



# 2018 Legislative Short Session Wrap Up

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# ALL SECURE



## Capitol implements millions of dollars in tools, people, measures to safeguard lawmakers, staff, and visitors.



### SECURITY

## Lobbyists, reporters say new security measures hurt ability to do their jobs

BY DAN WAY

Lawmakers have a long-recognized love-hate relationship with the media and lobbyists, who both seem to have a quarrel with the General Assembly these days.

They say new security measures imposed at the state Legislative Building are impeding their ability to do their jobs — in the lobbyists' case, of keeping legislators well informed about issues on which they will vote. For the media, it's about keeping the public well informed about how their elected representatives are voting.

Elizabeth Robinson, president of the N.C. Professional Lobbyists Association, said members of her organization understand the need for building security after decades of unrestrained access. Many have been exposed to statehouse security measures outside of North Carolina.

SEE LOBBYISTS PAGE 13

BY DAN WAY

As a former insurance company owner, Legislative Services Officer Paul Coble knows a thing or two about risk.

He knew it would be risky business to roll out a half dozen screeners manning X-ray machines, metal detectors, and other security protocols May 16, the first day of the General Assembly's short

session. Unlike most states, North Carolina's legislative building — which houses the House and Senate chambers, lawmakers' offices, and committee meeting rooms — never had this level of physical and technological protection.

Coble, who oversees day-to-day operations of the General Assembly, half-joked his job security also may be at risk. He approved the \$1 million comprehensive mea-

asures to safeguard lawmakers, staff, and visitors.

The goal is to avoid a logistical bungle of clogged lines, long wait times, and bad press.

"The big fear that leadership had — and they told me repeatedly, and we all understood — it's the people's house, and we don't want to restrict their ability to come into the building," said Coble, a former Raleigh mayor and

chairman of the Wake County Board of Commissioners. "Our job was to keep them safe and keep it open."

They discussed not using the new security machines at all during the session, prolonging the open access in place for more than a half century.

"We weren't sure we were going to have them up and running and be trained on them. That was touch and

go all the way," Coble said. "I had made the decision: If we couldn't do it right, we weren't going to do it."

Complicating the debut was a massive teacher rally the same day that drew thousands of educators to the legislative campus.

"Typically, you don't open something up and have that big of a stress test on open-

continued PAGE 12



### Interview: Peter Boettke

Peter Boettke, George Mason University professor, promotes free trade.

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# QUICK TAKES



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## General Assembly rejects two of governor's three nominees for State Board of Education

In a joint session of the House and the Senate June 28, Republican legislators rejected two of three nominees for the State Board of Education, to the confusion and frustration of Democrats.

Legislators overwhelmingly approved Reginald Kenan's reappointment to the state education board, but a partisan split prevented Sandra Byrd and John B. Buxton from earning the necessary votes for confirmation.

Gov. Roy Cooper nominated Kenan, Byrd, and Buxton on May 2, 2017, to serve eight-year terms. The board has 13 members, 11 nominated by the governor.

While Kenan's confirmation was approved without contention, Republicans rejected Byrd and Buxton.

While opposing Byrd, Sen. Chad Barefoot, R-Wake, cited the recent power struggle between the state board and Superintendent of Public Instruction Mark Johnson.

"Opposition to her nomination is not personal. It has to do with the recent spate of litigation losses that the SBE has suffered at great expense to the taxpayers of North Carolina," Barefoot said. "All of the edu-



Gov. Roy Cooper

cation stakeholders in the state have shown themselves to be reasonable and willing to reach a consensus with the exception of the State Board. I'm afraid with Byrd's nomination we cannot help but expect more of the same."

Byrd was also a plaintiff in a lawsuit challenging the Opportunity Scholarship Program. Barefoot said Byrd is free to sue, but her actions make her unfit to serve on a board that is seemingly eager to litigate.

Democrats disputed Barefoot's reasoning.

Sen. Terry Van Duyn, D-Buncombe, said there should be a diversity of opinion on the board.

"By taking the position that Sen. Barefoot is taking, we are sending a chilling message that all we want on our board of education is someone who will work in lockstep with the superintendent," Van Duyn said.

Byrd's confirmation failed with 107 voting no and 56 voting to confirm.

While Republicans provided a reason for rejecting Byrd, they gave no explanation for Buxton.

Rep. John Bell, R-Wayne, urged lawmakers to vote no for Buxton but didn't elaborate why. When Rep. Graig Meyer, D-Orange, rose to ask Bell a question, Bell didn't yield.

Buxton previously served as deputy state superintendent of N.C. public schools and served as education adviser to former Gov. Mike Easley. Sen. Jay Chaudhuri, D-Wake, said Buxton has served both Republicans and Democrats.

"I am baffled and perplexed as to why we are voting down this nomination," Chaudhuri said.

Meyer said he fears purely partisan politics was at play for denying Buxton's nomination. Before the joint session, the Senate endured a tense debate over the proposed voter ID constitutional amendment.

"Given their advocacy for Democratic education policies, Sandra Byrd and J.B. Buxton were unlikely to earn votes from Republican lawmakers," said Terry Stoops, vice president for research and director of education studies at the John Locke Foundation.

"Byrd and Buxton were longshots from the start. If Gov. Cooper were serious about nominating individuals to the state board who would appeal to the Republican legislative majority, his other nominees would resemble Reginald Kenan, who has a solid record of working with policymakers on both sides of the aisle and was thus reappointed to the board by the General Assembly."

Current board members Tricia Willoughby and Wayne McDevitt, whose terms expired in March 2017, will have to continue serving until replacements are confirmed.

—Lindsay Marchello

## Opportunity Scholarship study shows academic gains

**A NEW STUDY** from N.C. State University researchers highlights positive academic effects of the state's Opportunity Scholarship Program. The study is the first to look at how the program influences student achievement.

The General Assembly approved the Opportunity Scholarship Program in 2013. The program launched during the 2014-15 school year. Low-income families are awarded up to \$4,200 a year in vouchers for their children to attend the private school of their choice. Almost \$53 million has been awarded to families so far.

In spring 2017, researchers, using the Iowa Test of Basic Skills in math and reading, analyzed the academic performance of 698 students in public and private schools.

Researchers found, in general, new voucher recipients



Anna Egalite is one of the authors of a study about the Opportunity Scholarship Program by N.C. State researchers.

**PAGE 14 OPINION:**  
Scholarship program is worthwhile investment

scored significantly higher than their public-school counterparts in math, reading, and language arts. Existing voucher recipients scored significantly higher than their public-school counter-

parts in language arts and higher in math and reading.

"It may be the case that the North Carolina Opportunity Scholarship Program truly has a positive impact on student achievement, perhaps because it reaches highly economically disadvantaged students who have few school choice options in the absence of the

program and perhaps the highest potential for academic growth, as a result," the study reads.

Terry Stoops, vice president for research and director of education studies at the John Locke Foundation, said the results aren't surprising.

"The N.C. State study confirms what Opportunity Scholarship supporters have always suspected — low-income students receive meaningful academic benefits in the private schools they choose to attend," Stoops said. "Not only are families happier in their private school of choice, children learn more. Both are compelling reasons for the state to continue its investment in the Opportunity Scholarship Program."

The researchers said other factors may explain positive results, including whether the chosen test unfairly gives private school stu-

dents an advantage or if the study's design affected results. Since the study relied on volunteers, the sample could be skewed toward high academic performers.

N.C. State researchers surveyed parents on their opinions of Opportunity Scholarships. They found 94 percent of parents gave their new private school an A or B; 73 percent gave their previous public school a C or a lower grade.

About a third of parents said the reason for leaving their public school was school quality. A quarter said school safety was the chief reason.

Since the program began, more than 50,000 parents have applied for vouchers. More than 7,000 students used them to attend the school of their choice in the 2017-18 school year.

—Lindsay Marchello

## QUICK TAKES

# Constitution Party gets place on N.C. ballot

Voters will see another minority party on North Carolina's ballot.

The Bipartisan State Board of Elections and Ethics Enforcement voted unanimously June 6 to recognize the Constitution Party.

The Constitution Party joins the Green Party and the Libertarian Party on North Carolina's ballot as third-party alternatives to Democrats and Republicans.

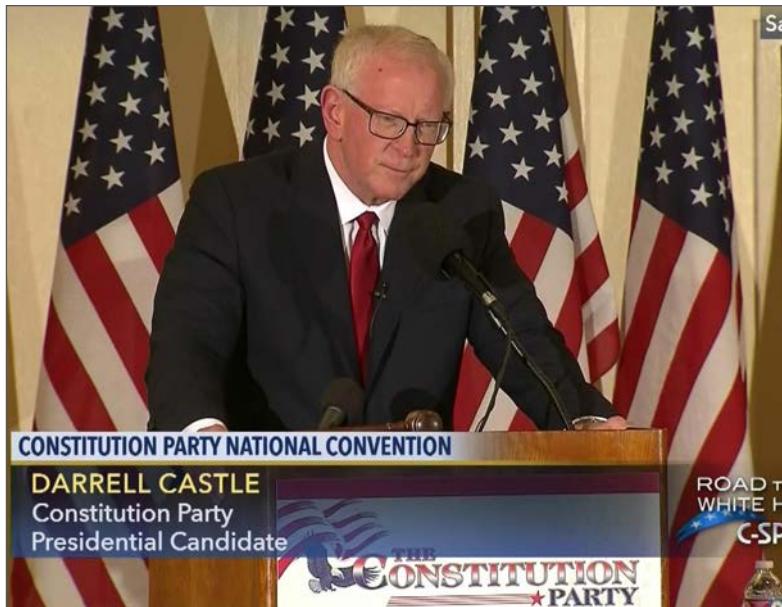
Originally formed as the U.S. Taxpayers Party in 1992, the party rebranded itself in 1999 as the U.S. Constitution Party to express better its commitment to the Founders' ideas, namely limited government, conservative morality, and a strict reading of the Constitution.

The party appeared on 41 state ballots in 2004, but it never made it onto the North Carolina ballot until 2018.

Official recognition in June was a long time coming, Constitution Party vice chairman Kevin Hayes said.

It isn't a coincidence that 2018 alone has marked the introduction of two political parties to the state's ballot.

In 2015, North Carolina ranked as the 14th most restrictive state for ballot access, according to FairVote.



**CONSTITUTION PARTY.** Darrell Castle, the 2016 Constitution Party presidential nominee, gives his acceptance speech at the party's convention in Salt Lake City.

State law required third parties to collect 2 percent of the vote in the previous governor's election, and 200 registered voters had to come from each of four congressional districts in North Carolina.

Today, that's 94,222 signatures.

But in the Electoral Freedom Act of 2017, the General Assembly dropped the requirements from

2 percent to 0.25 percent of the gubernatorial vote, and from four congressional districts to three.

Any parties that appeared on the ballot in 70 percent of the states in the previous presidential election also could appear on the N.C. ballot. The bill passed over Gov. Roy Cooper's veto in October 2017.

The Green Party qualified for



**For many years I worked very hard at the General Assembly with a lot of other people to get the law lowered. This is the first time we'll be on the ballot in North Carolina. We've never had the ability to do that before because the laws have been so restrictive. We're absolutely thrilled.**

- Kevin Hayes

ballot access six months later, and the Constitution Party followed suit after securing 12,651 valid signatures.

"For many years I worked very hard at the General Assembly with a lot of other people to get the law lowered," Hayes said. "This is the first time we'll be on the ballot in North Carolina."

"We've never had the ability to do that before because the laws have been so restrictive," Hayes

added. "We're absolutely thrilled."

Five other parties have petitioned for ballot access, but so far no party has collected more than 20 valid signatures.

State law requires new political parties to nominate their candidates by convention, which the Constitution Party did in Charlotte on June 16.

The General Assembly restricted minority parties' potential nominees. Senate Bill 286 contained a "sore loser" provision, which extended the existing law that had prevented primary-election losers from running as write-in candidates.

The new law blocked losing candidates in primary elections from running on the November ballot as the representative of a third party.

"Long story short, the Republicans in Raleigh felt threatened by the Constitution Party," Hayes said, adding that he believes the provision was a response to the interest Rep. Beverly Boswell, R-Dare, expressed in running under the Constitution Party.

Boswell had lost her Republican primary election. She did not end up securing a Constitution Party nomination.

—Julie Havlak

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## Controversial municipal charter school bill is now law

**FOUR TOWNS** in Mecklenburg County can open and run their own charter schools apart from the local board of education.

After lengthy — sometimes heated — debate, House Bill 514 passed 64-53 on June 6, and it's now law. It's a local bill, so the governor can neither sign nor veto the measure.

Rep. Bill Brawley, R-Mecklenburg, introduced the bill last year.

The bill applies to Mint Hill, Matthews, Cornelius, and Huntersville.

Brawley said town leaders brought to his attention issues of overcrowding and long waiting lists. H.B. 514 aims to address these concerns by allowing the towns to operate their own charter schools and to give their residents preference with enrollment.

Supporters of the bill have said the Charlotte-Mecklenburg school system is too big, and officials there

don't listen to the needs of towns outside Charlotte.

Brawley said the municipal charter schools still would be subject to the same laws and regulations as existing charter schools. It's unclear whether teachers in those schools could opt into state retirement plans, a provision the Senate stripped from the bill.

"Are we thinking of something new? Yes, we are," Brawley said. "But remember, there was a time when settlers in the American colonies were forbidden to cross the Appalachia and settle the land. ... Had they not explored new territories, this country would still be just 14 states."

The bill endured criticism from both Democrats and Republicans. Critics worried that the bill would have statewide implications and set a precedent for other towns to follow. Democrats took their concerns

a step further and warned H.B. 514 would lead to resegregation and a higher tax burden on residents.

Keith Poston, president and executive director of the Public School Forum of North Carolina, said the bill is a terrible idea for the state.

"At a time when we are courting major new investments from Apple, Amazon, and the U.S. Army, the last thing we need are national headlines about a new N.C. law driving resegregation," Poston said in a news release. "H.B. 514 threatens to become our state's education version of H.B. 2."

The state chapter of the National Association for the Advancement of Colored People and four African-American former school board chairs held a press conference June 5 denouncing the bill and vowing to take the matter to court.

—Lindsay Marchello



**CHARTER SCHOOLS.** Rep. Bill Brawley, R-Mecklenburg, introduced the municipal charter school bill last year.

# TRADE & TARIFFS

## N.C. farmers about to feel the crunch of retaliatory tariffs

China, Mexico, Canada targeting ag exports including tobacco and pork, which have a big impact on N.C. economy

BY JULIE HAVLAK

As the trade dispute with China picks up, bigger farms in North Carolina are scrambling to cope with a shrinking market of customers.

U.S. agriculture relies heavily on exporting its products overseas, where China is the world's fastest-growing market and foreign consumers help keep farms in business.

North Carolina is a growing part of the international market, but access to that market is now in peril. After President Trump announced his latest tariffs, China joined Canada, Mexico, and the European Union in hitting back against the president.

The blow of the tariffs will fall hard on farmers. Beginning July 6, China's tariffs will hit 659 types of goods, including tobacco, soybeans, and pork — all staple agricultural exports from North Carolina.

