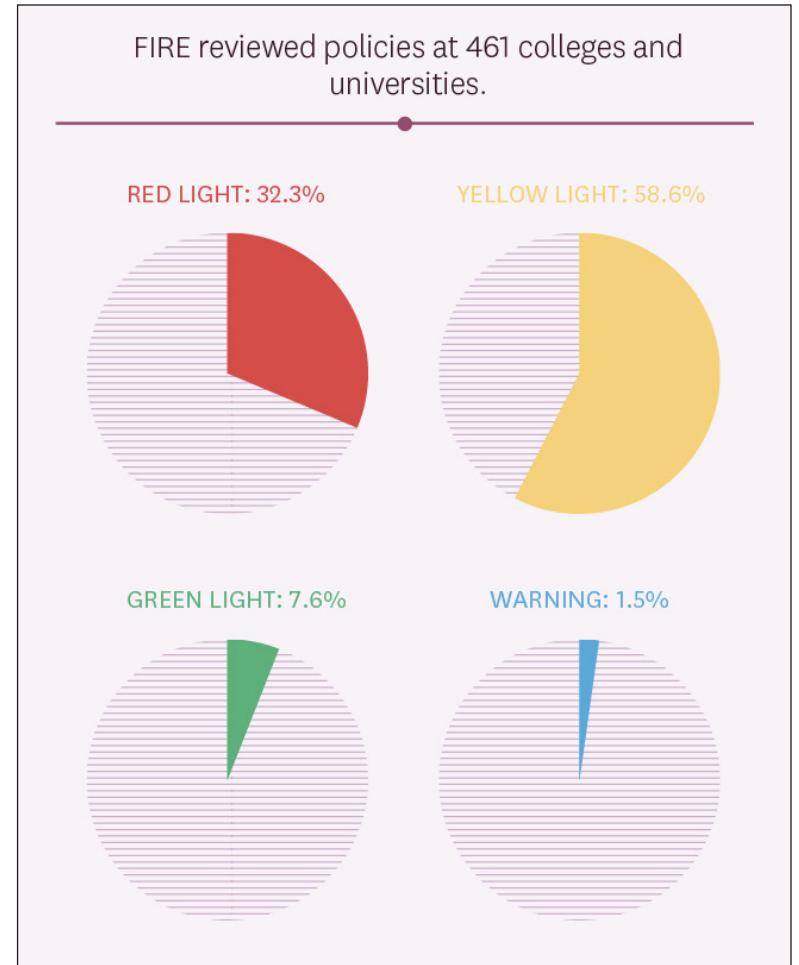
Of 104 private colleges, 56 were red, 37 were yellow, and four were

green. The remaining seven schools were labeled as “warning schools,” which don’t promise free speech. Those universities prioritize other values — many religious — over the First Amendment.

“Despite the critical importance of free speech on campus, too many universities — in policy and in practice — chill, censor, and punish students’ and faculty members’ expressive activity,” the report says.

“It is imperative, therefore, that those who care about free speech on campus continue to stay vigilant. The decrease in speech codes and the proliferation of free-speech policy statements are the result of the relentless work of free-speech advocates.”

A handful of North Carolina lawmakers are outspoken support-



GRAPHIC COURTESY OF THE FOUNDATION FOR INDIVIDUAL RIGHTS IN EDUCATION

ers of free speech. The legislature in 2017 passed a bill to fortify First Amendment rights on UNC campuses.

House Bill 527, Restore/Preserve Campus Free Speech, required the UNC Board of Governors to adopt a uniform speech policy for the UNC system. It also directed the board to form a Committee on Free Expression.

The board adopted such a policy late last year.

Some organizations, including the American Civil Liberties Union of North Carolina, cautioned against the law, stating it could chill speech — not protect it.

When H.B. 527 passed, only one UNC campus — Chapel Hill — ranked as a green-light school. Eleven others were ranked yellow, and the remaining four were designated red.

From Staff Reports

## With STOP Act in motion, prescription opioids harder to get

**IT'S NOW MUCH** more difficult to get prescription opioids in North Carolina.

The STOP Act, which kicked in Jan. 1, limits the number of pills doctors can give patients. Lawmakers, who cited a hike in opioid-related deaths, passed the bill last year.

Under the law, House Bill 243, doctors may give patients five days of opioids to treat pain associated with injuries. They also may issue one week of prescription painkillers following a surgery. In both cases, doctors are free to issue refills.

“Smarter, safer prescribing is one tool among many that we’re deploying to combat the opioid crisis,” said Gov. Roy Cooper. “Setting initial limits on these powerful drugs can help reduce the number of peo-

ple who become addicted to opioids, and it can ultimately save lives.”

North Carolina is home to four of the 25 worst U.S. cities for opioid abuse. Wilmington is first, followed by Hickory, fifth; Jacksonville, 12th; and Fayetteville, 18th. Opioids have killed more than 12,000 North Carolinians since 1999. Thirteen hundred people died in 2017 alone.

Such loss is tragic, and certainly a problem, but clamping down on prescriptions isn’t the answer, said Jeffrey Singer, an Arizona surgeon and senior fellow at the Cato Institute.

Overprescribing isn’t driving addiction rates or the death toll, Singer told *Carolina Journal*.

Addiction is statistically uncommon among patients who take prescriptions to manage pain. Be-

tween 8 percent and 12 percent of patients develop opioid addictions, a study from the National Institutes of Health shows.

Cutting access to prescriptions pushes desperate pain patients to the black market. Black tar heroin is cheaper than painkillers such as OxyContin and Percocet. It’s also easy to buy on the street, Singer said.

Many state governments cracked down on prescription opioids in 2010, and prescription abuse began to decline in 2012. Still, opioid-related deaths are higher than ever.

More than half of overdose deaths are generally caused by heroin, fentanyl, or a combination of the two, Singer said.

Docking access to prescriptions

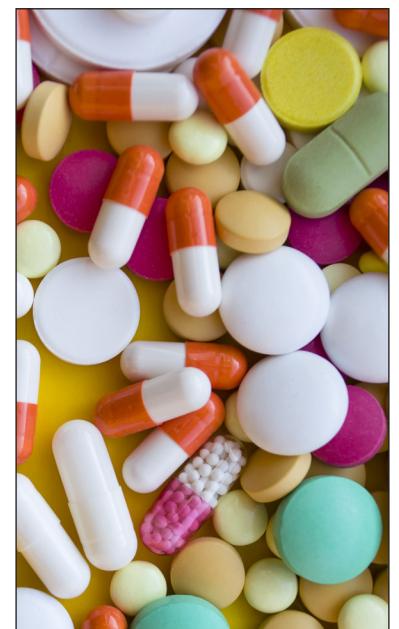
makes sense in theory but not in reality, said Dr. Joseph Pino, director of the UNC School of Medicine in Wilmington.

Criminal justice reforms — including treatment programs for addicts — are a stronger solution, said Tarrah Callahan, executive director of Conservatives for Criminal Justice Reform.

A new study group, the Task Force for Sentencing Reforms for Opioid Drug Convictions, will investigate the best methods to fight addictions, Callahan said.

The 22-member committee will also consider sentencing options that allow judges to look at all pertinent facts, including criminal records.

From Staff Reports



## QUICK TAKES

# National School Choice Week rally highlights student achievement and personalized learning

State Superintendent Johnson joins students, parents, and teachers at rally organized by advocates for public charter schools

At the heart of a school choice rally Jan. 23 that was organized by the North Carolina Association for Public Charter Schools was a celebration of student achievement through educational opportunity.

"If you teach kids to find their own voices, they can learn to change their own lives, and then they'll change the world," Deborah Brown, the 2017 charter school teacher of the year, said. "Give them a voice and choice, and they will become leaders with a vision for change."

School choice supporters, decked out with yellow scarves and armed with school choice posters, filled the N.C. Museum of History auditorium to celebrate National School Choice Week. Parents, teachers, and education leaders gathered for the rally and gave their support to student performers.

The Bear Grass Charter School band performed the national an-



**SCHOOL CHOICE RALLY.** State Superintendent Mark Johnson (front row, center) joined students from Bear Grass Charter School Jan. 23 at the N.C. Museum of History for a rally celebrating National School Choice Week.

them and a few pop songs, while cheerleaders from BGCS and Research Triangle High School performed the 2018 National School Choice Week dance. The rally even featured a military drill performed by young students from Torchlight Academy.

Moaad Al Wakil, a senior at RTHS, gave a speech about leaving his comfort zone and becoming the captain of his school's debate team. Leticia Tusset said she once

was incredibly timid, but because of RTHS she was able to perform a Shakespearean monologue before a crowd.

"School choice is important because every child deserves an effective, challenging education that inspires them to realize their dreams," Rhonda Dillingham, executive director of NCAPCS, said. "School choice allows parents to identify the best learning environment for their children, and I think that's

something worth celebrating."

While student achievement was a main focus of the rally, personalized education also was addressed.

"We personalize almost everything these days. We use our technology to personalize our news. We personalize our social media and our entertainment," State Superintendent Mark Johnson said. "You can even personalize your fast-food order before you walk into the fast-food restaurant. It's time we person-

alized education."

Brown, an English teacher at Research Triangle High School, said "personalized" is the "hottest buzzword in education."

"Giving students and their families a choice in their school is the first step toward that vision of personalization," Brown said.

Over the past few years, state legislators have made three new school choice programs available to families: the Personal Education Saving Accounts, Opportunity Scholarships, and Special Education Scholarship Grants for Children with Disabilities. They also lifted the statewide cap on public charter schools and allowed more growth in charter school enrollment.

Families are turning to nontraditional schools in growing numbers. Last year, the Department of Public Instruction released data showing increased enrollment in charter, private, and homeschools. Public charter schools saw the greatest gains with 11,437 new students in 2017, making total enrollment 89,228 students.

"I think it is wonderful to see those kids being able to have those choices," Joni Basley, a parent of a BGCS student, said. "My daughter has been able to become a musician. It is amazing."

Sharon Scott, a BGCS teacher and also a parent, said she was proud of the students at the rally and the legislators who support the school choice movement.

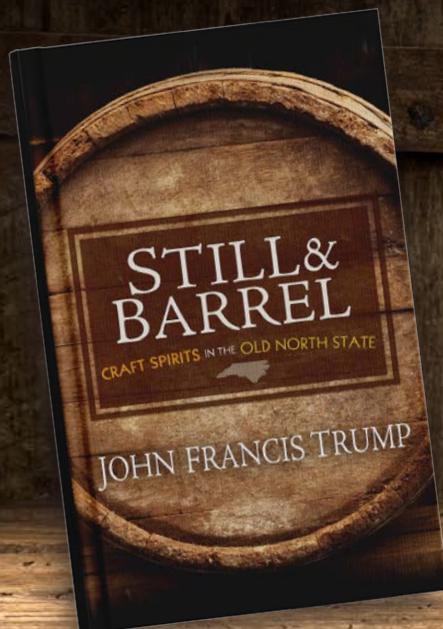
"School choice means everything to me," Scott said.

*From Staff Reports*

## BOOKS BY JLF STAFF



**John Trump**  
Managing Editor,  
Carolina Journal



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

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## QUICK TAKES

# Acupuncture board's actions could be illegal restraint of trade, lawmakers say

A pair of North Carolina occupational licensing boards warring over who may lawfully use acupuncture needles for treatment and therapy could thrust the state into another constitutional embarrassment, state Sen. Andy Wells said Jan. 9.

The N.C. Acupuncture Licensing Board and the N.C. Board of Physical Therapy Examiners have taken turns suing each other in a situation that resembles an antitrust case the N.C. Board of Dental Examiners lost in February 2015 at the U.S. Supreme Court. Occupational licensing boards are state entities.

Wells, a Catawba County Republican, said the Acupuncture Board might be at risk of illegally restraining trade — the basis for the Federal Trade Commission's legal victory against the Dental Board. He also said the Acupuncture Board's legal fees have put the board deeply in debt.

"We're creating a barrier to entry for professionals in the state of North Carolina, and the only ones I see coming out well among the licensees is the attorney," Wells said during a meeting of the Joint Legislative Administrative Procedure Oversight Committee.



**HIGH COSTS OF OCCUPATIONAL LICENSING.** Occupational licensing costs practitioners statewide between \$20 million and \$30 million a year.

Occupational licensing costs practitioners statewide between \$20 million and \$30 million a year, he said. Virginia and South Carolina collect much less in the licens-

ing fees, while lawsuits have driven up North Carolina's costs even more.

The committee received Acupuncture Board financial state-

ments for 2016 and 2017, and Wells said it appears the board accumulated \$336,000 in legal fees during those years. The board collects only \$112,000 a year from licensing fees, its only funding source.

"You spent roughly three times your entire annual income on legal cases," Wells told Mike Tadych, Acupuncture Board attorney. Meanwhile, the board is \$152,000 in the hole.

Tadych said the Acupuncture Board hires not only his firm but also outside lawyers to represent the board in lawsuits. The attorneys are allowing the board to make deferred payments. Supporters of both occupational licensing boards have solicited donations to offset their legal costs, Tadych said.

Wells said the Dental Board case made North Carolina "kind of the national poster child for licensing." The FTC has told the state another issue has attracted its attention, Wells said — without citing the acupuncture controversy — and he worries the state could lose another high-profile ruling.

The Dental Board got in trouble when it sent cease-and-desist letters to people performing teeth whitening services without a den-

tal license. The FTC sued, saying the board violated federal antitrust law by abusing government power to protect an existing industry.

The Acupuncture Board also sent cease-and-desist letters, and was sued by a group of physical therapists and ballerinas who said they needed a process called "dry needling" to maintain peak performance. They filed a federal antitrust claim. It is on hold pending resolution of a state court case filed by the Acupuncture Board against the Physical Therapy Board. That case could be heard in February in Wake County Superior Court.

In a 6-3 majority opinion, the U.S. Supreme Court ruled that, even though the Dental Board was a public agency, it could be sued because it wasn't under direct supervision of the state.

Although the state flirted with the idea of creating an Occupational Licensing Commission to ensure direct state supervision of licensing boards, Wells told *CJ* problems persist.

"The boards have by and large said [they] don't want to be supervised," he said.

*From Staff Reports*

## Local board approves Southside Ashpole for Innovative School District

**THE PUBLIC SCHOOLS** of Robeson County voted unanimously Jan. 9 to approve Southside Ashpole Elementary School for transfer to the Innovative School District.

Southside Ashpole will contract with a school operator for five years starting in the 2018-19 school year. At the end of the contract, the elementary school will transfer back to the school district.

"This is a real opportunity for Southside Ashpole, the Rowland community, and the local school board to work together with the ISD and the school operator to help improve student performance," Eric Hall, ISD superintendent, said in a news release.

Legislators approved the program in 2016 and required a total of five schools to be chosen for the ISD.

Two schools will be chosen next year and the last two the following year.

The goal is improving school performance through awarding greater flexibility not typically afforded traditional public schools.

**Legislators approved the program in 2016 and require a total of five schools to be chosen for the ISD.**

The ISD is in the process of choosing a school operator for Southside Ashpole. Only two education management organizations are in the running: The Romine Group and Achievement for All Children.

SchoolWorks, an education consulting group, is reviewing applications and was expected to finish evaluations by Feb. 1.

Southside Ashpole was chosen in November as the first school transferred to the ISD because of its low school performance and lack of student test-score growth.

For the 2016-17 school year, Southside Ashpole had a grade-level performance of 18.4 percent. It has received an F for school per-

formance for the past three years. More than 80 percent of students at Southside Ashpole are economically disadvantaged.

The Robeson County public school system was given the choice of either approving the transfer or closing the school by Feb. 1.

For a moment it appeared the board would close the school. On Nov. 9 the board issued a joint resolution with Robeson County commissioners denouncing the ISD.

