

# UNC campuses training to respond to mass shootings

PAGE 8



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# CAROLINA JOURNAL

AN AWARD-WINNING JOURNAL OF NEWS, ANALYSIS, AND OPINION FROM THE JOHN LOCKE FOUNDATION CAROLINAJOURNAL.COM VOL. 27 • NO. 3 • MARCH 2018 • STATEWIDE EDITION

PAGE 12

# TOXIC PIPELINE

## \$57.8 million controversy further infects testy relations between governor, lawmakers

BY DAN WAY

### Key Players



GOV. ROY COOPER



KEN EUDY



LEE LILLEY



SEN. PHIL BERGER



SEN. DAN BISHOP



REP. DAVID LEWIS

## CJ wins three NCPA honors

BY CJ STAFF

Carolina Journal received three awards at the recent N.C. Press Association Annual Convention in Raleigh, winning honors the first time CJ has submitted entries in the publication's 27-year history.

Associate Editor Kari Travis collected two awards: First place in Election/Political Reporting for a story on juvenile justice reform moves in the General Assembly, "Raising age would give juvenile offenders a new start, supporters say."

She also won third place in News Enterprise Reporting for "Human trafficking gains legislature's attention," a series of stories about the General Assembly's response to the sex trade.

In opinion writing, Editor-in-Chief Rick Henderson won first place in Editorials for a series of pieces titled "Underappreciated stories of the 2017 legislative session."

CJ's entries all were in the Online Division of the NCPA contest and appeared at CarolinaJournal.com.

"Since its inception, Carolina Journal has been a beacon of dynamic, vital, and extraordinary journalism. Every day, we strive to make transparent the murky machinery of North Carolina state, county, and local government," CJ President and Publisher Kory Swanson said.

In 2016, judges from four state press associations reviewed nearly 4,000 entries from more than 100 N.C. publications. Journalists from Indiana judged the 2017 NCPA contest.



### Interview with Andrew McCarthy

Senior fellow at National Review Institute discusses secret federal probes.

PAGE 18

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## QUICK TAKES



### EDITOR-IN-CHIEF

Rick Henderson  
@deregulator

### MANAGING EDITOR

John Trump  
@stillnbarrel

### EXECUTIVE EDITOR

Don Carrington  
dcarrington@carolinajournal.com

### ASSOCIATE EDITORS

Mitch Kokai  
@mitchkokai

Lindsay Marchello  
@LynnMarch007

Kari Travis  
@karilyntravis

Dan Way  
@danway\_carolina

### DESIGNER

Greg de Deugd  
@gdedeugd

### PUBLISHED BY



The John Locke Foundation  
200 W. Morgan St., # 200  
Raleigh, N.C. 27601  
(919) 828-3876 • Fax: 821-5117  
www.JohnLocke.org

Kory Swanson  
President & Publisher

John Hood  
Chairman

Bill Graham, John M. Hood  
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# Pension assets surpass \$100 billion briefly, treasurer says

North Carolina's pension plan value surpassed \$100 billion for the first time, though volatility in the stock market eroded a chunk of the gains, state Treasurer Dale Folwell reported.

Folwell made his remarks during his monthly Ask Me Anything teleconference with reporters Feb. 6. He added he had not received a daily update on the pension plan before the call, but estimated it was between \$95 billion and \$100 billion.

"We're very pleased about this performance given the risk profile that this state pension has had ... over the last 40 years," Folwell said.

The state's combined pension plans invest about 35 percent in low-risk, fixed-income assets and about 65 percent in investments more vulnerable to market swings.

Folwell said every 1 percent drop in the stock market equals close to \$1 billion in pension plan value.

"The volatility is obviously a concern, but we are well-prepared to absorb any volatility," Folwell said.

"We have the cash on hand to meet the billions of dollars' worth of capital costs" associated with commitments made by Janet Cowell, the previous treasurer, "and we have plenty of cash on hand to pay out the more than \$500 million of pension benefits that are going out on a monthly basis right now," Fol-



**FOLWELL:** "We have plenty of cash on hand to pay out the more than \$500 million of pension benefits that are going out on a monthly basis right now."

well said.

Folwell announced the pension plan delivered a 13.5 percent rate of return for calendar year 2017. Pension fund assets were valued at \$98.3 billion at the end of 2017, up from \$89.1 billion at the end of 2016.

Despite the strong year, he cautioned that performance was an anomaly.

The plan has not reached its assumed rate of return on average

over the past 20 years.

Hitting the annual target will require the legislature to assume a more realistic rate of return, Folwell said. Now, it's 7.2 percent.

He said he will propose a 7 percent rate at the April meeting of the pension plan board and adopt a plan to revise the rate every five years based on actuarial reports.

The General Assembly then could allocate tens of millions fewer dollars to hit the target, while giving

a truer picture of pension plan underfunding. It's now funded at 92 percent, one of the highest levels of any state pension plan.

In another matter, Folwell said he has lingering concerns about what effects a proposed mega-partnership between UNC Health Care and the former Carolinas Health-Care System, now Atrium Health, might have on the pension plans and State Health Plan.

Former federal antitrust regulators have raised similar concerns to *Carolina Journal*.

"We can no longer sustain these plans by being part of the medical arms race that's going on in this state and this country," Folwell said.

State taxpayers have made billions of dollars of investments into the UNC hospital network on behalf of 14,000 employees, Folwell said.

The health care system contributes \$800 million annually to state pension and health-care plans for hospital and university employees.

Last year the state spent almost \$450 million on the two hospital systems.

Folwell said he has a fiduciary responsibility to question any transaction that transfers assets away from the state and has the potential to increase health care costs.

*From Staff Reports*

## N.C. better prepared than most for rainy day, report says

**NORTH CAROLINA** state government's reserves are in the best condition they've seen this century. This means the Tar Heel State is one of a handful that could survive a recession without raising taxes or cutting services immediately.

That's one conclusion of the latest Fiscal 50, an annual state-by-state review of public finances from the Pew Charitable Trusts. The report looks at revenue, spending, employment, long-term retirement funding, and debt.

The report found North Carolina's government could run for roughly a month — 30.4 days — on reserve funding alone. That ranks 10th nationally, behind (in descending order) Alaska, Wyoming, Texas, West Virginia, Idaho, Indiana, Alabama, Minnesota, and Washington. The report also noted that North Carolina is one of 26 states with

rainy-day funds that are bigger now than they were before the Great Recession.

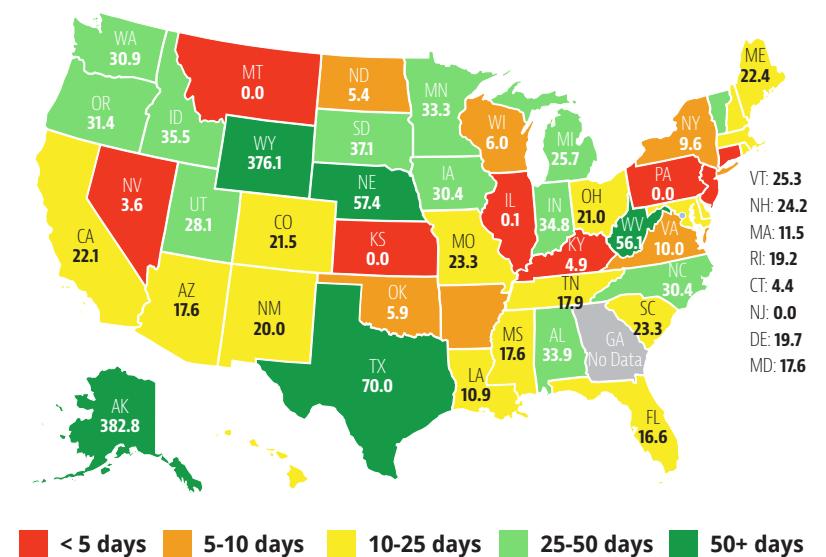
At 8.3 percent of the state's General Fund, or \$1.8 billion, North Carolina's reserves are at a record level.

In April, Gov. Roy Cooper signed into law House Bill 7, a measure setting aside 15 percent of growth in General Fund revenues each year to state reserves. The measure, which passed the General Assembly nearly unanimously, also bolstered the rules preventing lawmakers from dipping into savings during normal budget cycles.

Pew Charitable Trusts officials last fall cited North Carolina as the nation's only state with rules that follow the organization's best practices for "budget stabilization" or rainy-day funds.

*From Staff Reports*

### Days each state could run on rainy-day funds



SOURCE: Pew Charitable Trust analysis of data from the National Association of State Budget Officers

## QUICK TAKES

# N.C. faces nursing shortage in schools

North Carolina would have to spend \$45 million annually to meet the State Board of Education's recommended ratio of one school nurse for every 750 students.

The National Association of School Nurses recommends every school have access to one school nurse, but that could cost state taxpayers \$79 million a year.

The General Assembly's Program Evaluation Division released a report Jan. 22 on meeting current standards for school nurses statewide. The report was discussed briefly during a Joint Legislative Program Evaluation Oversight Committee meeting.

North Carolina isn't alone. Terry Stoops, vice president for research and director of education studies at the John Locke Foundation, said the report's findings are not surprising.

"According to the National Association of School Nurses, one out of four schools in the United States did not employ a school nurse last year. Only 39 percent of schools employed a full-time nurse," Stoops said.

North Carolina school districts

are struggling to meet the ratio outlined in the report as schools legally must assume an increasing amount of health care responsibilities.

Over the past 15 years, the General Assembly has passed legislation requiring schools to provide care for chronic conditions including asthma, diabetes, and severe allergies. Further complicating the issue is the growing number of students with chronic illnesses or special needs.

"As the demand for nurses exceeds supply, those with nursing credentials are more likely to gravitate toward higher-paying health care jobs in hospitals, clinics, and private practices, rather than public schools," Stoops said.

According to the report, 46 of 115 local education agencies now meet the school nurse-to-student ratio recommended by the state school board in 2004. Only five LEAs have one school nurse in every school.

On average, North Carolina has one school nurse for every 1,068 students. Pamlico County has the lowest ratio at 1:320, while Cumberland County has the highest ratio at

1:2,242. While a plurality of school nurses — 41.6 percent — serve only one school, about 22 percent are serving three or more schools.

Currently, 1,318 full-time school nurses are serving 2,313 schools, with 86 LEAs operating their own school nurse programs. Local health departments operate school nurse programs in 16 LEAs, while two LEAs work with a not-for-profit hospital to provide school nurse services.

The remaining 11 LEAs either work with nonprofit groups or a combination of entities to operate a school nurse program.

The report also found around 60 percent of medical procedures conducted in schools are not done by a registered school nurse, but by a secretary, teacher, or assistant principal with some basic first-aid training.

Program evaluators called on the General Assembly to direct the SBE to develop a new strategic plan for school nursing staff levels. Legislators also should direct the departments of Health and Human Services and Public Instruction to consolidate two state programs: the



**SCHOOL NURSE SHORTAGE.** The National Association of School Nurses recommends every school have access to one school nurse.

Child and Family Support Teams and the School Nurse Funding Initiative, PED said.

Stoops said school districts should pursue private and nonprofit options to provide needed medical services because of budgetary pressures.

"The market for nurses is partic-

ularly competitive in rural communities, which face persistent shortages for qualified health care providers," Stoops said. "Perhaps our elected officials should consider measures to address shortages in these communities first."

*From Staff Reports*

## School funding task force highlights flexibility, accountability

**FLEXIBILITY WAS THE** word of the day in a meeting of the Joint Legislative Task Force on Education Finance Reform.

Several superintendents and local education agency finance officers shared recommendations with legislators Jan. 31 on reforming the school funding formula. These included increasing flexibility in how allocated funds are spent to meet school districts' unique needs.

The task force was created last year to address what many say is an outdated model for school funding. Legislators have until Oct. 1 to send a final report with proposed legislation to the Joint Legislative Education Oversight Committee.

Three superintendents and three school district finance officers offered recommendations of how the school funding model should be reformed to address challenges unique to each school district.

These included counties and districts with decreasing populations, those lagging to recover eco-

nomically, and those with a high percentage of impoverished students.

"In the great state of North Carolina, we cannot allow ZIP codes to dictate a child's access to success," said Superintendent Rob Jackson of Edenton-Chowan Schools.

Representatives from the N.C. Association of School Administrators and N.C. School Boards Association weighed in. The NCASA suggested slowly phasing in changes to a new funding formula to ensure a smooth transition.

"Flexibility is important. It is important as we try and meet the needs of our learners, meet the needs of our schools, and meet the needs of our communities," said Stephen Fisher, superintendent of Cleveland County schools.

Fisher said flexibility in funding allows school districts to meet specific needs of large and small schools. Jackson and Superintendent Tim Markley of New Hanover County Schools echoed the Cleveland superintendent's views about flexibility.

Other concerns included addressing numerous allotment revisions, which superintendents and finance officers say slow the budgeting process. Carol Hendron, chief finance officer for the Rowan-Salisbury school system, said the district received 29 allotment revisions. Jackson said his district received 59 revisions.

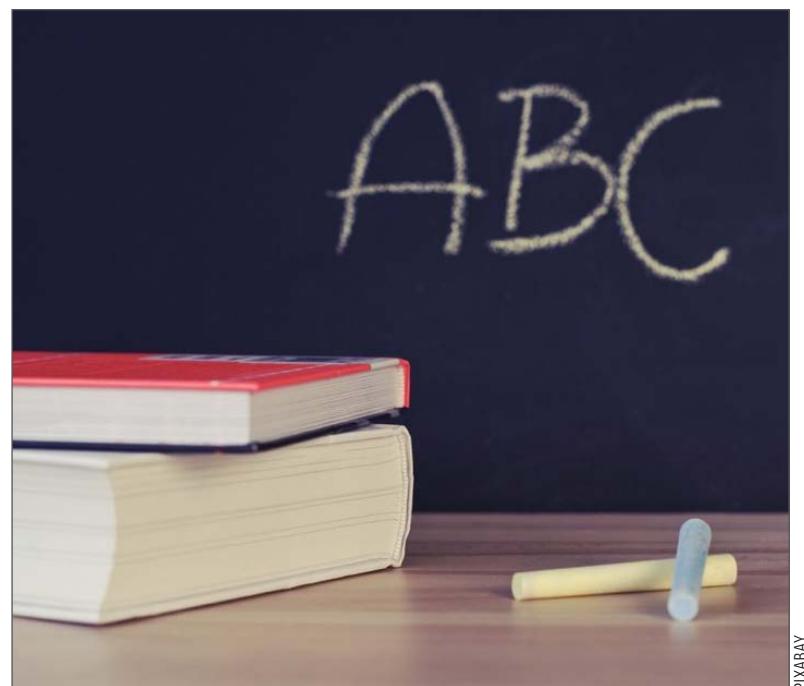
Another common recommendation included the idea of untangling funding for charter schools and school districts.

Many presenters advocated funding charter schools via direct allotment, meaning charter schools would avoid the school system in getting funding. County commissioners would sign the checks instead.

Rep. Frank Iler, R-Brunswick, said he was for as much flexibility as possible, but he wondered whether it could result in a lack of money in certain areas.

"With flexibility comes a lot of responsibility," said Fisher. "When you have that flexibility, you have the responsibility to make sure that if you move funds and do different things and add teachers this year, is that going to meet the needs for next year?"

Fisher said increased flexibility could cause problems, but it also opens the way for innovation to-



ward meeting diverse needs of students and schools.

Sen. Jerry Tillman, R-Randolph, said school districts had more funding flexibility five years ago. But because they mismanaged money, the legislature took it away. He wants to return more flexibility to the school districts, as long as they maintain responsibility for spending decisions.

"I'm perfectly willing to give

you that because you superintendents know more about where that ought to go than anybody alive," Tillman said. "They pay you well to know that."

Tillman said the legislature shouldn't micromanage what school districts need to spend in each category, but he said they must be held accountable.

*From Staff Reports*

## QUICK TAKES

# N.C. mulls changes as poll shows strong public support for prison reform

While North Carolina leaders address a multitude of problems behind the state's prison walls, a new national poll shows growing support for criminal justice reform.

At least 75 percent of Americans think prisons need a makeover, show data from the Justice Action Network. Support crosses party lines, with 68 percent of Republicans and 80 percent of Democrats saying the system "needs significant improvements."

Top corrections officials in North Carolina agree.

Insufficient staffing and poor training are alarming trends inside state prisons, N.C. Public Safety Secretary Erik Hooks said during a Jan. 25 presentation before members of the General Assembly.

Underfunding, insufficient mental health treatment, and overreliance on solitary confinement are big issues, too, said Chris Brook, legal director for the American Civil Liberties Union of North Carolina.

Hooks, who took office one year ago, faced two prison tragedies early on. Five prison workers died in attacks at Bertie and Pasquotank correctional institutions in April and October. Several other employees and inmates were hurt.

The year was one of the most violent in North Carolina corrections history, but problems have gone on for years, Hooks said.



**CENTRAL PRISON IN DOWNTOWN RALEIGH.** At least 75 percent of Americans think prisons need a makeover.

In 2014, a horrific ordeal at Alexander Correctional Institution in Taylorsville resulted in the death of Michael Kerr — a 53-year-old schizophrenic — during his transfer to Central Prison hospital in Raleigh.

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.

Last year, Hooks ordered a top-

to-bottom evaluation of the N.C. Department of Public Safety. The agency is fueled to "bring about substantive change to make our prisons safer," he said.

Security and staffing at Pasquotank are a mess, a report from the National Institute of Corrections shows.

Prisons are home to the state's most dangerous criminals, and staff safety is a priority, said Kenneth Lassiter, director of prisons at DPS. The state must hire more corrections

officers and beef up security measures, said another review commissioned by the N.C. Governor's Crime Commission.