Trump has said his goal is to push China to reduce its average tariff rate, which is three times that of the United States. The president announced a 25 percent tariff on \$50 billion in Chinese goods June 15. After China immediately retaliated with similar tariffs, Trump followed up with a 10 percent tariff on an additional \$200 billion in Chinese goods. He promised to match China tariff for tariff until the communist country backs down.

"Fair Trade is now to be called Fool Trade if it is not Reciprocal," Trump tweeted, adding, "Why should I, as President of the United States, allow countries to continue to make Massive Trade Surpluses, as they have for decades, while our Farmers, Workers, & Taxpayers have such a big and unfair price to pay? Not fair to the PEOPLE of America!"

Cato Institute adjunct scholar Scott Lincicome warns that farmers are due for a double hit, from both rising costs of equipment and retaliation by other countries.

Still, many Trump supporters in North Carolina remain unfazed — including farmers.

"Long term it will be very good for us. We need fair trade," Rep. Jimmy Dixon, R-Duplin, a retired turkey farmer, said. "There is some pos-



**DROP IN PORK PRICES.** Since March, hog prices have dropped from \$149 to \$131, and farmers expect losses to snowball, reaching \$2.2 billion a year.

sibility that as far as agriculture is concerned, there might be some initial pain, but I believe that the initial pain would be followed by excellent benefits."

China's tariffs are just one piece of its trade disputes with the U.S. China also uses a shady licensing system and foreign investment restrictions to force U.S. firms to "volunteer" their technological data in exchange for market access — essentially allowing China to steal U.S. trade secrets and intellectual property, according to a report by the Office of the United States Trade Representative.

"[A] 'voluntary' technology transfer takes place, but one that is only voluntary in the sense that the business trans-

actions engaged in by the fictional gangster of 'The Godfather' series, Vito Corleone, were voluntary," said a submission quoted in the report.

Those policies, particularly China's initiative "Made in China 2025," Beijing's blueprint for becoming a self-sufficient, high-tech superpower, have drawn the ire of the White House.

When Trump announced tariff increases in March, China retaliated with tariffs that will target products made in states that supported Trump in the 2016 election, *The Wall Street Journal* reported.

Trump's summit meeting with North Korea seems to have eased the fears of some growers, who are fond of comparing the trade dispute with the earlier threat of nuclear war.

"Yeah, there's going to be some posturing, but I'm not concerned," said Joe Easton of Rose Acre Farms, the nation's second-largest egg producer. The company's based in Indiana but has a major presence in North Carolina. "Four months ago we were ready to go to nuclear war with North Korea, and now we are shaking hands with them. We just

sit back and let it play out, and at the end of the day agriculture is safe."

The National Pork Producers Council isn't so sanguine.

Their industry is fueled by foreign consumers — \$1.5 billion worth of pork shipped to Mexico and \$792 million to Canada last year — and under market uncer-

tainty and new tariffs, profits are collapsing.

"There is already real lost value being incurred by U.S. pork producers," said Jim Monroe, a spokesman for the National Pork Producers Council. "It's turning what looked like a profitable year at the start of 2018 into what at this point is looking like an unprofitable year."

The timing is especially bad: Pork was set to rake in record profits in 2018. Buoyed by rising foreign demand, producers had built five new pork processing plants to increase U.S. output by 10 percent.

Then the tariffs hit. Since March, hog prices have dropped from \$149 to \$131. Farmers expect losses to snowball, reaching \$2.2 billion a year, said Iowa State University Economist Dermot Hayes.

"There is just this shadow of uncertainty that is over the industry right now," Monroe said. "Hopefully, these are short-term measures, but who knows? And if they are sustained, it will cause real financial damage."

N.C. corn growers are less concerned. Tar Heel State residents consume more grain than they produce, so corn growers are insulated from ripples in the international market. Still, because most corn goes to feed N.C. hogs, corn farms live and die with the pork industry.

"We have the opportunity to sell everything within the state, and then we have to get more, whether by boat or train," said Rhonda Garrison, executive director of the N.C. Corn Growers Association. "But whatever happens to the Midwest

### BY THE NUMBERS

**\$1.5 billion**

The value of pork products shipped to Mexico last year.

**\$792 million**

The value of pork products shipped to Canada last year.

happens to us. They grow the bulk of corn."

Even before the trade dispute with China escalated, the U.S. already faced \$3 billion in levies from Mexico and \$12.8 billion from Canada against U.S. exports in retaliation to Trump's steel and aluminum tariffs.

The impact of the tariffs on the U.S. economy is hard to predict, but they have already increased the cost of washing machines and construction projects, said Lincicome, who also teaches at the Duke University law school.

"Are we hurting far more Americans than we are helping? And the answer with tariffs is always yes," Lincicome said. "A hundred bucks is nothing to sneeze at, particularly for a lower-income family that is struggling to get by as it is. And there is something rather immoral about forcing individuals like that to subsidize the jobs of a few thousand American workers."

Tariffs also tend to encourage cronyism, as industries with political clout will carve out exemptions for themselves, leaving smaller businesses to shoulder the costs, said Lincicome. Eight senators have sent the president a letter requesting exemptions for solar panels, for instance.

Lincicome doubts Trump intends to secure freer trade instead of increasing protectionism.

"Maybe that is what is going on, but if history is any guide, it is hard to think that without being skeptical. There is a long history of protectionists in the U.S. using an ideal free-trade target to justify their own protectionism," Lincicome said. "I'm getting pessimistic because there have been chances to walk the tariffs back already, and they haven't taken them. We wait and see and hold our breath."

The increased tariffs scuttled a deal in which China proposed to buy \$70 billion of U.S. goods to cool the trade dispute in early June.

"North Carolina agriculture depends significantly on international trade, so we are disappointed in any tariffs aimed at agricultural commodities," N.C. Commissioner of Agriculture Steve Troxler said in a statement. "Every time we hear the word 'tariffs,' our ears go up because they can have a detrimental effect on our industry and we know we are likely going to be a target."

YEONGSIK IM / ISTOCK PHOTO

# 2018 LEGISLATIVE SHORT SESSION

## Last-minute shenanigans mark end of 2018 legislative short session

BY KARI TRAVIS

It's common for the N.C. General Assembly to end legislative sessions amid a flurry of last-minute filings and maneuvering. But power grabs and political shuffling — partisan behaviors — don't always make for transparency and rational policies, some experts say.

This session has been no exception, with several bills hurriedly filed and revised in June.

Photo identification for voters. A nonpartisan commission to vet judicial nominees. An income tax cap. Harsher punishments for state residents who own and operate illegal gambling machines. These were just a few of the issues kicked around by lawmakers looking to score a final goal before leaving Raleigh.

The N.C. Constitution provides a separation of powers among the executive, legislative, and judicial branches. But unlike the federal government, the three branches aren't equal. The legislative branch is dominant. The governor has few powers: the duty to propose a budget — which the General Assembly can ignore. The governor also has veto power, which the legislature can override.

The General Assembly also can create courts, add judges, and confirm or reject appointments by the governor.

Even though the legislative branch is the most powerful of the three, its actions often are rushed and chaotic when the session closes. This year's short session followed suit.



**LEO DAUGHTRY:** Laws should be crafted carefully, with great reason and discussion. But politics often kicks that ideal aside — and this time around is no different.

Several bills proposed constitutional amendments, which would require voter approval in November. Several were filed weeks before lawmakers normally would say “sine die” and adjourn for the year. Some veteran observers question the rush.

Lawmakers usually save the most controversial legislation for last, Leo Daughtry, a Johnston County Republican and former House minority leader, told *Carolina Journal*.

“The reason [bills] are coming out late is that nobody wanted to bring them out earlier out of fear that if they got too much sunlight they wouldn't pass,” Daughtry said.

“It's not limited to either party. Whoever's in charge, it's always been the case. Put off stuff that you don't want to deal with.”

Democrats in 2005 manipulated

a vote to establish the state's controversial lottery system. After dismissing the Senate, lawmakers returned to take up the provision when two Republican senators — who opposed the legislation — weren't available. The bill was approved with then-Lt. Gov. Bev Perdue's tie-breaking vote.

Republicans also chafed at budget manipulations taking place when Democrats controlled the General Assembly. Former House Majority Leader Paul “Skip” Stam, R-Wake, told *CJ* that in 2004, Democrats brought a budget conference report to the House floor for an immediate late-night vote. He objected, and then-House Speaker Jim Black allowed less than an hour to review 500 pages of budget documents before voting.

When Republicans took control

of the General Assembly in 2011, House leaders enforced the so-called “three-day rule” for revenue bills — legislation involving public spending or state debt. Those bills must be introduced on one day and cannot be approved until they clear two additional votes on different days.

Republican legislators are justified in urging constitutional amendments to protect essential rights, said Bob Rucho, a former Republican senator from Mecklenburg County. Conservatives promised to cut taxes and spending when they won House and Senate majorities in 2010. The push for a constitutionally enforced income tax cap is a way for lawmakers to deliver on some of those promises before November elections, he said.

House Bill 1092, “Require Photo ID to Vote,” is a workaround, Daughtry said, since the General Assembly failed to defend its controversial voter ID law before a federal court. State courts can't touch the law if voters approve adding it to the state constitution.

Some of the amendments may look OK to voters, but many come with fine print, said Michael Bitzer, a political science professor at Catawba College.

Senate Bill 814, “Judicial Vacancy Sunshine Amendment,” would establish a nonpartisan commission to evaluate judicial nominees. But the bill also stipulates the governor could choose only from candidates recommended by the legislature. If the governor fails to make an appointment within 10 days, the choice would be left to the General Assembly.

House Bill 913, “Bipartisan Elections and Enforcement,” would give the legislature control of the “powers, duties, responsibilities, appointments, and terms of office of any board or commission prescribed by general law.”

These are “power grabs,” and Democrats and Republicans are equally guilty of jostling for political advantages, Bitzer said. But the current majority is “taking it from legislative supremacy to legislative domination.”

Accountability weakens when the legislature bolsters its power using the constitution.

“Government transparency and openness is a hallmark of our democratic system of government. This is not to say Democrats didn't pull shenanigans, but it is an unfortunate byproduct of majority control, and when you have supermajority control, it tends to weaken transparency at times.”

Come November, partisan politics will likely influence voters' decision to adopt these amendments, Bitzer said.

Laws should be crafted carefully, with great reason and discussion, Daughtry said, but politics often kicks that ideal aside — and this time around is no different.

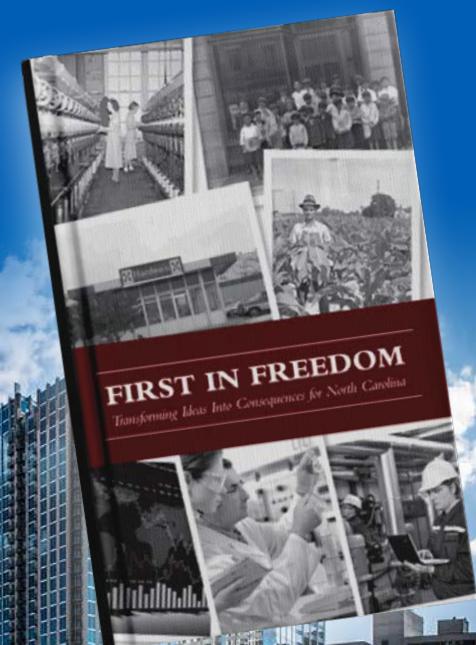
“Right now, it's not persuasion at all. It's like cramming something down. It has nothing to do with persuasion. It has more to do with power. ... I hope people can persuade each other to take positions based on logic — and what's good for the state.”

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# 2018 LEGISLATIVE SHORT SESSION

## Cooper sets record for vetoes in legislative term, but few stick

BY JULIE HAVLAK

Gov. Roy Cooper not only broke North Carolina's record for vetoes issued, but he also set a record for having his vetoes overridden.

Cooper's veto tally reached 23 on June 25, when he rejected seven bills, including the Farm Act and a judicial redistricting bill.

"It's been fairly new for the North Carolina governor to have the veto power, and generally

governors in the state have had same-party control of the legislature," said Michael Bitzer, professor of politics at Catawba College. "It's been rare to have this kind of divided government between the two parties and two branches. But in other states, this is the norm."

North Carolina was the last state to introduce the veto.

The first governor to gain veto power was Democratic Gov. Jim Hunt in 1996, but Hunt didn't exercise it. The record of vetoes re-

mained blank for another six years, until Mike Easley struck down a bill to prevent legislative leaders from encroaching on the governor's power to make board appointments.

Some years went by with one veto, but most years saw the governor reject two or three bills.

The Republican wave of 2010 sparked a flurry of activity in 2011-12, when Democratic Gov. Beverly Perdue vetoed 19 bills.

"Considering that other governors may have had [veto pow-

er] since colonial times, it's fairly recent for North Carolina to have this," Bitzer said. "After the 2010 Republican wave, Perdue set the new record, but it was a fairly young record for vetoes."

Things settled down again after 2012, and the pen got a rest until 2017, when Cooper started his record string of vetoes.

Most of those vetoes were ineffectual. The General Assembly overrode 18 of them. A 19th vetoed bill was folded into another piece

of legislation that became law, so effectively only four vetoes were left standing.

"When you start to get into those supermajority numbers, governor's vetoes are at times symbolic rather than substantive," Bitzer said. "Governors are going to have to send a signal one way or another that they are still relevant. Cooper is having to battle a supermajority in the legislature and to keep his public awareness in the minds of the voters."

### COOPER VETOES

#### House Bill 100: Restore Partisan Elections/Superior and District Court

**OVERRIDDEN MARCH 2017**

Cooper tried to kill the bill on the grounds that "partisan politics has no place on the judges' bench. We need less politics in the courtroom, not more."

#### H. B. 239: Reduce Court of Appeals to 12 Judges

**OVERRIDDEN APRIL 2017**

The bill earned a veto by shrinking the appellate court at a time Cooper could have replaced with Democrats three Republican members who were leaving the court.

#### Senate Bill 68: Bipartisan Board of Elections and Ethics Enforcement

**OVERRIDDEN APRIL 2017**

It re-established the Bipartisan State Board of Elections and Ethics Enforcement, in which the board's eight members would be selected from both political parties. Cooper called it "a scheme to ensure that Republicans control state and county boards of elections in presidential election years." The Republicans have won the fight — for now. Cooper is suing to invalidate S.B. 68. The General Assembly June 27 passed H.B. 913, placing a new Bipartisan State Board of Elections and Ethics Enforcement on the Nov. 6 ballot as a constitutional amendment.

#### H.B. 467: Agriculture and Forestry Nuisance Remedies

**OVERRIDDEN MAY 2017**

It offered agriculture and forestry protections from nuisance laws. Cooper argued it benefited one industry at the expense of the environment and private property rights.

#### S.B. 257: Appropriations Act of 2017

**OVERRIDDEN JUNE 2017**

The budget law required Cooper to set aside money for the Opportunity Scholarship Program in his base budget. Cooper also took issue with the bill's tax cuts, teacher pay, and unspecified constitutional flaws.

#### H.B. 576: Allow Aerosolization of Leachate

**BURIED IN THE RULES COMMITTEE**

This would have allowed companies to spray leachate, or landfill juice, into the air. The idea was that the toxic contaminants — mercury, lead, hormones, and plastics, among others — would settle to the ground atop the landfill. The bill would have saved millions in leachate disposal, but Cooper wouldn't accept the plan.