Since then county commissioners have said they never signed off on the joint resolution.

Furthermore, with a unanimous vote approving the transfer, it appears the school board no longer opposes the ISD.

"[W]e can now move forward with identifying and selecting a proven innovative school operator to partner with Southside Ashpole and the Rowland community to develop a school-improvement plan that is tailored to the specific needs of the school," Hall said.

*From Staff Reports*



# BUSINESS

## Federal tax cut will help N.C. craft alcohol producers, but they say much work remains

Drop in excise tax rates should boost production, employment, and sales at locally owned wineries, breweries, and distilleries

BY JOHN TRUMP

**M**uch of the reporting on the recently passed Tax Cuts and Jobs Act has been cluttered with moans, groans, and general derision.

But the act includes provisions that, until now, were talked about mainly within their respective circles of interest. Provisions that reduce taxes for entrepreneurs struggling to climb a hill pockmarked with rules and regulations. In this case, these entrepreneurs produce and sell alcohol, in the forms of beer, wine, and spirits.

An analysis by the lawyers from Williams Mullen, a regionally based law firm, paints a concise picture of changes under the new law, including lower excise taxes and more lenient rules regarding alcohol-by-volume limits, transfer, and production.

But, as the writers point out, these tax reductions and changes are effective only for two years and will “sunset” after Dec. 31, 2019. Brewers and distillers emphasize more needs to be done regarding taxes and regulations, especially in North Carolina.

The changes, though temporary, are significant.

The excise tax on beer, says John Locke Foundation fiscal analyst Joe Coletti, will fall to \$3.50 per barrel from \$7 on the first 60,000 barrels for brewers under 2 million barrels. The rate falls to \$16 per barrel — from \$18 — on the first 6 million barrels for larger brewers.

Regarding spirits, the rate goes from a flat \$13.50 per gallon produced or imported to a tiered rate of \$2.70 per proof gallon on the first 100,000 proof gallons, \$13.40 on the next 22.130 million proof gallons, then \$13.50 for anything more.

For wine, says Williams Mullen, the act includes an expansion of the excise tax credit for wineries by repealing the phaseout of the credit based on production size.

“This will allow all wineries to



**INCREASED EMPLOYMENT.** Todd Ford, co-owner of NoDa Brewery in Charlotte, is increasing the size of his work force.

claim the credit based on the first 750,000 gallons of production.” Sparkling wine will also now qualify for the credit. The bill increases the ABV limit to qualify for the lower excise tax on wine — from 14 percent to 16 percent.

North Carolina’s craft brewers, distillers, and vintners say they are welcoming the new rules by expanding and hiring additional workers.

North Carolina has some 200 breweries, more than any other Southern state, and carry an economic impact of about \$1.2 billion, the N.C. Craft Brewers Guild says. In 2015, craft brewers produced 675,469 barrels.

This isn’t a trend. It’s a booming industry, and just 4 percent of beer consumed in North Carolina is made locally, craftfreedom.org says.

The distilling industry is growing exponentially, as more than 40 are producing liquor. North Carolina, the state Department of Agriculture says, has more than 525 vineyards and 185 wineries set from the mountains to the coast.

In fact, NoDa’s Todd Ford said the Charlotte brewery is adding an employee, bringing the number of production workers to 12 and the employment roll to 44.

“This saving will also slightly help defray the cost of our company-paid employee health, dental, and vision care as well as 401(k)

contributions,” said Ford, who cited the federal tax burden, which will drop from \$3.50 per one-half barrel keg to \$1.75.

“That is a federal tax reduction of 50 percent, which is nothing to sneeze at.”

“Unfortunately, the state tax obligations are what are really strangling our current operations. For every one-half barrel keg we sell we are currently paying \$3.50 to Washington, but we are paying approximately \$9.61 to Raleigh in state excise tax. The state tax is more than

triple the federal burden, even before the current federal reduction.”

Imagine, Ford says, if North Carolina followed the lead of the federal government.

“The new tax burden per half barrel keg would drop from \$9.61 to \$4.81, and the total tax burden would be reduced to \$6.56 per keg, or about 5 percent of the total keg cost in the market.”

For the states, says Coletti, it’s pretty much business as usual.

“Unlike income taxes, state taxes on alcohol aren’t tied to definitions in the Internal Revenue Code, and the excise tax changes mostly are about rates,” he said. “Short answer is that the tax changes will have little effect on states, other than to provide them with more revenue as prices fall and volume goes up, since state alcohol taxes

are often based on volume instead of price, though it could have some offsetting effects if alcohol-related social problems increase,” even though, he pointed out, the evidence here is mixed.

“As for the effect on retail prices, they would go down by somewhat less than the reduction in the tax depending on how consumers and producers respond to price changes in general.

“It’s the elasticity of supply and demand,” he says.

“Beer tends to be price-inelastic, meaning consumption does not change much with a change in price or taxes, so the lower tax will result in lower prices, but the tax itself is only about 51 cents per case. For 80-proof liquor, the tax cut is about \$1.73 per fifth, but demand is more elastic, which means more of that will carry through to volume and less to prices.”

Gentry Lassiter, of Lassiter Distilling Co. in Knightdale, called the tax reduction a long overdue step in the right direction toward supporting small beverage industry businesses.

N.C. House Bill 909 passed in 2015 and allowed distillers to, at the time, sell one bottle per customer every 365 days. They can now sell five, thanks to Senate Bill 155, which lawmakers passed last year.

A state excise tax of 30 percent is levied on spirituous liquor and antique spirituous liquor sold in ABC stores, according to statute, which says, “The price of liquor on which this tax is computed is the distiller’s or the antique spirituous liquor seller’s price plus the state ABC warehouse freight and bailability charges, and a markup for local ABC boards.”

“Last year,” Lassiter said, “we paid \$2.14 of federal excise tax on every bottle that we put into the market, and that is reduced in 2018 by 80 percent, to just \$0.43 a bottle. We plan to put the reduced cost of producing our award-winning runs to work through additional investment in our business and passing along some of the savings to our customers.”

The Distilled Spirits Council of the U.S. lobbied hard for the legislation and, not surprisingly, lauded its passage.

“The Distilled Spirits Council commends U.S. House and Senate leaders and their colleagues for approving the Craft Beverage Modernization and Tax Reform Act as part of the Tax Cuts and Jobs Act,” wrote DISCUS president and CEO Kraig Naasz.

“This legislation reduces the

federal excise tax on distilled spirits producers for the first time since the Civil War, which will enable the more than 1,300 operating distilleries nationwide to re-invest in their businesses and stimulate job growth in their communities.

“Supported by 303 co-sponsors in the House and 54 co-sponsors in the Senate, this landmark legislation creates a more equitable tax structure for distillers, brewers, winemakers, and importers of beverage alcohol by equalizing the federal excise tax on spirits, beer, and wine for the first 100,000 proof gallons. It also provides for the same in-bond treatment of spirits transferred in bottles as for beer and wine and exempts the spirits aging process from interest expense capitalization rules.”

It’s progress, say those affected by the act, albeit temporary. Rules and regulations — particularly in North Carolina — still stifle the industry, regarding all spirits, they say.

Ford is continuing a push among brewers to self-distribute their products, even if they produce more than 25,000 barrels per year.

“The ability to self-distribute any beer is why North Carolina has over 300 breweries while South Carolina has around 50.

“Unfortunately, the law that allows you to grow early on hurts you when you have had a bit of success and grow to 25,000 barrels production in a year.

“At that point you lose all ability to self-distribute beer and must ‘contract’ with a third-party distributor to sell your product.”

“I am very hopeful that North Carolina lawmakers will follow the national trend of support for the local brewer, vintner, and distiller, and will consider actions in 2018 to make North Carolina a friendlier place to do business as a member of the beverage industry — perhaps by allowing direct shipments of North Carolina-made spirits, further loosening quantity restrictions of on-site bottle sales, or by allowing distilleries to self-distribute our products directly to mixed-beverage permit holders who are clamoring for them.”

Asked Ford, “Shouldn’t a business owner be allowed to choose how to run their business? It is interesting to note that only 5 percent of the beer consumed in North Carolina is actually made here. One only has to look at this statistic to see we have a lot of room for improvement in bringing manufacturing to North Carolina.”

# ENERGY & ENVIRONMENT

## Solar giants getting stronger as opponents struggle to fight back

BY DAN WAY

Iredell County opponents of an industrial-scale solar project continue facing roadblocks to their goal of preventing the facility from getting a permit.

Two days before the county held a hearing on the permit, the state Court of Appeals overturned a local government ruling against a solar development in Currituck County. It was the third time in relatively quick succession the appellate court rejected Superior Court rulings based on local ordinances that upheld community decisions to bar large solar installations. Robeson and Lincoln counties experienced similar setbacks.

A band of neighbors worried those precedents might sway the Iredell County Zoning Board of Adjustment to rule against them as they headed into the second round of quasi-judicial hearings Dec. 21. They wanted the county to reject a special-use permit application allowing a large solar development in Cool Springs, a crossroads community near Statesville.

California-based Cypress Creek Renewables wants to turn more than 400 acres of farmland, fields, and forests populated with wildlife — bumping against a slave cemetery — into a sea of glass and metal generating 80 megawatts of solar electricity at peak performance.

After taking hours of testimony from the company Nov. 16, and many hours more from opponents Dec. 21, the zoning board Jan. 4 unanimously denied the permit.

Board members had to vote separately on four criteria the developers had to meet for approval. They favored the developers twice, but cast 4-3 votes saying the project would reduce the value of adjoining properties and would not be in harmony with the community.

Neighbors don't expect the David versus Goliath victory to end here. Cypress Creek Renewables can appeal the decision to Iredell County Superior Court.

But, as history shows, the solar developers' position is getting stronger, as they are flush with cash, as well as technical and legal experts who testify on their behalf.

"From a battleground perspective, or a tactical perspective, I think that opponents to these projects [are] always going to be behind the eight-ball when it comes to funding because it takes money to hire an attorney," said Clark Tew, who represented the Iredell County opponents.

In the Currituck County case, neighbors hired their own attorney. But funding, and their private legal representation, ran out before the case reached the Court of Appeals.

Just finding an attorney with



**OPPONENTS' ATTORNEY.** Attorney Clark Tew cross-examines a witness for developers of a proposed 400-acre, industrial-scale solar generating plant in Cool Springs during a November Iredell County Zoning Board of Adjustment hearing.



**HISTORIC SITE.** Solar project opponent Keith Gatlin checks out weather-worn headstones in an old slave cemetery that would about a proposed industrial-scale generating station in Cool Springs.

the proper skills to challenge a solar installation is difficult, in large part because land use issues involving solar farms are a relatively new legal field. Although Tew has experience in land-use trials, Iredell was his first solar case.

While legal challenges to solar plants are becoming more common, Tew isn't aware of any growing movement among attorneys to specialize in that area of law.

Lawyers representing solar de-

velopers typically come from large metropolitan firms who are likely to represent clients on a repeat basis. They have developed a consistent playbook to use in court. Attorneys representing opponents usually have to build their case from the ground up.

But lawyers aren't the only pivotal element in fighting solar developments. Cases with special-use permits have gotten more technical as financial stakes have risen.

Tew said it was rare for technical experts to carry so much weight 20 or 30 years ago. Today's experts with the most clout are real estate appraisers, who testify about a project's impact on surrounding property values.

Without financial backing "you generally are going to have a very weak opposition because you're not going to be able to convince an appraiser from Charlotte, or Wilmington, or Raleigh to drive out to a

county where these type of projects are typically going to be found without paying them a substantial amount to develop their analysis and then attend the hearing," Tew said.

Historically, zoning cases have involved projects such as asphalt plants, strip malls, gravel pits, or adult businesses. Because solar fights are of recent vintage, opponents must find knowledgeable experts able to testify to something, Tew said, quantifiable, substantial and material. "But that gets to be harder when you don't have much of a data set to back you up."

"Because we are a state very concerned about property rights, the case law makes it clear that it is not an insurmountable burden" for an applicant to obtain a special-use permit, Tew said. That low bar feeds into the Court of Appeals overturning local decisions.

Opponents have to counter applicants with "substantial, material, competent evidence that would go to disprove the points raised by the applicant, or prove things not raised by applicants," rather than just making cursory or emotional appeals, Tew said. The Court of Appeals makes fact-based decisions, and opponents are not meeting that burden.

Currituck County Manager Daniel Scanlon said county commissioners are considering how to respond to the Court of Appeals decision in their case.

"I think it's certainly disappointing whenever you have a local issue that goes into the court system, and the court doesn't rule in your behalf," Scanlon said.

County commissioners have amended their zoning ordinance to restrict where these projects would be allowed in the county, Scanlon said. The new ordinance was approved after the application for the solar development was received, so the project legally fell under the prior regulation.

Lincoln County attorney Wesley Deaton said the case there is still alive. The Court of Appeals remanded it to the Board of County Commissioners, which made additional findings in favor of neighbors and against a property owner who wants to lease his land to a solar facility. The case likely will be before Lincoln County Superior Court for the third time in February or March.

The county commissioners ruled "the opponents have proven their case by the greater weight of the evidence that there would be material damage to property value," Deaton said. "That is the only issue in play now."

Robeson County officials failed to return phone calls seeking comment about their solar case.

CI PHOTO BY DAN WAY

CI PHOTO BY DAN WAY

## EDUCATION

# Some low-performing schools adopt restart model, but many seem hesitant to try

Large districts cite added costs of 'restarting' low-performing schools, but districts in general simply may be wary of change

BY LINDSAY MARCHELLO

Charter schools offer opportunities to experiment with innovative policies and find what works best to improve academic performance, says one education scholar, and model programs allow educators to do just that.

By providing charter-like flexibility, the restart school model, for example, is one of four options for continuously low-performing N.C. public schools to improve academic performance.

The school reform model has been available to recurring low-performing schools since 2016, but only 121 schools have applied and been approved to implement a school reform model, said Nancy Barbour, director of educator support services at the N.C. Department of Public Instruction. Out of the 121 schools, 119 chose the restart model, and two chose the transformation model.

Since the list of recurring low-performing schools changes an-



**RESTART MODEL.** School districts in Johnston, Vance, Northampton, and New Hanover counties have requested charter-like flexibility for their struggling schools.

nually, Barbour said she can't state definitively how many schools have failed to take advantage of the program.

While empirical data may be lacking, Terry Stoops, vice president of research and director of education studies at the John Locke Foundation, says districts were once clamoring for charter-like flexibility. Now, fewer districts than expected are opting for the programs.

"Districts have been asking for

this kind of flexibility for years," said Stoops.

"They argued that the lack of flexibility was a barrier to innovation. Specifically, they complained that state and federal law made it impossible to replicate some of the innovative and successful policies and practices employed by charter schools."

Unlike traditional public schools, charter schools can employ unlicensed teachers, adjust the

length of school days, and alter the curriculum.

"The question is: Why are so few districts willing to ask for it if it is something they have always wanted?" Stoops asked.

Restart schools have more charter-like flexibility in hiring staff, setting the academic calendar, and spending state money. They're still required to provide transportation and meal plans — like traditional public schools.

The State Board of Education voted during a recent meeting to allow eight public schools to use the restart model in an effort to turn around continual low performance. During the same meeting, the board also approved a request from Durham Public Schools to drop 12 schools from a list of 14 considered for the restart model.

School districts in Johnston, Vance, Northampton, and New Hanover counties have requested charter-like flexibility for their struggling schools. Durham wants just two of its schools to adopt the model.

The Durham Board of Education and new Superintendent Pascal Mubenga wrote the state board in December requesting the change.

According to the *Herald-Sun*, Mubenga cited financial concerns about running 14 restart schools simultaneously as a reason to start with only two schools.