But the system also should focus on rehabilitating people to become productive, law-abiding citizens, Brook said.

An overwhelming majority of Republicans and Democrats agree.

Ninety percent of Americans think "we should break down barriers for people coming out of prison so they can get jobs, support their

families, and stop being so dependent on government services," the survey states. Another two-thirds of voters support practices allowing job applicants to discuss their qualifications before they're asked about criminal records.

North Carolina falls short on inmate rehabilitation, said Susan Pollitt, senior attorney at Disability Rights North Carolina. The corrections system is the largest mental health provider in the state. Yet there are few treatment programs, and social workers are overloaded — and in short supply.

Among roughly 37,000 prisoners, about 5,000 are locked in solitary confinement. More than one in five of those prisoners suffer mental illnesses.

Isolation is used to punish inmates who suffer psychosomatic episodes. Most of the time, isolation worsens their condition, said Pollitt.

Prisoner violence and staff safety are serious issues, Brook said. But since most prisoners end up back on the street, North Carolina should focus on retraining 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.'"

*From Staff Reports*

## GOP leaders announce phase-in of class-size mandate

**STATE REPUBLICAN** legislative leaders announced a fix to the class size mandate, which would phase in smaller class sizes in kindergarten through third grade over the next four years instead of an immediate fix this school year.

Last spring the General Assembly required local school systems to reduce class sizes starting in the 2018-19 school year. Class sizes for K-3 grades would be capped at 18 for kindergarten, 16 for first grade, and 17 for second and third grades.

School officials worried they would not be able to meet the mandate without additional funding and would have to eliminate extracurricular classes like art, music, and physical education to save space and money.

Critics rallied against the mandate, arguing it would create chaos in the classroom and overcrowding in other grade levels as schools struggle to lower K-3 class sizes.

Senate leader Phil Berger,

R-Rockingham, House Speaker Tim Moore, R-Randolph, Rep. Craig Horn, R-Union, and Sen. Chad Barefoot, R-Wake, presented the legislative fix during a Feb. 8 press conference.

The proposal ended up being incorporated later that day within House Bill 90, a measure that also featured several other unrelated matters.

Despite concerns about the other issues — related to the Atlantic Coast Pipeline and state election administration — the measure won bipartisan approval with votes of 37-5 in the state Senate and 104-12 in the House.

School officials now have more time to prepare for class size reductions. School administrators would have another year for planning before the first reductions. In addition, H.B. 90 allocates over \$60 million for art, music, and physical education teachers.

School districts will get \$250

million in additional recurring funds by the 2021-22 school year to fund additional enhancement teachers.

"We're committed to lowering class sizes logically, reasonably, and in good time," Horn said.

Barefoot said research shows lower class sizes improve academic performance.

In addition to addressing the class size mandate, the conference committee substitute also proposes additional funding to expand the NC Pre-K program.

The provision proposes more than \$82 million for the 2019-20 budget year and \$91 million for 2020-21 and each subsequent fiscal year.

Horn said expanding the early education program helps to ensure all children can read proficiently by the third grade. He expressed concern that many children are not prepared to start school.

*From Staff Reports*



**CLASS SIZES.** House Speaker Tim Moore, R-Cleveland, introduces a class-size reduction fix at a Feb. 8 press conference.

## QUICK TAKES

# Still no ruling one year after latest step in longstanding Cooper complaint

One year after presenting his latest arguments in court, a Raleigh attorney still has no idea how the N.C. Court of Appeals will rule on a complaint related to Gov. Roy Cooper.

Attorney Gene Boyce argued Feb. 7, 2017, that a three-judge Appeals Court panel should overturn a trial court judge's decision throwing out Boyce's lawsuit against the N.C. State Bar. Boyce contends that the State Bar mishandled his complaint about Cooper's actions during the 2000 campaign for N.C. attorney general.

More than one year after Boyce's argument, the three-judge panel has yet to issue an opinion.

The State Bar is the agency that regulates attorneys in North Carolina. Boyce contends the agency should have taken action against Cooper in connection with a controversy that led to a 14-year legal battle between Boyce and Cooper in civil court. The battle stemmed from comments Cooper's campaign made in advertisements aimed against Boyce's son Dan. The Democrat Cooper beat Republican Dan Boyce in the 2000 attorney general's race.

Cooper won three more statewide campaigns for attorney general before unseating incumbent Republican Gov. Pat McCrory in 2016.

Cooper and Boyce settled their

civil suit in 2014 when Cooper issued Boyce a written apology. Boyce contends the complaint involving the State Bar involves a separate issue.

Boyce wants the Appeals Court to force the State Bar to acknowledge his claims of Cooper's misconduct; declare that the State Bar has a conflict of interest in the matter, because Cooper served as lead attorney for the State Bar; and refer the dispute to an alternative agency for investigation, findings of fact, and discipline if appropriate.

The Appeals Court could issue an opinion as early as March 6.

*From Staff Reports*



**APPEAL.** Raleigh attorney Gene Boyce, pictured outside the N.C. Court of Appeals building, has tangled with Roy Cooper in court since 2000.

FILE PHOTO

# Charter school annual report shows improvements, but challenges remain

**A NEW REPORT** shows that charter schools are becoming more racially diverse, enrolling more impoverished students, and performing better than in previous years, but experts say challenges remain.

Since the first charter school opened in North Carolina in 1997, the legislature has required that the State Board of Education compile an annual report on how charter schools are doing and the impact they have on their communities.

Charter schools are taxpayer-funded public schools, but with key differences. Charter schools have more flexibility when it comes to setting the academic calendar and hiring teachers. They aren't required to offer transportation or free or reduced-price lunches.

"The report is a good reminder of how far charter schools have come since the General Assembly passed the founding charter legislation in 1996 — from 33 schools and just over 4,000 students in 1998 to 173 schools and over 100,000 students in 2018," said Terry Stoops, vice president for research and director of education studies at the John Locke Foundation.

David Machado, director of the Office of Charter Schools, presented the report to the SBE. Machado said about 55,000 students are on waiting lists to attend charter schools.

Despite growing enrollment, charter schools face criticism over



what some say is a lack of student diversity. The report, though, shows the racial makeup of charter schools mirrors that of traditional public schools. The exception is with Hispanic student enrollment. Hispanic students account for 9.2 percent of charter school enrollment, compared to 17.3 percent in traditional public schools.

The trend may be changing as Hispanic student enrollment has increased 0.8 percent over last year. Enrollment of white students decreased 1.3 percent.

"The diversity in our charter

schools is trending in the right direction," Machado told the SBE.

In 2016 Lt. Gov. Dan Forest created a task force to study how charter schools are doing in reaching out to Hispanic families. It found only 12 percent of Hispanic parents polled knew what a charter school was or even knew the schools existed. The task force also found several charter schools did not have applications in Spanish.

The task force reported that North Carolina isn't alone in struggling to enroll more Hispanic students in charter schools. It sug-

gested educators look to Florida — a state with higher Hispanic student enrollment — for answers. Referring to charter schools as public charter schools, thus avoiding confusion, was another recommendation.

Not only are charter schools accused of lacking racial diversity, but they are also criticized for serving fewer economically disadvantaged students than traditional public schools. ED students account for 30.6 percent of charter school enrollment — although that is trending upward — compared to 50.4 per-

cent at traditional public schools.

Academic performance has improved, too. More charter schools are scoring an A or A+NG than traditional public schools. A+NG means a school earned an A and did not have significant achievement/graduation gaps.

Almost 10 percent of charter schools scored high marks, compared to about 7 percent of traditional public schools. At the same time, charter schools also make up a larger percentage of D and F grades. About 25 percent of charter schools received a D or F; 22 percent of traditional public schools received the same grade.

Machado highlighted innovative practices by charter schools in North Carolina.

"Innovation comes in many forms," Machado said. "It is not always rocket science. Sometimes it is common-sense practices, building school culture, or full implementation of sound academic practices."

Machado sees room for improvement, and Stoops agrees.

"North Carolina's charter schools should be proud of their record of improving academic outcomes, but they must also be mindful of the political, institutional, and educational challenges that lie ahead," Stoops said.

*From Staff Reports*

# AGRICULTURE

## Farm forum discusses ways to boost N.C.'s top industry

BY DAN WAY

President Donald Trump's rock-hard stance against several international free-trade deals is softening, and immigration reform might include guest worker provisions.

Those national topics — along with the importance of exports to the state's agricultural market — headlined the 13th Annual Agriculture Development forum Feb. 1 at the State Fairgrounds in Raleigh. The half-day event covered familiar farm-to-fork campaigns to increase market share. It also probed the intersection of pastures-to-politics policies that affect land use and farmers' bottom lines.

Agriculture is the state's top industry and contributes \$85 billion to North Carolina's \$500 billion annual economy, said N.C. State University economics professor Mike Walden.

Randy Russell, president of The Russell Group, a Washington-D.C.-based food and agriculture consulting firm, said the top three importers of U.S. products in 2016 were Canada, \$20 billion; China, \$19 billion; and Mexico, \$18 billion. All three are now in President Trump's crosshairs for serious trade negotiations.

North Carolina farmers seek certainty in global trade relations and steady labor availability. Stability is important as farmers increasingly export products to other nations, many of which are in free-trade deals President Trump has threatened to end.

Republican governors and GOP congressional members are pushing Trump to stay in the North American Free Trade Agreement with Canada and Mexico, Russell said.



**FARM FORUM.** N.C. Agriculture Commissioner Steve Troxler speaks Feb. 1 at an annual forum at the State Fairgrounds in Raleigh.

Ray Starling, special assistant to the president for agriculture, trade, and food, has softened Trump's contempt for the pact, Russell said. Starling formerly was general counsel for the N.C. Agriculture Department and senior agriculture adviser for the General Assembly.

Thirty percent of all U.S. farm exports go to Canada and Mexico. Since NAFTA went into effect, agricultural exports rose from \$9 billion in 1993 to \$39 billion in 2017. Even adjusted for inflation, the 1993 number would be only \$15.25 billion today.

Russell thinks Trump will stick with NAFTA while requiring modifications, probably pushing back renewal of the deal to the end of 2018.

He said Trump's harsh criticism of a free-trade deal with South Korea, the No. 5 agricultural export

market for U.S. products, is the president's preferred negotiating tactic. He expects Trump will win increased access to the Korean market rather than dropping out of the deal.

The thorniest trade deal restructuring will be with China, Russell said. Although it is the No. 1 U.S. trading partner, and No. 2 export market, he said the Chinese often steal U.S. intellectual property, which is a challenge for Trump's administration.

President Trump already has imposed tariffs on Chinese washing machines and solar panels. Russell foresees more tariffs on products such as Chinese steel and aluminum. He worries China will retaliate, most likely against U.S. farm products.

Blake Brown, N.C. State profes-

or and extension economist, said the U.S. must be careful. Renegotiating trade deals could drive top trade partners to U.S. competitors.

He said Mexico and Central America import large percentages of products from North Carolina including pork, chicken, tobacco, and cotton. If the U.S. ends NAFTA's preferential treatment of Mexico, Brazil is waiting to swoop in. Brazil's farm economy is strong and growing, Brown said.

Similarly, China is developing broad agricultural ties in Africa, where North Carolina farm products are sold, and Australia is within reach of half of the world's population. As the world becomes wealthier, people will demand more meat, Brown said. Meat is one of North Carolina's best exports.

"Governments don't trade. Businesses trade," said Andy Curliss, CEO of the N.C. Pork Council. "A trade war would be cataclysmic, and I use that word cautiously."

Trading relationships are well-established, and agreements should be modernized, not scrapped, Curliss said.

North Carolina is the nation's No. 2 pork producer and ships 25 percent of production to other countries. About half of those exports go to NAFTA countries and South Korea, Curliss said. While pork exports are up across the board, they have increased more to America's 20 free-trade partners than the 174 nonfree-trade importers.

Curliss said national immigration issues could impact North Carolina farmers.

"Mexico loves hams," Curliss said. "We don't take a position on walls, but if there's a wall between us and Mexico, we're going to cut a hole the size of a ham, and we'll be down there."

Several speakers touched on farm labor issues tied to the immigration stalemate in Congress.

U.S. Rep. Bob Goodlatte, R-Virginia, chairman of the

House Judiciary Committee, delivered a message via video touting his Agricultural Guest Worker Act. He said it would create a new H-2C visa program that would allow guest workers to enter the country legally. The intent is to provide a reliable supply of farm workers when the available work force is low.

State Agriculture Commissioner Steve Troxler said the H-2C visa is important in North Carolina, which has high-value, labor-intensive crops. The nation is at historic lows for unemployment, and competition for American workers is keen, he said.

"If they build a wall, I just want to make sure there's a great big door in it" for foreign labor to enter legally, Troxler said.

U.S. Sen. Thom Tillis, R-N.C., also delivered remarks via video. He said resolving how to handle immigrants under the Deferred Action for Childhood Arrivals program is an important first step to resolving North Carolina's farm labor problems.



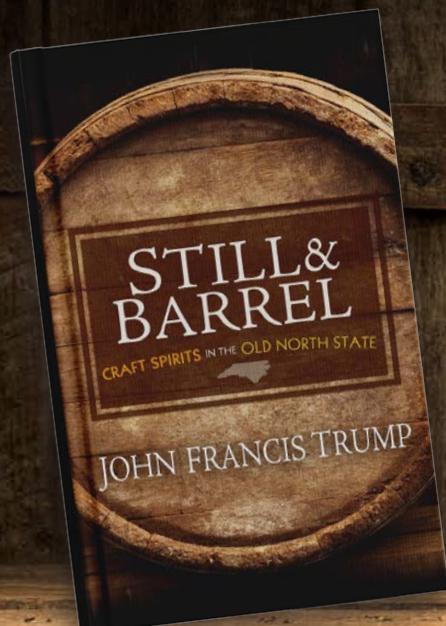
**North Carolina farmers seek certainty in global trade relations and steady labor availability.**

CI PHOTO BY DAN WAY

### BOOKS BY JLF STAFF



**John Trump**  
Managing Editor,  
Carolina Journal



### *Still & Barrel: Craft Spirits in the Old North State*

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# SECURITY

## Security expert warns lawmakers of dangers of EMP attack

BY LINDSAY MARCHELLO

**P**eter Vincent Pry — executive director of the task force on National and Homeland Security — is on a mission to educate people about the dangers of an electromagnetic pulse attack.

Pry's recent stop on his educational tour was the Joint Legislative Emergency Management Oversight Committee where on Feb. 15 he warned lawmakers about the real dangers of an EMP attack. Pry has a long history of experience with EMPs as the former chief of staff of the EMP commission.

The threat is very real, he said.

EMPs are bursts of electromagnetic energy which can disrupt or seriously damage electronic equipment. These bursts are not visible to the naked eye and don't cause physical damage to people, but they can wreak havoc on an electric grid.

"It has so much energy when it couples into electronics it will destroy them," Pry said.

An EMP burst could cause a widespread, protracted blackout and bring the United States to a standstill if it hit the right target. Pry said if an EMP burst hit a major civilian electric grid, then anything that requires electricity would be shut down.

"We estimate that a nationwide blackout that lasts a year could kill up to 90 percent of our population through starvation, disease, and societal collapse,"

Pry said. "Everything that depends directly or indirectly on electricity, none of that would work. In effect you would be subtracting technology from the equation of our modern electronic civilization."

An EMP burst could come from a natural source such as a solar flare or from an unnatural source like a nuclear detonation.

"You can make something like a geomagnetic storm with a nuclear weapon by detonating it at very high altitude above the Earth's atmosphere," Pry said.

Pry said there is a concern that North Korea could detonate a nuclear weapon with one of its two satellites as it passes over the United States. The detonation would generate an EMP field covering the entire country, Canada, and much of Mexico and cause the destruction of our electronic civilization.

It is possible the United States wouldn't even know who launched the EMP attack because hundreds of satellites are orbiting the Earth. A

satellite isn't necessary for the attack, either. A short-range missile launched off a freighter could do the trick, too.

Pry said the United States needs to start taking this threat seriously. That includes preparing by hardening the electric grids, in part by employing surge arresters to stop an EMP pulse from running

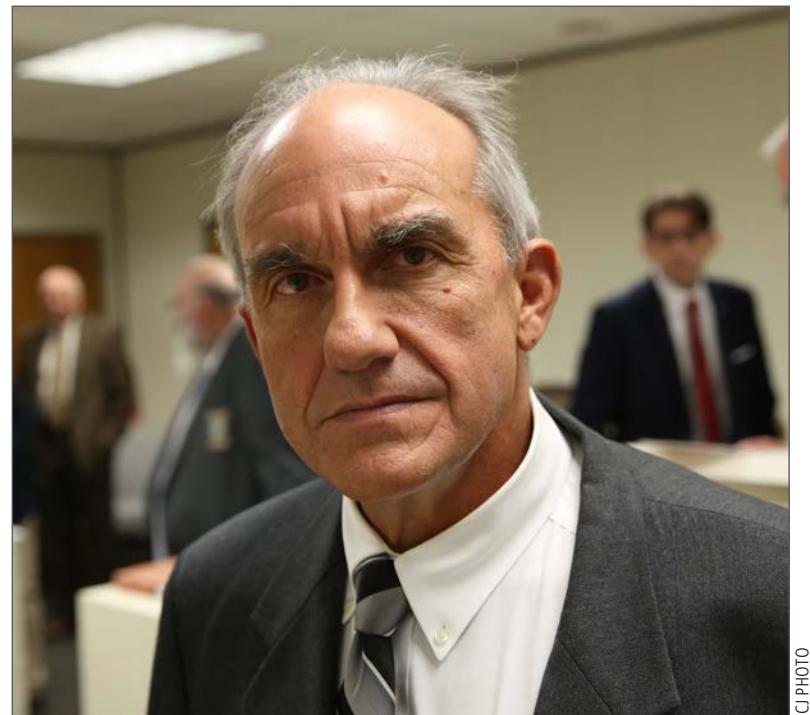
through the entire grid.