#### H.B. 511: Game Nights/Nonprofit Fundraiser

**BURIED IN THE RULES COMMITTEE**

It would have lifted the drinking and gambling ban for nonprofits that hosted "game nights." Cooper joined conservative Christians in opposing the bill.

#### H.B. 205: WC Changes/Legal Notice Modernization

**BURIED IN THE RULES COMMITTEE**

As well as updating the wages in the prison industry, the bill would have freed local governments to publish public records on governmental websites instead of paying to print them in local newspapers. Cooper said this "enacts retribution on the media [and] threatens a free and open press."

#### H.B. 140: Dental Plans Provider Contracts/Transparency

**OVERRIDDEN AUGUST 2017**

As well as requiring more transparency in health plans from entities that write stand-alone dental insurance, the bill expanded permitted credit insurance.

#### H.B. 770: Various Clarifying Changes

**OVERRIDDEN AUGUST 2017**

Cooper called it an "unconstitutional power grab" because it reduced his appointment power to the state Medical Board. He also expressed concern that the bill allowed state employees to be paid for their work on the state Property Tax Commission.

#### S.B. 16: Business Regulatory Reform Act of 2017

**OVERRIDDEN IN OCTOBER 2017**

Cooper said the 16 pages of deregulation in the bill would weaken state measures to protect water quality.

#### H.B. 56: Amend Environmental Laws

**OVERRIDDEN IN OCTOBER 2017**

A piecemeal bill, it created the Coastal Storm Damage Mitigation Fund, modified laws governing waste management, and set up GenX response measures, among others. Cooper said the bill lacked a sufficient response to GenX contamination.

#### S.B. 656: Electoral Freedom Act of 2017

**OVERRIDDEN IN OCTOBER 2017**

It lowered the threshold for ballot access for political parties, opening the door for recognition of the Green and Constitution parties.

#### S.B. 99: Appropriations Act Of 2018

**OVERRIDDEN IN JUNE 2018**

The budget cut taxes, boosted education spending, and raised teacher and state employee pay. Cooper's veto was as predictable as it was unsuccessful. Democrats had already objected to Republicans' secretive budget deliberations, comparing them to rape and the dictatorship in North Korea.

#### S.B. 486: The Elections Security and Transparency Act

**OVERRIDDEN IN JUNE 2018**

Known mostly for its "sore loser" provision blocking primary election losers from running again with another party, the bill also continued to set rules for the hiring and operation of the State Board of Elections and Ethics Enforcement. Cooper dismissed the bill as "continued election meddling."

**VETO**  
Roy Cooper

#### S.B. 757: Various Court Districts Changes

**OVERRIDDEN IN JUNE 2018**

The bill passed as a more modest iteration of an earlier plan to redraw judicial election districts across North Carolina. It modifies the district lines for some Superior Court, District Court, and district attorney elections.

#### H.B. 131: Motions for Appropriate Relief

**SENT TO THE RULES COMMITTEE JUNE 28**

Its provisions were folded into H.B. 382, Department of Insurance Omnibus, making an override unnecessary. When a defendant fails to appear in court, the court can set aside bond forfeiture if the defendant is already incarcerated before the final judgment. Cooper said the bill "hurts school funding and reduces incentives to ensure justice is served."

#### H.B. 374: Regulatory Reform Act of 2018

**OVERRIDDEN JUNE 27**

Out of the bill's 18 pages of regulatory reform, a provision that grants subdivisions an exemption to coastal and sandbag rules provoked Cooper's ire. Cooper said "ending protections from pollution on the coast hurts the effort to make sure our water is clean."

#### H.B. 382: Department of Insurance Omnibus

**OVERRIDDEN JUNE 28**

This bill gave the Department of Insurance what it wanted. But, after the bill passed both chambers almost unanimously, Cooper vetoed it because it included bond forfeiture.

#### H.B. 717: Judicial Elections Changes

**OVERRIDDEN JUNE 28**

The second judicial redistricting bill that Cooper vetoed, H.B. 717, alters Wake and Mecklenburg judicial districts, where district court judges will now run in subdistricts instead of countywide. Cooper slammed it as another of the "legislative attempts to rig the courts by reducing the people's vote."

#### H.B. 1055: Retirement Complexity Reduction Act of 2018

**BURIED IN THE RULES COMMITTEE JUNE 28**

This bill would have shrunk the current benefit payment options available to state employees from seven to four retirement options. Cooper said, "some past attempts to alter the retirement system have been ruled unconstitutional for taking away vested rights from teachers and state employees."

#### S.B. 325: The Uniform and Expanded Early Voting Act

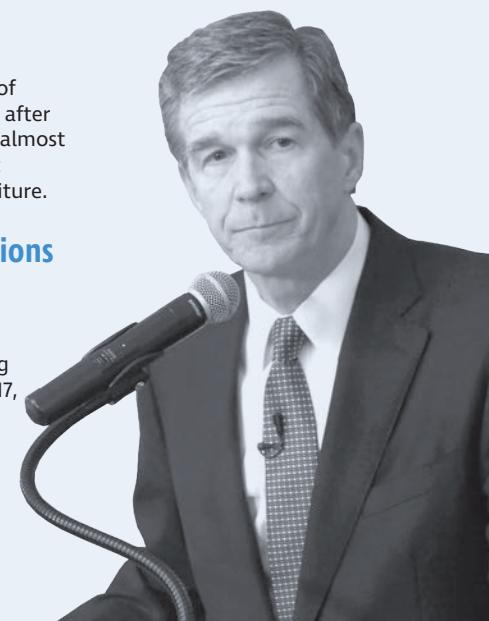
**OVERRIDDEN JUNE 27**

Under this bill, voters could visit early voting sites from 7 a.m. to 7 p.m. on weekdays across the state, but they would lose the final Saturday of early voting. Cooper vetoed the bill, saying that it made it harder for people to vote.

#### S.B. 711: North Carolina Farm Act of 2018

**OVERRIDDEN JUNE 27**

The darling of Sen. Brent Jackson, R-Sampson, the bill was already the subject of heated debate before it reached Cooper's desk because it restricted nuisance lawsuits against hog farms. Cooper argued the bill violates property rights that "are vital to people's homes and other businesses."



# 2018 LEGISLATIVE SHORT SESSION

## Ballots will have amendments, not just candidates, in November

BY JULIE HAVLAK

Voters will decide on six constitutional amendments in the general election, including those involving victims' rights, hunting rights, and a photo ID requirement to vote.

More amendments will appear on the Nov. 6 ballot than in any single election since the adoption of the 1971 N.C. Constitution.

Republicans could be using the amendments to drum up support for November, when they stand to lose the supermajorities that enabled them to push bills past gubernatorial vetoes, said David McLennan, visiting professor of political science at Meredith College.

"This is a way of perhaps to make them permanent or at least in the constitution no matter what happens in November," said McLennan. "The main political strategy is to make sure that issues that are important to Republicans get into our government system."

The strategy might be a winning one. Out of the 45 amendments proposed since the adoption of the 1971 constitution, voters rejected just eight.

"When amendments are put on the ballot by the legislature, the voters have approved them by about 80 percent," said John Dinan, professor of politics at Wake Forest University. "If the legislature puts an amendment on the ballot, people are likely to give it the benefit of the doubt."

This year's ballot is unusual: Voters haven't seen this many amendments since the 1980s.

Still, compared to states in the deep South and the far West, the ballot is modest. Louisiana and South Carolina amend their constitutions about four times each year,

and the list of their amendments dwarfs that of Vermont, which only amends its constitution an average of once every four years.

"North Carolina's 1971 Constitution has been amended just under once per year on average," Dinan said. "That is in the broad middle of the pack in terms of the amendment rates of the 50 states."

With the exception of the tax cap, the constitutional amendments represent typical uses of the constitution to define rights or mediate power disputes, said Dinan. McLennan was less convinced.

"First of all, the constitution is not meant to take the place of the legislative process," McLennan said. "Typically, constitutions are there to establish basic processes and rights for all citizens. ... Amendments are not so narrow, and I hate to use this term, but partisan."

The number of amendments will make for interesting campaigns, said McLennan.

"When you put something in the constitution, it's a big deal," McLennan said. "You're asking citizens whose level of political knowledge and interest varies to make decisions that really almost make permanent changes to how government works in the state of North Carolina."

### House Bill 551: Strengthening Victims' Rights

Otherwise known as "Marsy's Law," H.B. 551 would offer the victims of violent crimes better help, more access to court proceedings, and the ability to hire their own attorney. If voters approve the amendment, North Carolina would become the fourth state to add ideas from Marsy's Law to its con-



### North Carolina's 1971 Constitution has been amended just under once per year on average. That is in the broad middle of the pack in terms of the amendment rates.

- John Dinan,  
Wake Forest University

stitution. The N.C. Constitution already contains protections for crime victims, but legislators have called those laws toothless. The bill generated concerns about unintentional costs after a leaked fiscal note estimated the cost of enforcing the amendment at \$30.5 million per year. It passed the House, 107-9, and the Senate, 45-1.

### H.B. 913: Bipartisan Ethics and Elections Enforcement

In the latest struggle between the legislature and Gov. Roy Cooper over state elections, this amendment would wrest appointments from the governor and put the legislature in charge; four members would be chosen from the party holding a majority in the General Assembly, four from the minority party. The struggle began in December 2016, before Cooper was inaugurated, when the General Assembly passed its first law merging the former State Board of Elections with the N.C. Ethics Commission. Various combinations of that board were rejected by state courts as a violation of separation of powers. Republicans said a constitutional

amendment was needed to prevent future court interference and ensure no party had a majority on the board. It passed the House, 74-44, and the Senate, 32-14.

### H.B. 1092: Const. Amendment – Require Photo ID to Vote

Voters would have to present photo identification to vote in person if this bill is approved in November. After hours of debate between Republicans intent on stopping voter fraud and Democrats critical of any barrier on minorities, the bill passed the House, 74-43, and the Senate, 33-14. It marks the General Assembly's second attempt to institute voter ID, as the previous voter ID law was struck down by federal courts. H.B. 1092 has a 69 percent approval rating, according to a Civitas Institute poll.

### Senate Bill 75: Const. Amd. – Max. Income Tax Rate of 7 percent

This amendment would freeze the maximum income tax rate above the current 5.499 percent and well below the existing cap of 10 percent. The Senate passed the amendment in 2017, but the House refused to adopt a 5.5 percent rate. Instead, the House placed the cap at 7 percent. Even though Sen. Tommy Tucker, R-Union, spoke against the 7 percent cap the day after the House vote, Senate leader Phil Berger told fellow Republicans that was the best they could expect. The Senate then concurred with the House, 33-14. The income tax cap amendment is the most unorthodox of the amendments, said McLennan and Dinan. "That's the one that most deviates from the tradi-

tional function of amendments to add rights or resolving institutional powers," Dinan said. "The income tax amendment would be essentially locking in a current policy position." It passed the House, 73-45. Civitas found 66 percent of registered voters polled would favor the 5.5 percent cap.

### S.B. 677: Protect Right to Hunt and Fish

This bill would enshrine the right to hunt and fish in the N.C. Constitution, potentially opening existing Sunday hunting restrictions to challenges in court. Although the bill drew fire from Democrats, who called the amendment frivolous or environmentally unethical, it passed the House, 92-23, and the Senate, 41-6. A Civitas poll found 72 percent support from likely voters.

### S.B. 814: Judicial Vacancy Sunshine Amendment

The amendment would siphon power away from the governor by giving legislators a role in filling judicial vacancies. Governors now fill vacancies when they arise during judicial terms. Sponsors of the amendment said, given recent history, a two-term governor would fill about 40 percent of judicial seats by appointment. The amendment requires the General Assembly to source candidates from a "nonpartisan judicial merit commission" to prevent any branch of government from securing a majority of appointments to the nine-member commission. Democrats protested a lack of details regarding candidates' qualifications, which would be outlined by the General Assembly if voters approve the amendment.

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# 2018 LEGISLATIVE SHORT SESSION

## KEEPING SCORE

### *What passed, what didn't*



BY LINDSAY MARCHELLO

Several bills taken up by lawmakers in the 2018 short session garnered significant media attention and sparked debate. Some passed, and others failed. Here's a partial list:

#### SENATE BILL 616

##### The Heroin & Opioid Prevention & Enforcement Act

**WHAT IT DOES:** The HOPE Act would grant local authorities the ability to access patient prescription records without a court order for suspects involved in an ongoing drug investigation.

**STATUS:** Passed in the Senate, 41-3. The House, 87-25

#### HOUSE BILL 514

##### Permit Municipal Charter School/Certain Towns

**WHAT IT DOES:** The bill allows four towns in Mecklenburg County to operate their own charter school, separate from the local board of education.

**STATUS:** Passed in the House, 64-53. In the Senate, 27-18.



#### HOUSE BILL 933

##### Reciprocity/School Psychologist Licensure

**WHAT IT DOES:** The bill would allow the State Board of Education to license a person who holds a Nationally Certified School Psychologist credential from the National Association of School Psychologists. An amendment allows small businesses to get self-funded association health insurance plans.

**STATUS:** House failed to concur, 53-28. The bill failed.

#### SENATE BILL 724 AND HOUSE BILL 972

##### Water Safety Act

**WHAT IT DOES:** The bill would address water contaminants, including GenX, in the state's rivers and lakes. It would also allow the governor to require a facility to cease all operations and activities that result in the production of a pollutant.

**STATUS:** In Senate Rules Committee and House Environment Committee.

#### SENATE BILL 758

##### Build N.C. Bond Act

**WHAT IT DOES:** The bill calls for a 10-year, \$3-billion bond for road construction across the state.

**STATUS:** Passed in the House, 94-2, and 47-0 in the Senate. Signed by the governor.

#### HOUSE BILL 717

##### Judicial Elections Changes

**WHAT IT DOES:** The bill revises judicial divisions, limits the rotation of Superior Court judges to six months per year, and clarifies the listing of judicial seats on the ballot.

**STATUS:** Passed the House 61-37, and 25-10 in the Senate.

#### SENATE BILL 486

##### The Elections Security & Transparency Act

**WHAT IT DOES:** The bill authorizes criminal record checks for some employees and contractors of the State Board of Elections and Ethics Enforcement, as well as for some employees of county boards of elections. It prohibits a new party from selecting a candidate on a primary ballot, in another party, in that year as their candidate for the general election.

**STATUS:** The governor vetoed the bill, but the House voted to override, 74-42, and the Senate, 31-14.

#### HOUSE BILL 519

##### Tri-County CC/Neighbor State In-State Tuition

**WHAT IT DOES:** The bill would provide in-state tuition to residents of other states who live in counties bordering the service area of Tri-County Community College.

**STATUS:** Passed House, 108-2. In the Senate Rules Committee.



COURTESY TRI-COUNTY COMMUNITY COLLEGE

#### HOUSE BILL 986

##### Various Changes to Education Laws

**WHAT IT DOES:** The bill requires the State Board of Education and Department of Public Instruction to monitor public schools teaching cursive and multiplication tables, and requires students scoring level five on end-of-year math tests to be placed automatically in an advanced math course for the next year. The bill directs the state superintendent to study how to reduce testing, the education board to create annual report cards for educator preparation programs, and DPI to develop a mental health training program and suicide risk referral program. It creates a "Renewal School System" model that allows school districts with a high percentage of restart schools to opt into a system granting the entire district charter-like flexibility.