The Durham superintendent said the K-3 class size mandate added another financial challenge, warranting the board's full attention.

Stoops isn't sure why fewer

school districts than expected are vying for the restart model, but he has some theories.

"You have a school district that has a certain amount of standardization in operations, and when you start providing schools alternatives to that there is going to be some added expense with catering to those schools," Stoops explained.

While that may explain why a large district such as Durham may hesitate to run 14 restart schools, Stoops doesn't think it applies to smaller, more rural districts with less complex operations such as Bertie County.

"Maybe they are just scared, and I don't blame them for being scared. When you do a restart model and start making changes, you only have yourself to blame if things don't work out," Stoops said.

"There is a comfort in being able to say, 'Well, the state is making me do xyz,' but if you lose that scapegoat through flexibility, then it is very clear there is no one else to blame."

Barbour said there isn't enough data to conclude how well the restart model is working, especially since many schools take the first school year as a planning period. Without more data, Barbour isn't ready to speculate about a possible decline in enthusiasm for charter-like flexibility.

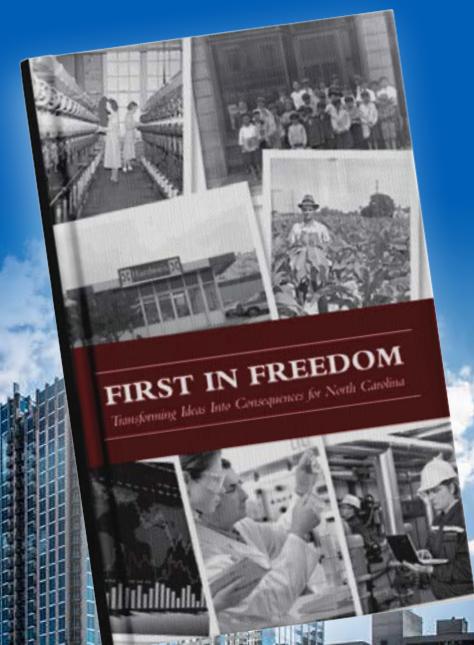
"I think what's happening is people are learning a lot about this experience and are asking a lot of questions," Barbour said. "They are being more thoughtful about the applications they are submitting."

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# ONLINE SECURITY

## Stein, Saine announce measures targeting identity theft

Democratic attorney general and Republican legislative leader unite to push protections of online consumer data

BY DAN WAY

State Attorney General Josh Stein, already a leader of the national investigation involving the Equifax security breach, last month announced a probe of a wide-scale Uber data breach.

Stein, a Democrat, made the announcement at a joint press conference with state Rep. Jason Saine, R-Lincoln. Saine said he plans to introduce a bill to toughen state laws targeting identity theft.

Stein also released the North Carolina Security Breach Report 2017, the first from the state Department of Justice. It found 1,022 breaches last year — a 15 percent increase from 2016 — affecting 5.3 million North Carolinians. That represents two out of three adults.

Since 2005 more than 14.2 million North Carolina residents have been victimized in 4,945 security breaches. Hacking accounts for 50 percent of all unauthorized data access and increased 3,500 percent since 2006.

Stein told *Carolina Journal* after the press conference that North Carolina has sound identity theft laws but must enforce them. Saine's bill "will be a gold standard piece of legislation across the entire country."

Stein would not specify how much it might cost to enforce provisions in the bill.

"All entities out there need to be constantly vigilant about what technology exists that the thieves can exploit to steal our information, and they need to be one step ahead," Stein said. "That's just a



**ENFORCING IDENTITY THEFT LAWS.** State Rep. Jason Saine, R-Lincoln, speaking, and state Attorney General Josh Stein announced their intent to file legislation to prevent data breaches and increase consumer protection after a breach.

cost of doing business, whether it's the government or the private sector."

During the press conference he said a security breach at Uber, the app-based transportation company, exposed personal information of 57 million drivers and riders.

Stein sent a demand letter to Uber for information about the cyber crime, saying he would take legal action if necessary.

Stein is on the executive committee of 48 state attorneys general investigating the Equifax breach that occurred last year from May to July. That case accounted for many of the more than 5 million North Carolinians victimized last year by data breaches. The Equifax breach affected 143 million Americans.

"That work is ongoing, and I will take whatever legal action is appropriate" against the company, Stein said. He has sent letters to Equifax

demanding more information on how the unauthorized intrusion occurred and what the company is doing to protect affected consumers.

He sent letters to Experian and TransUnion, the other two major credit reporting bureaus, seeking information on their security processes and how they plan to protect consumers' private information.

North Carolina law requires all entities experiencing a breach to notify affected consumers and the Justice Department. But the language is ambiguous, stating that notification must be made "within a reasonable amount of time." Saine's bill requires notification within 15 days of a breach.

Equifax waited 40 days after learning of its breach to notify consumers. Uber waited more than a year.

*CJ* earlier questioned the "reasonable time" language in reporting

on a state Department of Health and Human Services data breach, and asked whether state agencies were notifying victims promptly. There were 250 data breaches among state agencies last year, a record.

"These delays are unacceptable. Every day a consumer is unaware of a breach is another day that a criminal can be accessing and using your personal information to take out credit in your name and ruin your good credit standing," Stein said.

Saine said his legislation still was being drafted at press time. But he said its provisions include:

- Redefining "data breach" to include new attack methods.
- Requiring businesses to maintain reasonable security procedures and practices for consumer data.
- Allowing consumers to put a free credit freeze on their credit report at any time to

prohibit a thief from using stolen information.

- Providing access to three free credit reports from each consumer reporting agency after a breach.
- Requiring consumer reporting agencies to provide five years of free credit monitoring to victims of a breach.

Under the legislation, any company experiencing a data breach that did not maintain reasonable security procedures would violate the Unfair and Deceptive Trade Practices Act. Each victim would represent a separate violation.

Doug Dickerson, state director of AARP North Carolina, said Saine's bill is long overdue. Cyber thieves are increasingly targeting senior citizens because they tend to have more money in more accounts than young people and aren't as savvy about protecting their data.



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# REDISTRICTING

## OF ELECTIONS AND COURTS

### A timeline of the battle over redistricting in North Carolina

BY LINDSAY MARCHELLO

The debate over redistricting continues to occupy a big chunk of the news in North Carolina, and it shows no signs of relenting. For decades, North Carolina has grappled with the issue of redistricting, with Democrats and Republicans facing accusations of gerrymandering and drawing unconstitutional districts.

Democrats faced backlash for drawing maps in the 1990s on the basis of race, leading to *Shaw v. Reno* in 1993. In that case, the U.S. Supreme Court ruled the maps were a racial gerrymander and set a precedent requiring redistricting efforts to walk a fine line between complying with the Equal Protection Clause of the 14th Amendment and complying with the Voting Rights Act of 1965.

Since 2011, lawsuits targeting either legislative or congressional districts (or both) have continued into 2018. Not only have the lawsuits launched accusations of racial gerrymandering, but a few have brought forth complaints of partisan gerrymandering, too. Keeping track of all the lawsuits can be difficult, but it helps to start from the beginning.

### COVINGTON V. NORTH CAROLINA

**May 31, 2015**

Thirty-one North Carolina residents sue the state, legislative leaders, the redistricting committee, and the state Board of Elections, arguing Republican lawmakers unconstitutionally packed African-American voters in nine Senate districts and 19 House districts, violating the Equal Protection Clause of the 14th Amendment.

**Aug. 11, 2016**

The U.S. District Court issues a unanimous opinion ruling in favor of the plaintiffs' complaint that legislators packed certain districts with African-American voters.

**Nov. 14, 2016**

State lawmakers appeal the court's ruling to the U.S. Supreme Court, arguing they drew the maps to avoid violating Section 2 of the Voting Rights Act. Meanwhile, the court orders the General Assembly to create remedial maps by March 15, 2017, and hold a special election in fall 2017. A stay requested by the state is granted.

**June 5, 2017**

The U.S. Supreme Court summarily affirms the decision of the District Court, but a unanimous high court upbraids the lower court for ordering special elections without adequate justification. The U.S. Supreme Court orders the trial court to reassess whether a special election in 2017 would be appropriate.

**July 31, 2017**

The U.S. District Court orders the General Assembly to adopt new maps by Sept. 1 but doesn't require a special election.

### COMMON CAUSE V. RUCHO AND LEAGUE OF WOMEN VOTERS V. RUCHO

**CC**

**Aug. 5, 2016**

Common Cause North Carolina files a complaint with a three-judge court panel, arguing North Carolina's 2016 congressional redistricting plan as a whole features unconstitutional partisan gerrymandering that violates the First Amendment, the Equal Protection Clause of the 14th Amendment, and Article I, Section 2 of the U.S. Constitution.

**LWV**

**Sept. 22, 2016**

The League of Women Voters of North Carolina files a complaint that North Carolina's remedial congressional map violates the First and 14th Amendments and constitutes a partisan gerrymander.

**CC**

**Oct. 31, 2016**

Defendant Robert Rucho, chairman of the N.C. Senate Redistricting Committee, files a motion to dismiss. Rucho argues the claims of partisan gerrymandering aren't supported by any prior decision by the U.S. Supreme Court.

**LWV**

**Nov. 28, 2016**

Robert Rucho, chairman of the N.C. Senate Redistricting Committee, files a motion to dismiss the complaint.

**CC LWV**

**March 3, 2017**

A three-judge panel denies the state's motion to dismiss and consolidates the two cases, since both address similar complaints about partisan gerrymandering.

### DICKSON V. RUCHO

**Nov. 3, 2011**

Forty-five North Carolina residents file suit against the state's congressional and legislative redistricting plans in Wake County Superior Court. The plaintiffs, including former state Sen. Margaret Dickson, contend the maps were racially gerrymandered and split districts.

**Nov. 4, 2011**

The North Carolina State Conference of Branches of the NAACP, League of Women Voters of North Carolina, Democracy North Carolina, North Carolina A. Philip Randolph Institute, and individual registered voters, file suit challenging the constitutionality of the 2011 redistricting plans.

**Dec. 19, 2011**

The *Dickson* and *NAACP* cases are consolidated.

**Jan. 13, 2012**

Legislative defendants file a motion to dismiss the case.

**Feb. 6, 2012**

The Wake County Superior Court upholds part of the motion to dismiss but allows other parts of the case to proceed.

### COOPER V. HARRIS AND HARRIS V. COOPER

**CH**

**Oct. 24, 2013**

North Carolina residents David Harris, Christine Bowser, and Samuel Love file a complaint against then Gov. Patrick McCrory, the N.C. State Board of Elections, and Joshua Howard, then chairman of the N.C. State Board of Elections. Defendants argue North Carolina's congressional Districts 1 and 12 were racial gerrymanders in violation of the Equal Protection Clause of the 14th Amendment.

**CH**

**Feb. 5, 2016**

A three-judge panel of the U.S. District Court for the Middle District of North Carolina finds that racial considerations predominantly motivated the drawing of both challenged districts. The court strikes down the congressional maps, and the state appeals the decision.

**HC**

**March 3, 2016**

Plaintiffs of *Cooper v. Harris* filed an objection, arguing the General Assembly has not remedied the racial gerrymander and instead has employed an unconstitutional partisan gerrymander with the new 2016 congressional maps.

**HC**

**June 2, 2016**

The District Court denies the plaintiffs' objection but emphasizes that further challenges to the maps are not prevented by this decision.

**HC**

**July 5, 2016**

Plaintiffs David Harris and Christine Bowser file an appeal to the U.S. Supreme Court over the June memorandum opinion. The U.S. Supreme Court leaves the case in limbo.

#### KEY

- CC** Common Cause v. Rucho
- LWV** League of Women Voters v. Rucho
- CH** Cooper v. Harris
- HC** Harris v. Cooper

# REDISTRICTING

**Sept. 7, 2017**

The state files remedial maps adopted by the General Assembly.

**Sept. 15, 2017**

Plaintiffs file objections to 12 of the newly drawn districts, claiming four are still racially gerrymandered and several violate the state Constitution. The plaintiffs ask the court to adopt part of the remedial maps and part of their alternative maps to remedy the violations, or sustain objections and order a special master to redraw the districts.

**Sept. 22, 2017**

The state files a response to plaintiffs' objections.

**Oct. 12, 2017**

The three-judge federal panel holds a hearing on the remedial plan and determines a special master is needed. Stanford University professor Nathaniel Persily is named special master. Persily is ordered to prepare a report and redraw two Senate districts and seven House districts the court believes were legally infirm.

**Nov. 11, 2017**

The special master submits a draft plan for comment.

**Dec. 1, 2017**

The special master files recommended plan.

**Jan. 5, 2018**

The U.S. District Court holds a hearing on the remedial plan.

**Jan. 19, 2018**

The U.S. District Court orders the defendants to implement the special master's recommended plan.

**CC LWV**

**June 26, 2017**

Legislative defendants file a motion to stay the case pending the U.S. Supreme Court's final decision in *Gill v. Whitford*, a Wisconsin case addressing partisan gerrymandering. The plaintiffs oppose the motion.

**CC LWV**

**Aug. 29, 2017**

The U.S. District Court denies the motion to stay.

**CC LWV**

**Jan. 9, 2018**

The court strikes down the congressional map as an unconstitutional gerrymander and blocks the state from using the plan in the future. The court directs the General Assembly to adopt a remedial plan by Jan. 24 and file that plan with the court by Jan. 29.

**CC LWV**

**Jan. 11, 2018**

The defendants file a notice of appeal to the U.S. Supreme Court and file an emergency appeal to stay the remedial map-drawing process pending the Supreme Court's decision in *Gill v. Whitford* and *Benisek v. Lamone*, a Maryland partisan gerrymandering case.

**CC LWV**

**Jan. 12, 2018**

State defendants file an emergency application with the U.S. Supreme Court requesting the court to stay proceedings at the U.S. District Court pending appeal.

**CC LWV**

**Jan. 16, 2018**

A three-judge district court panel rejects the defendants' request for a stay.

**CC LWV**

**Jan. 18, 2018**

The U.S. Supreme Court stays the lower court's decision requiring the General Assembly to adopt a remedial plan by Jan. 24.

**July 8, 2013**

The Superior Court upholds the 2011 maps in a unanimous decision, arguing that while 26 of the 30 contested districts (Voting Rights Act districts) had been drawn predominantly on the basis of race, the plans were constitutional because the state drew them to avoid liability under Section 2 of the Voting Rights Act and to secure Section 5 preclearance from the U.S. Justice Department. Plaintiffs appeal the ruling to the N.C. Supreme Court.

**Dec. 19, 2014**

The N.C. Supreme Court affirms the Wake County Superior Court's decision, but argues that the trial court had not made adequate findings of fact to conclude that the "VRA districts" were drawn predominantly based on race. Nonetheless, the N.C. Supreme Court upholds the trial court's decision. Plaintiffs appeal the ruling to U.S. Supreme Court.

**April 20, 2015**

The U.S. Supreme Court vacates the N.C. Supreme Court's decision and orders the lower court to reconsider the case in light of the decision in *Alabama Legislative Black Caucus v. Alabama*.

**Dec. 18, 2015**

The N.C. Supreme Court reconsiders the case and rules again that the General Assembly was justified in using race to redraw the congressional and legislative maps to avoid liability under the Voting Rights Act.

**June 30, 2016**

The plaintiffs submit a writ of certiorari with the U.S. Supreme Court, asking the court to determine whether Section 2 requires a jurisdiction to draw a racially proportionate number of majority-black legislative districts, each with a black voting-age population of more than 50 percent.

**May 30, 2017**

The U.S. Supreme Court vacates the N.C. Supreme Court's ruling and remands the case for further consideration in light of the Supreme Court's decision in *Cooper v. Harris*.