If the federal government is unwilling to commit the resources, Pry said, then the states should act. Russia and North Korea, he said, are preparing for such an attack. We aren't.

"We have been trying to get Congress for years to harden the electric grid because there is no excuse for being vulnerable to these threats," Pry said. "The Department of Defense has known for 50 years how to protect its systems, but we never did that for the civilian power grid."



**EMPs are bursts of electromagnetic energy which can disrupt or seriously damage electronic equipment.**



**THE DANGERS OF AN EMP ATTACK.** Peter Vincent Pry, executive director of the task force on National and Homeland Security, spoke to state lawmakers on Feb. 15.

Pry said hardening the grid isn't that expensive. He estimated protecting the entire country would cost upward of \$2 billion to \$3 billion.

But the amount of protection is going to vary from state to state de-

pending on existing infrastructure, but Pry said every state's legislators should look at protecting their local grids.

"We are an electric civilization," Pry said. "We can't survive without electricity"

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## SECURITY

# Very real

## UNC campuses training to respond to mass shootings

BY KARI TRAVIS

Gunshots split the air on a cold morning at UNC-Greensboro. Three shooters invaded the dilapidated McIver Building on the southeast side of campus. University and local police swarmed the scene minutes later.

The incident Feb. 1 felt like a TV moment — especially since none of the action was real, sophomore Zoe Smith told *Carolina Journal*. The episode was part of a carefully organized mass shooter training exercise — one of several to be held on UNC campuses this year.

Mass shootings are a rising concern in the U.S., as illustrated by tragic events like the Feb. 14 attack on Marjory Stoneman Douglas High School in Parkland, Florida. Seventeen people were killed, and 14 were wounded.

The risks are painfully real, said Zach Smith, UNCG's director of emergency management services. Just recently, a student from Winston-Salem State University was shot and killed at Wake Forest University. Police identified three suspects a few days after the incident. The investigation is ongoing.

UNCG's emergency response teams must prepare for a worst-case scenario, Zach said.

The university spent months organizing the event, and more than 400 volunteers, law enforcers, and emergency personnel took part. Members of the Greensboro Police Department, Greensboro Fire Department, State Bureau of Investigation, and FBI were just a few of the many participants.

The UNCG drill was one of the largest held on a UNC campus, said university spokeswoman Eden Bloss.

About 9:30 a.m., three UNCG students led a fake attack on McIver. The scenario began with a

car crash, "injuring" about a dozen bystanders. After the first assault, shooters stormed the building. Havoc ensued.

The events were fictitious, but police teams inside the building were shaken by the experience.

"We try to keep it as realistic as possible for training value, and so we have role players," Zach said.

"They're screaming, you hear the gunshots that are simulated gunfire, and there are a lot of physical altercations and things like that."

Smith was one of 70 volunteers who played the role of victim. The architecture major, like dozens of other participants, wore "mouflage," stage makeup to simulate

major injuries.

"I kind of feel like I don't understand things until I see them firsthand, so being able to experience this today was eye opening. I would say I know how to react when a situation like this occurs," Smith said.

### School shootings are on the rise

Mass shootings are increasing at alarming rates, and "educational environments" are high-risk territories, a 2013 FBI study shows.

The report, which excluded shootings involving gangs or drug violence, studied 160 active shooter incidents between 2000 and 2013. Thirty-nine of those incidents occurred at public schools and college campuses.

The 2007 shooting at Virginia Tech is the third-largest gun attack in the U.S., with 32 killed and 17 wounded. The 2012 incident at Sandy Hook Elementary School in Connecticut, where 29 were killed and two were injured, is the fourth-deadliest shooting on record.

In 2016, the U.S. saw 483 mass

### What should I do in the case of an active shooter?

Run. Hide. Fight. This is one of the most widely used public safety training programs at public schools in the United States.

#### 1. RUN

Have an escape plan in mind. Leave your belongings behind. Keep your hands visible.

#### 2. HIDE

Hide in an area out of the shooter's view. Block entries to your hiding place and lock doors. Silence your cell phone.

#### 3. FIGHT

Fighting is the last resort and should only be used when your life is in imminent danger. Attempt to incapacitate the shooter. Act with physical aggression and throw items at the active shooter.

When law enforcement arrives...

Remain calm and follow instructions. Put down anything in your hands and raise them over your head. Avoid quick movements. Don't hold on to officers for safety. Avoid pointing, screaming, or yelling. Don't stop to ask officers for help or direction while evacuating.

Tell officers the number of potential victims at the location. Include information about the shooters, their location, their physical descriptions, and the number and type of weapons in play.

shooting incidents, according to data from the Gun Violence Archive. More than 300 shootings occurred in 2017.

This year is off to another violent start.

While campus violence gets a lot of press, it's not necessarily indicative of a rise in crime, said Jenna Robinson, president of the James G. Martin Center for Academic Renewal.

"High-profile campus shootings have clouded our perception. The truth is that university campuses



**MEDICAL PERSONNEL.** A group of medics care for "victims" during a Feb. 1 mass shooter simulation at UNC-Greensboro.

CJ PHOTO BY KARI TRAVIS



**LAW ENFORCEMENT.** Law enforcers canvass the hallways of UNC-Greensboro's McIver Building during a Feb. 1 training exercise.

PHOTO BY MARTIN KANE, UNC GREENSBORO



**TEAMWORK.** Recent incidents have underscored the need for coordination between law enforcement and others

CJ PHOTO BY KARI TRAVIS

### What is an active shooter?

An active shooter is defined as one or more individuals actively engaged in "killing or attempting to kill people in a populated area," the FBI states. Recent incidents have underscored the need for coordination between law enforcement and others, the agency says.

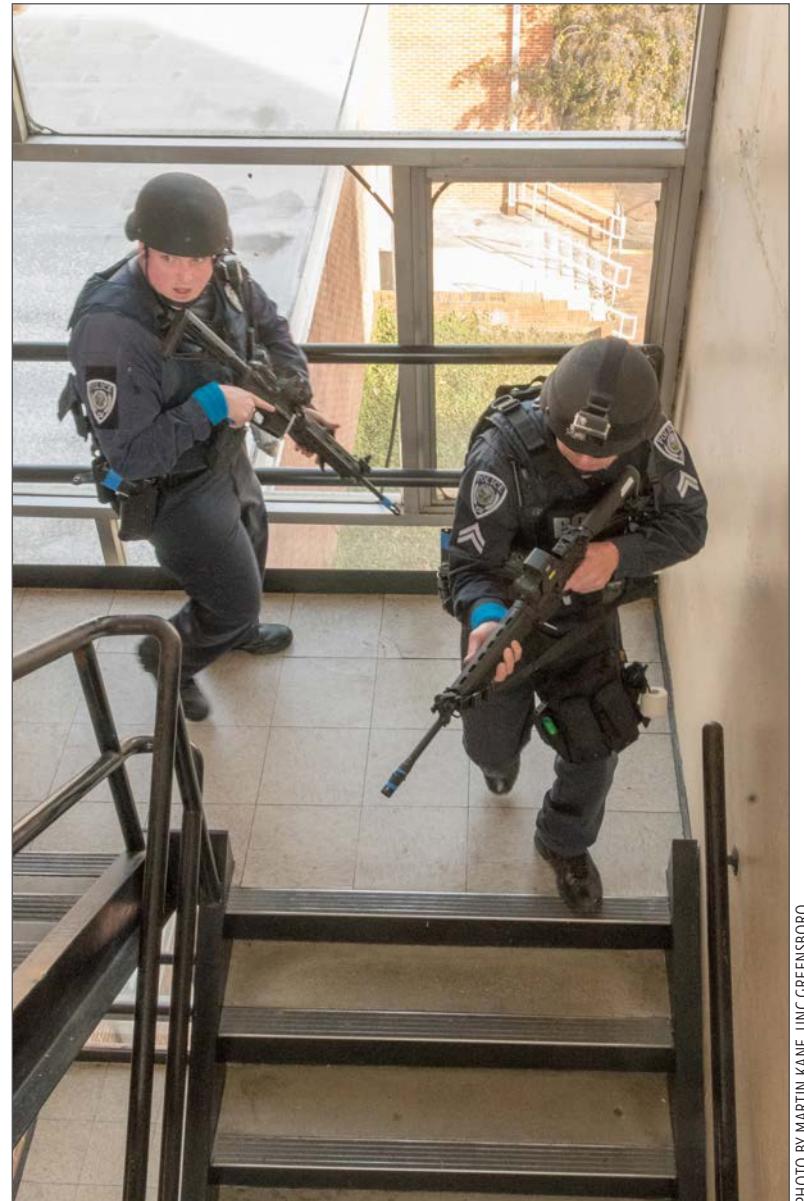
The "active" part of the definition implies that both law enforcement and civilians can affect the outcome of the event based on their responses to the situation.



### What is a mass killing?

A mass killing is defined by law as an incident where three or more people are killed in public places.

The Investigative Assistance for Violent Crimes Act of 2012 allows state and local law enforcement to request and receive federal assistance during active shooter incidents and mass killings.



**EMERGENCY EXERCISE.** UNC-Greensboro conducted a large scale, mass-casualty emergency exercise on campus on February 1. The drill was designed to test the university and community's emergency response and recovery plans and capabilities. One of the largest drills ever conducted on a UNC system campus, more than 400 emergency personnel, volunteers and UNCG faculty, staff, and students participated in the exercise, including members of the Greensboro Police Department, Greensboro Fire Department, Guilford County EMS, State Bureau of Investigation, Federal Bureau of Investigation, and American Red Cross.

# SECURITY



CI PHOTO BY KARI TRAVIS

**NEVER TOO PREPARED.** Medics care for a student following a simulated attack on the McIver Building on UNC Greensboro's campus.



CI PHOTO BY KARI TRAVIS

**RESPONSE PLANS.** UNC Greensboro's emergency team attends to a "victim" while testing communications between local and campus law enforcers.

## Public school safety in North Carolina

Forty-one members of the N.C. House are piling onto a new committee to protect kids at state schools. The effort comes in the wake of a deadly Feb. 14 high school shooting in Parkland, Florida.

The House Select Committee on School Safety will examine "safety standards and procedures throughout North Carolina's elementary, middle, and high schools," House Speaker Tim Moore, R-Cleveland, said.

"As parents, our highest priority is keeping our children safe," Moore said.

Security starts with building safer schools and maintaining facilities every day, he said.

continued from PAGE 8

are some of the safest places in the country. Most of the time, campuses are safer than the neighborhoods and cities they're located in."

In 2009, 52 percent of crimes on N.C. campuses were related to

drugs and alcohol, says a 2010 Martin Center report. Thirty-three were burglaries. Fifteen percent were violent crimes.

Since it's impossible to know when a shooter may attack campus, first responders can never be too prepared, Zach said. UNC campuses regularly hold training exercises to

prepare for mass shootings and other emergencies.

UNCG is one of five schools to receive \$42,000 for mass shooter trainings this year. Elizabeth City State University, N.C. State University, N.C. Central, and the N.C. School of Science and Math will hold similar exercises between Oc-

tober 2018 and October 2019.

UNC hired an outside firm, Envirosafe, to coordinate trainings across several campuses, said UNC spokesman Josh Ellis. Ellis said the university was able to get "preferred pricing, address particular campus needs, and assure that high-priority campus safety and

emergency training needs are being addressed."

"These emergency exercises help our campuses and our local, state, and federal partners test their systems and response plans using a variety of scenarios, and identify areas for continued improvement," Ellis said.



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HOST:  
TOM CAMPBELL

## ENERGY

## Cooper family solar farm's shady transactions

Economic interest statement did not mention solar income

BY DON CARRINGTON

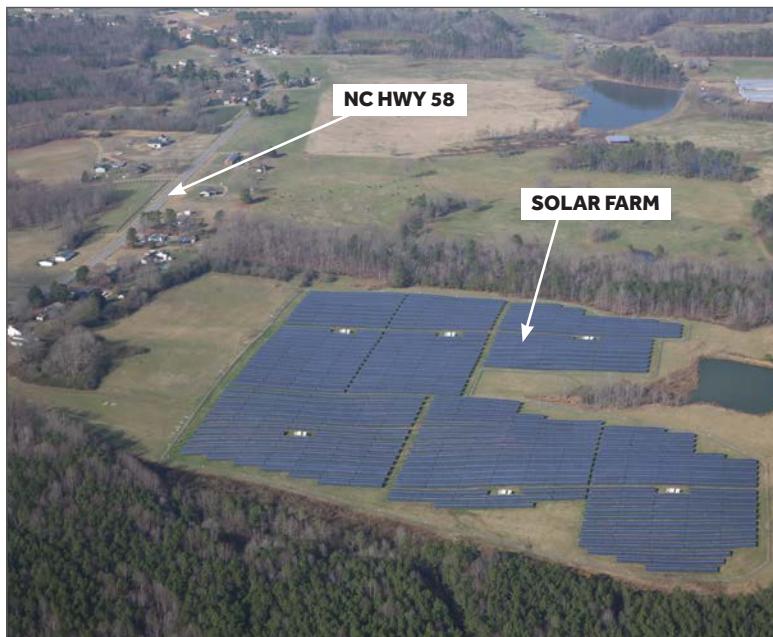
Gov. Roy Cooper in 2012, while serving as state attorney general, agreed to lease a Nash County property he and his brother Pell owned to Chapel Hill-based Strata Solar for the construction and operation of a 4.9-megawatt solar facility.

The lease agreement may be worth more than \$1 million, based on industry standards. The Coopers' economic interest statements haven't mentioned any solar company. (Pell Cooper has served as a District Court judge since 1999.) Roy claimed he gave up his interest in the property in 2014 but didn't report income from the transaction.

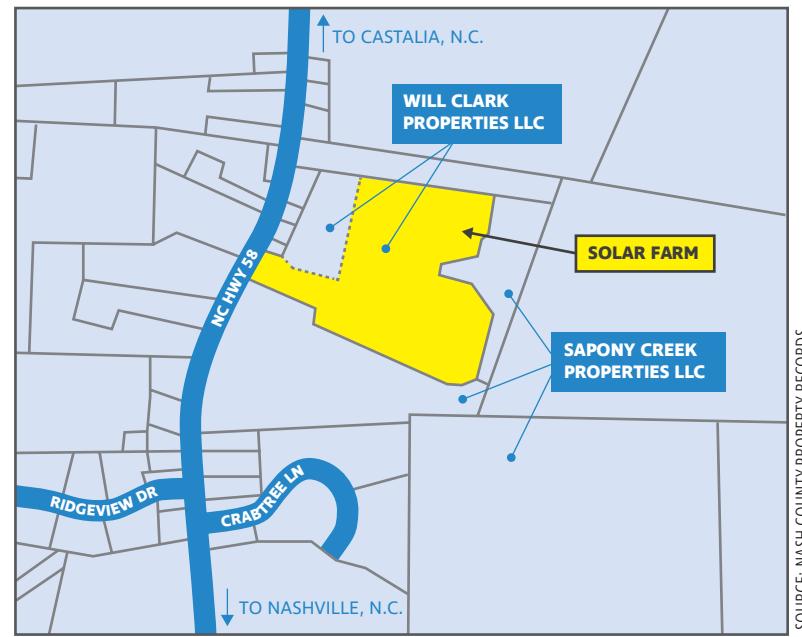
On Nov. 16, 2012, Nash 58 Farm LLC, a subsidiary of Strata Solar, submitted an application to the N.C. Utilities Commission to build a 4.9-megawatt solar facility. The application stated the facility would be located on N.C. Highway 58 in Nash County, south of the Castalia community. The aerial photo accompanying the application showed a site containing approximately 85 acres.

The application also stated, "Nash 58 Farm, LLC, will own the facility and will lease the site from Roy A. Cooper, III, the current owner." The land has been in the Cooper family since 1981, when Roy and Pell's father, Roy Cooper Jr., acquired it. In 1996, their father sold the land to his sons and their wives.

In December 2012, the Cooper brothers created a new limited li-



**SOLAR FARM ON COOPER FAMILY LAND.** Aerial view of a solar farm from which Gov. Roy Cooper and his brother, Judge Pell Cooper, received lease payments for most of 2013 and 2014.



**PROPERTY MAP.** Roy Cooper reported on financial disclosure documents he divested his interest in the parcel owned by Will Clark Properties LLC in November 2014. His brother, District Court Judge Pell Cooper, is the only named principal in Will Clark Properties.

ability company named Will Clark Properties LLC and transferred ownership of the solar parcel to that entity. On Jan. 4, 2013, Will Clark Properties signed a 20-year lease agreement with Nash 58 Farm.

Cooper's lease agreement is not recorded with the Nash County Register of Deeds, and the annual lease payments are not available to the public. A memorandum of lease, containing some of the lease details, is recorded. That document states the lease began January 2013 and continues to May 2034 and that it is renewable for two five-year terms. The Utilities Commission approved the project Jan. 24, 2013.

On state-mandated economic interest statements, Roy Cooper listed rental income from Will Clark Properties during 2013 and 2014 but did not mention the income originated from a lease to the Strata Solar subsidiary.

According to one economic interest statement, in November

2014 Roy Cooper reportedly ended his relationship with Will Clark Properties. That would have left Pell Cooper as the only known principal in the parcel containing the 40-acre solar farm. Gov. Cooper's spokeswoman Noelle Talley told *Carolina Journal* that the governor no longer owns Will Clark Properties, but she did not respond to further questions about the company, the value of the lease, and the nature of the governor's divestiture from the business.