**STATUS:** Passed in the Senate, 47-0. The House concurred, 94-11

# 2018 LEGISLATIVE SHORT SESSION

## HOUSE BILL 379

### [Recodification Working Group](#)

**WHAT IT DOES:** The bill would require state agencies, boards, and commissions to compile and submit a list of all crimes on their books.

**STATUS:** Passed, 46-0, in the Senate. The House concurred, 110-0

## HOUSE BILL 998

### [Improving N.C. Rural Health](#)

**WHAT IT DOES:** The bill directs the Department of Health and Human Services to study incentives for medical education in rural areas and help rural hospitals become teaching hospitals. The bill calls for increasing access to dental care in rural communities, and ensuring the loan repayments program is targeted to benefit health care providers in rural places. DHHS is also directed to study Medicaid Health Outcomes programs.

**STATUS:** Passed, 44-0, in the Senate. The House concurred, 94-0



PHOTO BY DAN WAY

## SENATE BILL 798

### [Establish Birth Center Licensure Act](#)

**WHAT IT DOES:** The bill would establish a licensing requirement for birth centers.

**STATUS:** Senate Rules committee

## SENATE BILL 711

### [NC Farm Act of 2018](#)

**WHAT IT DOES:** The bill makes various changes to agricultural law, including directing the Food and Drug Protection Division of the Department of Agriculture and Consumer Services to develop a plan to enforce the U.S. Food and Drug Administration standard identity of milk and prohibit the sale of plant-based products mislabeled as milk. The bill prevents anyone who lives more than a half mile from the source of an alleged nuisance from suing, prevents punitive damages unless the farm operator has been convicted of a crime or civil enforcement action for violations regarding the alleged nuisance, and prohibits lawsuits filed over a year after a farm begins operation.

**STATUS:** Passed the House, 65-42. The Senate approved, 32-9.

## SENATE BILL 325

### [The Uniform & Expanded Early Voting Act](#)

**WHAT IT DOES:** The bill amends the time period for early voting, canceling the last Saturday for early voting. It requires that each one-stop voting site across the state remain open at the same location throughout the early voting period and that all sites remain open at the same time.

**STATUS:** Passed the House, 60-41, and the Senate, 23-11.

## SENATE BILL 757

### [Various Court District Changes](#)

**WHAT IT DOES:** The bill makes changes to Superior Court, District Court, and prosecutorial districts.

**STATUS:** The governor vetoed the bill, but the veto was overridden in the Senate, 31-14, and in the House, 74-43.



PHOTO BY DON CARRINGTON

## SENATE BILL 735

### [Various OLB and Administrative Law Changes](#)

**WHAT IT DOES:** The bill would allow rule technical changes without review, increases fees for some licenses, makes various changes to the financial reporting requirement of occupational licensing boards, amends the periodic review of rules process, and clarifies the contested case policy. The bill allows the State Board of Education to license a person who holds a Nationally Certified School Psychologist credential from the National Association of School Psychologists.

**STATUS:** Passed in the House, 91-4. In Senate Rules while Senate concurrence is pending.

## HOUSE BILL 374

### [Regulatory Reform Act of 2018](#)

**WHAT IT DOES:** The bill makes numerous changes, including exempting the personal property of charter schools from property taxes, revises wastewater permitting requirements, authorizes certain stormwater program variances, and allows for American eels to be imported from Maryland for aquaculture purposes.

**STATUS:** Passed in the House, 62-35, and 25-5 in the Senate.

## HOUSE BILL 500

### [ABC Omnibus](#)

**WHAT IT DOES:** The bill increases the number of raffles a nonprofit can run each year from two to four, raises the amount that can be offered in those raffles, and allows the sale and consumption of alcohol in a room where a raffle is being held. The bill allows distillers to sell branded merchandise and allows the transfer of a wholesaler business to a family member for reasons other than death of the owner.

**STATUS:** Passed in the House, 70-20, and in the Senate, 34-3.



PHOTO BY KARI TRAVIS

# ALCOHOLIC BEVERAGE CONTROL

## Affidavit: Distributor 'demands' exorbitant sum to release brewer, a Marine Corps vet, from contract

BY JOHN TRUMP

A Greensboro-based company told a North Carolina brewer he could get out of his distribution contract if he paid the distributor 16 times more than it cost to get in, an affidavit in a lawsuit filed by a group of North Carolina brewers says.

Dustin Canestorp of Beer Army Combat Brewery in Jones County entered into an agreement in which Freedom Beverage Co. paid \$25,000 for the right to distribute Canestorp's beer. Things were fine at first, but after a few months sales began to decline.

Canestorp appealed to FBC, which maintained a "focus list" of brands it wanted sales reps to push, the affidavit says.

"I was personally troubled by the notion of the 'Focus List,' because I didn't understand how that could be fair to the brands that were not on the 'Focus List.'"

Hoping to expand to neighboring states, Canestorp hired Global Beverage Group.

His distribution and sales in North Carolina, he says in the affidavit, then fell even further.

Canestorp, a Marine Corps and war veteran, first set up his beer operation as a nonprofit benefiting charities, including those that help veterans.

"I started the company with a \$20,000 credit card," the court document says.

Tensions grew between Canestorp and FBC, to the point the brewer, based on positive conversations with FBC early on, asked to be released from the contract.

That was possible, FBC said.

As long as Beer Army paid FBC \$400,000.

The affidavit is part of a lawsuit filed by the brewers against the state of North Carolina seeking to end enforcement of the state's distribution cap and franchise laws on breweries.

The complaint — filed last year in Wake County Superior Court by Craft Freedom LLC, The Olde Mecklenburg Brewery LLC, and NoDa Brewing Co. — says the distribution cap and franchise laws injure and threaten to impose additional damage on the brewers. They can produce no more than 25,000 barrels of beer each year without contracting with a distributor.

Canestorp's concerns aren't related to the distribution cap but instead on what he considers the one-sided relationship between distributors and brewers.

Superior Court Judge Allen Baddour on May 15 found for the plain-



**BEER ARMY COMBAT BREWERY.** The brewery, located in Jones County, entered into an agreement in which Freedom Beverage Co. paid \$25,000 for the right to distribute Canestorp's beer.

tiffs in the lawsuit, allowing the case to proceed toward a trial. He denied a motion filed by the state saying the complaint should be dismissed with prejudice, and that the challenge, according to statute, must be heard by a three-judge panel of the Superior Court.

Discovery will continue, subpoenas will be issued, and members of the N.C. Beer and Wine Wholesalers will be deposed.

"Our initial discovery has already uncovered illegal activity," says Drew Erteschik, a lawyer for the plaintiffs. "Now that we have the right to conduct full discovery, we expect to uncover even more evidence of illegal activity."

"The court's decision allows the case to move forward, closer to a trial, where we are confident we will prevail."

The complaint tackles two state laws — the distribution cap, "which punishes craft breweries for their own success by forcing them to hand over the rights to distribute their own beer to private distributors if they sell more than 25,000 barrels" — and the franchise law. That law, says the complaint, "forces craft breweries to enter into oppressive, one-sided contracts with distributors that literally last forever, and which require the breweries to give those distributors control of their product — including decisions about pricing."

**This is an economic protectionism scheme that enriches one private party at the expense of another.**

- Drew Erteschik, attorney

The plaintiffs' brief also included a deposition by N.C. Alcoholic Beverage Control Commission Administrator Robert Hamilton, as well as the Canestorp affidavit, which may offer some insight into Baddour's thinking and the resultant decision.

Canestorp served in Afghanistan and Iraq and took part in Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Swift Freedom.

"The catalyst for creating Beer Army ultimately arose from the experience of our small group of Marines in Iraq," the affidavit says. "On Feb. 16, 2007, in Ramadi, Iraq, my fellow Marine and friend, Captain Todd Seibert, was in a vehicle that took a direct hit from an enemy mortar. Todd was killed. I had lost friends to combat before Todd, and I have lost friends to combat since Todd, but Todd's loss had a pro-

found impact on me.

"Shortly after Todd was killed, I promised myself that if and when I made it back to the United States, I would move on from the Marine Corps, be an ordinary citizen, and pursue the American Dream."

Canestorp returned to the U.S. via Camp Lejeune in Jacksonville, where he met with fellow Marines to play cards.

To talk about what happened. About feelings of survivors' guilt. About struggling to overcome PTSD.

Trying to acclimate.

A home brewer, Canestorp often brought beer to the meetings, which morphed into gatherings of the "Beer Army." That evolved into the nonprofit, which, on April 21, 2013 — Patriots Day — evolved into the brewery.

The beer did well in Craven County. Canestorp expanded to Wake, Carteret, Pitt, and Onslow. It did well enough for the company to hire a distributor, although it maintained self-distribution in Craven.

After 90 days, the court document says, sales declined. Canestorp asked why?

"We heard various excuses from FBC — for example, it was just the particular time of year, we needed to be packaged in bottles, etc. Notably, however, at this same time in Craven County, the one county in which Beer Army Combat Brew-

ery continued to self-distribute, we were still extremely successful. It was a mystery to us that the one portion of our business that was self-distributing was so successful, while the remaining portions of our business that were using a third-party distributor were not."

Beer Army hired Global, and, says the affidavit, "FBC's distribution of Beer Army Combat Brewery's beers in North Carolina fell even further. Apparently, there had been some 'bad blood' between the leadership at FBC and the leadership at Global. As FBC's manager Greg Leone explained, FBC was not using its best efforts to distribute Beer Army Combat Brewery's beers as punishment for our decision to engage Global. In May 2014, Mr. Leone at FBC sent me an email saying that FBC's President, Tim Booras, was 'very angry' about Beer Army's engagement of Global and, as a result, had directed that Beer Army's brands be removed from the Focus List.

"By the following month, the divide between FBC and Beer Army Combat Brewery had deepened further. In June 2015, Mr. Booras sent me an email saying that he believed Beer Army 'shot the first round when [it] hired Global.' In that same email, Mr. Booras further stated that he did not need Beer Army's beer for their portfolio, stating, 'We don't need your [excrement]. ... We really don't need your beer.'"

Beer Army wanted to terminate the contract. In North Carolina, it's not that easy. As Canestorp explains, the contracted brewer must repurchase from the distributor self-distribution rights for, says Canestorp, "fair market value," defined as "the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery."

Erteschik and co-counsel Bob Orr argued in court the law amounts to economic protectionism and interferes with the plaintiffs' constitutional right to earn a living, which the N.C. Supreme Court has called inalienable.

The rules enrich one party in lieu of another, they say.

"This is an economic protectionism scheme that enriches one private party at the expense of another," Erteschik said.

"These laws not only violate the N.C. Constitution, but they are also wrong for North Carolina as a matter of policy. If our General Assembly were to vote with its conscience and

# ALCOHOLIC BEVERAGE CONTROL

continued from PAGE 10

embrace its conservative, free-market ideals, it would change these laws proactively, rather than wait for the courts to strike them down.”

Canestorp met with Booras in a Jacksonville restaurant Sept. 18, 2014. Canestorp recorded the “roughly” 40-minute conversation, and it’s part of the court record.

“I questioned him about whether Beer Army Combat Brewery’s decreasing distribution sales were the result of decreasing consumer demand, or whether, instead, the decreasing sales were actually the result of FBC punishing us for personal reasons. As the recording reflects, the following exchange then occurred:

[ME]: “That, to me, seems punitive in nature, you know and that ...”

[BOORAS]: “Oh, absolutely.”

[ME]: “We are being punished because ...”

[BOORAS]: “(laughter) Absolutely.”

[ME]: “But why are we being punished? You know, I mean ...”

[BOORAS]: “(laughter) It was, it was definitely punitive. And you know it was just ... I’m a, I’m um ...”

[ME]: “You know I have kids, man. ...”

[BOORAS]: “I’m a mercurial guy, you know? My temperature goes hot and cold.”

The affidavit attributes the following statement to Booras: “This Franchise Law ... a beer wholesaler wrote it, and it’s quite frankly biased.”

Canestorp turned in his brewers’ license April 30, 2015.

He continues with his philanthropic work and has opened a craft-beer-themed burger restaurant in New Bern. He hopes to again open a brewery.

“If we do,” he says in the affidavit, “we will never use a distributor so long as the State of North Carolina enforces its misguided beer distribution laws.”

“For years,” Erteschik said in an email, “distributors have been telling our General Assembly and the public that they don’t engage in certain behavior, and for years, craft brewers have known otherwise. Now, in this recording, we have a distributor who is caught on tape, cackling with laughter as he admits to inflicting ‘punitive’ measures (in his words) on a two-time veteran, family man, and small-business entrepreneur — a man who started his brewery to raise money for veterans’ charities and to honor the memory of his

friend and fellow Marine who was killed in Iraq. It is truly disgusting and sad.

“If you’re a person who cares at all about veterans, small businesses, economic freedom, craft beer, or all of the above, this recording will be enough to make you sick. What is worse, our state’s unconstitutional laws actually encourage and reward this type of disgusting behavior.”

Booras failed to respond to an email seeking comment.

Tim Kent, executive director of the N.C. Beer and Wine Wholesalers Association, told *The Daily Reflector* of Greenville that the courts have correctly determined the wholesale distributors’ practices to be lawful and beneficial.

“Our courts in North Carolina and throughout the country have continually recognized that these laws have unquestionably been upheld as legitimate,” Kent told *The Daily Reflector*. “The provisions being challenged in this case actually are exceptions to the regulatory system that was created specifically for craft breweries. Those exceptions are being challenged by only the two breweries located in Charlotte, and the N.C. Brewers Association is not named in the lawsuit.”



FILE PHOTO

**UNITED STATES MARINES.** Dustin Canestorp, a Marine Corps and war veteran, first set up his beer operation as a nonprofit benefiting charities, including those that help veterans.



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# SECURITY

## ALL SECURE

continued from PAGE 1

ing day," Coble said. But it went off without a hassle. A total of 4,069 people, mostly teachers, were screened at the north and south entrance lobbies that day. Five knives and three other prohibited items were confiscated.

"It's working as we'd hoped it would," Coble said. "The guys we've hired have really done a great job. They really move groups along." He said one day he watched a group of 150 4-H students and chaperones breeze through the screenings.

Joseph Kyzer, spokesman for House Speaker Tim Moore, R-Cleveland, said Moore is pleased the security has operated efficiently during the busy days of the session.

"We have received positive feedback that the security is a small adjustment for visitors and the legislative community because most are accustomed to the same safeguards in state administrative and judicial complexes," Kyzer said.

"The transition has been smooth, and security in the Legislative Building is now consistent with the executive branch offices and the courts to protect all the citizens, members, and staff in the General Assembly," Kyzer said.

North Carolina and other states are becoming more security-conscious for a reason.

"The most recent changes in Capitols are definitely in response to the violence we've seen here and abroad," said Diane Chaffin, director of operations for the National Conference of State Legislatures.



**NEW MEASURES.** Starting in May, for the first time people entering the Legislative Building who aren't legislators or staff must walk through a metal detector and undergo other screening.