**Sept. 28, 2017**

The N.C. Supreme Court remands the case to the trial court to determine whether the case is now moot in light of *Cooper v. Harris* and *North Carolina v. Covington*.

**Dec. 15, 2017**

The trial court hears the case. An opinion is pending.

**CH**

**Dec. 5, 2016**

The U.S. Supreme Court hears the case.

**CH**

**May 22, 2017**

The U.S. Supreme Court issues a 5-3 decision rejecting the state's appeal and reaffirms the U.S. District Court's ruling that race was wrongfully used in creating two congressional districts.



# CRIMINAL JUSTICE

## N.C. prisons

continued from PAGE 1

Kerr's death was the culmination of a gruesome ordeal, lawyers from the American Civil Liberties Union of North Carolina wrote in an August 2015 letter to the U.S. Department of Justice. A schizophrenic and former Army sergeant, Kerr had been locked in solitary confinement since February of that year. He was off his medication and under the care of prison doctors. He refused to eat. He was left in his cell for days during a psychosomatic episode, handcuffed and covered in feces. Upon time of transport, Kerr was weak and fell out of his wheelchair.

His transporters drove past eight hospital emergency rooms on the way to Central Prison.

The case illustrates one of many deep-rooted problems in the state prison system, Chris Brook, legal director for the ACLU, told *Carolina Journal*. Those problems come from many directions, as evidenced by catastrophic events at two understaffed, high-security prisons last year.

An April altercation at Bertie Correctional Institution left 29-year-old Sgt. Meggan Callahan dead after an inmate beat her with a fire extinguisher. In a deadly Oct. 12 escape attempt at Pasquotank Correctional Institution's sewing plant, inmates stabbed guards with scissors and battered them with hammers. They set fire to the facility. The prison break failed, but four employees, including plant manager Veronica Darden, died. Several officers and inmates were injured, and four inmates were charged with first-degree murder.

At Bertie, one in every five officers' positions were empty. At Pasquotank, 28 percent of positions went unfilled, and only one officer presided over roughly 30 inmates in the sewing plant at the time of the attack.

After the events at Bertie and Pasquotank, the N.C. Department of Public Safety — which was already reviewing prison operations — faced public inquisition about its staffing, training, and safety practices.

Insufficient mental health treatment, overreliance on solitary confinement, understaffing, underfunding, and poor staff training headline the list of challenges for the state's 55 prisons.

The North Carolina corrections system saw a major increase in violence during 2017, DPS Secretary



**CENTRAL PRISON.** Central Prison in Raleigh, where inmate Michael Kerr would have received treatment at a prison hospital. Kerr died on his way from Alexander Correctional Institution in Taylorsville, where he was malnourished and dehydrated.

Erik Hooks said during a meeting of the Governor's Crime Commission in December. After taking office last year, Hooks began a top-to-bottom review of DPS, said agency spokeswoman Pamela Walker.

The secretary's main priority is "the safety and security of our staff in the prisons," Walker said. The Pasquotank tragedy expanded Hooks' focus on staff training and vacancies.

Hooks shut down the Pasquotank sewing plant after the attacks. He also requested a review of inmates and prison safety operations.

David Guice, formerly chief deputy secretary for Adult Correction and Juvenile Justice, resigned 11 days after the Pasquotank incident. Guice, the former director of Community Corrections at DPS, was appointed to the post in 2013. He preferred prisoner rehabilitation and reforms over "tough on crime" policies. His resignation was abrupt — and DPS officials provided little explanation.

Tragedies like those at Bertie and Pasquotank are devastating,

but violence is common inside prison walls, Brook said.

In September 2012, inmates at Lanesboro Correctional Institution stabbed a member of a rival gang 13 times with crude shank knives. The event is just one of many investigated by the *Charlotte Observer* since 2015.

"It's surely correct our prison system has to deal with challenging individuals who have done terrible things on the inside. Everyone should recognize and appreciate that. [However], correctional officials [and] law enforcement have to deal with where we have fallen down," Brook said.

Overuse of solitary confinement and a lack of proper mental health treatment exacerbate conflict among inmates, said Susan Pollitt, senior attorney at Disability Rights North Carolina. In cas-

es in which prisoners suffer mental disorders, isolation may trigger episodes. In other cases, it may destabilize inmates.

Of roughly 37,000 prisoners in North Carolina, about 5,000 are locked away for 23 or 24 hours a day

"without sunlight, fresh air, or contact with human beings," the ACLU letter says.

More than one in five of those prisoners have mental illnesses. On any given day, about 700 inmates with psychological disorders are held in isolation.

Kerr's case is common, Brook said. The inmate was locked in solitary confinement for infractions that occurred after he stopped taking medication the previous year.

In the days leading to his death, prison officers refused to comply with orders for medical treatment. Kerr was also placed on Nutraloaf — a bland meatloaf diet given to prisoners as a punishment — for several weeks. His water was turned off after he began flooding his cell.

"The treatment that led to Mr. Kerr's horrific death is not an isolated episode; such neglect is in fact routine for many inmates with mental illness in North Carolina's state prison system," the ACLU letter states. "When inmates misbehave — even when it is symptomatic of mental illness — they are sent to segregation."

The prison system is the "largest de facto mental health provider in the state," Kenneth Lassiter,



**KENNETH LASSITER.** Kenneth Lassiter was appointed N.C. director of prisons in April, 2017. Lassiter oversees 55 prisons and more than 37,000 inmates.

continued NEXT PAGE

# CRIMINAL JUSTICE

continued from PREVIOUS PAGE

director of prisons for DPS, told *CJ*. Mental health has no bearing on prison violence, but it's a challenge.

"We are short providers. We are constantly trying to train and re-train our staff. One of the positives is that we are one of the first states to provide crisis intervention training for our officers."

Prison staffers are heroes who risk their lives each day to protect their communities, Lassiter told *CJ*.

Today, those heroes are in short supply. In 2017, 16 percent of officer positions at state prisons were empty — up from 9 percent in 2016, state data show.

The Pasquotank ordeal wouldn't have happened if more officers were on duty, Brook said.

"I don't know that anyone would argue it makes sense for there to be only one correctional officer supervising [that many] inmates at one time, especially when they have access to deadly weapons," Brook said.

DPS can improve prison security by hiring executives for adult and juvenile corrections, increasing staff salaries, and recruiting new prison staffers, among other things, a Duke University report presented before the N.C. Governor's Crime

## 12%

12 percent of North Carolina's inmate population receives some form of mental health treatment.

Commission in December shows.

DPS operates on a more than \$2 billion budget. The total prisons budget is \$1,277,212,223. Of that, \$931,835,301 goes to salaries, Social Security, and retirement and health benefits, Walker said.

DPS hires close to 17,000 staffers across the prison system. Officer salaries average around \$35,000. It's tough to recruit people for such little compensation, Lassiter said.

"This is the last place people come when the economy is well," he said.

"It's a challenging, dangerous career to be inside a prison facility day in and day out, and our staff meet that challenge daily. Unfortunately, the tragic events that took place at Bertie and Pasquotank have brought special attention to our profession."

Many prisons are concentrated in rural areas, another challenge in the hiring process.

"There are some prisons in urban areas where we have some problems with staffing, [but] rural areas are much harder because you deplete the pool of applicants in those areas, so ... it's a greater distance to drive," Lassiter said.

Ultimately, cultural issues are at play, many of which affect the overall workings within the system, Brook said. Most prisoners end up back on the streets. Rehabilitative programs, such as skills training and integration with other prisoners, are better ways to prepare inmates for life on the outside.

"Folks at DPS have spoken candidly that they face some cultural challenges. I think some of the best practices they grew up with in the system is 'lock 'em up and throw away the key.'"

But prisons are home to felons — the state's most dangerous criminals, Lassiter said.

"The men and women who work for us are leaving home, kissing their loved ones goodbye, and their expectation is that they're going to walk back through the door that night. Unfortunately, this year, we had some colleagues who didn't walk back through that door. That weighs on me daily, and that's why I'm doing this job — and we want to make a difference moving forward."



## Prison reform gets national attention

Public safety and prison reform are top priorities for the White House.

The administration is tough on crime — but big on second chances, President Trump told a group of governors, faith leaders, and conservative activists Jan. 11.

"We want to ensure that those who enter the justice system are able to contribute to their communities after they leave prison, which is one of the many very difficult subjects we're discussing, having to do with our great country," Trump said.

Two-thirds of the 650,000 people released from prison each year are arrested again within three years, he added.

Money is poorly spent in federal prisons, said U.S. Attorney General Jeff Sessions. The administration is committed to "doing a better job on re-entry programs and job-training programs."

Jared Kushner, Trump's son-in-law and adviser, engineered the discussion, which followed months of administration-led efforts to crack down on drug crimes — particularly low-level offenses.

Imprisoned addicts should be rehabilitated, Trump said.

"We can break this vicious cycle through job training — very important, job training — mentoring, and drug addiction treatment."

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## LOCAL GOVERNMENT

# Time for capital city to rethink free downtown bus line



### JULIE TISDALE

CITY AND COUNTY POLICY ANALYST  
JOHN LOCKE FOUNDATION

Introduced in Raleigh in 2009, the R-Line is entering its 10th year. It's time to consider how it has fared.

First, if you don't live or work in downtown Raleigh, you probably don't even know about the R-Line. It's a downtown circulator bus service that runs a single loop from the city convention center and performing arts center to William Peace University and Glenwood South. It covers more than 3½ miles, and it's free to ride.

Of course, it's not actually "free." It's completely funded by taxpayers, so all of Raleigh pays for it. But there's no charge when you board, and that's where the questions begin.

How much does the R-Line cost

Raleigh taxpayers? The number I've seen several different places is around \$1 million a year. In mid-2016, the *News & Observer* published an article saying the city spends \$923,700 a year on the route, but without citing a source. Two years earlier, WUNC said the city spends \$1 million per year, but again, without citing a source. I started asking around late last year, including public records requests to the city of Raleigh, and I've so far been unable to find a solid number. The city has sent me ridership and revenue numbers, but nothing about cost.

So does anyone actually even know how much the R-Line costs?

The fact that I can't find a number is a problem. Government at all levels should be concerned — always — with value for money. Local governments are no exception. Cities and counties should be assessing how they spend every single dollar, what they spend for services, and how efficiently money is being allocated. They should be accountable to taxpayers for how they spend our dollars. Whether no one knows, or no one



**It's time for Raleigh to rethink the R-Line. As a first step, the city needs to figure out just how much it's spending on the service.**

wants to tell me, there's an accountability problem with R-Line spending.

What about the numbers we do have? First revenue, because that's the easy one. It's \$0. There's no fare charged to ride the R-Line. You just hop on. The argument when it was built was that downtown needed such a service to make the most of the convention and performing arts centers, which lie at the southern end of the R-Line's route. People attending

conventions would want an easy, cheap way to get to restaurants, bars, and shops, such as those at the north end of the R-Line loop, especially since there wasn't very much that was walkable from the Convention Center at the time.

But fast forward 10 years, and the landscape downtown has changed. There are numerous options for bars and restaurants within easy walking distance of the convention center. Not only that, but Uber came to Raleigh in 2014, making it cheap and easy for visitors to get around town. The arguments for the R-Line just don't seem to hold up in 2018.

And then there's the ridership number, which peaked in 2012 and has dropped significantly every single year since. In fact, through the middle of last year — the most recent numbers available from the city — 2017 had the lowest average monthly ridership ever; even lower than the inaugural year. There's no evidence to suggest that's going to change. Yet the city of Raleigh continues to spend an unknown amount of money on the service.

Finally, I think we should consider the area of town served by the R-Line. Downtown Raleigh has one of the highest costs of housing per square foot of any section of the greater Raleigh area. It's one of the most expensive places to live, which means the people who do live there tend to be wealthier. But buses that serve poorer parts of the city charge fares; the R-Line is fully funded by taxpayers. Why are Raleigh taxpayers providing a "free" bus service to one of the wealthiest parts of the city, while charging poorer residents for normal city buses?

It's time for Raleigh to rethink the R-Line. As a first step, the city needs to figure out just how much it's spending on the service. Given the precipitous decline in ridership, it seems likely the cost per passenger has increased significantly over the past five years. Did it ever offer good value for taxpayers? Does it now? Why, exactly, are taxpayers footing the bill for a "free" bus in one of the wealthiest parts of town that no one's even using?



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# TAXATION

## Clear up confusion about corporate tax 'giveaways'



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

It's a pretty safe bet that most N.C. voters dislike "corporate giveaways."

If politicians did a better job distinguishing those "giveaways" from income tax rate cuts that affect all corporations, the state's economy would likely see substantial benefits.

This commentator has never seen polling data on the phrase "corporate giveaways," but he suspects that Gov. Roy Cooper's team has. Those "corporate giveaways" must get low marks from the voters. The Democratic governor has used the words on multiple occasions to decry recent tax rate cuts by the Republican-led General Assembly.

At the same time that Cooper and his ideological allies have decried "giveaways," they've extolled the benefits of targeted tax incentives aimed at particular businesses or industries.

Most of those businesses operate as corporations. State government gives away special tax breaks to the favored corporations while



making those same breaks unavailable to others. Combine "corporations" and "giveaways," and it's hard to judge those incentives to be anything other than "corporate giveaways."

And the Cooper administration has not shied away from giveaways. In 2017 "the state struck deals to potentially grant as much as \$185 million in incentives to 54 companies," according to the *Raleigh News & Observer*. In comparison, the state granted about \$67 million in targeted incentives in 2016, the newspaper reported. That was the last year of Republican Pat McCrory's term as governor.

As the newspaper noted, the apparent contradiction between Cooper's rhetoric and his admin-

istration's actions has attracted attention from groups like North Carolina's chapter of Americans for Prosperity. AFP has launched a "Reverse Robin Hood Cooper" campaign to highlight the issue.

"I think he's misusing terms," said Donald Bryson, AFP state director, in a recent interview with Carolina Journal Radio. "The problem is that the governor is using when we cut the rate evenly for all corporations — when we treat Bill's Plumbing the same as we treat Bank of America — with the same corporate tax rate, he says that's a corporate tax giveaway. However, he'll go off and give these special incentive deals to specific companies, usually politically connected companies."

Setting questions about

terminology and political connections aside, it's important to ask whether these special incentives work. It would be hard to answer "yes" based on the *N&O* report. It quotes both the research director of the "left-leaning" Economic Policy Institute and a University of Texas professor who founded the Economic Development Incentive Evaluation Project. Neither gives incentives high marks.

Meanwhile, the story is different for the broad-based tax rate cuts that Cooper mislabels as "corporate giveaways." Those rate cuts "consistently yield results," said Mike Walden, N.C. State University economist.

"There is much literature to support the idea that lowering the state corporate tax rate does have a positive impact on state-level economic growth," Walden told the newspaper.

Speaking of "economic growth," it's important to distinguish between that term and "economic development." That's the argument Roy Cordato has been making for years. Senior economist at the John Locke Foundation, Cordato explains why a government focus on economic growth makes much more sense than a focus on economic development.

The pursuit of economic development involves government actors inserting themselves into economic decisions best left to others. "It necessarily entails an

effort by the state to pick winners and losers in the marketplace by using tax breaks and direct subsidies to promote specifically targeted businesses and industries," Cordato said. "This in fact is what 'crony capitalism' is all about."

In recent years, N.C. state government has used economic development policies to promote tourism, films, sports, telecommunications, biotechnologies, health care, and financial services. Businesses outside the government's target areas have enjoyed none of the same access to special corporate giveaways.

"In reality, economic development is simply a disguised form of state central planning of the economy, and it should be abandoned," Cordato argues.