In November 2014, the same month Roy Cooper said his interest in Will Clark Properties ended, the LLC transferred the original 85 acres - minus the 40-acre parcel containing the actual solar panels - to Sapony Creek Properties, another new entity created and controlled by Roy and Pell Cooper.

Current Nash County land records show Sapony Creek Properties owns three parcels adjacent to the 40-acre solar farm; Will Clark Properties still owns the solar farm. The parcel with the so-

lar farm is in the middle of the surrounding Sapony Creek-owned land.

The solar project, completed in October 2013, became Nash County's third solar farm. There are approximately 20 solar projects operating in Nash County.

A 2017 report from the N.C. Sustainable Energy Association stated that annual rent payments from N.C. solar companies typically range between \$500 and \$1,400 per acre. Based on that range, the lease payments for the Cooper 40-acre solar site would be between \$400,000 and \$1.12 million for a 20-year lease term, and as much as \$1.68 million if the lease were extended to 30 years. Payments could be higher if the lease contains an inflation provision.

### Disclosure requirements

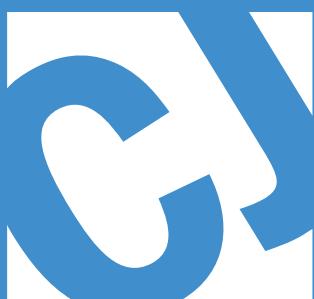
The State Board of Elections and Ethics Enforcement is required to collect and maintain statements of economic interest from certain

public officials. The statements are public records.

Jonathan Jones, an Elon University communications professor who is director of the N.C. Open Government Coalition, reviewed details provided by *CJ* of Cooper's land transactions and financial disclosures. He suggested the disclosures painted a murky picture of the governor's handling of the property transactions.

"Financial disclosure statements are critically important. They give the public the ability to understand the business dealings of elected officials and how those may or may not affect decision making. The disclosures of Gov. Cooper regarding Will Clark create reasonable questions about what happened to his interest in the solar farm property," Jones said.

In August 2016, Strata Solar chief executive officer Markus Wilhelm and Strata Solar chief administrative officer Cathy Wilhelm each gave \$5,100 to Cooper's campaign for governor.



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# PIPELINE

## Atlantic Coast Pipeline: Cracks in the process

BY DAN WAY

Gov. Roy Cooper committed an unforced error by circumventing the General Assembly and creating a constitutionally questionable \$57.8 million Atlantic Coast Pipeline fund, political observers and legislators say.

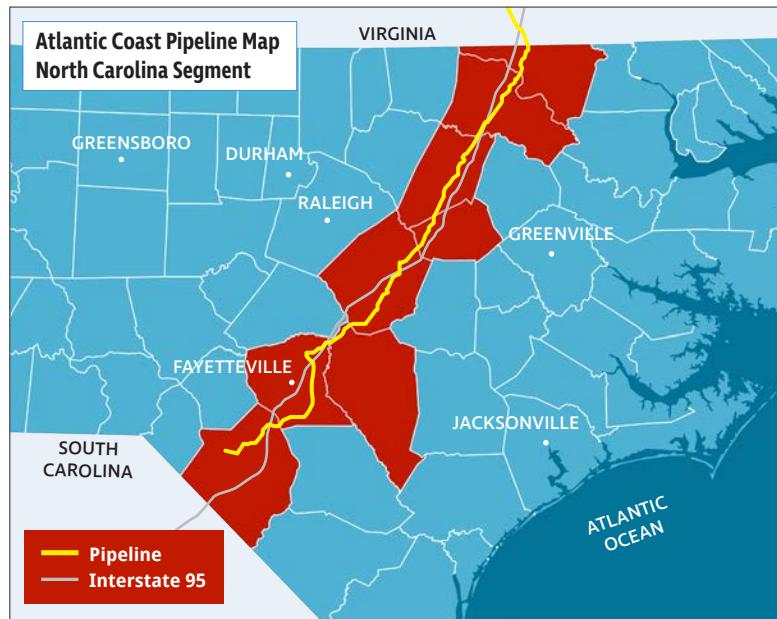
Cooper could have been tone deaf to the sour notes his action was sure to sound, they say, and may lack inner circle advisers influential enough to persuade him to put the brakes on the deal before it boomeranged on him.

It's an opportunity missed to bridge the political chasm of frequent litigation, veto battles, and hard feelings separating the legislative and executive branches, Meredith College political science professor David McLennan said.

If the energy company coalition wanted to make a truly voluntary contribution, as Cooper claims, he would have been better served to include the General Assembly in the process, McLennan said. The N.C. Constitution requires state money to go through legislative appropriations. Both sides could have shared credit under that harmonious approach.

Instead, Cooper kept the initiative to himself. He announced it Jan. 26 within minutes of the state Department of Environmental Quality announcing it issued a vital water permit to pipeline developers building the multistate, 600-mile pipeline from West Virginia to Robeson County.

Cooper said the nearly \$58 million would be used for environmental mitigation, economic development, and renewable energy projects. But details were lacking about the escrow fund he envi-



SOURCE: Atlantic Coast Pipeline

sioned for the money and specifics on who would get the money, and how much.

Legislative Republicans and others said the timing of the two announcements led to the appearance the deal was a pay-to-play scheme, forcing Duke Energy, Dominion Energy, and their partners to fork over money for a permit for which they already qualified.

Senate leader Phil Berger, R-Rockingham, Lt. Gov. Dan Forest, and others pulled no punches. They said it was a slush fund. The Civitas Institute filed a state ethics complaint against the governor.

Does Cooper, a former state representative and senator, and 16-year attorney general, have the political instincts to avoid this sort of lightning rod on what many see as a clear violation of constitutional separation of powers?

"He should have realized that this is the way it would have been

interpreted by a lot of people given the divisive and polarized environment," and he was vulnerable to political attack even if his action was completely innocent, said N.C. State political science professor Andy Taylor.

If Cooper is politically blinded by a left-of-center technocratic desire to do good, compounded by a belief he knows what is best for the state, his senior staff might be faulted for not preventing the political drama.

"Does he have people he can trust who can take him aside and say, 'Look, this kind of smells,'" Taylor said.

Some reports have surfaced that the N.C. Farm Bureau and other private parties initiated the fund negotiations with the pipeline coalition. It's unclear how it ended up in the governor's office. Larry Wooten, Farm Bureau president, has not returned calls for comment.

Taylor believes Cooper would

have been better served had he allowed the deal to go forward among the private interests.

"He could still issue the press release. ... He could still claim all of the political credit he wanted," and hold ribbon-cutting ceremonies for the media, Taylor said.

Precedent for a more collaborative approach exists.

Dan Gerlach, president of the Golden LEAF Foundation, said appropriations chairmen from both legislative chambers and representatives of former Gov. Pat McCrory met with him in December 2016 to ask the foundation to administer disaster relief funds after Hurricane Matthew.

"It was all the relevant policymakers together," Gerlach said. That persuaded the foundation to take on that task because it had the grant-making infrastructure in place, even though disaster recovery wasn't a normal function for the organization.

While someone from the Cooper administration contacted him about the pipeline fund, "I do not nor does my board have any interest in stepping into a tug of war about the best way to use this money," Gerlach said.

Taylor agrees with McCrory that the \$57.8 million is tainted because it was arranged outside of constitutional bounds and should not be accepted.

"Now that Republicans want their hands on the money in the

General Assembly, that undercuts their argument" against Cooper, Taylor said. "If a guy comes out of a bank with a ski mask on, he's robbed a bank, he's got a pile of money, you don't say, 'I'm making a citizens' arrest. I'll take that now, thank you.'" Instead, the money should be returned to the owner.

**Republicans and others said the timing of the two announcements led to the appearance the deal was a pay-to-play scheme.**

Berger defended taking possession of the money in a Feb. 14 news conference. State Rep. Jimmy Dixon, R-Duplin, is among lawmakers who agree that was the way to foil Cooper's plan.

"It was cloaked in secrecy. It was sort of a gotcha type thing when the governor unveiled it. It's just that we came up with a bigger gotcha than he did," Dixon said. The General Assembly passed House Bill 90, taking control of the money and steering it to school districts in the eight counties along Interstate 95 through which the pipeline would pass.

"I think he missed a great opportunity" to bring the two branches together in common purpose. "I don't know if he wants that kind of opportunity," said Dixon, chairman of the House Agriculture Committee, and of Appropriations for Agriculture, and Natural and Economic Resources.

"Something like the pipeline ... has far-reaching implications for us economically. If there ever was going to be an opportunity for us to

continued PAGE 13

## ATLANTIC COAST PIPELINE TIMELINE

A 600-mile pipeline stretching from the fracked gas fields of West Virginia through southeast Virginia, and traversing eight North Carolina counties along the Interstate 95 corridor, has fueled political intrigue, partisan bomb-throwing, and heightened media interest for more than a month. It was sparked by a mysterious \$57.8 million escrow fund Gov. Roy Cooper announced he was creating immediately after the pipeline partners received a vital water permit for the project, raising suspicions about pay-to-play politics. The governor said Republicans couldn't be trusted with the money. Republicans are threatening legal action to obtain records Cooper won't release. Here's the timeline of events.

**SEPT. 18, 2015:** Atlantic Coast Pipeline, LLC, Dominion Energy Transmission Inc., and Piedmont Natural Gas Co. Inc. files applications with the Federal Energy Regulatory Commission to build and operate natural gas pipeline facilities across Pennsylvania, West Virginia, Virginia, and North Carolina.

**MARCH 23, 2017:** The Department of Environmental

Quality hosts a stakeholder meeting at the Archdale Building in Raleigh to share information and obtain feedback on the proposed pipeline project.

**JULY 2017:** EnergySure Coalition, funded by the Atlantic Coast Pipeline and its energy partners, begins airing television ads promoting the pipeline project. At the same time, according to news reports, an agreement between the pipe-

line's operators and a group of private parties was negotiated at the N.C. Farm Bureau. The eventual agreement centers on a provision that the Atlantic Coast Pipeline operators would pay \$57.8 million to a discretionary escrow fund Gov. Roy Cooper would control.

**AUG. 15-16, 2017:** DEQ hosts three listening sessions to hear public feedback on the project. Nash Community College

in Rocky Mount, Northampton County Cultural and Wellness Center in Jackson, and the Southeastern Agricultural Center in Lumberton all host the listening sessions.

**OCT. 10, 2017:** DEQ Division of Air Quality officials announce the start of the public comment period for the draft air permit Atlantic Coast Pipeline needed for its proposed air compressor station to be built in Northampton County.

**DEC. 6, 2017:** At an event sponsored by the N.C. FreeEnterprise Foundation, N.C. Secretary of Commerce Tony Copeland says the pipeline would bring jobs and renew economic vitality.

**JAN. 25, 2018:** Cooper and Atlantic Coast Pipeline sign the Mitigation Project Memorandum of Understanding. It includes an agreement allowing

construction of the pipeline to go forward as planned.

**JAN. 26, 2018:** DEQ approves Atlantic Coast Pipeline's application and issues a 401 water quality certification, a major hurdle. Approval was still pending for air, stormwater, erosion, and sediment control permits.

**JAN. 26, 2018** at 2:35 pm: *Carolina Journal* reports the MOU included a \$57.8 million payment by the energy coalition companies to an "Escrow Account" chosen by the governor. The MOU between the parties says the money will be used to mitigate environmental impacts of the pipeline; for economic development projects in the affected counties; and for renewable energy projects in the affected counties.

**JAN. 26, 2018** at 2:55 pm: "The \$57.8 million payment from the Atlantic Coast Pipe-

line, Dominion Power, and Duke Energy is clearly the quid for the Department of Environmental Quality's quo of approving water permits for the pipeline," says Joseph Coletti, a senior fellow at the John Locke Foundation.

**JAN. 31, 2018:** *Carolina Journal* breaks a story showing the deal the energy company coalition brokered with Virginia is fundamentally different from the North Carolina agreement. Virginia's pact was signed by the state's secretary of natural resources. North Carolina's was signed by the governor's attorney. Virginia directs exact portions of its \$57.85 million to specific state agencies for usual and customary mitigation purposes. North Carolina's does not.

**FEB. 2, 2018:** Mark Trogon, director of the legislature's Fis-

# PIPELINE

continued from PREVIOUS PAGE

work together, this was it," Dixon said.

"There's no wonder why the Republicans pushed back like they did" if they were frozen out of the process, McLennan said. But he believes improved relations could bloom in what is now scorched earth.

"I think for the long run, for the next conceivably two years of Cooper's first term, they could have a better working relationship on economic development," McLennan said. Both parties want to bring jobs and business to the state. Both sides want to improve education. They could start the 2018 legislative session by identifying key issues on which collaboration is possible to usher in a period of detente.

"Yet they're kind of acting in a very tribal manner," McLennan said. That was evident in passage of H.B. 90. Democrats spent much of the debate condemning Republicans, but the measure passed on a 104-12 bipartisan vote in the House, and 37-5 in the Senate.

"This is kind of where we are politically. So much of it is about the theater, and getting the headline, and getting the tweet," McLennan said. But, he said, the heated rhetoric doesn't match the common interests.

Although Gov. Jim Hunt was a Democratic hero, he assembled a solid working coalition of pro-business Democratic and Republican lawmakers, McLennan said.

McLennan believes the distrust that has eroded cooperation on economic development matters and led to a series of lawsuits on other issues, especially redistricting, is a recent phenomenon. He said it started under Democratic Gov. Bev Perdue and bled into McCrory's four years.

It continues with Cooper.

## KEY PLAYERS

Key players in the debate over the \$57.8 million Atlantic Coast Pipeline deal. Democrats call the money from pipeline operators a fund for mitigation, which will also help spur economic growth and renewable energy projects. Republicans call it a slush fund.



### GOV. ROY COOPER

The governor's administration has insisted the pipeline agreement was a "voluntary" gift. The agreement, spelled out in a memorandum of understanding, which gives Cooper the authority to disburse the money, seems to fall outside constitutional rules giving only the General Assembly the authority to appropriate state money.



### KEN EUDY

Senior adviser to Gov. Roy Cooper, Eudy was named in a letter by the governor's office as a key negotiator in the \$57.8 million pipeline deal. Eudy, a former news reporter and N.C. Democratic Party chairman, has a long association with Cooper.



### LEE LILLEY

Cooper's liaison to the General Assembly was on the job for five days before facing a joint Appropriations Committee of the General Assembly. Lawmakers grilled him about the pipeline deal. He had few answers for lawmakers. Lilley is a former legislative director for U.S. Rep. G.K. Butterfield, D-1st District. He also is a former Dominion Energy lobbyist, which critics contend could be a conflict of interest with his role in the governor's office.



### SEN. PHIL BERGER

The Senate leader, Berger held a news conference immediately after Cooper met with reporters regarding the governor's intent to allow House Bill 90 to become law. Berger expressed frustration with the pipeline deal and called on the governor to provide details.



### SEN. DAN BISHOP

Bishop, of Mecklenburg County, peppered Lilley with pointed questions during the appropriations meeting. Questions from Bishop and other Republican lawmakers hit on potential conflicts of interest, who orchestrated the deal and its origins, and the Hobbs Act, a federal law regarding extortion and bribery by elected officials.



### REP. DAVID LEWIS

Lewis, of Harnett County, chairman of the powerful House Rules Committee, expressed exasperation with a response provided by the governor's chief of staff to a detailed list of questions about the pipeline deal. Lawmakers repeatedly sent the questions. At press time in late February, the governor's office had not given substantive or complete answers.

cal Research Division, shares a memo with legislative leaders. The memo included questions sent to the governor's budget office about the \$57.8 million payment. Trogon says the budget office's reply was "not responsive." The budget office did say the \$57.8 million agreement Cooper made with the operators of the Atlantic Coast Pipeline is a "voluntary contribution" and would be distributed by a board of directors.

**FEB. 6, 2018:** State Rep. John Szoka, R-Cumberland, chairman of the Joint Legislative Commission on Energy Policy, tells *Carolina Journal* pipeline partners would face legislative pushback if they try to recoup the \$57.8 million from ratepayers and taxpayers. Shareholders should assume that cost since the companies insist it was a voluntary contribution to the state.

**FEB. 7, 2018:** Lee Lilley announced as the Cooper administration's new director of legislative affairs. Lilley was formerly a lobbyist for Dominion Energy, one of the pipeline partners.

**FEB. 8, 2018** at 1:30 p.m.: During a press conference, state Republican legislative leaders announce plans to address the class size mandate and expansion of the state-funded preschool program through House Bill 90. Included in H.B. 90 is a provision taking the \$57.8 million discretionary fund from Cooper's control and shifting the money to school districts in the eight counties impacted by the pipeline.

**FEB. 8, 2018** at 3 p.m.: Lilley attends the joint Appropriations Committee of the General Assembly and is questioned about the pipeline deal, though he's unable to answer many of

the questions from Republican lawmakers. Democrats complain about the line of questioning and repeatedly urged Senate Majority Leader Harry Brown, R-Onslow, to return to the agenda.

**FEB. 9, 2018:** The Senate passes H.B. 90 with 37 senators voting yes and five voting no.

**FEB. 12, 2018:** Rep. David Lewis, R-Harnett, and Sen. Bill Rabon, R-Brunswick, chairmen of their respective chambers' rules committees, send a list of 15 questions to Lilley demanding answers about the process used to create the \$57.8 million pipeline fund and related issues. Lilley is given a 4 p.m. Feb. 15 deadline to respond.