PHOTO BY DON CARRINGTON

Levels of security vary. "Many states have concrete barriers around the Capitol. Camera systems are common. Some states have the ability to lock down the Capitol from a central location. Some Capitols have bulletproof areas," Chaffin said.

"There are many reasons why one state may have equipment and another not," Chaffin said. "Some of the more common answers I've heard include geography, size of the Capitol and the location, region of the country, philosophy, activity at the Capitol, and money."

State security directors have requested she not divulge many details about security arrangements and practices. But she offered a few glimpses.

At least 18 states don't have metal detectors, Chaffin said. Mis-

souri removed metal detectors from its Capitol years ago but decided to reinstall them this year. Washington state removed its metal detectors but is undergoing a security assessment to determine what's needed on the Capitol grounds and in the buildings.

"It is a delicate balance for security personnel, especially when public access is such a big part of the legislative process," Chaffin said.

No collaborative agency or clearinghouse exists to help states with active assessments, she said. A few associations provide services to state Capitol police, sergeants at arms, and tour directors.

"I do know personnel in some states have contacted Homeland Security and received assistance with risk assessments," Chaffin said.

North Carolina's General Assembly began assessing Legislative Building security after the 9/11 terror attacks in 2001.

"They brought in the Secret Service to look at it, and there's been a series of studies done ever since," Coble said. "I think the studies collected dust because of a combination of excuses: anticipated cost, not wanting to appear as though they were limiting access to the building, or an inability to prioritize needs."

Shortly after starting work for the legislature, Coble reviewed past security studies and found common recommendations. He talked to Kentucky officials while meeting in that state and made site visits in South Carolina and Virginia. Texas and other states were consulted about security protocols.

Coble then held a meeting with state Department of Public Safety officials, other law enforcement personnel, and architects to formulate a plan. It included the security screenings at entrances, locking down side doors, tighter basement access control, and providing a separate quick lane for lawmakers and legislative staff simply to swipe special badges to enter the building instead of going through the scanning machines.

"There were other things that we could have done," Coble said, "but we knew we had somewhat of a limited budget." Money for the work, estimated at between \$1.2 million and \$1.3 million to date, came from savings on a 2017 roof renovation project.

The building, home to the General Assembly since 1963, presented challenges to retrofit. The lay-

out wasn't designed with modern security in mind. Granite walls posed obstacles to upgrade outdated electrical wiring.

While pleased with the launch, Coble said, staff continue to monitor operations to determine whether revisions are warranted. Security measures at the nearby Legislative Office Building, where more lawmakers' offices and meeting rooms are housed, are contemplated.

"We want to learn from any mistakes we make" before taking on another building security project, Coble said.

The Legislative Office Building has different architecture requiring a different security scheme. Coble said retrofitting it should be simpler because it's more modern. It opened in 1982.

No money is budgeted for Legislative Office Building security, and installation will require working around unpredictable legislative schedules. Sessions can run short or long. As happened with the Legislative Building installation, work can be disrupted when unanticipated special sessions bring lawmakers back to Raleigh.

Until then, Coble said, staff is relishing the successful rollout. He said one measure of how well it's working comes from activist groups, who speculated early on that tighter security might be a way to try to slow their admission or keep them out of the Legislative Building altogether.

Protest groups have attended meetings and demonstrated inside the building every week since the session started, Coble said, "and we have had no complaints about how long it took them to get through or anything like that."

# Utah open-carry law raises questions

BY DAN WAY

Utah Highway Patrol Capt. Barton Blair's job is to ensure staff, visitors, and lawmakers at the state Capitol complex in Salt Lake City are secure from harm. But he won't order his troopers to stop people from bringing weapons into the four buildings on a 40-acre campus.

He can't.

Utah has an open-carry law allowing unloaded guns to be displayed in public. Loaded weapons must be concealed, and the holder must have a permit. Blair said Utah lawmakers want the law applied as equally on the campus as it's applied elsewhere. They showed no appetite again during this year's legislative session to make legislative and state agency buildings weapons-free zones.

It's one of several glaring departures from new security measures implemented this year at North Carolina's Legislative Building in Raleigh. But there are similarities. For example, both states have dual entrances to buildings — one for the public, the other for staff and lawmakers with special access cards and credentials to avoid lines and wait times. Each vigorously controls access points.

"We're a very conservative state. There's a lot of people out here in the West that are very pro-Second Amendment and don't want to see any infringements, or anything they see as infringements, on that," Blair told *Carolina Journal* by phone.

A trooper will accompany someone entering the grounds with a gun, both for security reasons and to reassure others in the building that the person was cleared to bring the weapon.

The Highway Patrol has metal detectors and X-ray machines. Blair said they're used sparingly — during the 2002 Olympic Winter Games and for presidential visits. The governor must sign an executive order to roll out the screening devices for temporary use.

"Utah decided ... why would we run a magnetometer and take someone's knife away if they're legally allowed to carry a gun?" Blair said. "I don't know what to tell you. It's a unique situation out here in the West."

Blair concedes open carry poses security concerns. Legislative, state agency, and court buildings are magnets for people with mental health issues, angry about legislation, or frustrated with situations not being addressed.



**SECURITY PERSONNEL.** Security scanner Russell Cotton and police officer Keith Cook discuss the new security measures.

PHOTO BY DON CARRINGTON

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## SECURITY

# Service with a smile

Officer welcomes people to General Assembly, eases people through security

BY JULIE HAVLAK

On his first day of work, Russell Cotton searched hundreds of purses and backpacks, teased scores of teachers about their inability to follow directions, and whisked about 4,000 people through security and into North Carolina's legislative complex.

"It was a beautiful day," Cotton said of the May 16 teacher's rally that police officer Keith Cook wryly called a "true test" of the General Assembly's new security.

"We had people coming to us prior to the rally, asking how you all are prepared for this?" Cotton said. "Our answer as screeners was that they have to be prepared for us because they had to come into our house."

Cotton is the scanner many lobbyists and journalists remember as "the friendly one." After a month on the job, he says, people will wander by in the mornings and give him a hug.

"When a person comes through in the morning, you don't know what they are going through or went through last night," Cotton said. "My mom always taught us that a smile on your face and a hello in the morning can make a person's day go better. And that's what it's about."

A Philadelphia native, Cotton moved to Raleigh to help his 89-year-old mother. One of six chil-



**OPEN TO THE PUBLIC.** Carolina Journal's Julie Havlak goes through the screening process at the Legislative Building.

dren, he mentions his mother often and credits her with the better parts of his character.

"On a spiritual note, my mother is like an angel," Cotton said. "She gives you her heart, she gives you her world, and she don't look for nothing back in return. I don't know where that came from."

She went back up North, but he stayed.

"Since I moved down here, I've been having better [opportunities]. It's changed my life a lot, so that's what's making me stay down here," Cotton said. "I'm planning on staying here until they push me out the door."

Neither he nor Cook has heard



**My mom always taught us that a smile on your face and a hello in the morning can make a person's day go better. And that's what it's about.**

- Russell Cotton

anything negative about the security.

"They were saying they felt better," Cook said. "You see things in the news that are happening across the country, and now they have that security in place. They don't have to worry about it. They feel the building is safer."

In the first month alone, Cotton and the screeners found some 135

knives and 30 or more other prohibited items. Mostly, visitors forgot about pocket knives, although security officers have seen oddities like knives concealed as credit cards, Cook said.

By the time the General Assembly added Cotton and the other

screeners to its staff, more than half of U.S. states already guarded legislative entrances with metal detectors and security personnel.

Congress has used metal detectors since 1971, after the Weatherman Underground bombing exploded a Senate bathroom and led Congress to screen the chamber gallery doors.

Security remained lax until 1983. Anyone could stroll through the hallways and past congressmen without an identification card and without going through security.

After 12 years and another bombing, Congress tightened its defense. The Resistance Conspiracy planted dynamite in the Capitol's Senate wing. No one was hurt, but the attack spurred a wave of security measures, including the introduction of metal detectors at the entrances.

In North Carolina, the General Assembly remained open to the public. In 2001, just months before the Twin Towers fell, a U.S. Secret Service review recommended more than 100 changes to the building. The General Assembly has since enacted many of the changes but didn't guard the entrances with metal detectors until 2018.

The Legislative Building is still open to the public, but now Cotton numbers among the security scanners who search for prohibited items at the doors.

"It's not a hindrance, it's not a disturbance. They would rather feel safe when they come to work, and that goes for police officers also," Cook said. "Our goal is to go home safely to our family. So, having these measures in place, it makes everyone in the building, including us, safer."

## LOBBYISTS

continued from PAGE 1

But she said lobbyists would like to have expedited access to the Legislative Building as their counterparts in other states enjoy. As frequent visitors, they suggest they should get badges to bypass slower security check lines in favor of fast-lane access through the turnstile entrance — just like legislators and staff.

"I think that North Carolina's a little bit unique in that our Legislative Building is not a campus unto itself," Robinson said.

Lawmakers' offices and committee meeting rooms are split between two buildings not linked in one secure environment. Lobbyists can lose time, meeting-room seats, or chances to catch legislators shuttling back and forth between buildings all day long, subjected to repeat security scans.

Jeff Tiberii, president of the N.C. Capital Press Corps, said its media members also have concerns about reduced access. They had to relinquish building passes that allowed them to gain access when the building is locked. Credentialed reporters covering the legislature have free use of a room inside the building and traditionally have worked from there, sometimes before and often after the building opened and closed.

They remain in limbo as a decision is pending on whether to move them out of their quarters.

The building is now locked at 5 p.m. If reporters are covering a late afternoon meeting in the Legislative Office Building that goes into overtime or are on assignment elsewhere outside the building, they can't get back inside to collect their belongings in the press room.

Television reporters who want to do live spots from in front of the building for late afternoon news shows can't get back inside. And the security lines are a hassle for TV crews that come in and out all day, lugging cables, cameras, and other bulky gear.

Legislative Services Officer Paul Coble acknowledges some groups are unhappy but said the changes were strongly recommended by security experts. One reason all-hours passes were rescinded was because of warnings about loss of control regarding building access if the passes are handed off to unauthorized people.

"As soon as we give any group any leeway for whatever reason — and everybody can come up with a great excuse, a rationale about why we should treat them differently — I would expect us to be sued," Coble said, on grounds of unfair treatment.

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Utah's legislators decided against visitor screenings. They don't want to give the appearance of being inaccessible to the public. Instead, they beefed up the number of troopers, who are designated by law as the capital security service working through the Capitol Preservation Board. They determined elevating trooper interaction with the public was an effective deterrent.

Troopers are posted at all entrances and outside the House and Senate chambers. House rules allow troopers to conduct voluntary consent handbag and weapons searches for visitors to enter the chamber. Senate rules don't.

"[In] almost every state there's something we could be doing more to keep our elected officials safe,"

Blair said. Utah learned the hard way in 2013. A man with apparent mental problems drove a four-wheel-drive Toyota truck up several flights of granite steps leading to a ceremonial Supreme Court office before being subdued.

Special tiles that were supposed to break, making it impossible to ascend the steps, failed because the truck was so light. Now bollards are installed around the capital campus to keep trucks out. They are on hydraulic lifts, so they can be lowered for authorized vehicles to enter the grounds.

Given terror events around the world, Blair said, it's important to plan for trends and threats.

"There's good communications among all the states," Blair said. "People are paying attention to it more than in the past, and rightfully so."

## Planning a visit to the General Assembly?

**Leave your electric stun guns at home. Your martial arts weapons, too...**

Those are among a list of prohibited items — which screeners will take — for people entering the Jones Street building through X-ray machines and metal detectors. The process is similar to going through airport security or at courthouses and other government buildings.

### A PARTIAL LIST OF PROHIBITED ITEMS INCLUDES:

- AEROSOL CONTAINERS
- KNIVES OF ANY SIZE
- MACE AND PEPPER SPRAY
- GUNS
- REPLICA GUNS
- AMMUNITION
- FIREWORKS
- ANY WEAPON FACSIMILE
- RAZORS
- BOX CUTTERS
- PETS OR ANIMALS (GUIDE AND ASSISTANCE ANIMALS ARE PERMITTED)
- BATONS AND NIGHTSTICKS
- ANY OTHER ITEM OR DEVICE THAT CAN BE CONSIDERED A DANGEROUS WEAPON.

## COMMENTARY

# Scholarship program is a worthwhile investment



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

Debate over the impact of the Opportunity Scholarship Program was renewed recently when N.C. State University researchers Anna Egalite, D.T. Stallings, and Stephen Porter published a study that found “large positive impacts associated with voucher usage in North Carolina.”

Their working paper is actually the fourth published analysis of the Opportunity Scholarship Program, the state’s voucher program for low-income families. When examined as a group, these studies offer insight into the enormous benefits that private schools, parents, and children receive from the Opportunity Scholarship Program.

The Opportunity Scholarship Program is one of three private school choice initiatives in North Carolina. During the 2017-18

school year, more than 7,300 students from economically disadvantaged families received an Opportunity Scholarship of up to \$4,200 a year to attend the participating private school of their choice. To meet the increasing demand for scholarships, the state spent nearly \$27.9 million on the program this year, a fivefold increase from its first operational year in 2014-15.

The N.C. State team published its first report on the Opportunity Scholarship Program in July 2017. It surveyed private school leaders and found that most of them chose to participate in the program to help their schools serve more disadvantaged students. School leaders also cited their desire to provide an alternative course of study to public schools and achieve greater racial and socioeconomic integration in their schools. They found that incoming Opportunity Scholarship students were less prepared academically than nonscholarship students and were satisfied with the level of parental involvement from Opportunity Scholarship families.

Researchers published a second report in July 2017. They asked parents and guardians to offer perspec-

## 7,300

Number of economically disadvantaged students who received an Opportunity Scholarship last year.

tives on the program. Participating parents were extremely satisfied with their choice of school. Around 94 percent assigned their chosen private school a grade of A or B, while roughly two-thirds awarded their child’s former public school a C or lower. Seven of 10 parents were pleased with school safety and academic quality of their chosen private school. Ninety-four percent of parents said that educational quality was a “very important” consideration, while less than one-third said that extracurricular activities were essential.

A month later, N.C. State released a third report that summarized the characteristics of voucher families. Researchers discovered the median income of new voucher recipients was \$16,213. The median income was even lower for families who renewed their scholarship.



**The program is doing what lawmakers hoped it would – provide greater educational opportunities to those who do not have the resources to send their children to a school that better meets their needs.**

Voucher recipients are less likely to be white or Latino and more likely to be black. Among those who applied but were deemed ineligible for a scholarship, the most common reasons were the failure to enroll in a North Carolina public school prior to application and exceeding the household income threshold.

The fourth and most recent report examined test scores. Researchers administered the Iowa Test of Basic Skills math and reading tests to small, volunteer groups of Opportunity Scholarship

and public school students. Using statistical techniques that control for differences between the private and public school samples, they found “positive, large, and statistically significant” benefits for voucher recipients.

Opportunity Scholarship students outperformed their public school counterparts in the first year and demonstrated even larger gains in year two.

When findings for all four reports are combined, we get a complete picture of the Opportunity Scholarship Program. Private school leaders and parents are unequivocally satisfied with the program. Opportunity Scholarship students are less prepared academically, are very poor, and are disproportionately black. Private schools appear to boost learning outcomes for scholarship recipients.