Targeting economic growth instead requires a much different set of government actions, Cordato said. "The policy approach is usually very broad, applying to everyone — tax breaks for all, regulatory breaks across the board for bigger companies and smaller companies," he told Carolina Journal Radio. "Not targeted, but an equal-opportunity approach with respect to entrepreneurs and entrepreneurship."

Tax and regulatory breaks for all? An equal-opportunity approach? Those sound like messages that would appeal to voters as well as economists. Much more so than "corporate giveaways."



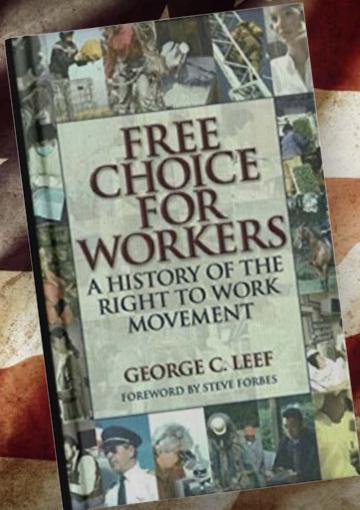
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# EDUCATION

## Why doesn't America have more apprentices?



**ANTHONY HENNEN**  
COLUMNIST

Within the fractious realm of higher education policy, one of the few ideas to gain bipartisan support is the expansion of technical training for young workers, largely through apprenticeships. Both the left and right favor apprenticeships as a way to educate and train America's youth for future success.

But despite the many advantages offered by apprenticeships, there has been no great rush by young people into such programs. Instead, for many young people, a college degree remains their primary goal upon graduating from high school. Among the reasons are a lack of awareness and a degree of social stigma sometimes attached to those who don't pursue an academic degree. College-educated parents are particularly suspicious of the long-term benefits of apprenticeships. They tend to like it when other people's children become apprentices, rather than their own.

Still, for many young people, apprenticeships should be especially attractive because they offer an immediate paycheck for work and also teach skills in hands-on and classroom settings. The average apprenticeship period tends to



be about four years, according to Department of Labor statistics, and workers usually become full employees upon program completion.

In contrast, the traditional college route not only requires considerable payment for tuition and fees, but postpones full-time income for at least four years.

Part of an academic degree's popularity comes from teachers and parents preferring that students obtain a college degree after high school graduation. "Education has done a very good job of selling education," Dudley Light, regional director in Texas for the Department of Labor's Office of Apprenticeship, said in a Martin Center interview.

"Young folks don't understand the concept of apprenticeship.

That word doesn't mean anything to them because they didn't grow up with it," said Brenda Dant, executive director of the Indiana Association of Plumbing, Heating, and Cooling Contractors. The IAPHCC, a trade group, sends members into schools to speak with students. In talking about their work, representatives tie "apprenticeship" to words that hold resonance with students — words such as "internship" or "mentorship." The hope is that local outreach will find workers to replace retiring baby boomers and expand the apprenticeship system.

Apprenticeship is becoming more common in America. Nationally, 21,000 registered programs have more than 505,000 apprentices as of 2016, a figure that has

climbed 29 percent since 2011, according to the Department of Labor.

And employers and apprentices seem happy with the system. A 2009 report from the Urban Institute found that nine out of every 10 employers would "strongly recommend" registered apprenticeships, and 65 percent of employers had completion rates above 70 percent in their programs. That's better than the 59 percent six-year graduation rate for college students.

"Growing the apprenticeship system today in the United States, even at a modest level, could be transformative," said Brent Parton, deputy director of the Center on Education and Skills at the New America Foundation. "It's really an underutilized way of learning, something that's really been something of a best-kept secret in a handful of industries."

Today, many apprenticeship programs partner with community colleges and technical schools for training. The Urban Institute study found that 58 percent of employers used community colleges and public technical colleges for classroom training. Apprentices don't just spend four years on construction sites under the sun. They are also learning in college-style classes without taking out federal student loans.

These partnerships may change which industries use apprenticeships, too. The construction, military, and manufacturing sectors dominate, but public administration, health care, and information

technology use apprentices. Additionally, finance and insurance, real estate, and accommodation and food services are starting to use apprenticeship programs. Many boosters see expansion in these sectors as key.

Still, there are other reasons there hasn't been a more rapid expansion of the apprenticeship concept. One of them is economic reality. The modern economy, in which workers have more mobility and an easier time of finding another job, makes employers wary of investing in worker training.

Economic cycles cause other problems. Apprenticeship tends to expand with a boom and contract with a bust. Because apprenticeships train workers more narrowly than a college degree, this specialized knowledge is less flexible and can make transitioning into another job difficult.

Another dynamic is that apprentices tend to be older than the traditional college student, with an average age of 28.

With more apprentices ignoring the possible stigma, that could result in workers finding jobs that match their skills and a reduction in student debt — for students and for the taxpayers who subsidize the loans. But it's important to treat apprenticeships as one option of many for education and economic training with its own costs and benefits — much like a college degree.

*Anthony Hennen is a writer and editor at the James G. Martin Center for Academic Renewal.*

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# EDUCATION

## Tax reform that boosts K-12 choices



**KRISTEN BLAIR**  
COLUMNIST

Funding private school just got a little bit easier. A provision in the new federal tax law expands the use of tax-advantaged 529 accounts to include K-12 tuition. Established 20-plus years ago, 529 plans were created to help families save for college and accrue tax-free earnings on contributions. Will expansion push the private schoolhouse door open wide? It's hard to say; hurdles precede widespread participation. Still, the scope of this reform shows how far school choice proponents have come in shaping policies favoring educational flexibility and freedom.

The ideological tide really has turned, bringing with it a federal tax code that's far more supportive of parents' choices.

Coverdell Education Savings Accounts have enabled parents, within income limits, to set aside funds and make tax-free with-



drawals for K-12 expenses. But such accounts cap total annual per-child contributions at \$2,000. Expansion of 529 plans allows families, regardless of income, to make larger contributions and then withdraw up to \$10,000 annually per child, tax-free.

But, about those hurdles: States may need to amend their tax codes to sync up with federal law, according to *Time*. Some stipulate that "qualified expenses" are restricted to college costs. More

than 30 states offer a deduction or tax credit for 529 contributions, so parents should track state changes moving forward. North Carolina lawmakers removed the state tax deduction on NC 529 Plan contributions several years ago.

Parents planning to open 529 accounts may also consider whether they'll apply for financial aid down the road. Myra McGovern, vice president of Media at the National Association of Independent Schools, says 529 expansion won't

impact NAIS' financial aid formula, used by 2,000 private schools, "in the short term." The current year's formula is set. However, "529 plans are considered parent assets," says McGovern, and will be "evaluated very conservatively in the mix of financial assets" in future formulas.

Another hurdle: educating parents. The 529 plans are an enigma to many. A 2017 survey from financial services firm Edward Jones found just 42 percent of parents could identify 529s' purpose, meaning parents may be missing out on key tax benefits. Participation in North Carolina's 529 plan is growing but limited: The State Education Assistance Authority maintained 136,766 NC 529 Plan accounts in 2017, a 3 percent annual increase.

Yet the potential for choice-driven change remains significant, particularly in North Carolina, an outlier in K-12 trends and a bellwether for reform. Nationwide, federal data show private K-12 enrollment fell from 5.9 million students in 1995-96 to 4.9 million in 2015-16 — a 17 percent drop-off. But North Carolina's private enrollment increased 36 percent during that time frame. Private enrollments did begin decreasing in

2008, not long after the Great Recession began — but rebounded in 2014-15 as momentum for choice intensified. That year marked the launch of North Carolina's private school voucher program. A new state-funded education savings account will provide tuition funds to special-needs students next year.

Will 529 expansion drive private K-12 enrollment growth further? "I do think, in broad strokes, it's going to help," says Joe Haas, executive director of the N.C. Christian School Association. "It expands options to parents who have the ultimate responsibility to educate children." McGovern doesn't anticipate big impacts nationally but affirms, "Anything that helps families afford private school is a positive development."

Funding private school remains a heavy lift for lots of parents. Most children attend public schools and will continue to do so. But tax reform that supports more families nationwide in making that choice? That is, unequivocally, a good thing.

*Kristen Blair is a Chapel Hill-based education writer. She serves on the board of a North Carolina independent school.*

## How the N.C. legislature can improve higher education in 2018



**JENNA A. ROBINSON**  
COLUMNIST

**LEGISLATORS RETURNED** to Raleigh early last month for a brief special session, and education was at the top of some legislators' agenda.

Here in North Carolina, education makes up roughly 40 percent of total state spending. The appropriation for the UNC system alone is nearly \$3 billion. With such a large stake in the outcome, legislators are right to focus on improving education. Here are a few higher education initiatives I hope they take up this year.

### Improve due process for students

Students saw a positive change for due-process rights in 2017. The U.S. Department of Education repealed the infamous "Dear Colleague" letter that required



### The General Assembly should change state law to subject all foundations that operate to benefit a public university or college to open-records laws.

universities to employ a "preponderance of the evidence" standard when judging cases of sexual misconduct.

A new guidance letter now allows — but doesn't require — colleges to use the "clear and convincing evidence" standard. Many university administrators have announced their intention to continue using the lower standard, so students across the country will continue to be penalized or expelled if campus courts determine that it is "more likely than not" that sexual harassment occurred.

Now, the General Assembly has the opportunity to protect students' rights by requiring

public colleges to use the stricter "clear and convincing evidence" standard.

A North Carolina bill that stalled in committee last year provides a blueprint. If enacted, the bill would require universities to give accused students adequate notice and details of the allegations, and copies of all evidence. It also would permit both parties in a case to question and cross-examine witnesses. And it states the standard of proof for proving sexual misconduct should be "clear and convincing evidence." Enacting such protections should be a priority.

### Increase transparency of public university foundations

Most of North Carolina's 16 public universities, and many of its community colleges, have set up private nonprofit foundations to act as the fundraising, investment, and publicity arm of the school.

Despite considerable entanglement between the public entities and the private foundations, there's little to no oversight. The public doesn't know where such foundations get their money or

how it's spent.

More transparency is essential to ensure university foundations are operating lawfully and for their public purpose. Across the country, there have been too many examples of waste and fraud in university foundations to continue allowing them to operate in the dark.

To shed light on foundations' activities, the General Assembly should change state law to subject all foundations that operate to benefit a public university or college to open-records laws.

### Follow up on financial transparency and funding models

The legislature also should revisit two significant actions for higher education finance.

In 2015, an important measure for financial transparency passed that requires every state agency to provide its budget data and post it online. The website includes some information that's useful for understanding university spending.

But the legislature wasn't satisfied. This year, they should demand action from universities

to provide finally the information they requested.

The legislature also should follow closely the work of the University of North Carolina funding model task force. The task force aims to evaluate and improve the existing UNC funding formula, which emphasizes enrollment instead of performance. The group is expected to make recommendations to the Board of Governors in April.

The legislature already has made great strides to improve the process, including the elimination of incentives to overestimate enrollment. Although the task force reports to the Board of Governors, the General Assembly determines the amount and method of funding for public universities. Legislators should listen carefully to ideas from the task force.

Over the past half-decade, the General Assembly has worked to enact positive reforms in the UNC system. I expect 2018 will be another great year for UNC students, parents, and residents.

*Jenna A. Robinson is president of the James G. Martin Center for Academic Renewal.*

# MEDIA

## New home for 'NC SPIN' after its milestone 1,000th program



**Tom Campbell**  
Founder and Moderator  
"NC SPIN"

Much has changed in N.C. politics during the past 19 years. The "NC SPIN" television program has documented those changes for viewers throughout the state. Founding host and moderator **Tom Campbell** discussed a recent "NC SPIN" milestone — 1,000 episodes — during a speech for the John Locke Foundation. He shared themes from the speech during a conversation with Mitch Kokai for Carolina Journal Radio.

**MK:** That is a lot of TV. And you have obviously, during the course of that time, seen a lot of changes in North Carolina politics.

**TC:** So many that it's almost hard to put your finger on all of them. I think the biggest change I've seen, first of all, [is] ... the shift of power in North Carolina. It used to be that most of the political power was east of [Interstate] 95. No longer the case. All of the East now is solidly red: Republican. The more urban areas are now more Democratic, so far as elections are concerned. The legislature itself has changed quite a bit since my dad served there back in the '70s. It is more highly partisan, less collegial than it used to be.

I can remember even when I was Harlan Boyles' chief deputy that it was not uncommon at all to have these big receptions at Glaxo and SAS. ... You'd see the Republican and Democrat legislators, and they'd have arms around each other's shoulders, and they were telling stories to each other. And a fair amount of legislation actually got done during those times, as they were able to get to know each other and cross the aisles to get work done. Not so today.

The other thing is that whereas we like to talk about the fact that the power resides in the Senate president pro tem and the House speaker, the reality is today it really resides with the caucuses. And in both instances, Republican and Democratic, those caucuses are pretty well split. In fact, they're bigger factions there than people know. And one of the things that Thom Tillis used to tell me when he was House speaker is, "I can only get done what my caucus will allow to work." And sometimes, the old mainstream Republicans, for instance — I'm talking about the Jim Holshouser, the Jim Martin, the Jim Broyhill faction of the Republican Party.

**MK:** All the ones named Jim?

**TC:** Yeah. They're still there, but they're a lot quieter and more silent. The more fun-



**What we're doing is perhaps more important today than it was in 1998 when we first got started, because there are not many places where you can go and get kind of a balanced debate.**

damental, to-the-right Republicans have taken over. In like manner, the same thing has happened with the Democratic Party. You don't hear much from the mainstream Democrats that we used to know through the years.

So a lot of political changes, but I think the biggest change has probably taken place in the media. When you go back and look at it 19 years ago — yes, there was an internet. Yes, there were flip-top cell phones, if you remember, but the smartphone hadn't been invented. The internet itself was not as much of an entity. People weren't into the blogging, and the Facebook, and the Google, and the social media, and all of the other things that were taking place.

Newspapers were still the king of the hill, so to speak. Television stations were rising, emerging, local TV. And cable television, the networks, cable television networks, were just beginning their ascent and influence on politics.

All of these things have had just a tremendous impact. And frankly, it makes us believe that with this has been a large splintering or fracturing, if you will, of the audiences. And because of that fact, we think that what we're doing is perhaps maybe even more important today than it was in 1998 when we first got started, because there are not many places where you can go and get kind of a balanced debate for the Old North State, as we like to say.

**MK:** ... You referenced this: **the change in the collegiality and the change in**



**TOM CAMPBELL:** "NC SPIN" is now part of the UNC-TV network.

**the way that both sides of a political argument will operate and respond to each other. That's one thing that really hasn't changed on "NC SPIN." You get people of very different views, but they'll sit down and talk to each other, and not just shout at each other.**

**TC:** From the outset, one of the guidelines — and, by the way, your listeners might be interested in knowing how this all got started. I was at an event one night, and ran into [John Locke Foundation Chairman] John Hood, and told him I'd been a big fan of John McLaughlin and "The McLaughlin Group" on PBS. I was a licensee for Fox 50, the television station here in Raleigh/Durham, and I was intrigued by McLaughlin's show. McLaughlin himself was a bit brusque, and I didn't like him as a moderator all that much. But I liked the idea of having a show where you could hear different sides of issues.

And I mentioned that to John, and he said, "Funny you should mention that because," he said, "I used to work as a researcher for Fred Barnes on that show. I know how the show's built.

I know how it's formatted. If you're really serious about wanting to start a show like that in North Carolina, I can tell you how to do it. And, by the way, I'd like to be on it." And I said, "Well, OK. You'll represent one end of the spectrum. We've got to get someone that will represent the other end." And both of us, just almost simultaneously, said Chris Fitzsimon. We met at TK Tripps restaurant, sat down over a napkin over lunch one day, and that's how the show got started.