**FEB. 13, 2018:** The House passes H.B. 90 with 104 representatives voting yes and 12 voting no.

**FEB. 14, 2018:** The Civitas Institute files a state ethics complaint against Cooper, calling for a ruling and possible investigation into his handling of the pipeline fund. The complaint alleges, among other things, the money could violate the State Government Ethics Act gift ban, and is rife with potential for political abuse and partisan cronyism. Cooper orders the State Board of Elections and state Ethics Commission to refrain from taking any action on elections or ethics issues pending a court ruling in his lawsuit challenging merger of the two agencies.

**FEB. 14, 2018:** Senate leader Phil Berger, R-Rockingham, and House Speaker Tim Moore, R-Cleveland, call on Cooper to recuse himself from taking any action on H.B. 90.

**FEB. 14, 2018:** Cooper holds

a news conference during which he accuses the General Assembly of hijacking the escrow fund he intended to create. During the conference, Cooper fails to explain who originated the idea for a mitigation fund. The governor says he will allow H.B. 90 to become law without his signature.

**FEB. 14, 2018** (20 minutes later): Berger holds a news conference immediately after Cooper's. Berger says the mitigation fund is either an example of pay-to-play politics or a slush fund, neither of which is good.

**FEB. 15, 2018:** Kristi Jones, Cooper's chief of staff, sends a partial set of answers to the list of questions sent to Lilley by Rabon and Lewis.

**FEB. 16, 2018:** Rabon and Lewis resubmit their list of questions to the governor's office, saying they were dissatisfied

with the lack of information provided in a response the previous day. They add more questions to the list.

**FEB. 19, 2018:** Jones sends a letter to Rabon and Lewis saying no further details would be forthcoming to their list of questions. Jones said because the General Assembly redirected the money, the questions were moot and purely political.

**FEB. 20, 2018:** Rabon and Lewis issue a news release criticizing Jones' response to their request for answers and raising the possibility they could subpoena records. They call the governor's responses "evasive, incomplete, and insolent," and cite a *Carolina Journal* story questioning missing economic interest reports from Cooper related to his property lease for a solar farm in Nash County.



**COOPER:** Governor says \$57.8 million would be used for environmental mitigation, economic development.



**DEAL.** Cooper announces money for fund minutes after approval of vital water permit.

CI PHOTO BY DON CARRINGTON

CI PHOTO BY DON CARRINGTON

## LOCAL GOVERNMENT

# Meeting our needs without taking on more debt



### JULIE TISDALE

CITY AND COUNTY POLICY ANALYST  
JOHN LOCKE FOUNDATION

I've been doing a lot of thinking lately about local government debt. It all started when I was preparing for a presentation and took a look at the Wake County budget for this year.

I nearly fell out of my chair.

This year alone, Wake County's budget includes just more than \$273 million in debt service. To break that down a little bit, it's \$178 million in principal, \$93 million in interest, and \$2 million in other fees and expenses. Of that, \$208 million is for Wake County public schools. And it's almost 22 percent of the county's total budget.

Before you think I'm picking on Wake County specifically, let me go ahead and say it has about

the same amount of debt as other large counties. There's a range, and the average goes down for smaller counties. But right across the state, counties have a lot of debt. And that's before we even add in the debt that cities also have.

But what's more worrying than the numbers themselves is the way local governments seem to be thinking about debt. For example, the Wake County budget document says:

"The ability of Wake County to issue debt in the marketplace with a AAA bond rating saves the citizens millions of dollars by allowing the County to issue debt with a lower interest rate than non-AAA rated."

It's like when I come home from a day of shopping with bags and bags of clothes and tell my husband how much money I saved at the outlets. He (rightly) looks at me with skepticism and says, "Show me that money that you saved."

Because, of course, I didn't save any money at all. I spent money.

I only spent less than I would have if I'd have paid sticker price.



**What's more worrying than the numbers themselves is the way local governments seem to be thinking about debt.**

That's not the same as saving. I save money when I avoid buying something that I thought I needed by instead reusing something I already have, or fix something rather than replacing it.

Which doesn't mean I should never go shopping. It certainly is better to spend less rather than more. Similarly, I'm glad the county is concerned about keeping its AAA bond rating so that, if we have to issue debt, we can do so as cheaply as possible.

But any time the budget docu-

ment talks about debt, it's about how much it's OK for the county to borrow. There's a sense that it expects to borrow substantial amounts in perpetuity. This year, Wake County plans to put more school bonds on the ballot — as much as \$1.1 billion — while we're still paying off the last ones. Dave Ramsey would be appalled. Shouldn't the county instead be trying to avoid debt as much as possible?

Much like responsible people have to take out mortgages to buy homes, I accept that counties may from time to time need to issue bonds for school construction. But I'd feel a lot better about that if we were spending less on frivolous things, putting that cash instead toward school buildings, and borrowing only to make up the difference. I'd feel better about it if we were repurposing existing buildings to convert them into schools rather than spending more for new, shiny, purpose-built schools. I'd feel better if we were using creative solutions, like athletic facilities shared among multiple schools, rather than pouring mil-

### BY THE NUMBERS

## \$273 million

**Wake County's budget for debt service:** \$178 million in principal, \$93 million in interest, and \$2 million in other fees and expenses.

lions into new football stadiums for every high school we build.

Counties don't have money trees. They have taxpayers. Local elected officials do those taxpayers a disservice when they use the general fund to pay for bike lanes and buses that no one uses, artwork on bridges, sports stadiums that could be built privately, and incentives to lure rich international companies, only to turn around and ask those same taxpayers to approve debt to pay for really essential things like schools.

Our local governments need a change in their approach to debt, to the way they prioritize spending. It shouldn't be about how much we can manage to borrow without hurting our bond rating, but how we can meet residents' needs as efficiently, and with as little debt, as possible.



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# REDISTRICTING

## Democrats twist geographical disadvantage into rhetorical tool



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

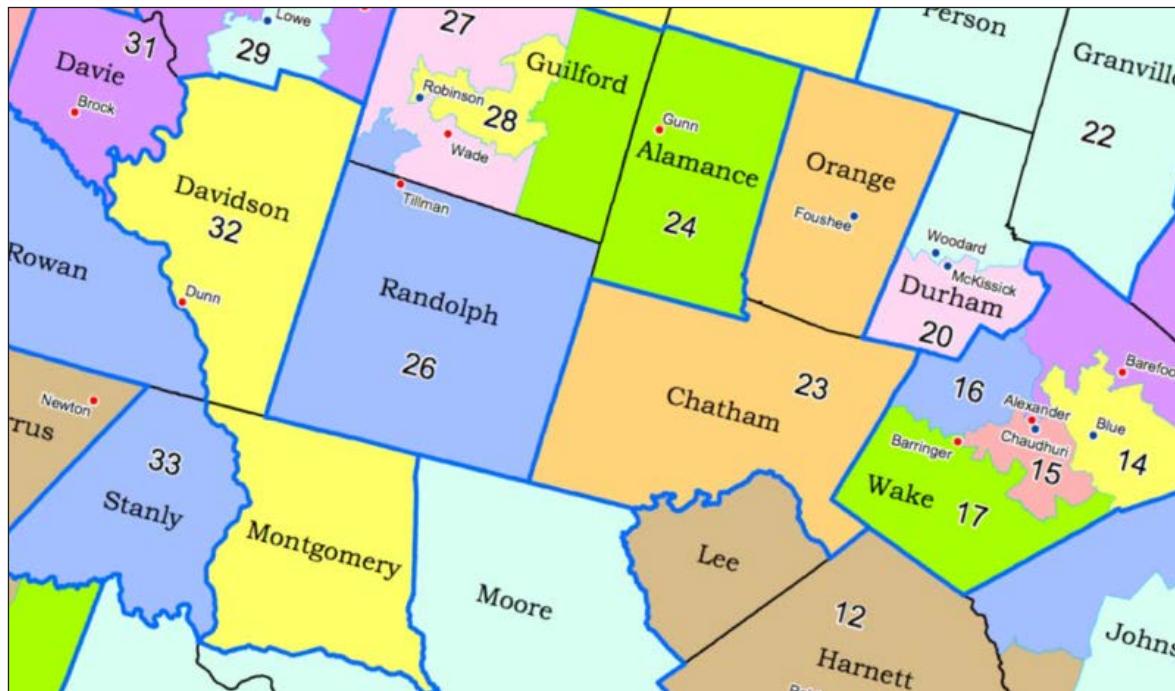
In a state as purple as North Carolina, a congressional delegation featuring 10 Republicans and three Democrats offers proof of “extreme” partisan gerrymandering. Or at least that’s what many critics of the Republican-led General Assembly would like you to believe.

As with many political debates, the truth is not as simple as the rhetoric. In this case, N.C. Democrats transform a geographic disadvantage into a rhetorical tool. That tool helps them fight the GOP — both in court and in the court of public opinion.

Before explaining how, let’s be clear: Gerrymandering is bad. It’s just as bad when Republicans use it now as when Democrats used it in the past. Ever since North Carolina became a competitive two-party state, the party in power has used gerrymandering to preserve its power.

North Carolina would benefit from redistricting reform. The ideal reform would take election mapmaking out of the hands of the politicians who stand to benefit directly from those maps. The John Locke Foundation has been arguing in favor of that type of reform for decades.

That said, recent left-leaning recruits can hurt the redistricting reform cause when they misstate their case. As JLF Chairman John Hood suggests, “like new converts to all sorts of righteous causes,



they run the risk of letting exuberant devotion impair their practical judgment and common sense.”

One area in which this phenomenon plays out involves faulty claims about the current congressional delegation.

Here are the facts: In 2012, the first N.C. election conducted with GOP-drawn maps, the delegation flipped from a 7-6 Democratic advantage to 9-4 in favor of Republicans. The GOP flipped another Democratic seat in 2014 and has maintained the 10-3 advantage under the current congressional map adopted in 2016.

Discussing that change recently with the *Raleigh News & Observer*, Senate Minority Leader Dan Blue, D-Wake, admitted that Democrats “invoked a partisan advantage” during their years of controlling the General Assembly.

“But we were able to maintain a 7-6 split among congressional

districts, which was reflective of North Carolina’s political makeup,” Blue told the newspaper. “We didn’t push the constitutional limits by trying to draw congressional maps with a 10-3 partisan advantage simply because we could.”

Democrats had the power to draw lines in their favor, yet decided to draw them in such a way that the state’s congressional delegation mirrored its closely divided electorate?

It’s a powerful argument. It’s also wrong.

Democrats never drew congressional lines to give themselves a 10-3 advantage because they couldn’t do it. It would not be possible for Democrats to achieve that partisan goal with a map that any court would accept.

Why? Democrats cluster in high concentrations geographically in North Carolina. In contrast, Republicans are dispersed more widely.

The latest presidential election illustrates this fact. Donald Trump won a plurality of the state’s votes and triumphed 52-48 over Hillary Clinton in a head-to-head matchup. Yet Trump won a far higher share — 76 — of North Carolina’s 100 counties.

Clinton won her 24 counties with wider margins than Trump won his 76. That’s the only way to account for the disparity between overall votes and the 3-1 margin in county “victories.”

Congressional elections and legislative races follow a similar pattern. As statistical research posted at [Fivethirtyeight.com](http://Fivethirtyeight.com) suggests, N.C. congressional election maps that maximize either compactness or partisan proportionality are likely to produce an 8-5 Republican delegation. Even maps designed

to maximize Democrats’ gains are unlikely to produce more than a 7-6 Democratic advantage under normal conditions.

In other words, the congressional delegation is unlikely to get much more Democratic than a split that mirrors the state’s closely divided electorate — no matter how hard Democrats might try to extend their advantage.

Contrary to Blue’s comments, recent N.C. political history is full of examples of gerrymandering designed to maximize Democrats’ partisan advantage. Exhibit No. 1: the snakelike 12th Congressional District that poked the N.C. congressional map for more than 20 years.

Democrats drew that district in the early 1990s, when Blue led the N.C. House as its speaker. Lawmakers designed the 12th not to test the lengths to which a congressman could drive and still remain within his district. (Remember that the original version of that snake stretched from Durham to Gastonia.) Instead lawmakers wanted to comply with a federal mandate to create a second “majority-minority” district while still giving Democrats an opportunity to win as many of North Carolina’s 12 congressional districts as possible.

And it worked. Democrats built upon an existing 7-4 advantage within the congressional delegation and extended their edge to 8-4 in 1992. The Republican landslide of 1994 flipped that delegation to 8-4 in the GOP’s favor. Democrats recovered some of their losses two years later, but the GOP maintained a slight edge for most of the decade.

When Democrats had another chance to redraw election lines in 2001, with another new U.S. House

seat at stake, they preserved the snake in the 12th District while creating another new district. It should surprise no one that Democrats drew the new district to elect another Democrat. The ensuing 2002 election dropped Republicans’ partisan advantage from 7-5 to 7-6.

Let one think that Democrats proceeded in 2001 with a goal of maintaining some degree of partisan balance, later comments from one of Blue’s top lieutenants paint a different picture.

Asheville’s Martin Nesbitt, the House’s top budget writer under Blue, had moved to the state Senate by 2010. He spoke with rare candor that year during a Democratic Party campaign rally in western North Carolina. Nesbitt’s comments focused on legislative redistricting, rather than congressional races, but the same partisan priorities applied to both cases.

“Whoever wins this election will draw the districts for the next 10 years,” Nesbitt warned his partisan audience. “And I can promise you, if you draw ‘em, you won’t have any Democrats in these mountains. I’ve helped draw ‘em. I’ve drawn them three times now. I’m telling you: There are a lot of Republicans around here, and it’s very difficult to keep Democrats in these seats.”

Despite the abundance of Republican voters, Democrats still controlled most western N.C. Senate seats at the time of Nesbitt’s remarks. “We’ll have all mountain Democrats except Tom Apodaca [of Henderson County], and we’ve pretty well got him on an island over there.”

Nesbitt then urged support for Apodaca’s Democratic challenger. “He’s got a real uphill battle because when we drew these districts, they put all of the Republicans over there,” Nesbitt said. “That’s why I’m in a pretty good district over here in Buncombe. It’s because that’s how it was divided.”

So much for drawing districts “reflective of North Carolina’s political makeup.” Nesbitt admitted to a friendly audience that he and his fellow Democrats drew election maps to elect Democrats — even if that meant concentrating as many western N.C. Republicans into a single state Senate district as possible.

Now Republicans draw election maps to elect as many Republicans as possible. Same as it ever was.

The system needs fixing. Redistricting reform makes sense. More Republicans are likely to support that proposition once Democrats drop the rhetoric and admit their own complicity in the current broken process.

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# EDUCATION

## How the one-size-fits-all college application model hurts homeschoolers



**GEORGE EHRHARDT**  
COLUMNIST

The season for college admissions is upon us. My younger daughter is still a junior, but her public school teammates are all abuzz with chatter of who applied where, who's already heard, how much more work everyone has left on their remaining applications. We homeschool, though, and among her homeschool friends, you could hear a pin drop. There's no talk of college admissions.

Her friends are part of a large and growing number of college-ready youth who are skipping college. Research finds there are now more homeschooled students in North Carolina than there are enrolled in private school. I've taught many of the local ones in co-op classes and found them bright and articulate enough to do well at university.

Controlling for other factors, homeschoolers who do enroll in university have similar graduation rates and higher grade point averages than their peers. But homeschooled students don't enroll in four-year universities in the same numbers as their institutionally schooled counterparts.

Maybe that's a good thing. Since John Holt pushed homeschooling into the spotlight in



the 1970s, homeschoolers have embodied educational experimentation and reform, and their choice to opt out may reflect the shifting sands of contemporary higher education. After all, given the higher rates of entrepreneurship among homeschoolers and the effects of more stable family structures, the usual justifications for college attendance may not suffice.

From the perspective of higher education institutions, though, these students represent a potential pool of high-quality recruits. This is especially true because one of the current trends in homeschooling is increasing numbers of low-income urban minorities, who see it as their only escape from public school systems that

don't serve their children's needs.

Unfortunately, the current application process — the Common App in particular — makes it more difficult to match students with institutions than it should, unnecessarily lowering the number of homeschoolers who attend college.

First, the application asks for information relevant to institutional schools, not homeschoolers. College applications focus on the methods institutional schools use to sort students beyond simply GPA. Clubs offer an array of "leadership positions," and students are selected for special competitions, awards, or opportunities. On the one hand, those offer admissions officers an easily comparable yardstick for most

applicants, but they make homeschoolers hard to assess.

Equally important is what the Common App does not ask. What did a student actually do in his or her classes? While school-at-home families may produce educational outcomes similar to those assumed from a high school transcript, other families' practices may not, and this can be valuable information.

Second, the application itself is daunting. Higher education professionals have experience with these questions and forms, so it may be difficult to understand how challenging point No. 1 makes the application process. How do I make a transcript? What is a weighted GPA? Should I weight? Do my classes count as honors?

None of these has obvious answers for parents who don't already work in higher education. And looming over all of them is the fear: "What if I might be sabotaging my child's hard work by doing the wrong thing?"

Colleges — and the Common App — assume the student's high school answers all these questions for the student. In my experience, they provide homeschool parents no systematic guidance on these questions.

Third, the college admissions process assumes the presence of "guidance counselors." These individuals not only help students through the complicated process; they also supply private information about "fit," giving students a better idea of where they should apply.

In contrast to our daughter's teammates, her homeschool friends have only dim ideas of what their college options are. Even those interested in higher education generally only consider Appalachian State University, a community college, or private Bible colleges they hear about from friends or relatives.

Fourth, these factors force schools to rely on standardized tests to evaluate homeschoolers — the very thing that many left institutional schools to avoid.

With the advent of No Child Left Behind and Common Core, public schools now devote a considerable portion of the year to preparation for end-of-year exams. By contrast, homeschoolers — required by North Carolina law to conduct one per year — treat it as a chore to be done quickly and then ignored.

This means that the application process has the perverse consequence of evaluating applicants precisely on the least relevant portion of their preparation.