In sum, the program is doing what lawmakers hoped it would — provide greater educational opportunities to those who do not have the resources to send their children to a school that better meets their needs. The Opportunity Scholarship Program is a worthwhile investment in North Carolina’s most disadvantaged children.

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## COMMENTARY

*Cooper, not lawmakers, divides N.C. taxpayers by income*

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

Recent rhetoric from Gov. Roy Cooper attempts to pit North Carolina taxpayers against one another. His comments target individuals earning more than \$100,000 and married couples earning more than \$200,000.

The Democratic governor suggests Republican leaders of the N.C. General Assembly favor those groups over people with lower incomes. But the facts show that the governor bears responsibility for trying to divide North Carolinians by income level.

Turn the clock back to 2013. Cooper was starting his fourth and final term as state attorney general. At that time, he confined most of his public policy pronouncements to warnings about scams and state crime rates.

Meanwhile, Republican legislators who had spent much of the previous two-year period battling a Democrat in the state Executive Mansion were looking forward to a period of greater cooperation with a new Republican governor, Pat McCrory.

GOP legislative leaders and McCrory rallied around the idea of tackling the most significant reform of North Carolina's tax code in decades.

Rather than tinker with an existing system of three personal income tax rates — set at 6, 7, and 7.75 percent — reformers scrapped the tiers completely. Instead they wanted North Carolinians to face a single flat tax rate.

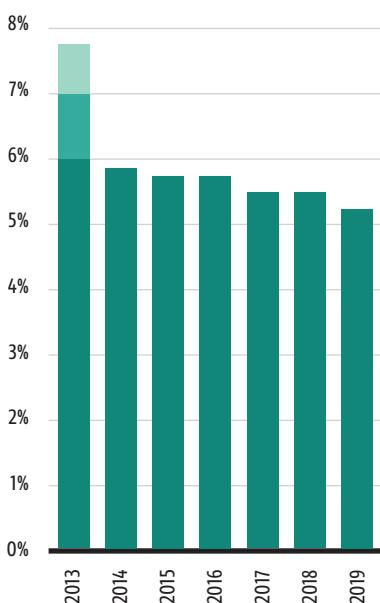
To ensure that every taxpayer would enjoy a rate cut, lawmakers set the new flat rate at 5.8 percent for 2014. The initial plan also dropped the rate to 5.75 percent for 2015.

In future years, lawmakers cut the flat rate even further. It stands now at 5.499 percent. It drops to 5.25 percent in 2019.

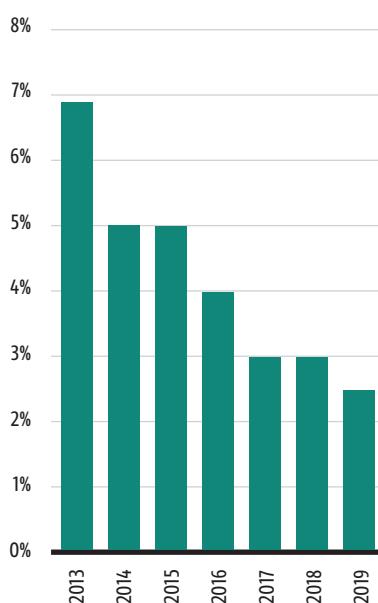
Each of these rate cuts affected every taxpayer paying state personal income tax. Lawmakers made no distinction among taxpayers earning \$40,000 or \$400,000. Each dollar subject to state taxation faces the same tax rate.

This is not to say that every taxpayer saw an immediate tax cut. Other changes to income tax credits and deductions, along

### Personal Income Tax Rate in North Carolina

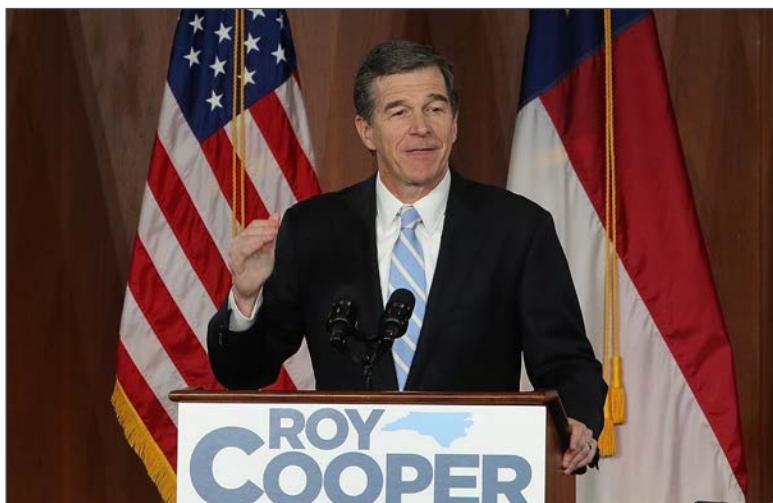


### Corporate Income Tax Rate in North Carolina



NOTE: 2013 Personal income taxes are split up as low, middle, and high for that year.

SOURCE: John Locke Foundation Research



**GOV. ROY COOPER.** Cooper's political campaign accuses lawmakers of protecting tax breaks for "people making over \$200,000 per year."



**GOP LEGISLATIVE LEADERS.** Senate leader Phil Berger (at podium) and House Speaker Tim Moore (at left), along with other legislative leaders.

with changes to other state taxes, meant that some families did not see immediate savings in 2014. But the vast majority of North Carolinians have saved money in recent years because of changes

the Republican-led General Assembly has implemented.

Counting savings linked to Republicans' decision in 2011 to reject Democrats' proposed extension of a temporary state sales

tax, North Carolinians have seen as much as \$13 billion in tax relief from 2012 through the budget year that ended June 30. That's according to John Locke Foundation Senior Fellow Joseph Coletti, who expects another \$2.8 billion in tax relief in the next budget year.

At the same time, nothing related to the institution of a flat tax rate pits one set of taxpayers against another. A flat rate, by itself, forces one taxpayer earning 10 times as much income as his neighbor to pay 10 times as much tax.

Why then does a May 30 fundraising email from Cooper's political campaign accuse lawmakers of protecting tax breaks for "people making over \$200,000 per year"? Why does the governor suggest repeatedly that Republicans want to "protect" those breaks rather than increase government spending?

That figure has nothing to do with lawmakers. Instead, the governor set that dividing line himself. In his most recent budget proposal, Cooper urged lawmakers to use that number while reinstating a tiered income tax system.

Under Cooper's plan, individuals earning less than \$100,000 and married couples earning less than \$200,000 would be able to take advantage of the new 5.25 percent income tax rate in 2019. Those earning more income would have been taxed at the 2018 rate of 5.499 percent.

In other words, Cooper wanted lawmakers to reinstate a version of the tax system they scrapped five years ago.

It's no surprise that lawmakers rejected the governor's plea.

Had Cooper wanted to ensure that higher-earning North Carolinians pay an even larger share of the state's tax burden than they do today, he could have looked at a different dividing line. It exists in the current tax code. It's set now at \$20,000.

One of the least-discussed elements of North Carolina's recent tax reforms involves the continual, substantial increase in the standard deduction. That's the amount of money taxpayers subtract from their incomes before applying the tax rate. Some supporters call it the "zero tax bracket."

Before the 2013 reforms, North Carolina's standard deduction stood at \$3,000 for individual filers and \$6,000 for married couples filing jointly. While setting the new flat tax rate, lawmakers more than doubled the standard deduction to \$7,500 for individuals and \$15,000 for married couples. They've continued to increase that deduction while lowering rates. In 2019 the

deduction will stand at \$10,000 for individuals and \$20,000 for married couples.

Lawmakers have more than tripled the standard deduction in the span of five years. Yet Cooper and his ideological allies never emphasize this piece of North Carolina's tax reform package. They rarely mention it all.

Their silence is disappointing, especially since the larger deduction produces disproportionate benefits for lower- and middle-income taxpayers. A brief example explains how.

Had lawmakers made no change to the 2013 standard deduction, a married couple with \$20,000 of income would pay \$735 of state income tax under the new 5.25 percent flat tax rate scheduled for 2019. That's an effective tax rate of less than 3.7 percent. Meanwhile, a couple making \$200,000 would pay a tax totaling \$10,185. That's an effective tax rate of 5 percent. Making 10 times as much income, the higher-earning couple would pay nearly 14 times as much income tax.

With the higher standard deduction actually built into the law next year, the couple with \$20,000 of income will pay no state income tax. The higher-earning couple will pay \$9,450. Yes, both families save \$735 because of the increased standard deduction. But the higher-earning couple's effective tax rate of 4.7 percent is much higher than the lower-income couple's new rate: zero.

If the governor wants higher-earning taxpayers to pay an even larger share of the state's tax burden, he doesn't have to create a higher tax rate at \$100,000 for individuals and \$200,000 for married couples. He doesn't have to manufacture a new complication in the tax code.

Instead he could lobby lawmakers to raise the standard deduction again. He could focus on raising the current dividing line of \$20,000 between those married couples who pay no state income tax and those who bear some income tax burden.

Lower- and middle-income earners would see more tax relief. Higher-income earners would bear more of the tax burden. Yet North Carolina would still reap the economic benefits of having one flat income tax rate. Earning an additional dollar of income would not subject higher earners to the disincentive of progressively higher state taxation.

Cooper wouldn't pit one set of taxpayers against another. He might even secure some bipartisan support.

# EDUCATION

## A chance at reform with congressional higher ed bill



**JENNA A. ROBINSON**  
COLUMNIST

In 1965, President Johnson signed the Higher Education Act into law, inserting the federal government irrevocably into the inner workings of America's colleges and universities. The bill increased federal money given to universities, provided scholarships, and created the federal student loan system — now a \$100 billion yearly enterprise. Since then, the act has been reauthorized eight times. And although it's amended with each reauthorization, the act still closely follows the framework created in 1965.

This year's reauthorization, however, nicknamed the PROSPER Act, could be a welcome reform.

Three important reforms stand out: repealing outdated and unnecessary federal regulation, simplifying the student loan system, and encouraging innovation.

First, the legislation repeals outdated and burdensome federal regulations by removing barriers to experimentation and reducing costs. Two provisions, in particular, would be especially helpful.

- The repeal of the credit-hour definition will give universities more flexibility to deter-

mine their own curriculum and to experiment with alternative education models. For example, competency-based education focuses on tangible evidence of learning and can be a boon to students. And prior-learning assessments can improve the transition process from work force training and the military to higher education.

The bill's provisions to repeal or streamline reporting requirements will also bear fruit for universities and families by saving them money. In 2015, the Task Force on Federal Regulation released a report lambasting the Education Department's regulations as "a jungle of red tape." Another 2015 study, released by the Boston Consulting Group, estimated that federal compliance amounts to between 3 percent and 11 percent of universities' yearly expenditures. Reducing the regulatory burden on universities will help to control costs for schools and students.

Second, the PROSPER Act improves federal student aid in many important ways, but two stand out: It makes the FAFSA application more accessible and significantly simplifies student loans and repayment options.

- The Act will make the Free Application for Federal Student Aid available on a new mobile app and will allow more middle-class families to file a simplified version.



**The strongest opponents to the PROSPER Act changes have been those who benefit from the status quo. The act's critics, including lobbying groups for colleges and universities, have contended that the bill will make higher education less affordable.**

It will also streamline student aid programs into one grant program, one loan program, and one work-study program. Repayment options will be limited to two plans: one standard 10-year repayment plan and one income-based repayment plan. These changes would ease confusion for students who are deciding how to pay for college. Under the current system, there are myriad grant, loan, and repayment programs available. Simplification would ensure that students can find the best fit.

Third, the bill balances the need for accountability with the right incentives for innovation. Changes to accreditation and distance education are particularly welcome.

- The United States' current system of accreditation fails to ensure quality and protects established institutions from new competition. The act would change that protectionism by allowing any entity to apply to be an accreditor if it has a voluntary membership and accrediting institutions is its principal purpose. This change would free universities and programs from the stranglehold of change-resistant regional accreditors.

The act also repeals federal regulations for how states authorize distance education. States require lengthy and expensive authorization processes for online and distance education courses. That's because, in 2010, the U.S. Department of Education began applying rules intended for traditional brick-and-mortar institutions to online education, making it more difficult for universities to offer online courses across state lines. The PROSPER Act addresses that problem, leaving authorization in the hands of the states.

The strongest opponents to the PROSPER Act changes have been those who benefit from the status quo. The act's critics, including lobbying groups for colleges and universities, have contended that the bill will make higher education less affordable.

But the bill's sponsor — Rep. Virginia Foxx, R-N.C., who is a member of the Martin Center's board of directors — also shares

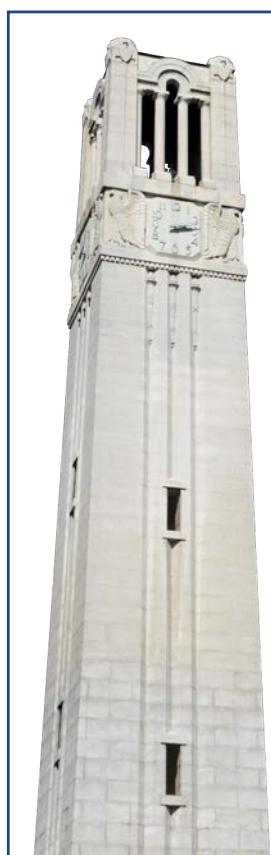
those concerns. In her opening statement on the markup of the PROSPER Act, she said:

*Today, Americans carry more than a trillion dollars in student debt. Somehow, despite the six types of federal student loans, nine repayment plans, eight forgiveness programs, and 32 deferment and forbearance options out there, college costs continue to surge, leaving millions of families paying the price for well-intentioned but poorly executed federal involvement.*

The vision of Foxx and her co-sponsors for addressing those problems are clear from the legislation: remove federal barriers to innovation, cut costs and red tape, encourage completion, and increase focus on work force development. That's a stark contrast to the federal government's role in higher education over the past four decades: an ever-increasing source of both student aid dollars and regulatory hurdles. The status quo has failed to keep costs down and make college affordable for students. The PROSPER Act takes a different approach.

Over the next few months, the House and Senate will choose which vision to embrace: more of the same high costs — or true reform in higher education.

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



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# EDUCATION

## What trends miss about teens and technology



**KRISTEN BLAIR**  
COLUMNIST

Teens are tethered to technology like never before. Almost all have smartphones; many are online constantly. Those are topline findings from a new survey of American teens by the Pew Research Center. This news is no rocketing revelation to those who know and love “iGen,” the name coined by social psychologist Jean Twenge for the smartphone generation, born after 1995. The parent of iGen-ers, I wasn’t surprised by Pew’s findings. Yet culture is capricious: Trends show teens hurtling toward total tech immersion, but other signs show a backlash is building.

What do teens say? Ninety-five percent now own or have access to a smartphone. This marks a 22 percent increase since Pew’s last survey in 2015. Forty-five percent say they’re online “almost constantly,” compared to 24



percent in 2015. Online and social media platform preferences have changed. Facebook has fallen from favor. YouTube, Instagram, and Snapchat rule.

Though social media wields considerable influence, there’s little agreement about which way power skews. Forty-five percent of teens in Pew’s survey say social media’s impact is neither positive nor negative; 31 percent say it’s mostly positive, and 24 percent say it’s mostly negative. Teens like

social media’s capacity to boost connections and foster information-sharing; they don’t like its role in bullying or spreading rumors.