**MK:** And both Chris Fitzsimon and John Hood continue to serve as your standard left/right anchors on that show today.

**TC:** And have through most of the 1,000 shows. An awful lot of the viewers tell me that they tune in to watch John and Chris, hoping that they'll get into it with each other. But back to your original point, we said from the outset, "We're Southern ladies and gentlemen. I will not moderate, I will not produce a show in which everybody is yelling at each other, calling each other names, speaking over top of each other. The viewer

gets no benefit from that whatsoever, and I'm just not going to be part of that. I don't want it."

**MK:** Well, it's a very interesting element that we don't see in much of the rest of politics today, a civil debate on issues.

**TC:** As Chris says, "We disagree without being disagreeable."

**MK:** Exactly. Now, if people are listening to us and saying, "Yeah, 'NC SPIN,' one of the main ways that I get news about politics and policy, but I haven't seen it lately. Where did it go?" Tell us what is currently happening with "NC SPIN."

**TC:** Our last show on commercial TV stations across the state was Dec. 31. Mitch, we're delighted that we are now part of the UNC-TV network, and that we will be airing Friday nights at 7:30 p.m. and again on Sunday afternoons at 12:30 p.m. And you can see us on the North Carolina Channel, UNC-TV, Friday nights at 10 p.m., Saturdays at 4 p.m., and again on Sundays at 10 a.m.

# EDUCATION

## U.S. Rep. Virginia Foxx talks PROSPER Act, challenges for higher education

### INTERVIEW



**Virginia Foxx**  
R-5th District

When Congress passed the Higher Education Act of 1965, colleges and universities were swept into a paradigm shift. The act shifted many funding responsibilities for universities from private endowments or state taxpayers to the federal government. Government loans and scholarship programs materialized. Pell Grants and Stafford Loans were a direct result of the legislation.

The HEA has seen many revisions across decades. Reauthorization generally occurred every four to six years, but renewals slumped over the past three decades. Congress reauthorized the HEA just twice between 1992 and 2008. Loans, forbearance, and forgiveness programs multiplied. Tuition inflated. Colleges and universities rose in power.

The HEA is overdue for a makeover, U.S. Rep. **Virginia Foxx**, R-5th District, told *Carolina Journal* Associate Editor Kari Travis in an exclusive interview. Foxx, who chairs the House Committee on Education and the Workforce, is chief engineer of a new bill, Promoting Real Opportunity, Success, and Prosperity through Education Reform — the PROSPER Act.

The 500-page bill is no standard reauthorization. Instead, it's packed with reforms. Some affect student loan borrowers. Others hold universities accountable on issues such as free speech and transparency. Foxx outlined the most notable portions of the legislation — and commented on the role of higher education in today's economy.

**KT:** Let's talk about the Higher Education Act. In 1965, President Johnson said the law was intended "to strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education." The face and form of higher education has changed. How has the purpose of the Higher Education Act also changed, and what would you say is its primary purpose today?

**VF:** I would say that the country is not the same as it was in 1965. ... I think it's way past time for us to reform higher education. And I would tell you that a lot of people thought that the Higher Education Act in 1965 broke ground legislatively, but now it seems that we're stuck in the mud as a result of breaking that ground. So part of what's happened in addition to all the technological changes, the changes in our population, the changes in the way people think about education — we're in a totally different world. But we now have [complicated] what started out as a reasonably simple piece of legislation. We now have six types of federal student loans, nine repayment plans, eight forgiveness programs, 32 deferment and forbearance options, higher tuition rates, longer completion times, nearly \$1 trillion in student debt, and 6 million unfilled jobs.

**KT:** What portions of the PROSPER Act are you most excited about?

**VF:** We have been promising for a long time that we want to go to one grant, one loan, and one work/study program. [I]t's a major innovation and a major reform because it will fix many of the issues that plague our financial aid system. I think another part of the bill that is exciting is encouraging Pell Grant-eligible students to complete [their degrees] on time — and, to me, on time means four years.

[We're encouraging students] to complete their degrees in four years and with less debt by offering a \$300 bonus to students who



**FOXX:** "It all can be done, basically, without borrowing a dime."

take 15 credits per semester.

We also want to require institutions to get in the game by shifting the burden of repayment to the institution when a student withdraws prior to completing their program. We have a fairly substantial dropout rate throughout the country, especially among freshmen and between sophomore and junior years. But at other times, there are students who come in, get a Pell Grant, and never show up for classes. So we're changing the way we disperse the Pell Grants. Forcing the institutions to think about their responsibility to students once they admit them is a very important thing for us to do.

[We're also] setting aside \$250 million in the work/study program in institutions that have strong Pell Grant recipient completion rates — or have significant improvements in these rates so that they can fund additional work/study jobs for students. I've been in this business a long time. We have known for probably 40 or 50 years that students who work 15 hours a week do better academically than students who don't. And that's especially true for students who work in an area related to their studies.

**KT:** The bill would end loan forgiveness and subsidized loan programs. Why make this overhaul? How will it impact students? Is there likely to be negative fallout?

**VF:** We're looking to end [some loan forgiveness pro-

grams] because it's become so complicated. We have eight different programs. We have 32 deferment and forbearance options. We wanted to simplify things that we were doing. [In the bill] we don't repeal all the forgiveness [programs]. We don't repeal forgiveness options for existing borrowers. All the reforms have grandfather provisions, so no promises are broken. That's a blanket for everything we are talking about here. I've never known of an instance where the federal government has broken its promises.

We know that having allowed students to basically have unlimited borrowing with unlimited forgiveness has driven the cost of college [upward]. The inflation of numbers of the cost of college are higher even than health-care inflation. There's a reason for that, because we're not seeing higher graduation rates. Actually, there's been a dip in high school graduation rates, and so there's more competition. Generally, when you have more competition, prices go down. ... So it's made sense that the more money the federal government was putting into higher education, the higher the cost of going. It should have been the opposite.

**KT:** The bill puts a lid on the amount that parents and graduate students can borrow. Will this limit access to education? What are the benefits?

**VF:** I have made this point for years. Anybody in this

country that wants to get a college degree has practically unlimited opportunities. And it all can be done, basically, without borrowing a dime. People are making choices in this area. It is not as though somebody is forcing loans on [students].

I graduated from college with not a dime of debt. I worked part time. I then worked full time. Now it took me longer than four years to get my degree. But again, nothing forced me to borrow money. I was able to work. I was even married and had a child. My husband did not support me. I supported him because he was in college full time, and [he] worked part time. So I still contend it is a choice issue. It is a lifestyle issue.

The problem with paying it off is not with the people who complete their [college] program, but [with] the people who do not complete. Even people who borrow \$100,000 to \$200,000 to go into the medical field or the dental field. They're not the people who are failing to pay. It is the people who have rather small amounts of debt, but who put themselves in the situation of not completing [their degree] that have limited earning capacity. The average debt is \$20,000. For most people to pay that back over a 10-year period of time is not a huge burden. Most people with a degree are going to be making beyond \$40,000 a year. Now, if you want to buy new cars and you want to live in expensive apartments, you might struggle. But I still contend that it's a choice issue.

**KT:** You are an advocate for all forms of learning, including apprenticeships, certificate education, and other vocational learning programs. What does the legislation accomplish for those types of opportunities?

**VF:** The legislation is going to expand student access to — and the ability to participate in — industry-led "earn and learn" programs. Those include apprenticeships [that] will lead to high-wage, high-skill, and high-demand careers.

We're also going to expand the opportunity students have to use student

aid, including Pell Grants, for shorter-term programs that will help them get into the work force more quickly. Community colleges are doing a lot in this area. We're going to encourage more collaboration with traditional colleges and universities that offer programs with new providers. There are a lot of businesses and industries that are getting involved with nationally certified programs that we believe could form the basis of a degree. We're encouraging people to be innovative [and] look for ways they can make the experience better [and] get [students] through more quickly.

**KT:** The bill establishes a "data dashboard" to give students a picture of how much they'll spend, the outcomes of students attending their chosen college, etc. Critics have said you missed an opportunity to increase transparency by maintaining a ban on a student "unit record system" that would make public more detailed information about student performance and outcomes.

**VF:** The major concern with the unit records system is that you're collecting a lot of very personal information about students that can be identifiable for that individual. It is a privacy issue. So yes, I want as much information as we can get, but I want it at the programmatic level. We know at the federal level that you cannot keep this information secret. I, frankly, am not going to be responsible for setting up a system where you collect a lot of personal info about people that then could be released to others.

Getting to the program level, we are going to be able to give students a lot of the information they don't have now, and parents, so that they can say, "OK, I'm going to go major in accounting at [a particular] college or university." A student needs to know how many people graduate in four years. How many people get jobs in certified public accounting, and what's the average salary for them? That can be done in the aggregate, and that's what the students need to know.

# COMMENTARY

EDITORIAL

## *A fight that's not worth having*

**IF YOU CAN'T** beat 'em, sue 'em. It has been the default setting of Democratic Gov. Roy Cooper and his liberal allies even before the governor took office 14 months ago.

Any time the Republican-led General Assembly moved to assert its authority, the Left has given a simple response: See you in court.

So far, the clear winners in these scuffles have been the attorneys who have collected millions of dollars in legal fees. The clear losers: North Carolina taxpayers, who have paid those fees.

That's why we encourage Republican lawmakers to think twice about another pending collision with state Democrats: judicial redistricting.

It's been nearly 60 years since the state totally revamped judicial maps. They haven't been looked at comprehensively since the 1960s, even though the state's population has more than doubled and its population centers have shifted dramatically.

During legislative hearings about judicial redistricting — and a host of meetings with judges, prosecutors, defense attorneys, and other members of the legal community — lawmakers have found few fans of the current setup. Among the complaints: burdensome case-loads, not enough staffing, and some judges seeking to dispatch cases efficiently at the expense of properly dispensing justice.

Last year, the House passed House Bill 717, drawing new maps and reallocating judges, prosecutors, and judicial staffing. The Senate, instead, wants to discuss a constitutional amendment that would end judicial elections and have politicians pick judges. Neither chamber has shown much interest in adopting the other's priority.

The Left has called the House plan hastily hatched and overly parti-

san. The first argument has merit.

Why the rush? The governor can veto judicial redistricting bills — a power he doesn't have over legislative or congressional maps. The GOP holds a veto-proof majority in the House and the Senate, and Democrats have faith they can gain enough seats in November to give Cooper leverage. Democrats could win a legislative chamber outright.

Perhaps the only chance to get a Republican-friendly judicial redistricting bill passed into law is to do it before the 2019 General Assembly convenes.

Republicans should resist the temptation. If we've learned anything about redistricting since 1990, you can guarantee the new maps will wind up in court.

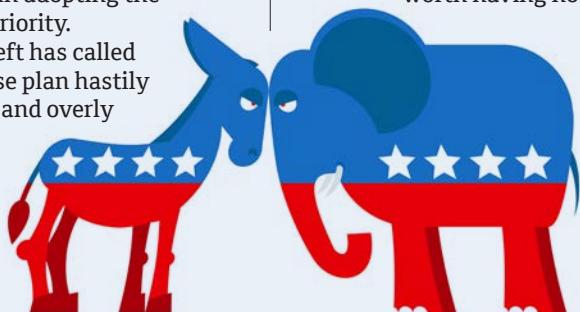
Democratic critics suggest the maps may violate Section 2 of the federal Voting Rights Act. Left-leaning advocacy groups raise the specter of "packing" black judges in mostly urban districts and white judges in suburban and rural seats. They may have a point.

Unlike legislative or congressional redistricting lawsuits, we don't have much federal case law dealing with racial bias in judicial districts. North Carolina is one of a mere handful of states that elects all judges in partisan races, so precedents are hard to come by.

Those cases drag on for months, if not years. The new General Assembly will be seated long before a legal fight over judicial districts ends. Unless Republicans are confident they can hold their veto-proof lock over Jones Street, they'll probably lose.

So will the taxpayers of North Carolina.

This might not be a fight worth having now.



# Good news in teacher turnover report



**DR. TERRY STOOPS**  
VICE PRESIDENT FOR RESEARCH  
JOHN LOCKE FOUNDATION

**T**he State Board of Education received the 2016-17 State of the Teaching Profession in North Carolina report last month. The report summarizes the attrition and mobility of public school teachers between March 2016 and March 2017. One of the exciting features of the report — for me at least — is that it also includes teacher vacancy data for the current school year.

Of the nearly 95,000 teachers employed in 2016, about 8,200 are no longer working in a North Carolina public school. Last year's 8.7 percent attrition rate is an improvement compared to the previous year, which exceeded 9.0 percent. Another 4.8 percent of teachers moved to another public school in the state.

According to the report, much of the state's teacher attrition is due to personal reasons or is beyond the control of the school district or state. Retirement was the top reason people left their teaching position last year. Nearly one in five teachers who resigned last year did so to retire with full benefits. Family relocation, unknown reasons, career change, and teaching in another state round out the top five. Dismissals, compelled resignations, and reductions in force appear to be rare.

While some may find teacher attrition worrisome, N.C. Department of Public Instruction researchers found that teachers who leave are less effective than those who remain. They write:

*On average, teachers who leave employment with the state have lower teaching effectiveness (as measured by EVAAS index scores) than their counterparts who remain employed in NC public schools. This relationship holds true when departing teachers are compared with remaining teachers in terms of years of teaching experience.*

Simply put, not all attrition is



**While some may find teacher attrition worrisome, N.C. Department of Public Instruction researchers found that teachers who leave are less effective than those who remain.**

bad. We should want bad teachers to leave and better teachers to remain. It's worth questioning, however, if we are doing enough to retain our best. I think the state and school districts need to do more for them.

The statewide vacancy rate on the 40th instructional day for 107 school districts was 1.5 percent. (A few districts submitted data with inconsistencies, so they were omitted.) Anson, Hyde, Elizabeth City-Pasquotank, Martin, and Craven counties had the highest vacancy rates, and 12 districts reported zero teaching vacancies. Core elementary teachers, special education teachers in elementary schools, and high school math teachers had the highest number of vacancies.

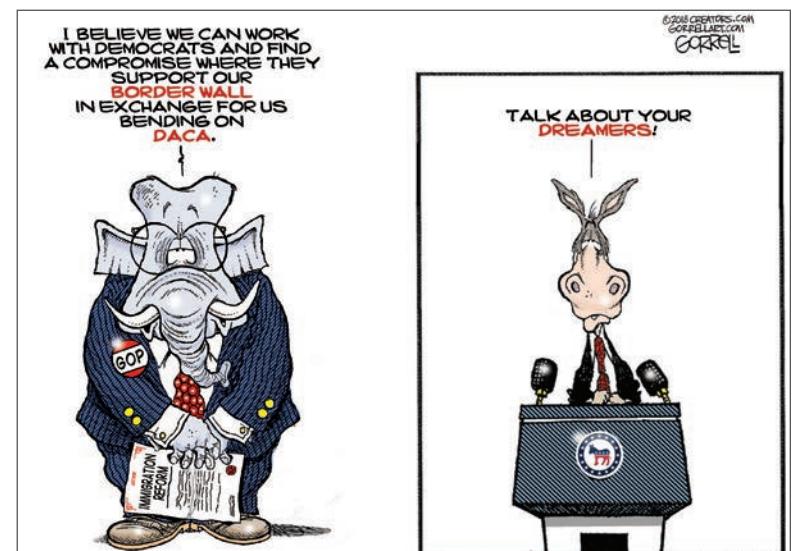
The state defines a vacancy as "an instructional position (or a portion thereof) for which there isn't an appropriately licensed

teacher who is eligible for permanent employment." They count long-term substitutes, retired teachers, and provisionally licensed teachers as vacancies. One should not assume a temporary teacher is necessarily worse than an "appropriately licensed teacher," particularly if the district hires a retired teacher to address a vacancy. That said, research suggests long-term substitutes and provisionally licensed teachers often struggle in the classroom.