Many homeschoolers in North Carolina view higher education not only with a healthy skepticism but also with an unfortunate sense that it's something closed and distant.

Anyone interested in closing this gap needs to think about the way that the college admissions process may unintentionally reinforce that image and drive applicants away.

*George Ehrhardt teaches political science at Appalachian State University.*



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# EDUCATION

## Ensuring school and college work for career



**KRISTEN BLAIR**  
COLUMNIST

The aspirational endgame of K-12 educators is producing “college and career ready” students. Yet connections among school, college, and career remain tenuous. Many students are unprepared for college coursework because they don’t pursue a sufficiently rigorous high school curriculum. Once in college, they lack confidence that what they learn will benefit how and what they earn — even as they fail to fully leverage valuable campus-based career resources.

Shoring up the connection between education and occupation is imperative. It’s money in the job bank.

Too many students, including higher-achieving

ones, are opting out of a degree. New analysis from Georgetown University’s Center on Education and the Workforce shows more than 500,000 of the 1.5 million students in the top half of their high school class each year attempt but don’t complete a postsecondary certificate or college degree.

“The cumulative effects of this loss are immense — 5 million lost youth every decade, which is nearly half of the projected 11 million shortfall of college-educated workers needed in the U.S. over the next 10 years,” noted CEW’s press release. This is a potent threat to

American competitiveness, and it’s coming from within.

Overall, federal data show only 59 percent of full-time students at four-year institutions complete a bachelor’s degree within six years. Less than one-third of students pursuing a certificate or associate degree at two-year institutions finish those programs three years later.

Why are students giving up?

One potential factor: shaky confidence in the

return on their investment. Just 36 percent of students in Gallup-Strada’s 2017 College Student Survey expressed strong confidence that they would graduate with the skills and

knowledge necessary to succeed in the workplace. They’re justifiably skeptical — but not particularly proactive. Almost four in 10 students never darken the door of their colleges’ career services office.

What else? College costs are soaring, and a 2017 College Board analysis indicates “financial aid has slowed relative to the growth in tuition and fees.” When college feels like a roll of the occupational dice, it’s an especially hard sell for those who can’t pay full price.

Higher education institutions must boost affordability. They must also increase collaboration with business leaders, earlier Gallup data show. Just 11 percent of these leaders strongly agree that colleges provide students with the skills their businesses need.

High schools should push harder on a core curriculum. According to data from ACT’s college admissions test, the percentage of students pursuing a core curriculum is at its lowest level in five years. In 2016-17, 68 percent of ACT test-takers took a core curriculum, down from 74 percent in 2012-13. Just 39 percent of 2017 graduates met three or four college readiness benchmarks (in reading, English, math, and science).

Pursuing a core curriculum includes, minimally, four years of English and three years of mathematics, social studies, and natural science. Such a curriculum is one of the best ways to ensure baseline college readiness.

Schools can also work to raise students’ occupational sights. Helping high schoolers gain exposure to industry experts through mentoring or internships provides them with workplace experience and enables them to make more strategic, sustainable choices about a college major.

Finally, high school counseling emphasizing tighter alignment between students’ skills and goals and postsecondary programs is critical. A student’s major is much more predictive of future economic success than attendance at particular or prestige institutions, CEW has found.

That might reassure high school seniors anxiously awaiting college admissions decisions this spring. Where they go is far less significant than what they do when they get there — and, ultimately, whether they stay the course.

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



## Just how many diversity employees does the UNC system need?



**ANTHONY HENNEN**  
COLUMNIST

**IN JUNE, THE** N.C. General Assembly asked the state’s university system to conduct a thorough analysis of its diversity and inclusion efforts as part of an ongoing assessment of programs’ cost efficiency and performance.

Within three months, the legislature will receive a report that catalogs the system’s diversity procedures rather than criticizes its deficiencies. Should the legislature accept the report’s conclusions, diversity jobs will be safe from scrutiny even while university costs continue to climb.

To the researchers who conducted the report, every job and program within the entire system’s diversity apparatus appeared too essential to cut. Furthermore, both the report and the reaction of the UNC system leaders suggest a system that is self-satisfied and



**N.C. State Chancellor Randy Woodson**



**If we’re going to reach the attainment goals that we have as a state in terms of education the students coming, to us are going to be increasingly from underrepresented groups.**

resistant to common-sense efficiency measures.

The UNC General Administration hired Conduent HR Consulting to create the report, presented during the UNC system Board of Governors’ Committee on Personnel and Tenure meeting on Jan. 25. It exposed a sprawling \$16.6 million diversity apparatus, which includes 198 institution-specific policies, 11 systemwide policies, 527 programs, and 273 salaried positions.

The public has so far lacked information on how useful this activity is or how much students benefit. Unfortunately, the report

provides little insight on program effectiveness.

UNC system leaders see diversity as crucial to the system’s overall success. “If we’re going to reach the attainment goals that we have as a state in terms of education,” said N.C. State Chancellor Randy Woodson, “the students coming to us are going to be increasingly from underrepresented groups.”

However, if diversity is so important for the success of the UNC system, wise and meaningful oversight of diversity policies is crucial. The lack of evaluation in the UNC system is worrisome.

To be sure, much of the diversity

apparatus is off-limits to state legislators. Half of diversity personnel salary costs — \$7.3 million — are spent on compliance duties mandated by law. But even though the system is stuck with those mandated costs, the other half is eligible for possible elimination.

Still, elimination of anything was not considered by the reports’ authors. The report instead gave seven recommendations for improvement that emphasized consolidating accountability under one person at each university, creating systemwide standards and measurements, centralizing information, and using the UNC system to provide greater support and guidance for the universities.

During the Board of Governors meeting, member Marty Kotis asked, “How do we know we’re spending the right amount of resources on this? And what are the metrics? How do we determine ROI [return on investment]?”

The report recommended that the way to find ROI is to embrace “specific objectives.” Of the 527 programs in the analysis, only 47 percent had outcomes or metrics included for success or failure.

The report acknowledged that

many metrics were vague and “almost none are quantitative in nature.”

It seems that the report followed the letter of the law passed by the General Assembly, but not the spirit.

Underrepresented students may benefit from diversity efforts, but, given the report’s superficial treatment, UNC system leaders are not watching diversity programs closely enough to determine whether that is the case. Every dollar spent on useless activity is a dollar not spent on useful activity. The board has a responsibility to hold system policies and programs accountable and demand results.

The reluctance to recommend a single personnel cut or to ask basic questions highlights the need for the General Assembly and Board of Governors to conduct investigations independent of the university system rather than relying on the UNC administration — which is often more interested in budgetary self-preservation than exposing its own inefficiencies.

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

# GOVERNMENT

## Investigations linked to Clinton, Trump appear plagued by politics

### Q & A



**Andrew McCarthy**  
Senior Fellow  
National Review Institute

Secretive federal law enforcement investigations have focused on both major candidates in the 2016 presidential election. To former federal prosecutor **Andrew McCarthy**, senior fellow at the National Review Institute, authorities have approached the two investigations in contrasting ways. McCarthy explained the contrast during a recent presentation in Charlotte for the John Locke Foundation and NRI. McCarthy discussed themes from his presentation during a conversation with Mitch Kokai for Carolina Journal Radio.

**MK:** How are these cases different?

**AM:** We're seeing two different situations inescapably because one of them was a very public criminal investigation, even though it involved classified information in emails. It was essentially a criminal investigation, so it was handled in a different way, whereas the current investigation that's being looked at involving President Trump and Russia is a counterintelligence investigation that has a criminal aspect to it. So, the nature of the investigations is different, and, in that way, they were unavoidably different. But I think, objectively, any person who looks at the way these two things were handled has to say that Mrs. Clinton got the kid-gloves treatment, and the [special counsel Robert] Mueller investigation and its predecessor Russian investigation — they're sort of scorching the earth to make a case.

**MK:** What should people without a law enforcement background know about the differences?

**AM:** The easiest thing for people to lay their eyes on and see is that in the Mueller investigation, what we see is that when you lie to the FBI, you actually get prosecuted, which is the way it works in 99.9 percent of cases that don't involve Clintons. In the Clinton investigation, if you lied to the FBI, ... basically, what they did was whenever anybody got close to providing incriminating information, they either gave them immunity, or they cut a deal with them. They prevented the agents from asking key, obvious questions.

And I think the whole thing, the more we look at it, appears to be a situation where what they essentially did was try to stage something that looked like a thoroughgoing investigation at the end of the rainbow of which was she was going to be exonerated, which was politically very important.

**MK:** Why should this concern us?

**AM:** Well, because we want everybody to have the same

standard of justice. The rule of law and the reason that we can have ordered liberty in the society is because we believe that the results to come out of the criminal justice system have integrity, and the reason we think they have integrity is because everybody gets treated the same — every person, whether he's the president or the lowliest person, is supposed to be equal not only before the bar of justice, but also how they are regarded by the federal and the other police and intelligence agencies. And when we see that, you know, if you're one particular stripe of person, you get one quality of justice, and that everybody else gets a quite different quality of justice, I think that's very alarming to people. And it should be.

**MK:** Has the Mueller investigation proceeded as you would expect?

**AM:** I think there's a lot of noise around that investigation. ... To someone like me, it's more important to tell me what he's done. Show me the charges. And so far, I think people can take confidence that even if the investigation has been very aggressive, and even though he's gotten a stable of people, which I think is far beyond what you would think one would need to do the investigation he's doing, if you look at the charges he's brought, they're all justifiable, and they make sense.

I don't think that can be said about the first investigation, where there appears to have been a mountain of evidence, and that they basically contorted themselves to avoid bringing charges, including not prosecuting people who clearly lied to the government, giving immunity to people who should have been squeezed for cooperation, and contorting criminal statutes — really distorting them — to avoid applying them as they're written to people like Mrs. Clinton, who seem to have had culpability under them.

**MK:** With federal law enforcement agencies under such scrutiny, is there an opportunity to make some positive changes?



**In the Mueller investigation, what we see is that when you lie to the FBI, you actually get prosecuted, which is the way it works in 99.9 percent of cases that don't involve Clintons.**

**AM:** We have to look at it, and the main reason we have to look at it, not just for the public reputation of how our federal law enforcement agencies conduct themselves, but there's a real strong national security angle to this, and good national security intelligence collection and enforcement [are] really reliant on the idea that the public can trust the agencies, because so much of it is in this black box of classified information. So much of it really is about a need to protect sources of information and methods of gathering intelligence that, in many ways, they really have to tell you, "Trust us." We have to be able to trust them because they're not just out there trying to make cases. They're actually out there trying to protect the country from people who are trying to do harm to Americans.

So, it's important that we have some transparency, and it's important that we get our agencies to a point where most Americans, when they say, "Trust us," they think they're worth trusting.

**MK:** How important is it to fix whatever problems exist within these agencies?

**AM:** It's extraordinarily important. ... People don't, I think, maybe have a historical enough perspective of this. I'm an older guy now than I was when I started as a prosecutor many years ago, so I still remember what crime was like in this country in the '60s and '70s, when I was growing up. And I think a lot of people don't have that historical perspective anymore. We've had a



**Robert Mueller**

generation of record-low crime, and I think when you assume that as your everyday reality, you forget how hard it was to get to that point — how we had to go from high crime to what we have now. And really that was on the basis of: No. 1, superb performance by our law enforcement and, to some extent, our intelligence agencies, but also our ability to trust them, that they were doing what we need them to do.

... As you see the prosperity that we have in the country, we've had record prosperity at the same time we've had record-low crime. They go hand in hand. So, when the enforcement piece of it breaks down, you have to worry about the prosperity piece of it breaking down. So, it's extraordinarily important.

**MK:** What should people be watching for?

**AM:** Of course, the most important thing on the enforcement side, and with respect to special counsel Mueller, is let's see what charges we see. I think that they've now been investigating the Russian collusion angle of this for about two years, and from everything we can tell, at least public-

ly — and there's been a lot of leaking, so we know a lot more probably than we should — it sure looks to me like whatever they may have in terms of troubling stuff about President Trump or his campaign, it certainly doesn't rise to the level of a conspiracy to commit espionage or some other actionable offense.

And I think because of the ... detriment to the country, of the situation where the president tries to govern with a cloud over his head, I think at the very least, if that's a dry hole — if they don't have a collusion case, they ought to come out and say, "We don't have a collusion case."

That doesn't preclude them from continuing to look at obstruction. I personally don't think legally what we have here comes close to obstruction. But I could be wrong, so there's no reason why that thread can't be continued. But, you know, this whole idea of having a president for over a year govern with the suggestion out there that he was involved in a sinister, corrupt conspiracy with an adversary regime, if that cloud can be lifted, it ought to be lifted. ... It's not for President Trump. It's better for the country.

# EDUCATION

## Protecting private property rights critical to preserving free society

### Q & A



**Ilya Somin**  
Professor of Law  
George Mason University

Private property rights play a critical role in a free society. **Ilya Somin**, professor of law at George Mason University, discussed property rights and the U.S. Constitution during a recent speech at N.C. State University. Somin shared themes from his speech during a conversation with Mitch Kokai for Carolina Journal Radio.

**MK:** Before we get into some current controversies involving property rights, just remind us why is this such an important issue that people ought to be paying attention to?

**IS:** For several reasons. First, property rights are an important element of freedom more generally. Without the right to private property, it's hard to have a free society — virtually impossible. It's hard for individual citizens to exercise their autonomy. In addition, development economists have increasingly found that secure property rights are essential to economic growth, particularly in poor nations and also for poorer people within our own society as well.

**MK:** What does our Constitution say about property rights and protecting them?

**IS:** The Constitution has several provisions protecting property rights. Perhaps the most important is the takings clause of the Fifth Amendment, which says that the government can only take private property for public use, and also must pay just compensation. In addition, there [are] the due process clauses of the Fifth and the 14th Amendment, which ensure that government cannot take away your property without due process of law. Obviously, each of these provisions and their meaning have been the subject of much controversy, but all, I think properly interpreted, do provide significant protection for property rights. There are also other provisions that protect them indirectly.

**MK:** Has support for private property rights waxed and waned at all over the years?

**IS:** Definitely. So, certainly in the early republic, protecting property rights was one of the main objectives of the federal Constitution. It was one of the reasons why the founders set it up in the first place. Also, while there was a lot of debate over property rights in the 19th century, and over the meaning of these

provisions that I've just described, still, generally speaking, the dominant view in state and federal courts and also among legal experts of that time was that there should be strong judicial protection for property rights. That began to wane in the progressive era, in the late 19th and early 20th century.

And, at least with respect to judicial review by federal courts, it collapsed almost entirely after the New Deal era, beginning from the 1930s to roughly the '40s and into the '50s. There has been somewhat of a revival over the last 30 years, though I think that revival falls short in some places. It's still highly controversial, but, overall, there has been a challenge to what used to be the post-New Deal orthodoxy, which said that the judiciary should provide little or no protection for property rights.

**MK:** ... We're talking generally about property rights, but there are also some current controversies involving property rights. What's one of the main ones you're watching right now?

**IS:** One big one that perhaps many of you have seen in the news is going on in Houston right now. As I think most people know, large parts of Houston were flooded during Hurricane Harvey. But some parts that were spared by the hurricane itself were deliberately flooded by the U.S. Army Corps of Engineers, on the theory that doing so might avoid still greater flooding that might have happened if certain water reservoirs overflowed. But, obviously, these people who had their homes or businesses flooded at the behest of the government — deliberately flooded — they're pretty angry about it, as [is] understandable, and they filed large numbers of lawsuits in federal courts, I think dozens of them, arguing that this was a taking of their property by the government, and therefore deserves compensation.

A couple of years ago, the Supreme Court unanimously rejected the Obama administration's somewhat extreme argument



**2017 HOUSTON FLOODING:** Deliberate government action has generated property-rights lawsuits.

that deliberate flooding of property by the government can never be a taking, but the court was somewhat vague under the question of exactly when is deliberate flooding a taking and when it's not. And, unfortunately, in the present litigation, the federal government in the Trump administration is taking the position that if the flooding happened only one time, it's never a taking: no compensation. Critics call this the "one free flood" rule. I think that this doesn't make much sense, and that if the government inflicts severe damage on your property by flooding it, it should be considered a taking.

They may have a good reason for doing it, just as they may have a good reason sometimes for taking your property to build a road or some other public facility, but the Constitution, I think, still requires the payment of compensation in such cases. So I think these Houston cases are not only important in themselves, because there are large numbers of people involved, but they will likely set important precedents for future situations like this, because sadly this probably won't be the last time that the government deliberately floods property.

**MK:** You're also watching, I understand, another piece of property rights

information that deals with the Trump administration and, specifically, Attorney General Jeff Sessions.

**IS:** Yes. This relates to the practice of asset forfeiture, which is a technical legal term for a kind of legalized plunder that the government engages in. Basically, if you are investigated, or suspected of a crime, in many states and also in some federal government programs, the government can seize your property and keep it, even if you yourself are never charged with a crime, much less convicted of one. They can do this on the theory that your property was somehow involved in the crime. Maybe drug dealers used your car to do a drug sale or something of the sort, and, in many states, the seizure can occur in such a way that the owners have very little opportunity to challenge it. The government may hold onto it for many months before they can challenge the seizure, and even when you can, the procedures often are stacked against the owners.

There have been reform efforts in many states to try to fix this problem, but in recent years, increasingly in those states where reform efforts have cracked down on this practice, both by limiting seizures and also limiting the ability of law

enforcement agencies to keep the plunder for themselves, this has been gotten around by the state law enforcement working with the federal government in what is known as equitable sharing. So, in technical lingo, the federal government adopts the ... seizure, and then they distribute some of the loot back to the state law enforcement agencies, thus getting around state law prohibitions.