Savvy teens, including one 16-year-old girl I interviewed, understand it promotes a curated alternate reality. “It’s like everyone putting out their best selves, their picture-perfect selves.”

Research and data are mixed. Social media can strengthen friendships and encourage advocacy. But heavy use is linked with depres-

sion, anxiety, low self-esteem, and lower-quality sleep. Girls are especially vulnerable to ill effects.

Educators and parents are conflicted about technology overall. Teachers generally support digital devices for learning — but 69 percent in a 2018 Gallup poll believe devices are “mostly harmful” to students’ mental health; 55 percent say they’re “mostly harmful” to students’ physical health. Parents feel beleaguered: 48 percent in a recent American Psychological Association stress survey say regulating their child’s screen time is “a constant battle.”

Fed up, some parents are bucking trends. The average age for a child’s first smartphone is 10, but a group of Texas moms has attracted national attention with a “Wait Until 8th” movement, encouraging parents to postpone a child’s smartphone acquisition until age 14, in eighth grade. At least 10 families from a child’s grade and school must sign on to activate pledges. Nationwide, nearly 10,000 parents have pledged to wait.

Self-aware teens are calling time-out — on themselves. Almost six in 10 have taken short breaks from social media, 65 percent of them voluntarily, according to

a 2017 Associated Press survey. Why? It interfered with schoolwork or created drama. Some even take lengthy time-outs to reset and recalibrate. I reached out to another 16-year-old girl, who quit Snapchat for 18 months, to find out why. “I was starting to become way too focused on my appearance,” she says. “This actually started to affect my mood, as my self-confidence decreased dramatically.” She stepped away, she says, because “there are many more important issues in the world and ... in my life that don’t involve my appearance.”

Wise girl.

I’m almost done parenting my iGen-ers, now 16 and 21. We’ve had our technology challenges. One thing I’m glad I did: waiting beyond eighth. At the end of middle school, I started my kids with basic phones. (No fan, my daughter hid hers in public!) Following responsible use, they graduated to smartphones in high school. They’ve had plenty of time for Snaps and selfies. They’ve had time for other (better) things, too: sleep, homework, real connection. Life.

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

## Are North Carolina universities biased?



**PETER WOOD**  
COLUMNIST

**NORTH CAROLINA** just added a new layer of meaning to its saying, “First in Flight.” This time the state is the first in the nation to get campus free speech off the runway.

The N.C. Campus Free Speech Act lofts the idea that college students and invited speakers have a right to express their views. It also puts public colleges and universities on notice that they must remain neutral on controversial political issues.

My friend Stanley Kurtz helped write the model legislation on which the bill was based. Kurtz runs through several of the issues that university boards could pursue in the effort to create a climate of institutional neutrality. As it happens, I’m an expert on one of these issues: the selection of books for common reading programs. North Carolina is no stranger to



the controversies engendered by these programs.

Typically, a college or university picks a single book and informs all the admitted freshmen they should read it before showing up in the fall. And, typically, the book that is chosen is rife with trendy left-wing political proselytizing. Think of Barbara Ehrenreich’s *Nickel and Dimed*, picked by UNC-Chapel Hill in 2003, which occasioned considerable controversy at the time.

The selection of a single book is

significant because it so prominently and emphatically presents to students what the university thinks is important.

This hands new committees on free expression an excellent opportunity. Or, rather, two opportunities. On the one hand, they can look back to see what sorts of books their institutions have picked in the past. On the other hand, the committees on free expression or the Board of Governors, as a whole, could take the opportunity to assume control

of the selections.

As it happens, my organization, the National Association of Scholars, has been tracking campus common reading programs for nearly a decade. We publish an annual summary of our findings under the title *Beach Books*. The newest edition, due out this summer, looks back over the past decade and provides copious details on who chooses what and why.

Some of the findings are pretty disturbing.

The vast majority of the books selected are recent: younger than the students and often published within just the past five years. That’s because the colleges and universities are racing to stay topical and putting no weight at all on the qualities that make a book survive beyond its immediate circumstances. When you are pushing politics on students, that’s what you get.

We plainly don’t think college freshmen need to be protected from books that criticize America or raise troubling social issues. Numerous worthy books raise hard questions students at the level of college should be prompted to examine.

But it’s far better to prompt

them with books that exemplify excellent writing, that have stood the test of time, and that pose some degree of intellectual challenge.

But what flowers are growing beside the paths that North Carolina’s public colleges and universities have been walking?

Not all the books selected by North Carolina colleges and universities are bad. A few are terrible. Many more are mediocre. As a whole, they fall short of what we should expect from both the institutions and the students.

With that in mind, I recommend that the committees on free expression take charge of selecting the common readings and that they either pick from the NAS list themselves or delegate a selection from that list to an appropriate faculty committee.

A case could be made for eliminating common readings altogether in view of how often the choices have been politicized. But there are many worthy books, and it seems a shame a college education wouldn’t include any common readings. One book is better than no books.

*Peter Wood is executive director of the National Association of Scholars.*

## POLITICS

## Free trade faces ongoing attacks from left, right



**Peter Boettke**  
Professor of Economics and  
Philosophy  
George Mason University

Free trade has come under attack in recent years from politicians in both major parties. Through criticism of the North American Free Trade Agreement and support for tariffs on steel and aluminum, President Trump is showing his own opposition to free-trade principles. **Peter Boettke**, professor of economics and philosophy at George Mason University, promotes free trade. During a recent visit to Raleigh, Boettke discussed trade with Mitch Kokai for Carolina Journal Radio.

**MK:** Free trade is something that occasionally comes under attack from all quarters, and now we've seen it recently from the current administration, a very upfront attack on free-trade ideas. As an economist, what do you think about that?

**PB:** I think that, first of all, free trade is one of the strongest core principles of economics. It has the greatest amount of consensus among economists on this, across the ideological spectrum. And so ... it's kind of always been the thing where you had the difference between good economics and good politics conflict in the greatest form. And so a lot of the protectionist kind of legislation is good politics, but it's terrible economics. It robs us of wealth creation and makes our well-being much worse off than what we are. It's actually kind of a miracle that we are as well off as we are with as much government meddlesomeness in our trading relations as there is.

**MK:** Specifically, let's tackle the argument that President Trump has made for tariffs. He's talking about helping our national security, boosting the American steel industry and aluminum industry. A lot of people hear that and say, "That sounds like a good thing. We want to have a strong steel industry." Why is he wrong to approach it that way?

**PB:** Benefiting a particular group at the expense of everyone else is what makes good politics but terrible economics. So, in politics, the nature of it is to concentrate benefits on the well-organized and well-informed, and disperse the costs on the unorganized and ill-informed. Good economics reverses that, actually, and what you do is you concentrate the costs and the benefits, you know, on a well-defined group. You bear the responsibility for your decisions, and you can actually spread the benefits widely to consumers in terms of lower prices and things like that. And so good economics and good politics conflict.



**BOETTKE:** 'Each generation must restate the principles of the liberal order or of the economic free order precisely because it might not be that the arguments have been proven wrong, but they no longer resonate with their generation.'

In this particular case, all you have to do is look throughout the history of the United States, and you'll see that the national defense excuse was used for everything, from protection of the shoe industry to all kinds of industries over the years. And I remember when I was in graduate school, there was an ad in the newspaper that had soldiers all decked out and then had no boots on. And so we needed to have protection for the shoe industry, because if we lost out on the shoe industry overseas, then if a national emergency would happen, we wouldn't have any boots for our soldiers.

Trump has, from the beginning, been a person who tried to target benefits to particular groups, starting with the Carrier case right off the bat. The economist always asks, "As compared to what and at what cost?" So, yes, I could save the jobs for people in a Carrier plant by giving them particular benefits, but what's the cost of doing that? Our auto industry for years did that. We protected jobs in Detroit, but at what cost, in terms of jobs and other kinds of things that could have been created? It's the what is seen versus the what is unseen.

That's the other thing that everyone keeps on getting confused about today, is that a firm that's in a dominant position today



**Right now, for a variety of reasons, the arguments for the free economy are in need of tremendous restatement, because there's a lot of loss of faith.**

doesn't mean it's going to be in a dominant position tomorrow, as long as you have competition. That's true for all the platform economies and everything.

Microsoft does quite well in the market for software, only on those software products that are good. They don't do so well in the ones that people have deemed not to be that benefit. So it's not like Microsoft dominates ... your tax-return software or any of these other kind of things like that. It does pretty good on Word, right, because it displaced what: WordPerfect. MySpace gave way to Facebook, right, and Facebook is probably going to give way to whatever the next innovation is there. That's all because if you lower those barriers to entry, you increase competition, and the ultimate judge and jury is going to be the consumers, and that's kind of what you want to have happen.

**MK:** One more, I guess, a little bit more masterful argument against free trade is, OK, free trade is good, but these other countries, they're manipulating things. They're subsidizing their own producers. That hurts our producers, so we can't engage in free trade. What's a good response to that?

**PB:** There hasn't been a good political response to that. I do think that people are wrong economically. Peter Navarro, who is Trump's adviser on this, this is really his argument. His argument is that China has been manipulating, basically, the competition in international exchange, and therefore as a result, the old kind of free-trade arguments — division-of-labor kind of free-trade arguments — get distorted. And I think that that's wrong.

I think that Henry Hazlitt was right, which is that dollars that are expended there have to eventually come back to be claimed against American products. Otherwise, you're going to end up getting the goods for free, right? If they want to give us their products for cheaper, that's fine. Go ahead and do it. The flow will flow around. That's why I think when people talk about ... trade deficits, it's a big error. It's an accounting error, as opposed to the public deficits, which I think are real.

But, you know, that argument, we need to have new, young, creative people figuring out ways to communicate that idea, because the old worn economic arguments, that I think are true, just simply don't resonate. There's a great line in the beginning of *Constitution of Liberty* by [economist Friedrich] Hayek, where he says that each generation must restate the principles of the liberal order or of the economic free order precisely because it might not be that the arguments have been proven wrong, but they no longer resonate with their generation.

A lot of these arguments are just recycled, old arguments. It's like I reach back all the way to 1850 and pick up an argument for tariffs. Even there, the argument for tariffs in 1850 was better than an argument today, because their argument then was that was the only way they raised revenue. They didn't have all these other taxes on us, right? But you reach in the 1930s, ... this is Smoot-Hawley tariff. I reach in, I get that, and I run the same arguments.

But the way we respond to it has to adjust and adapt with each generation. And right now, for a variety of reasons, the arguments for the free economy are in need of tremendous restatement, because there's a lot of loss of faith. Not as much loss of faith as after the Great Depression, but there's kind of that kind of loss of faith. If you study any of the results with young kids, they find socialism more attractive than they should. If you listen to people talk about inequality or instability or inefficiency, they all think it's all around them, caused by the market, and they don't see the culprit as being in government.

So we need to get new and exciting and creative voices to be able to communicate these ideas to the next generation in a way that resonates with them. Because the teachings of economics are timeless, but the expressions of those teachings are context-specific, and they always change with the day, and I don't think we've caught up yet to our opponents.

# EDUCATION

## School choice advocate touts new academic voucher study



**Brian Jodice**  
Interim President  
Parents for Educational  
Freedom in North Carolina

Recent research from N.C. State University shows that the state's Opportunity Scholarship Program of school vouchers has a "positive, large, and statistically significant" impact on low-income students' achievement. **Brian Jodice**, interim president of Parents for Educational Freedom in North Carolina, discussed the researchers' work with Mitch Kokai for Carolina Journal Radio.

**MK:** You had to be happy — as a supporter of school choice — to see actual research suggesting that school vouchers work in North Carolina.

**BJ:** You know, we've always felt strongly about parental school choice in the state of North Carolina, and we've had different measurements along the way to kind of measure that in some way, shape, or form. You can look at application numbers for these programs, demand, the families that are re-enrolling, and you feel good about those things.

What we haven't had is some sort of statistical measurement to look at a testing and assessment component. And so when an independent research team from N.C. State steps up and says, "We want to do this. We want to take this on, and we want to measure Opportunity Scholarship students against their public-school counterparts," we thought this was a wonderful idea and a wonderful chance to kind of see where we're at three, four years into this thing and get a real assessment.

What they did from a research standpoint is sound data, sound research. What we're excited about, really, if you look at the way they did it, and they took Opportunity Scholarship students who were in year one or year two in the private school of their parents' choice; they matched them up with their public-school peers. And they did it with a lot of different data points, demographics being one, but what's really important to remember is they also used end-of-grade test scores, those EOGs, as a measurement point to match the students.

So from an apples-to-apples standpoint, you're looking at kids that were in the same exact spot. Then you introduce the variable, the scholarship, the private school of their parents' choice. And what we've seen is, after the first and second years, those scholarship students are outperforming their peers on all three levels — reading, math, and language.

**MK:** One thing that struck me in looking through

the report is there's no indication that these are voucher supporters who were looking to find evidence to support their already pre-existing belief. This looked like a completely objective look at the situation.

**BJ:** Our hope is when you take a look at this, if you can pull bias aside — and you know where we stand as an advocacy organization for this issue, we're going to fight for it all the time — but if you pull bias aside and you look at what was actually done in this study, I think it's very hard to point to anything like that. This is an independent research team working independently. Obviously, we helped them along the way, because they reached out to private schools and asked them to participate. We reached back out and said, "It would be very beneficial if you did this."

But from data collecting and how they put their report together, it's completely unbiased from an independent team. And if you look at the language in the report — I have to think the N.C. State team feels very strongly about the data they collected — when you see words like "large, positive, statistical significance," I didn't write that. Parental school choice supporters didn't write that. An independent research team wrote that. And so that leads us to believe that statistically they've got something pretty strong.

**MK:** I would imagine that based on what the N.C. State researchers found, what we know, that you'd like to see continual study of this to help confirm that this is the case.

**BJ:** If you look at what statutorily is required in the Opportunity Scholarship Program, it calls for an assessment that compares the scholarship students against their public-school counterparts. I think we need to know where we're at. If you don't measure something, it's hard to really know if it works. We can sit all day and say, "I want to go on a diet, and I want to lose all this weight and get in shape." If you don't



**BRIAN JODICE:** 'If you don't measure something, it's hard to really know if it works.'

get on that scale every few days, you're not going to really know where you're at along the progress, whether it's good news or bad news sometimes, along the way. And so you do need to be able to look at it, you know.

All Opportunity Scholarship students — and every student enrolled in a private school for that matter — take a nationally normed test at their school. ... I think if there's some way to put a program in place or a testing and assessment in place like this that is not disruptive to both sets of students — public-school and private-school students — if we can put something like that in place that is able to do an apples-to-apples measurement, I think it gives us some transparency, an additional layer of accountability that I think is a good thing.

But we also have to look at accountability. Test scores are an important part of that, right? It's good to be able to measure that. There's a lot of other factors that go into why these parents are making these choices, and academic outcomes are usually number 1A, but 1B is often safety, or even just other family issues as to why they're looking for these alternative measures. So while we'd be for knowing how the students are performing academically, it's also worth taking a look at how are the schools doing, how are the teachers doing, how do the parents feel about this program, from a parent-satisfaction angle? So there's a lot that goes into it, and this is just

one piece of it.