Does North Carolina have a teacher recruitment and retention crisis? The statewide figures and trends aren't cause for concern, but the answer, as usual, depends on the school district. For example, some rural districts continue to struggle to recruit and retain outstanding educators, while others have single-digit turnover. North Carolina's wealthiest districts have attrition and vacancy rates comparable to low-income districts. As usual, socioeconomic factors are a necessary, but not sufficient explanation for teacher attrition, mobility, or vacancy rates.

The absence of simple explanations for why teachers choose to leave the teaching profession complicates the process of developing a public policy response.

Additional pay for hard-to-staff subjects and schools may be one place to start. It is less dependent on test scores than labor market conditions, and I find that most teachers are receptive to the idea. Indeed, it is much harder to recruit a math teacher to teach in Bertie County than hire a social studies teacher to teach in Wake County, and that difference should inform an incentive pay system.



## COMMENTARY BY JOHN HOOD



## Paying, training officers better

**WHILE 2017** was a good and productive year for many public and private institutions in North Carolina, it was a tragic year for our prison system.

Five staffers were killed by inmates, one during an April incident at a Bertie County prison and four more during an October escape attempt at Pasquotank Correctional Institute. Five inmates committed suicide during 2017.

Policymakers in Raleigh and correction officials across the state need to pursue reforms. A report produced for the Governor's Crime Commission by a team of researchers at Duke University's Sanford School of Public Policy may serve as a starting point.

North Carolina's prison population is shrinking, not growing. Since the bipartisan adoption of the Judicial Reinvestment Act in 2011, prison enrollment has dropped by nearly 10 percent.

The number of correctional institutions has correspondingly dropped from 66 to 55. State expenditures on prisons went down, too, but not as much as the prison population. Of the eight states studied by the Sanford School researchers, North Carolina had the lowest incarceration rate at 371 inmates per 100,000 state residents. The incarceration rates are much higher in neighboring Georgia (521) and Tennessee (438).

North Carolina struggles to staff its prisons. Vacancy rates vary but exceeded 25 percent in both of the institutions where prison staffers were killed in 2017. Overworked, undertrained corrections officials are a safety risk to themselves, their co-workers, and the inmates they supervise.

Appropriations for the Department of Public Safety, which includes the prison system, represent about 9 percent of a \$23 billion General Fund budget. We can make prison pay a higher priority without unduly burdening other agencies or taxpayers.

As the Duke team explains in its report, average pay isn't all or even most of the story. Recommendations include a more thoughtful and creative approach to recruiting new

## Requiring people getting government assistance to work

If government gives you a cash handout or a "free" service and you're capable of working, studying, or providing service to the community in exchange for your public assistance, should you be obligated to do so?

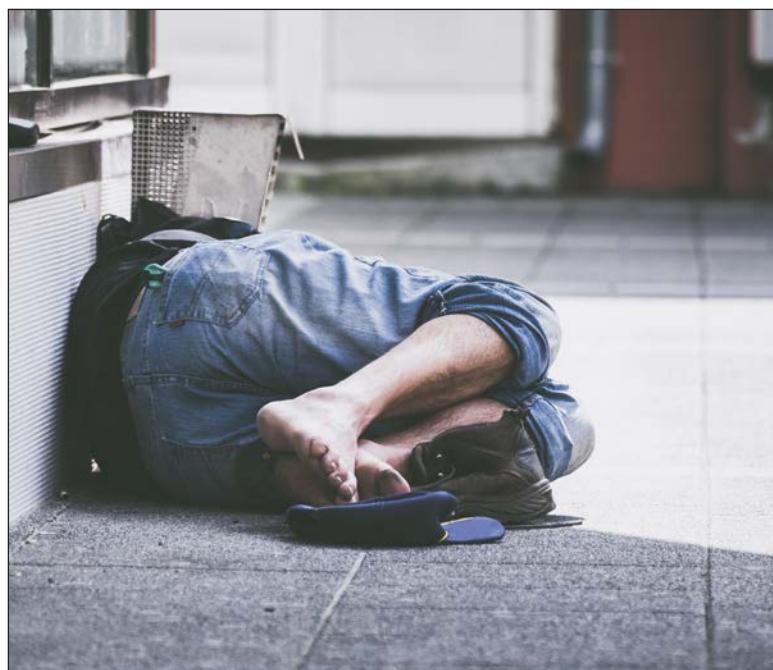
Most conservatives say yes. Most progressives say no. Most Americans agree with the conservatives on this, much to the dismay of the progressives.

A couple of years ago, the administration of former Gov. Pat McCrory instituted a requirement that recipients of the Supplemental Nutrition Assistance Program had to comply with a work requirement as long as they were able-bodied and didn't have dependent children.

McCrory and the General Assembly fashioned a reform plan to introduce more managed care within the state's Medicaid program. One element of the resulting Medicaid waiver submitted to the federal government was a proposed work requirement for state recipients — for those whose health conditions and caregiving responsibilities would allow it.

Responding to several applications, including ours, the U.S. Department of Health and Human Services has just ruled that states can institute Medicaid work requirements. Within hours, Kentucky became the first state to do so.

There's a robust policy debate about the efficacy of work mandates. Do they cost more to administer than they save in



**HARMFUL SIDE EFFECTS.** Welfare dependency saps initiative, unravels families and communities, and creates multi-generational cycles of poverty.

benefits paid? How many welfare recipients are truly capable of working? What if jobs are hard to find? What other activities — enrollment in job training, for example, or volunteering — ought to satisfy the requirement?

To me, a more fundamental principle is at stake. If the government is to be in the public-assistance business at all, the strongest case for support involves the aged, the infirm, the disabled, and orphaned children. Their relatives ought to be their primary caregivers. That's what family is for. But in cases where family resources and pri-

vate philanthropy are insufficient, most North Carolinians support not just a temporary safety net but long-term public assistance.

For able-bodied people who don't fit these categories, most see government's proper role as much more limited. Whatever temporary assistance might be rendered, they should be moved as rapidly as possible into work, self-sufficiency, and self-respect.

A combination of time limits and work requirements is necessary to combat welfare dependency, which otherwise saps initiative, unravels families

and communities, and creates multi-generational cycles of poverty.

If work-or-service requirements for able-bodied Medicaid recipients are too hard to define or costly to administer, then that becomes a strong argument not to allow such recipients on Medicaid in the first place — at least not in a free society where government is supposed to be minimized, personal freedom is supposed to be maximized, and personal responsibility is supposed to be the default, not merely an aspiration.

Because North Carolina hasn't liberalized its eligibility standards under the Affordable Care Act, we don't have very many Medicaid recipients who'd be subject to work requirements. Still, as we know, N.C. Democrats and progressive activists desperately want Medicaid expansion.

I think it would be a prudent if they dropped their opposition to work requirements and cooperated with Republicans in devising some sensible rules. That would undercut one of the main arguments conservatives have used, so far successfully, to rebut the special-interest pressure (primarily from hospitals) to expand Medicaid.

That's what I think the Left should do. That's not what I think the Left will do.

*John Hood is chairman of the John Locke Foundation and appears on the talk show "NC SPIN." You can follow him @JohnHoodNC.*

### ENERGY & ENVIRONMENT

## Drilling benefits exceed the costs

**IF ENERGY** companies respond to the Interior Department's process for pursuing oil and gas exploration off the North Carolina coast, it's likely residents or visitors will never see any rigs, pipelines, or depots, as these facilities are either far offshore or off the beaten path.

What they could well see, if such exploration discovers economically recoverable energy assets, is a substantial contribution to job creation, income gains, and public revenue — but only if the federal government sides with North Carolina's congressional delegation, which mostly favors offshore exploration, rather than the governor, who opposes it.

Taking note of the fact that Florida Gov. Rick Scott successfully lobbied Interior Secretary Ryan Zinke to exclude the Sunshine State's offshore energy reserves from exploration, Roy Cooper has asked Washington for similar treatment of this state. "Offshore drilling holds the same risks for North Carolina as it does for Florida," Cooper said, "and North Carolina deserves the same exemption."

Mike Walden, an economist at N.C. State University, several years ago did a cost-benefit analysis of offshore energy exploration. So did University of Wyoming economist Timothy Considine. Both looked at estimates of

**The scenario Walden described as most likely suggested that offshore drilling would boost North Carolina's gross domestic product by \$1.9 billion a year**

offshore energy reserves, a range of estimates for future market prices, and the potential effects of oil spills or other problems.

While using different methodologies, Walden and Considine came up with similar results, as Walden explains in his book *North Carolina Beyond*

*the Connected Age: The Tar Heel State in 2050*, just out from the University of North Carolina Press.

The scenario Walden described as most likely suggested that offshore drilling would boost North Carolina's gross domestic product by \$1.9 billion a year, its permanent employment by about 17,000 jobs, and annual government revenue by \$116 million.

In Considine's mid-range scenario, his growth projections were \$1 billion in GDP, about 15,000 jobs, and \$171 million in revenue.

What about the environmental risks? Using standard assumptions and historical probabilities, the

two scholars came up with projections denominated as dollars of GDP. Walden put the potential cost of spills at \$83 million a year. Considine computed a broader range of potential environmental costs, including emissions, at \$92 million a year. So the potential benefits appear to surpass the potential risks.

North Carolina "has the largest estimated reservoir of offshore oil supplies of any state on the East Coast," Walden notes. Cooper and other drilling foes may have the best of intentions. But North Carolina will be better off if their objections are noted, weighed against the evidence, and overruled.

# COMMENTARY

## Ability to exercise free speech should be critical factor when choosing a college



**JOHN TRUMP**  
MANAGING EDITOR

Earning a scholarship to a college or university — whether that scholarship is academic or athletic — is quite the accomplishment, both for the student and the respective family. It relieves a huge financial obligation, to be sure, but it also portends a positive future for the new student, who is arguably getting a head start toward adulthood and all that entails.

The same goes for choosing a school after getting a few or dozens of acceptance letters. Options are considered and analyzed. Choices are made. Much is considered, and the variables are mostly obvious — location, relevant programs, academic ranking, etc.

The ability to practice free speech should be paramount among them, but, and I could be wrong, it probably isn't a top priority for students when choosing a college. In America, it's a right that's mostly taken for granted.

It shouldn't be.

North Carolina, as Kari Travis pointed out in a recent story for *Carolina Journal*, has become a na-

tional front-runner in protecting campus speech rights, according to the Foundation for Individual Rights in Education.

FIRE, a nonprofit research and legal organization, each year looks at more than 450 public and private universities, and ratings are based on the constitutionality of their speech policies.

Red-light schools have restrictive policies — such as free-speech zones or bans on “offensive speech.” Yellow-light schools hold vaguely worded policies — such as rules against “verbal abuse” that may be used to restrict free expression. Green-light schools have written policies posing no threat to the First Amendment.

North Carolina, Travis wrote, is home to eight green-light schools, far and away the national leader, Samantha Harris, a FIRE spokeswoman, told *Carolina Journal*. Pennsylvania is next with four, followed by Indiana and Virginia, with three each.

In 2016, only UNC-Chapel Hill was ranked green, Travis wrote, citing the report. In May 2017, UNC-Greensboro and N.C. Central, formerly ranked as red-light schools, saw their lights turn green. Appalachian State University, UNC-Charlotte, East Carolina University, and UNC-Wilmington were green-lighted later that year.

Duke University is North Carolina's only private school with a green light.

This year, 93 of 357 public universities were ranked red, and 233 were yellow. Only 31 got a green light. Red-light schools include the University of Alabama-Birmingham, six schools in the California state system, Clemson University, Florida State University, and the University of Michigan-Ann Arbor.

And those are *public* schools.

Of 104 private colleges, 56 were red, 37 were yellow, and four were green. The remaining seven schools were labeled as “warning schools,” which don't promise free speech. Those universities prioritize other values — many religious — over the First Amendment.

In North Carolina, two prominent and prestigious private schools — Davidson College and Wake Forest University — were, says FIRE, stopped on red.

“A ‘red light’ institution, FIRE says, has at least one policy that both clearly and substantially restricts freedom of speech. A ‘clear’ restriction is one that unambiguously infringes on what is or should be protected expression. In other words, the threat to free speech at a red light institution is obvious on the face of the policy and does not depend on how the policy is applied. When a university restricts access to its speech-related policies by requiring a login and password, it denies prospective students and their parents the ability to weigh this

crucial information. At FIRE, we consider this action by a university to be deceptive and serious enough that it alone warrants a ‘red light’ rating.”

For Davidson, FIRE took issue with the college's policies on bias and hate speech and harassment. For Wake Forest, FIRE found problems with its policies concerning harassment and posting and distribution.

This, too, comes with a caveat.

“While private universities are not legally bound by the First Amendment — which regulates government actors — most, says FIRE, make extensive promises of free speech to their students and

faculty. When private institutions make such promises, speech codes impermissibly violate them.”

Students and prospective students — and their parents — should know this. Again, I'm guessing that many don't.

Students do indeed have an expectation of free speech on campus, even when attending a private university, save some religious institutions and other schools with clearly defined missions stating otherwise.

Due diligence, by students and parents, can't be discounted here. As FIRE says — and it can't be said too often or too loudly — stay vigilant.



## Is North Carolina's economic shift complete?



**MICHAEL WALDEN**  
COLUMNIST

I JUST CELEBRATED the 40th anniversary of my job interview at N.C. State University. I had left a snow-covered Ithaca, New York — home of Cornell University, where I was finishing my Ph.D. — and exited the plane on the tarmac (yes, airline passengers did that in those days) at RDU. It was a bright and sunny 70 degrees. I thought to myself — I could get used to this.

And I have. The four decades I've been in North Carolina have been rewarding, exciting, and just plain wonderful.

But, 40 years ago, North Carolina was a different state, especially in its economy. In the 1970s three industries — tobacco, textiles,

and furniture — dominated the state, accounting for more than 20 percent of both total state economic production and employment. In a book I wrote in 2008, I dubbed these industries the “Big Three.” They had been the prime movers of North Carolina's economy for more than 50 years.

Yet even then, change was beginning. Tobacco was being squeezed by concerns about the health effects of smoking as well as foreign competitors. Automation was being introduced into factories, meaning fewer workers were needed to produce the final output.

Then came the impacts of the two major international trade treaties of the late 20th century — the North American Free Trade Agreement and the General Agreement on Tariffs and Trade. Both treaties removed numerous trade barriers between countries. Because production costs for textiles and furniture were often lower in foreign countries, production

in those industries began to leave North Carolina.

The impacts can be seen in the numbers. Between 1978 and 2005, tobacco product output in the state dropped 85 percent, and textile production plunged by almost 50 percent. Furniture wasn't impacted until GATT took effect in 2001, but by 2005 furniture production was down 25 percent.

Fortunately, something I call the “North Carolina Economic Miracle” happened. As the Big Three declined, a new “Big Five” emerged in the form of technology, pharmaceuticals, finance, vehicle parts, and food processing. At the farm level, tobacco was increasingly replaced by hog and poultry production.

While this transformation has been miraculous for the state as a whole, it's the basis for the urban-rural divide we see today. Many of the industries of the new “Big Five” — notably technology, pharmaceuticals, and finance — have developed in metropolitan

areas. In contrast, much of the employment of the old “Big Three” — especially textiles — was in small towns. So the North Carolina Economic Miracle hasn't occurred everywhere.

Still, we might take some solace if the shift from the old to the new North Carolina economy was complete. Unfortunately, this isn't the case. Since the Great Recession a decade ago, tobacco products, textiles, and furniture output have declined another 30 percent, taking 36,000 jobs with them. In 2017 alone, the major metro areas in the state added 64,000 jobs, while small towns and rural areas gained fewer than 1,000 jobs.