This program was curbed late in the Obama administration, but Attorney General Jeff Sessions reinstated it fully over the summer. In Congress, there are efforts to abolish the Sessions policy. ...

**MK:** If people hear the words "property rights" and their eyes start to glaze over, what would you say to them?

**IS:** Property rights structure our lives in many different ways. Whenever you buy a house, whenever you engage in many kinds of transactions, property rights are involved. Moreover, property rights are essential to economic development. That's one of the major findings of modern development economics. In cities where property rights are severely restricted, it destroys a great deal of wealth, both in this country and abroad, particularly for the poor.

# COMMENTARY

## EDITORIAL

### Governor Cooper's separation anxiety

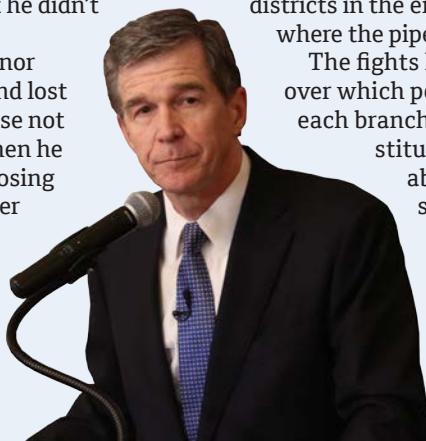
Democratic Gov. Roy Cooper spent much of his first 13 months in office defending the venerated principle of separation of powers. Since the end of January, however, with the announcement of a \$57.8 million deal connected with the Atlantic Coast Pipeline, Cooper basically proved he's been acting like a hypocrite all along.

Cooper has sued the Republican-dominated General Assembly over laws it passed in December 2016 limiting Cooper's power before he took office. The various lawsuits went after legislative moves:

- merging the state elections and ethics boards, previously controlled by the governor's political party, and creating a single new body with equal Republican and Democratic members;
- requiring the governor's Cabinet-level appointees to gain Senate confirmation; slashing the number of political jobs the governor controlled from 1,500 to 425;
- reducing the size of the state Court of Appeals from 15 members to 12 (as — coincidentally? — three Republican Appeals Court judges were nearing retirement);
- giving outgoing Gov. Pat McCrory, a Republican, the ability to appoint members to state commissions whose terms would have expired after Cooper took office, and;
- shifting oversight of several powerful state boards and commissions from the executive branch to the legislature.

Cooper even asked courts to throw out portions of the state budget he didn't like.

The governor won a few and lost a few, or chose not to appeal when he was on the losing side in a lower court. In each instance, his legal team based its arguments on



Article I, Section 6 of the N.C. Constitution:

*The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.*

In other words, as we should have learned in civics class, the legislature enacts laws; the governor and other executive branch officials implement them; and the courts resolve any disputes.

Separation of powers is an important principle. (John Locke was one of the first political theorists to articulate it concisely.) It keeps one group of government officials from gaining too much power. Too bad the governor doesn't really believe in it.

Under the Mitigation Project Memorandum of Understanding signed by one of the governor's lawyers and an official of the pipeline operating company, the ACP will provide \$57.8 million to an escrow fund managed by the governor.

Half of the money is due when the Federal Energy Regulatory Commission gives the pipeline its final OK. The rest is due when the pipeline starts operating.

But Cooper doesn't have the ability to spend money unless the General Assembly says so.

As former state Supreme Court Justice Bob Orr told *Carolina Journal*, if the money belongs to the state, it should go to the treasury and be dealt with during normal budget proceedings — which are controlled by the General Assembly.

Lawmakers took over that issue in February by passing House Bill 90, a measure shifting the money to local school districts in the eight counties where the pipeline will run.

The fights have been over which powers reside in each branch. The Constitution is clear

about who can spend money and who can't.

The governor would do well to dust off his copy and abide by it.

## Protecting our investments in North Carolina



### BECKI GRAY

SENIOR VICE PRESIDENT  
JOHN LOCKE FOUNDATION

**PROTECTING OUR** investments means taking care of what we own.

As state taxpayers, we own a lot of stuff — office, school, and university buildings, state agencies and department offices, court-houses, prisons, libraries, books ... and lots of land. North Carolina owns 42 parks, a symphony orchestra, a zoo, and seven history and two art museums.

North Carolina has assets worth billions, accumulated over decades. All of this stuff has to be inventoried, assessed, and maintained to retain its value and ensure its use is effective and efficient. As taxpayers, we should expect state government to do the same. Written into state law in 2006, one-fourth of unreserved fund balance remaining in the General Fund at the end of each fiscal year must be deposited into a repairs and renovations fund, which can't be used for new construction or expansion of existing facilities. Since 2011, more than \$900 million has gone into North Carolina's repairs and renovation fund. Just this year, the General Assembly appropriated \$120 million for repairs and renovations to state and university buildings and \$5 million for infrastructure improvements to the N.C. Zoo.

The State Property Office acts as a real estate agent in organizing and selling hundreds of pieces of property. State surplus property — from office furniture and refrigerators — is sold and auctioned off. Rather than sitting on assets for years, losing track of value or why the state even owns them, managing assets includes getting rid of what is no longer a good value.

The Motor Fleet Management Division of the Department of Administration manages some 7,300 vehicles, but in the past has been unable to say definitively just how many cars the state owns. As taxpayers, we should insist on protections of assets we own. In this year's budget, \$2 million was appropriated to the N.C. Museum of Art, in part to enhance its security system.

A good example of why assets



**North Carolina has assets worth billions, accumulated over decades. All of this stuff has to be inventoried, assessed, and maintained to retain its value and ensure its use is effective and efficient.**

need to be inventoried, evaluated, and protected can be found in a 2007 report, "An Assessment of the Ten University of North Carolina System Museums with Art Collections." Roger Berkowitz, director emeritus of the Toledo Museum of Art, and Jeff Pettus, visual arts director for the N.C. Arts Council, visited the museums and conducted an analysis of what each museum owned. They reviewed and assessed collections, reviewed programs, and identified unaddressed resource needs.

The report reveals several things. While some museums were appropriately supported by their universities and individuals, others weren't. The collections without support were deemed at risk.

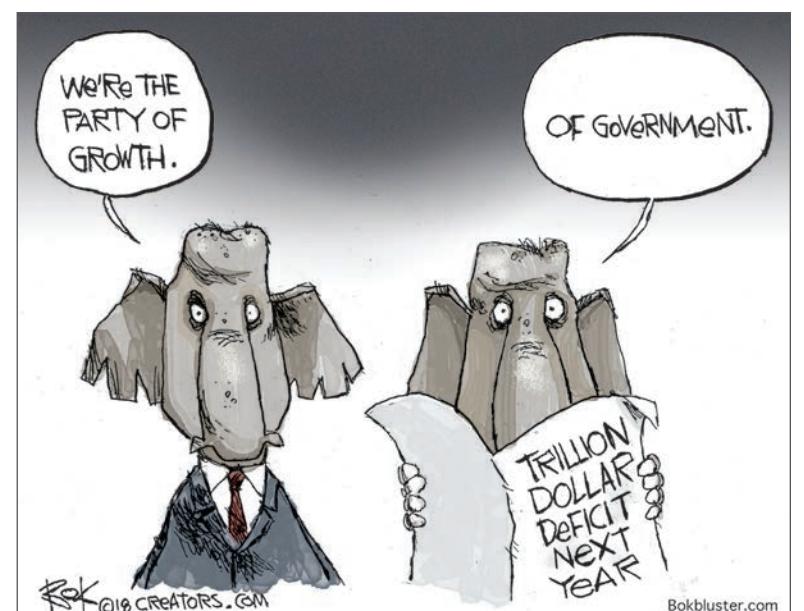
The report concludes, "The State and the UNC system have important responsibilities to protect the assets of their collections through their maintenance and

improvement of environmental conservation, security, storage, and facility conditions."

They also learned there was little coordination among the directors of the museums, missing opportunities to share best management practices, allocation of resources, and risk management and disaster planning information. There are opportunities to partner with local education agencies to bring K-12 students into the museums to see original works of art, offer higher education courses in gallery management, arts administration, and museum practice and internship programs for students in art history, chemistry, finance, design, education, and art therapy.

The report offered several recommendations to state government to protect the assets found in the collections of the university museums. All of the museums would benefit from conservation assessments and having an expert review the contents of the collection, a "judicious deaccessioning" and cleaning out storage facilities. Each museum should be encouraged to focus on the strength of their collection so each can be recognized as the expert in that particular area. Security systems should be reviewed and updated to protect the art work from damage or theft. As online learning becomes more available across the state, more of the collections should be put online, and museums should evaluate and share collections management software for harmony in collection information sharing.

The picture is clear. It's what we should expect across state government.



## COMMENTARY BY JOHN HOOD



## Democratic challenge isn't just districts

**AS A DECADES-LONG** proponent of redistricting reform, I welcome recent support for the cause from N.C. Democrats. But like new converts to all righteous causes, they run the risk of letting exuberant devotion impair their practical judgment and common sense.

After the 1990 census, an alliance of the NAACP and the Republican Party challenged election maps drawn in a number of states, including North Carolina, because the maps diluted minority voting percentages to maximize Democratic victories. The alliance sought more districts with a majority or at least plurality of black voters, which increased minority and Republican representation in legislative bodies, at the expense of white Democrats.

After the 2000 census, N.C. Democrats — shocked by Republican control of the state House from 1995 to 1998 — set out to ensure ruffraff would never slip into power again. Their attempted gerrymander of the General Assembly was the most egregious in state history. Successful court challenges reduced the effect to some extent, but there were still several election cycles in which Republicans won a majority of the statewide vote for one or both chambers while never securing a majority of the seats.

In advance of the next redistricting cycle, I urged Democrats to enact reform. They didn't listen. They should have.

The same argument now applies to Republicans. But it's important to understand gerrymandering isn't the only structural problem Democrats face. Another is geography.

Democratic-leaning voters increasingly concentrate in urban areas. Unless state lawmakers or redistricting commissioners gerrymander the maps in a different sense, Democrats can't count on new districts handing them control of Congress or the General Assembly.

A team of researchers ran the numbers for FiveThirtyEight.com. North Carolina's current congressional breakdown is 10 Republicans, three Democrats. Under neutral standards of compactness and proportionality consistent with the Constitution and federal law, Republicans would still win most seats in an average (nonwave) election, although the gap would almost certainly be smaller.

Let's enact redistricting reform. It's the right thing to do. But Democrats shouldn't invest it with a mystical power it will never possess.

# States can lead on roads

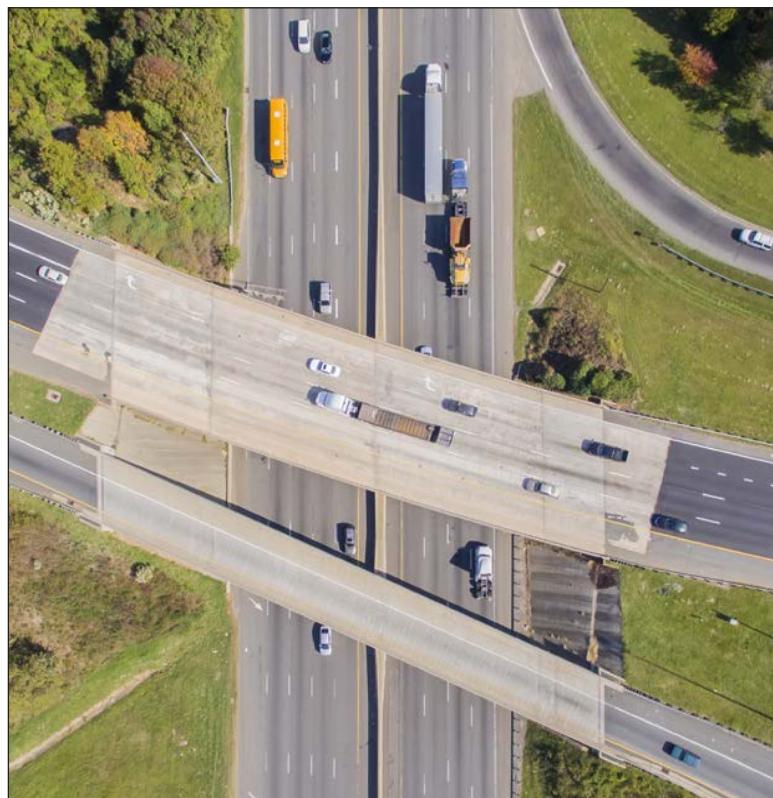
**W**hen the Trump administration finally filled in the outlines of its infrastructure plan, many seemed disappointed to learn only \$200 billion of the proposed \$1.5 trillion in expenditures over the next decade would come from federal coffers.

I wasn't disappointed. I was relieved. Much of the federal government's current investment in infrastructure is of dubious constitutionality and of questionable value.

Transportation and other infrastructure have been and should continue to remain primarily the responsibility of states, localities, or the private sector. It's silly to suggest that if Washington doesn't do something, it won't get done. Every U.S. resident also resides in a smaller jurisdiction capable of raising and spending revenue. Over the past decade, our own state has become a national leader in tackling its infrastructure needs.

Over three gubernatorial administrations and state legislatures run by both major parties, North Carolina policymakers have set firmer priorities within the state's transportation budget, initiated new user-funded projects, and redirected gas taxes and other car-related revenue to their proper use of constructing or maintaining roads.

As a result, the state is spending hundreds of millions more each year on transportation without



**STATES SHOULD LEAD ON TRANSPORTATION.** The federal government only has an interest in ensuring a transportation network sufficient for national defense, and in resolving cross-border disputes.

resorting to major tax hikes.

David Hartgen, an emeritus professor at the University of North Carolina at Charlotte, has for 23 years produced annual rankings of America's highway systems. Published by the Reason Foundation, a California-based think tank, Hartgen's latest report ranks North

Carolina 14th in highway performance, up from 20th as recently as 2012. Indeed, only three states posted a bigger improvement in highway performance than North Carolina did. That trend will likely continue.

As states like North Carolina address their own needs, what role, if

any, should the federal government play? If we take the Constitution seriously, the answer should be "not much." Washington only has an interest in ensuring a transportation network sufficient for national defense and in resolving cross-border disputes.

Under President Trump's proposal, every new federal dollar for infrastructure would be offset by a dollar of spending cuts elsewhere. Each of those dollars, in turn, would serve as leverage for projects primarily funded by states, localities, or the private sector — in the latter case, in particular, to be repaid by user charges rather than by general taxes imposed on those not using the asset in question.

The plan proposes to clear the regulatory underbrush past presidents and congresses have built up over the past century. I'm more supportive of the deregulation elements of the plan than I am of federal leveraging funds.

Offsetting cuts in federal spending would be most welcome, naturally, but seem unlikely in our current environment of busted budget caps and soaring deficits.

I'd rather let states chart their own courses on infrastructure — likely reflecting the differing priorities of reddish states, blueish states, and private entrepreneurs — and then let people choose where and how to live and travel.

In short, let North Carolinians and our counterparts elsewhere figure this out for ourselves.

## BUSINESS & ECONOMY

# New firms drive economic growth

**POLITICIANS IN** North Carolina — and throughout the United States — seem fixated on attracting large companies.

This fixation is mistaken but understandable. We all want North Carolina to be so congenial that big-name companies will want to do business here. Politicians are human beings, too. We all tend to focus on the familiar.

There's also a basic rhetorical problem. I strongly believe policymakers should focus more on entrepreneurs, on new businesses and the disproportionate number of new jobs and income gains they produce for a state's economy. But by definition, I can't point

you to specific individuals or firms deserving of politicians' attention. No one can know their names yet.

Rather than try to guess which economic trees will grow the tallest, politicians should focus on the economic forest — or more to the point, on the economic climate, soils, and other conditions that may help widely dispersed entrepreneurial seeds sprout and grow into forests.

While changes to the personal income tax got the lion's share of attention during the December debate about federal tax reform, the most important change in economic terms was the cut in corporate taxes.



**A lower corporate tax doesn't just boost investment and employment by existing firms. There's compelling evidence to suggest it also boosts the rate at which people create new businesses.**

A lower corporate tax doesn't just boost investment and employment by existing firms. There's compelling evidence to suggest it also boosts the rate at which people create new businesses, by raising

the after-tax rate of return on what is almost always a risky investment.

The latest paper I've seen on the subject, a Federal Reserve Board study by Wake Forest University economist Mark Curtis and Fed economist Ryan Decker, found not only that states with higher corporate taxes tended to have weaker business activity but that "startups are seen to be more sensitive to these tax changes than incumbent firms."

Conservative leaders in North Carolina understand the importance of using tax policy to reduce the risk of starting new businesses. Under their leadership, the state's corporate tax

rate will soon be just 2.5 percent.

This will likely accentuate an already positive trend in entrepreneurship. According to a 2016 Kauffman Foundation report, our state ranked eighth in "business startup activity" among large states.

For every high-touted industrial prospect that goes to some other state, just keep in mind that many more young companies are looking for the right place to launch and begin their growth cycles. In the long run, they will form a more secure footing for sustained economic growth. Tax policy isn't the only technique for cultivating them. But it matters.

# COMMENTARY

## N.C. treats distilleries differently from breweries, wineries, but why?



**JOHN TRUMP**  
MANAGING EDITOR

A friend of mine, who, along with a group of his friends, owns a distillery on the N.C. coast, once told me a story about a customer who asked him for a drink.

I tell the story every time I have the opportunity. There's a moral.

The distillery, because of its location on the Atlantic, caters to busloads of tourists, oftentimes from the Northeast. They're visiting beautiful North Carolina, they want to have fun, and many of them want a tasty alcoholic drink.

One such tourist, who he guessed to be upwards of 80, wanted such a drink, in this case a refreshing mojito. She was, after all, visiting a rum distillery.