The new North Carolina economy is still being formed, and — unfortunately — it's creating winners and losers. Some futurists project that in the decades ahead, one-third of our state's counties will lose both jobs and people. At the same time, our big metro regions could grow by 50 percent to 75 percent.

I've talked to many groups in the state about strategies for reviving small-town and rural economies, centered on large and medium-sized manufacturing plants, tourism, attracting out-of-state retirees, and expanding meat production and processing. None is a “slam dunk.” Each has challenges. But rural areas have distinct advantages for these activities.

The best advice I can give both to people and places is to evaluate your strengths and weaknesses, try to improve the former and reduce the latter, and watch for the shifting array of available opportunities.

Plus — if you're lucky — maybe you'll decide on something that turns out to be one of the best choices you or your community will ever make — like when I decided to come to North Carolina 40 years ago.

*Michael Walden is a Reynolds Distinguished Professor at N.C. State University. He doesn't speak for the university.*

## COMMENTARY

## Revolving around the president's sun



**ANDY TAYLOR**  
COLUMNIST

Donald Trump is the sun of the contemporary American political system. Its institutions, such as Congress, the parties, the media, the states, think tanks, and popular culture all revolve around him as if planets. On a recent visit to the United Kingdom, I discovered his gravitational pull extends far beyond our shores. The president structures politics in Britain today in a way unmatched by any other force.

Let's start on the left. As with our Democrats, members of Britain's Labor Party and its core constituents in the unions, professions, media, and universities compete with one another to be the most anti-Trump. Since the American president is self-evidently awful — Trump loathers I spoke with didn't feel any need to elaborate on their position — the response is simply to scream with indignation as loudly as possible when he acts or speaks or tweets. The outrage was particularly deafening on matters such as the



**The reaction is so visceral because Trump personifies everything European cosmopolitan and socialist elites believe about the American character.**

United States' withdrawal from the Paris climate agreement, the administration's immigration policy, and whether Prince Harry and his American fiancée Meghan Markle should "stick it to the man" and invite President Obama to their wedding.

The reaction is so visceral because Trump personifies everything European cosmopolitan and socialist elites believe about the American character. The president is unapologetically materialistic, bombastic, impetuous, anti-intellectual, and parochial. Despite their proclivities, it was hard for these leftists to dislike America when Obama was in the White House. Trump liberates their instincts, and they are once again free to hate.

Still, there's a method here. Labor's professorial and hard-left leader, Jeremy Corbyn, came sur-

prisingly close to toppling Prime Minister Theresa May in the 2017 election. The election was about many things, but Corbyn — who has the same crumpled professorial appearance and socialist views as Bernie Sanders — deliberately deployed Trump as a foil and believes he profited from the strategy.

Britain's Right is using Trump as a kind of model. Reading conservative newspapers there is to listen in on conversations among Americans supportive of many of the president's policy goals. The tabloid "Tory press" — particularly the *Daily Mail* and *Sun* — are replete with stories about the assault on British values by uncontrolled immigration and pernicious identity politics. The topic du jour when I visited were "snowflake" students, Stalinist professors, and administrative "fat cats" on university campuses.

There are subtle differences between America's conservative media and papers like the *Mail*, however. A larger proportion of Britain's immigrants come from societies hostile to liberal values — Muslim countries, rural areas in other parts of the developing world. Our concerns about immigration tend to revolve around terrorism and crime. Britons who worry about the issue also talk of women's rights, religious toler-

ance, and free speech, none of which exist in enclaves of cities like Birmingham, Bradford, and Luton, which effectively are under Sharia law. There's an obvious focus on security but not to the neglect of other issues. This difference in emphasis has led to a couple Twitter spats between Trump and May. Indeed, the friction has been so great — and Trump's unpopularity so high — the president has done the prime minister a favor and canceled a scheduled visit to open the new U.S. embassy.

Undergirding much of Trump's influence on the British Right is Brexit. Many observers believe they are related. The campaign to leave the European Union adopted many of the broad philosophical positions Trump did in his 2016 campaign — especially the idea that globalization should be stanch and that the nation-state should reassert its sovereignty. The coalition that voted to leave also resembled Trump's — its members were older, tended not to have a college degree, and lived in smaller towns and rural areas. Interestingly, a significant proportion of "Brexiters," such as Trump's working-class voters, held left-of-center views on economics.

There's also a small but influential group warning the U.K. about both Trump and the leftist

counter-forces he has emboldened. Not quite libertarian in the American sense, it's still rooted in the ideas of John Locke and Adam Smith. Publications like the *Times* and *Economist*, think tanks such as the Institute of Economic Affairs and Centre for Policy Studies, politicians like David Davis (Brexit minister) and Liam Fox (trade minister), and their junior colleagues in Parliament Kwasi Kwarteng, Dominic Raab, and Liz Truss all warn us about authoritarian impulses of the reborn left and populist right.

They see the threat posed by protectionism, large distant bureaucracies, social engineering, and huge influxes of immigrants unwilling to accept central tenets of classical liberalism. They are deeply concerned about increased xenophobia and an overbearing state. They emphasize "bourgeois" values such as individual responsibility and personal freedom and champion cohering institutions such as the family and the Church of England, even the local pub. Unfortunately, like their cousins in America, they don't seem to be getting much attention lately.

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## Lawmakers' work is ongoing, and there's nothing secret about it



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### THE STATE LEGISLATURE

adjourned the 2017 long session June 29. They were done, right? Expected back all afresh and new in spring of 2018 after a long break of doing nothing? Not exactly.

They've held special sessions in August, October, and January, when they passed a technical corrections bill, confirmed appointments to state boards, overrode five of the governor's vetoes (including two regulatory reform bills), and dealt with on-going redistricting questions. Are these special sessions a devious plan by Republicans to hold secret sessions, as is sometimes claimed by the left?

Hardly. Since 1985, special sessions have been held after regular

sessions in 17 years — three under Republican control and 14 under Democrats. Overall, including years with more than one special session, Republicans called nine special sessions, and Democrats called 16.

This is how the General Assembly does its business.

In the interim, numerous joint oversight committees, study committees, and task forces are held. They look more closely at issues introduced in the short session, make adjustments to keep state agencies working, review reports, ask questions, consider new ideas and review old ones. The interim committees are a good way to track legislative priorities, get more in-depth information, and get an idea of what to expect in the short session.

A new legislative research commission is looking at access to health care in rural North Carolina. Beginning with the (correct) assumption about a lack of access to health care in rural areas, experts and opinion leaders will discuss expanding the scope of practice for providers, such as nurse practi-

tioners and optometrists. Other proven ways to increase access to care include telemedicine, direct primary care, and repealing outdated certificate-of-need laws.

The Joint Legislative Education Finance Reform Committee is looking at alternative ways fund K-12 education, to which North Carolina appropriates about \$9 billion annually. The current system allocates that money per student based on a convoluted, outdated, overly complicated and nontransparent funding formula. The committee will spend about two years studying and hearing from experts on how to simplify the funding formula and determine a system that's open, fair, and focused on better outcomes.

The Administrative Procedure Oversight Committee meets regularly and has spent a good deal of time looking at reforms to occupational licensing regulations. Research indicates this state regulates more occupations than most states, requiring burdensome educational requirements and costly entrance fees. These create real barriers for entrepreneurs,

particularly for trade professions. The committee will look at requiring additional scrutiny on agency rules that impose significant financial costs.

A new study committee plans to look at deconstructing school districts. Wake County, with 159,549 students in 171 schools, is the 15th-largest district in the U.S., for example, with Mecklenburg County close behind. Have Wake and Mecklenburg become too big to serve students most effectively? Would breaking them into smaller, more manageable and accountable districts produce more opportunity and better outcomes?

The Joint Legislative Commission on Energy Policy is following up on implementation of the 2017 energy bill, ensuring provisions are implemented as the law intended, including mapping to ensure there's no interference from wind turbines on military operations. They also are looking at the impact of electric vehicles on infrastructure and the grid.

The Joint Select Committee on Judicial Redistricting and Reform is looking at a House-proposed

redistricting map updating statewide judicial and prosecutorial districts for the first time since the 1960s. There's also discussion about how we elect judges, whether our current system of popular elections with partisan designation is the best way to elect judges, or if some kind of merit selection with retention elections would result in a better judiciary.

Changes to the way we elect judges would be by constitutional amendment requiring a vote of the people.

It may seem lawmakers never leave Raleigh, because they don't. State government is a \$50 billion operation, and the work never ends.

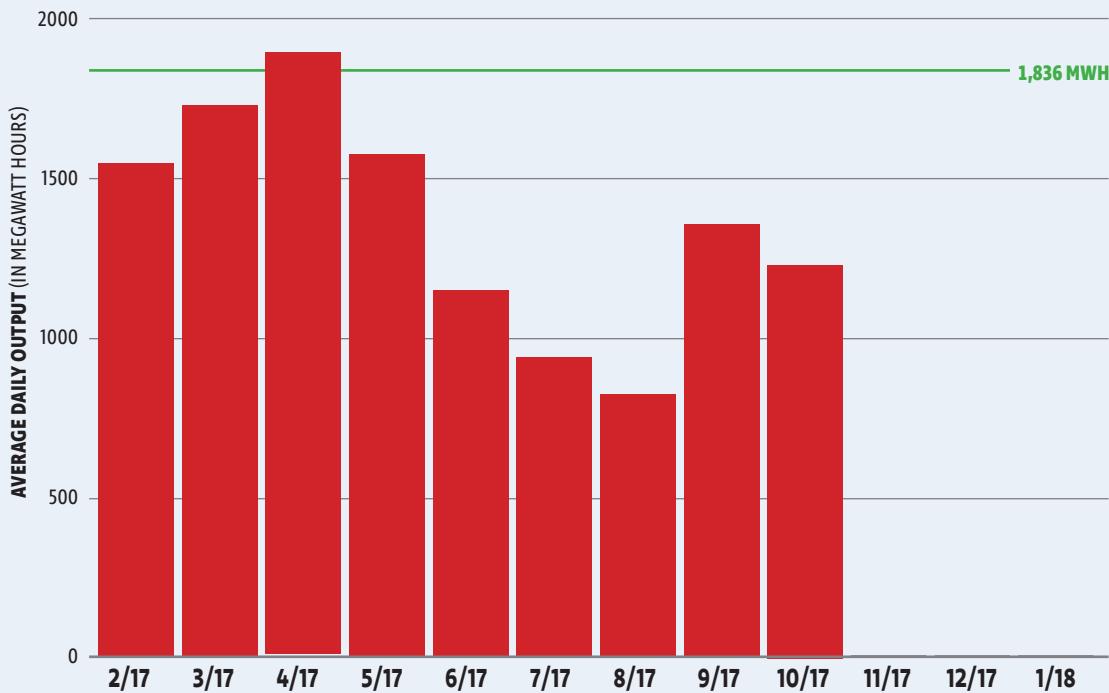
All of the meetings are open to the public, in many cases audio is available, and *Carolina Journal* and the John Locke Foundation report on many of these interim meetings.

My friends on the left make accusations of secret meetings conducted behind closed doors on issues pulled out of nowhere.

But they just aren't paying attention.

## Amazon Wind Farm - Wind Meter

The operator of the 208-megawatt Amazon Wind Farm near Elizabeth City has said it will generate 670,000 megawatt hours annually, or about 1,836 MWh each day. February 2017 was its first full month of operation.



SOURCE: U.S. Energy Information Administration

**OFFICERS continued from PAGE 21**

personnel, signing bonuses, and nonwage incentives such as housing assistance.

The prison system also needs to step up its adoption of modern

management techniques and technologies to detect contraband, discern emerging conflicts, and deter inmate misbehavior. While there will be a cost in the short run, "the seriousness of these problems must not be dismissed or underestimated,"

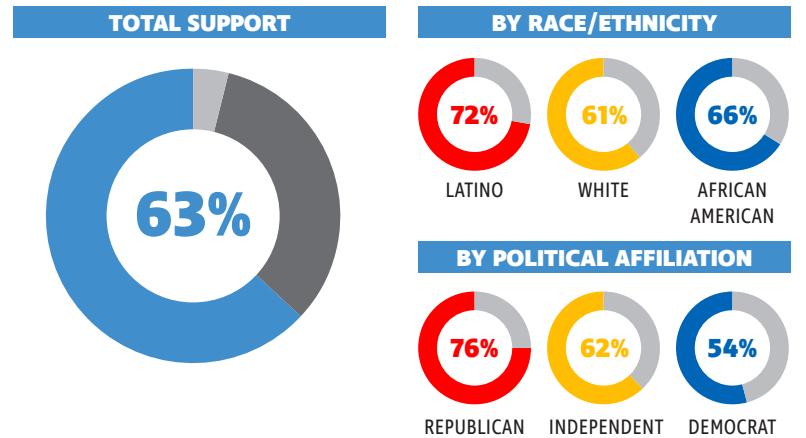
the researchers observe. "Without constant monitoring, innovation, and front-end investment, these inherent struggles spiral into crises that can only be managed at an even higher cost."

Public safety and fiscal prudence are at risk. Let's act.

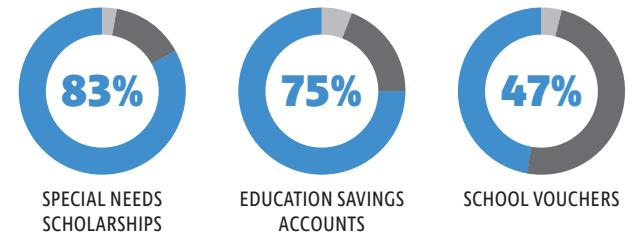
## POLLS

**SCHOOL CHOICE:** The American Federation for Children, a school-choice advocacy group, hired Beck Research LLC to conduct a survey of American voters about school choice.

"Generally speaking, would you say you favor or oppose the concept of school choice? School choice gives parents the right to use the tax dollars designated for their child's education to send their child to the public or private school which best serves their needs."



**Support for individual school choice proposals:**



Beck Research LLC conducted the survey between Jan. 8-13, and surveyed 1,100 potential voters in the November election. Interviews were conducted via live caller on landlines and cellphones in English and Spanish. The margin of error is plus or minus 3.5 percent.



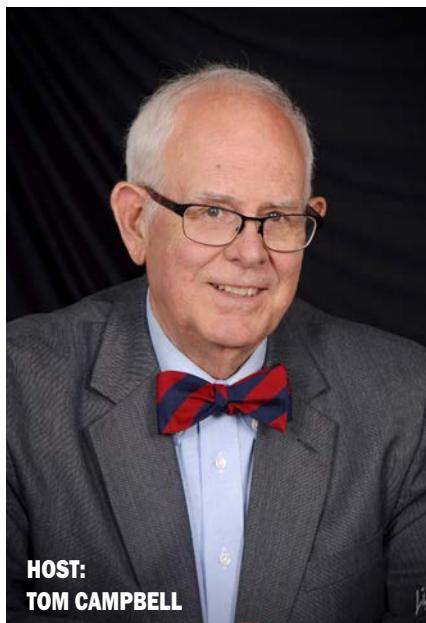
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- Morehead City, WTKF-FM 107.1, Sunday 10 am
- Rocky Mount, WEED-AM 1390, Sunday, 9:30 am
- Sanford, WWGP-AM 1050, Sunday 7:30 am
- Smithfield, WTSB-AM 1090, Sunday 7:06 am
- Statesville, WAME-AM 550, Sunday 5:30 am
- Valdese, WSVM-AM 1490, Monday 6 pm
- Wanchese, WYND-FM 97.1, Sunday 7:30 am
- Wilmington, WAAV-AM 980, Sunday 5:30 pm