My friend told her he was sorry, but he can't mix drinks at distilleries in North Carolina. She can have a small bit of rum from a bottle, and that would have to do. The rum, alone, is remarkable, but not everyone enjoys their liquor warm and straight.

Doesn't seem fair, does it? To refuse someone something that,

in another setting, is perfectly legal and at the same time deny a hard-working entrepreneur the chance to make some money from customers more than willing to open their purses.

North Carolina lawmakers — Democrats and Republicans — have done well in transforming and enacting laws that benefit the state's growing distilling industry. There's momentum toward such free-market reforms, and lawmakers should take care not to lose it. The "brunch bill" — which more than anything allows distillers to sell five bottles per customer per calendar year at the distillery — was an important step. But parts of the original legislation spilled from the legislative mash tank, including tastings at ABC stores — Virginia and South Carolina have those, for example — and distillery-to-customer sales.

Allowing distilleries to serve mixed drinks has had little play in North Carolina, but let's not discount its potential.

In Kentucky, a historically dry state — and the bourbon capital of the world — the passage of Senate Bill 11 in spring 2016 allowed distilleries to sell mixed drinks.

In Iowa, a story from *The Courier of Waterloo* posted on the American Distilling Institute website reported on the success of a new law allowing a distillery to sell products on-site, including

mixed drinks, of which it sold 2,400 cocktails over a recent three-day weekend.

"In the past we've always just done bourbon samples, but this year we still did that, and we were also able to sell bourbon cocktails," Jamie Siefken, general manager of Cedar Ridge in Iowa's Cedar Valley, told the paper. "It was just crazy. It was wall-to-wall."

"Iowa distilleries have expanded, hired more employees, and made more money now that they can sell their product in individual servings on-site, multiple companies said," according to the story.

The Virginia Distillers Association, as another example, is lobbying legislators there to consider the challenges distillers face in trying to sell and market their products in a control state.

"If the Commonwealth plays its cards right, and shows fiscal support for the industry — we can all capitalize on the momentum from growth within the national spirits sector," said Amy Ciarametaro, executive director for the VDA, said in a news release.

The Virginia ABC, for its part, transcends the North Carolina system in a number of ways, including in-store tastings, a lottery allowing residents to buy rare spirits, and an interactive website where consumers can search for products in a particular store. North Carolina publishes a price list of what's available ... in one or more of the

state's more than 420 ABC stores. Good luck finding that cranberry Krupnikas.

The Virginia ABC system, unlike, say, the N.C. control system, seems at least to make an effort toward appearing as if it's interested in selling liquor to residents. North Carolina seemingly takes an opposite tack, basically dissuading people from buying spirits, especially those made in North Carolina. Bars and restaurants, for instance, can't buy directly from distillers but must rather order from the ABC, and typically by the case. That's not so with beer and wine.

Promoting more free-market reforms in North Carolina regarding liquor is definitely on the radar, though distillers tell me not to expect much legislatively this year.

But, I've heard, wait 'til next year.

At its base is a simple question, says Scott Maitland, president of the Distillers Association of North Carolina and proprietor of TOPO restaurant and brewery in Chapel Hill and the TOPO distillery.

"Why are we treating distilleries any different than our wineries and breweries?" Maitland asks.

Anyone?



## Will the new tax law's inflation measure cost you?



**MICHAEL WALDEN**  
COLUMNIST

**THE NEW FEDERAL** income tax law is chock full of changes, alterations, and adjustments, and taxpayers, accountants, and economists are spending hours trying to understand it. A good example is the change in the inflation measure used to make annual adjustments to tax brackets.

Decades ago a big issue in the tax code was something dubbed "taxflation." Taxflation arose from the fact the income a person pays tax on — called "taxable income" — is broken into several ranges — called "tax brackets" — with each range taxed at a different tax rate. Tax brackets

with higher incomes are taxed at higher rates.

Taxflation was a term coined to indicate how inflation could push a taxpayer into higher tax brackets, therefore causing them to pay more in taxes, even though the taxpayer wasn't effectively earning more in purchasing power. For example, if Jane Smith's income rose 10 percent, but inflation was also 10 percent, then Jane's purchasing was unchanged. But she still could be pushed into higher tax brackets and pay more income tax.

Public dissatisfaction with taxflation reached a boiling point in the late 1970s and early 1980s, when the annual inflation rate was more than 10 percent for three consecutive years.

Relief came in 1985, when tax brackets were first adjusted for inflation. How was this done? Very simply — the endpoints for each tax bracket were increased by the inflation rate. For example, if the tax bracket for a 15 percent

tax rate ranged from \$20,000 to \$40,000 and inflation was 10 percent, then next year the 15 percent tax rate bracket would go from \$22,000 to \$44,000. This adjustment effectively ended taxflation.

That's the background. Today's issue is not over keeping the annual adjustment of tax brackets for inflation — the adjustment is staying. Rather the issue now is about the measure of inflation to use in adjusting the tax brackets.

For more than 30 years, the Consumer Price Index has been used to adjust tax brackets annually. This measure is drawn from monthly surveys of 85,000 items consumers buy in 22,000 stores. Changes in prices of each item are weighted by the relative importance of that item in the typical consumer's budget to form the index values and to calibrate the inflation rate.

In the CPI calculation, the government also tries to adjust for quality changes in products. For

example, when power brakes were added as standard equipment to most vehicles, this increased average vehicle prices. Since this was an additional cost for an improved product, the government didn't include the cost of the power brakes in the inflation rate for the year the brakes were introduced.

But some economists have argued that even after accounting for quality adjustments, the CPI still overstates inflation. How? By not accounting for the fact consumers will respond to a price increase in one product by shifting some purchases to substitute products with smaller price increases. As an example, if the price of beef rises more than the price of pork, consumers will begin buying less beef and more pork. If the CPI assumes consumers continue buying the same quantity of the more expensive beef, the actual inflation rate experienced by consumers would be overstated.

The government has developed a version of the CPI — called the "chained CPI," or C-CPI for short — that incorporates the expected changes in purchasing habits when prices change at different rates. Importantly, the new tax law mandates the C-CPI as the inflation rate to be used for adjusting tax brackets. It's estimated the C-CPI averages about one-quarter percent less than the regular CPI. This means tax brackets won't be adjusted quite as much in the future using the C-CPI, which also means people will pay slightly more federal income taxes in future years using the C-CPI than the CPI.

The change in the inflation measure was made in the name of accuracy. But in this case, accuracy will cost each of us a little more in taxes.

*Michael Walden is a William Neal Reynolds Distinguished Professor at North Carolina State University. He does not speak for the university.*

## COMMENTARY

## Living with election maps drawn by judges, statisticians



**ANDY TAYLOR**  
COLUMNIST

Courts have been dealing with gerrymandering — the redrawing of legislative district lines to further a particular political interest — for more than 50 years. Since a series of landmark cases in the 1990s, including some from North Carolina, federal judges have established and refined the principle that legislative redistricting cannot be guided by racial considerations. Determinations that North Carolina lawmakers were influenced by race forced them to redraw congressional lines for 2016 and the state legislative boundaries for this year's contests.

In January, a federal court did something new by declaring the state's congressional map an unconstitutional partisan gerrymander. The U.S. Supreme Court will ultimately decide what should happen later this year, possibly folding the case into others from Maryland and Wisconsin. Using the Constitution's 14th Amendment due process and equal pro-



**The map now under review could plausibly return a very different congressional delegation.**

tection clauses, it has established race as a "suspect" or "protected" class to which any perceived discrimination should receive "strict scrutiny" and only be permitted under extreme circumstances. A person's partisan affiliation has no such constitutional standing.

The argument against the partisan gerrymander, at least within current legal doctrine, rests largely on two other assertions. The first is motivation. In the current North Carolina case, this is quite persuasive. Rep. David Lewis, R-Harnett, has made it clear he and his Republican colleagues who oversaw the process focused quite deliberately on party. He did this to persuade judges race had absolutely no influence on their decisions. The claim was clumsy. But how were Lewis's words evidence of illegality?

The second assertion centers on the maps themselves, essen-

tially the election outcomes they produced. But if partisan gerrymanders are recognized by their appearance, then where do you draw the line? How do you know one when you see one? Existing law — whether it be the Constitution, statute, legal precedent, or court decisions — provides no assistance.

In the North Carolina case — two, actually — former state Sen. Bob Rucho was named the defendant in both — Judge James Wynn resorted to statistics and the work of mathematicians, principally Duke's Jonathan Mattingly. The judge came to his decision because less than 1 percent of the roughly 25,000 potential maps drawn up by Mattingly would have matched the actual 2016 outcome — that is returning 10 Republicans and three Democrats. This is clear evidence of a partisan gerrymander in the sense we use the term in political science. But what about the law? Any determination of partisan gerrymander based on statistics will inevitably be arbitrary, an approach generally denounced by the courts.

Election outcomes are the only reason plaintiffs brought the cases. If these districts were electing seven Republicans, they wouldn't have bothered. They were motivated solely by "disparate impact",

a principle often used as *prima facie* evidence of flawed processes. It permits judges to fixate on outcomes and ignore procedures, regardless of how fair they are. Disparate impact has placed practices such as school suspensions and traffic stops that often disproportionately affect African-Americans in legal jeopardy. But unlike race, remember, partisanship is not constitutionally protected.

What is more, the map now under review could plausibly return a very different congressional delegation. Partisan voter registration isn't the same as voting for candidates of a particular party. It doesn't constrain or obligate the registered voter in general elections. If it did, Republicans would hardly ever win statewide office in North Carolina. Campaigns matter, the political context of the time matters, and the quality of candidates matter.

The argument for the partisan gerrymander is further complicated by the "sorting" of voters — with Republicans increasingly living in the same neighborhoods, Democrats amongst their like-minded fellow residents. Even randomly drawn districts are likely to result in the kinds of high concentrations of partisans the plaintiffs in these cases complain about. There exists a "natural"

partisan gerrymander.

As I've suggested, those wishing to outlaw the partisan gerrymander want to make constitutional rights out of whole cloth. This would constitute dangerous judicial activism or legislative creativity. An American has a right to vote and for it to be counted as one. He can also move to any political jurisdiction he wants. But he cannot demand to be placed into one of his choosing.

If you want to eliminate the partisan gerrymander, you have two options. The first is to change our electoral system so that legislators all run in a single statewide district or, European-style, the parties can dish out seats after receiving an allocation reflected by the total popular vote. Both methods eliminate redistricting entirely. The second is to overhaul the process by which maps are drawn. Perhaps North Carolina might take the approach of six Western states that use an independent commission. We would then be forced to accept the outcome — and thankfully never have to live with maps drawn by judges and statisticians.

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

## Two N.C. lawmakers leading the immigration debate



**MARC ROTTERMAN**  
COLUMNIST

**AS I WRITE** this column in mid-February, immigration reform has taken center stage in Washington, D.C.

Two North Carolina lawmakers — Republicans with competing visions on how to handle illegal immigration — are in the thick of the debate. They are 11th District Rep. Mark Meadows and U.S. Sen. Thom Tillis.

Tillis is an advocate of the "The Secure and Succeed Act," which is backed Sen. Chuck Grassley, R-Iowa, and endorsed by Senate Majority Leader Mitch McConnell of Kentucky. In a nutshell, The Secure and Succeed Act calls for a merit-based immigration system designed to resolve the legal uncertainty facing illegal, undocumented minors living in the United States, aka Dreamers. It would include provisions to help



**Rep. Mark Meadows**

deter illegal immigration, prevent chain migration, end the diversity lottery, and bar public benefits for illegal immigrants whose children are U.S. citizens. It also calls for \$25 billion to bolster defenses along the border with Mexico and provides an eventual path to citizenship for about 2 million Dreamers — illegal residents who entered the U.S. as minors, registered under the Deferred Action for Childhood Arrivals program, and whose parents are legal residents or citizens.

Meadows, chairman of the House Freedom Caucus, supports legisla-



**Sen. Thom Tillis**

tion from House Judiciary Committee Chairman Bob Goodlatte, R-Virginia. Essentially, it would lead with security and enforcement and doesn't offer amnesty to Dreamers.

The legislation would offer a renewable, three-year legal status "for DACA recipients in exchange for authorizing President Trump's border wall funding, ending family-based immigration, and eliminating the diversity visa lottery program." It also would crack down on so-called sanctuary cities, increase criminal penalties for deported criminals who try to

return to the United States, and require employers to use an electronic verification system to ensure they hire only legal workers.

Meadows and the Freedom Caucus are adamant that the Goodlatte bill get a vote on the floor of the House.

Recently on CBS News' "Face the Nation," Meadows specifically stated that House Speaker Paul Ryan, R-Wisconsin, and other Republican leaders should not wait for the Senate.

"We're going to engage and hold our speaker to his word," Meadows said, meaning when the Goodlatte bill has enough support to pass it should get a vote and then go to the Senate. Meadows added, "The biggest thing is it puts emphasis on border security and not creating a special path to citizenship."

Much is at stake in the House, which is arguably a more conservative body than the Senate, and, in the view of this writer, much more reflective of Trump's base.

The speaker is on the hot seat. If he blocks a vote on the Goodlatte bill, like former Speaker John Boehner, Ryan could face "a motion to vacate" — a move that could spell

the end of his tenure.

And let's be clear. President Trump campaigned against amnesty.

I wrote in a column several months ago stating that Tillis' Succeed Act was a great opening bid. It was, and it had many elements on which conservatives can agree. But its focus is on the DACA recipients and their eventual claim to citizenship rather than securing the border.

In 1986, many conservatives warned President Reagan that the Simpson-Mazzoli act, which gave immediate amnesty to illegal immigrants in exchange for a promise to secure the border, was weak on enforcement. Granting amnesty, conservatives said, would lead to a flood of illegal immigrants, which is precisely what happened.

Meadows, the Freedom Caucus, and Goodlatte are on the right track.

President Trump should take his cues from them.

*Marc Rotterman is a senior fellow at the John Locke Foundation and the host of "Front Row" on UNC-TV and The NC Channel. Follow him on Twitter @FrontRowmarc.*

# POLLS

**WITH TAX SEASON UNDER WAY**, it's no surprise the issue of taxes is on people's minds. Civitas Institute, a nonprofit conservative public policy organization, released an extensive poll of North Carolinians' views on political issues, including the recent Tax Cuts and Jobs Act of 2017. In a similar vein, the Meredith College Poll, conducted by Meredith College, surveyed North Carolinians about their knowledge and opinions of the new tax law. Both surveys questioned North Carolina voters about who may most benefit from the new law and how they think the law will affect their taxes.

**CIVITAS POLL**
**MEREDITH POLL**

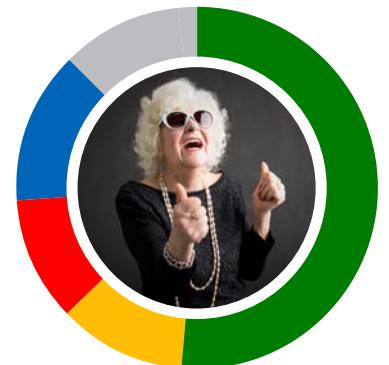
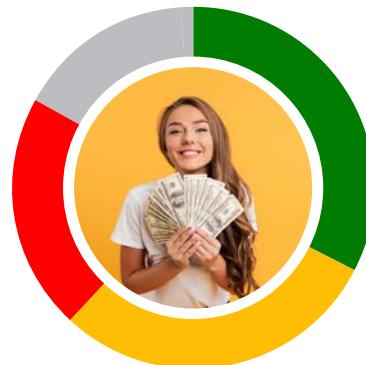
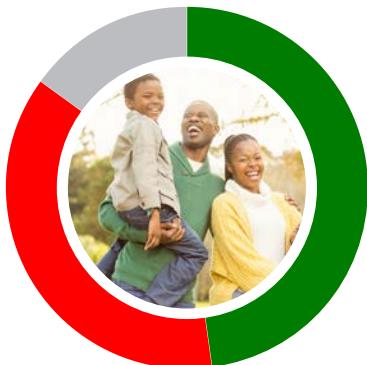
**In your opinion, will President Trump's tax reform plan reduce or raise taxes for ordinary American families?**

**Under President Trump's tax reform plan, will you and your family's taxes be raised, stay about the same, or be reduced after the new plan is in effect?**

**For the services you receive from government, would you say that the federal taxes you have paid for the past few years were too high, too low, or they are about right?**

**Do you think you will pay more or less federal taxes under the new system, or do you think you will pay about the same?**

**Who do you think the new tax law is going to benefit the most?**



● REDUCE TAXES - 48%  
● RAISE TAXES - 37%  
● DON'T KNOW/NO ANSWER

● REDUCED - 34%  
● ABOUT THE SAME - 30%  
● RAISED - 20%  
● DON'T KNOW/NO ANSWER

● TOO LOW - 3.6%  
● ABOUT RIGHT - 32.2%  
● TOO HIGH - 56%  
● DON'T KNOW/NO ANSWER

● PAY LESS - 32.7%  
● ABOUT THE SAME - 29.3%  
● PAY MORE - 21.2%  
● DON'T KNOW/NO ANSWER

● WEALTHY AMERICANS - 51.5%  
● MIDDLE CLASS - 11.5%  
● WORKING CLASS - 11%  
● ALL AMERICANS EQUALLY - 13.6%  
● DON'T KNOW/NO ANSWER

Civitas Institute surveyed 1,000 likely voters via a live caller model with 30 percent responding on cell phones. The poll was conducted Feb. 6-8 and has a margin of error of plus/minus 3.10 percent.

The Meredith College Poll conducted a poll consisting of 223 live caller responses and 395 email responses between Jan. 21-25, 2018. The margin of error is plus/minus 4 percent.

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