**MK:** North Carolina's General Assembly has made a long-term commitment to this program, adding more funding for seven or eight more years out. Should this particular study give them confidence that they made a good decision?

**BJ:** What we've heard from lawmakers over the last few years, since the program's been here, is, "We support these measures, and obviously we've shown that with our dedication and forward-funding." By the year 2028-29 school year, you're looking at roughly 36,000 students on the Opportunity Scholarship Program. That budget will be for about \$145 million. So to be able to have something that points to some academic success for these students to go along with that, we feel should only help strengthen that.

Look, what they're providing is an opportunity for families. And we've shown that we can provide funding for public education, and funding for these private school choice measures, and funding for public charter schools, and leave all these options on the table, and hopefully that'll continue to be the case.

**MK:** You've referenced now a couple of times measures other than the statistical student achievement measures. Are there other things that you'd like to see studied about the Opportunity Scholarships?

**BJ:** Yeah, I think there's a lot that goes into it. When I think about accountability and what our organization does, again, it's not just about test scores. That's definitely a piece, but what other measurable components do we need to look at, or what else do we need to take into consideration as we're making these evaluations? Why are parents looking for these choices?

Oftentimes, academics is very high on the list, but it's not the only reason. So if you could look at test scores — and what does that look like? It's hard to do that, because the public-school students take a state-normed test. Private-school students take a nationally normed test. That's going to continue to be the case, and we have to figure out a way to sort of probably meet in the middle somewhere to do an evaluation like this.

What was great about this is they were able to take a survey battery from the Iowa Test of Basic Skills and use that for a measurement. It seems pretty even, like an even point to be able to do that. But it's also worth taking a look at how are the schools performing? I'd love to see what teacher performance is like at different school levels. And then also taking in the parent voice. You know, we are Parents for Educational Freedom in North Carolina, so what we do bubbles up from the grass roots, from parents on up, and that's how we've always approached things.

How do parents view these? What's their satisfaction like? When you see 80 to 90 percent of the families on the scholarship choosing to re-enroll, that leads me to believe that parents are pretty satisfied with what they're getting so far. And if they're not able to re-enroll, why is it? What we need to know is: Is it a tuition cost issue? Is there something else that's getting in the way, and how can we be helpful there?

There's a lot that goes into these decisions, and there's a lot more from an accountability standpoint than has to do with just test scores. And I'd love to see some sort of model that maybe could take more of those factors into heart as you're making an evaluation.

# EDITORIAL

## Conservatives should use ACA mandate's demise to push for high-risk pools

Should all Americans be required to purchase health insurance?

This was a major bone of contention among conservative reformers during the health care debates of the 1990s. It was an issue during the 2008 contest for the Democratic presidential nomination, with Hillary Clinton saying yes and Barack Obama saying no. (President Obama ended up flipping to the Clinton position.)

After its inclusion in the Affordable Care Act, the individual mandate became the primary issue in legal challenges that ended up before the U.S. Supreme Court. Remember that the majority opinion upholding it, by Chief Justice John Roberts, didn't actually conclude it was constitutional for Congress to compel private purchases. Rather, Roberts retroactively redefined Obamacare's policy as simply a tax on the uninsured.

As a matter of health policy, the mandate had a seemingly inescapable logic. If government were to force insurers to cover everyone, but not require everyone to purchase insurance, then people would wait to sign up until they are sick. There wouldn't be enough revenue to finance payouts. Insurance pools would contract, then collapse.

In practice, however, the ACA's individual mandate didn't really work this way. The heavily regulated plans on the insurance

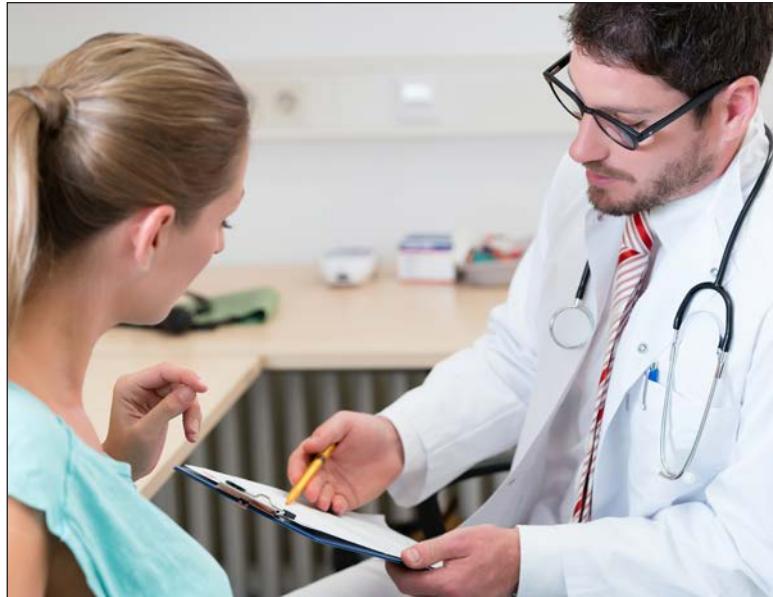


**State policymakers should deregulate both insurance benefits and medical providers to reduce the actual costs of policies and medical services, rather than trying to shift and hide those costs.**

exchanges were also heavily subsidized. If insurers lost money because their subscribers were older and sicker than expected, they raised their prices. The extra cost was borne not primarily by exchange customers but by taxpayers, so enrollment didn't plummet.

At the same time, the mandate proved insufficiently stringent and inadequately enforced to pull younger, healthier customers into exchange pools. Particularly if they weren't eligible for massive subsidies, Americans compared soaring costs of ACA plans with the penalty — oh, sorry, Justice Roberts, the “tax” — they would incur from being uninsured, and chose the latter, cheaper alternative.

We're reminding you of this history because, at last, the individ-



**AFTER THE DEMISE OF THE ACA MANDATE.** Conservatives should hasten and formalize the transition of the ACA exchanges into high-risk pools, the policy Washington and the states should have pursued in the first place.

ual mandate is going away. It was eliminated by the federal tax-reform bill passed in December. And the sky is not about to fall.

As American Enterprise Institute scholars Joseph Antos and James Capretta pointed out in a recent *Health Affairs* article, the Congressional Budget Office has downgraded its estimate of the number of Americans who will choose not to buy insurance in the absence of the mandate. CBO's earlier predictions were distorted beyond all recognition by progressives — choosing not to pay

inflated prices for a product you don't want isn't the same thing as “losing health coverage” — but now it seems those forecasts were exaggerated, as well.

What will happen next? On the Left, there is still a widespread belief in a single-payer, government-run system. Here in North Carolina, Rep. Verla Insko, D-Orange, even filed a bill to make that happen in our state next year. But Insko pulled her bill from consideration when legislative staff estimated its total cost at \$72 billion, including \$30 billion in federal

funds and a whopping \$42 billion in state dollars. By comparison, North Carolina's entire General Fund budget is about \$24 billion.

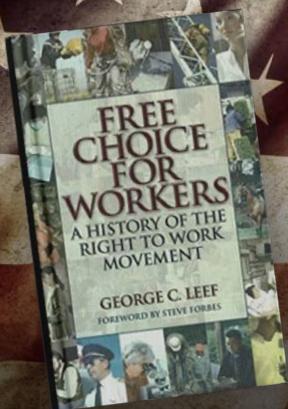
On the Right, there are some unrealistic expectations, too. The ACA exchanges aren't going to wither away. And as long as Medicaid expansion exists as an option, the powerful interests who actually receive Medicaid funds — hospitals, doctors, and pharmaceutical companies, not the low-income enrollees — will lobby strenuously until they get it.

Conservatives should hasten and formalize the transition of the exchanges into high-risk pools, the policy Washington and the states should have pursued in the first place. In other words, the cost of treating people with expensive pre-existing conditions will be spread over a broader pool of taxpayers, rather than overcharging others in the individual insurance market.

Federal policymakers should reform Medicaid to limit its scope and cost, while state policymakers should deregulate both insurance benefits and medical providers to reduce the actual costs of policies and medical services, rather than trying to shift and hide those costs.

The individual mandate was an affront to American principles of freedom. It's finally gone. Now, let's make sensible decisions about what comes next.

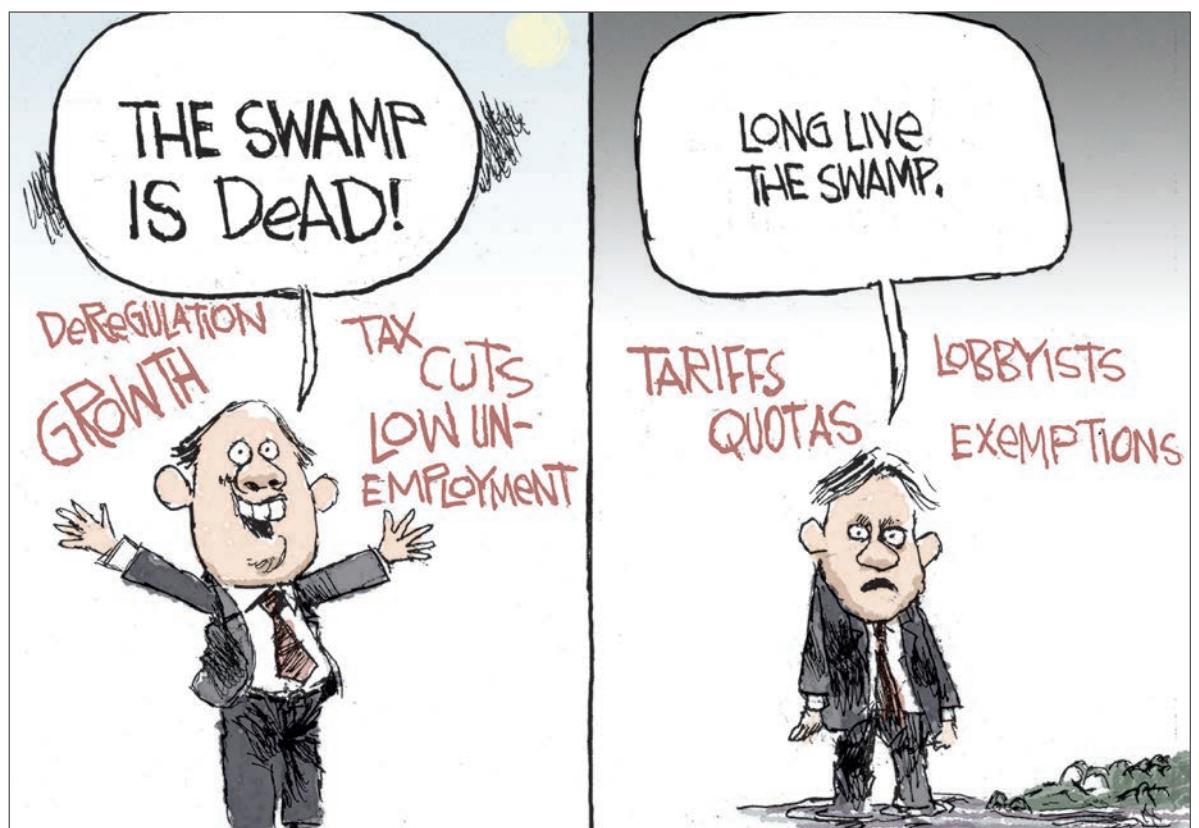
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## COMMENTARY BY JOHN HOOD



## Steady budgets win fiscal race

**THE RECENT** legislative adjustments to North Carolina's 2018-19 state budget produced two main political controversies that we'll hear more about as we move through the campaign season to the November midterms.

One was about process. Rather than enact mid-course adjustments to the biennial budget by filing separate House and Senate bills, considering and enacting them through floor debate, and then appointing a conference committee to reconcile the two into a final conference report for an up-or-down vote, legislative leaders decided to skip all but the last step.

The other controversy was about substance. Democrats charged that Republicans had shortchanged education and other priorities. Gov. Roy Cooper issued a statement condemning the revised budget plan and proclaiming that his own "proposed tax fairness for teacher pay along with forward thinking investments while saving responsibly." This claim was meritless.

The term "responsible" should not be applied to Cooper's proposal, which contained a \$1.5 billion spending increase in a single year, spent or allocated this year's General Fund credit balance down to zero, and left gaping holes in projected budgets for 2019-20 and 2020-21.

All the talk about how some state programs have yet to recover to the spending levels of 2008 — after inflation and population growth — misses the point entirely. That peak was the handiwork of Democratic governors and legislators who, as the hare did in his infamous race with the tortoise, had scampered ahead without foresight and discipline.

The Republicans are following a different approach. They are increasing spending gradually, keeping rough pace with changes in inflation and population while prioritizing K-12 education and public safety.

Because revenues have grown more rapidly than spending, the General Assembly has built up the first truly sizable savings reserve in state history. The sum of what will soon be a \$2.06 billion rainy-day fund, \$621 million in Medicaid reserves, and another \$621 million in other reserves and credit balances represents a \$3.3 billion cushion for when North Carolina experiences its next recession.

Other states aren't so well-prepared.

# Why are you reading this?

**W**hy are you reading this column? I'm glad you are. But motivation matters.

If you read my column because you already expect to agree with the opinions expressed and want to feel reaffirmed, I get it. If you agree and hope you'll gain more "rhetorical ammunition" with which to argue your case, I get that even more. But if you don't necessarily expect to agree with me, yet plan to read my column anyway, you have my sincere thanks.

It's no news our political conversation has become coarse, constrained, and unsatisfying. Indeed, the conversation all too often devolves into a shouting match among partisan hacks rather than a reasoned exchange of contrasting views about challenging issues.

Across the political spectrum, people say they don't like this harsh turn in our politics. But which came first: the shouting matches or audience demand for them? Don't the most bellicose, bombastic, or hyperbolic talking heads get the most public attention, which encourages them to maintain their shtick and others to copy them?



Vincent Price, now president of Duke University, has spent much of his scholarly career studying these issues. In one 2002 paper, he and his co-authors found exposure to political disagreement helps people not just come up with more reasons for their own views but also helps them understand why others might reasonably come to a different conclusion.

Interestingly, this effect occurred when people were talking across the political divide with acquaintances. It didn't come from exposure to the news media, where the one-sided screeds and shouting matches were already crowding out more substantive fare.

Coincidentally, it was at Duke, but before Price's arrival last year,

that my colleagues and I founded the N.C. Leadership Forum, which brings people from across the political spectrum together for precisely the kinds of conversations — respectful but spirited — that seem to bear the most fruit.

Our goal isn't unanimity. In fact, a lack of substantive disagreement can itself be a sign of trouble, evidence that the group may not be perceiving, understanding, and carefully vetting all its options.

In our view, the proper course is neither to engage in wishful thinking nor to encourage groupthink. It is to treat others with the respect they are due as fellow human beings. In my case, this means that I should assume you have good reasons for what you believe, and vice versa.

If we disagree, I should hope to persuade you. But I should also be open to having my own mind changed. Even if persuasion never occurs, I should hope to have you finish my column having learned something new — a fact, an argument, a way of thinking — that you will appreciate knowing even as you continue to disagree with my conclusions.

### NORTH CAROLINA SUPREME COURT

## Courts can't resolve every dispute

**I**n the long-running dispute between State School Superintendent Mark Johnson, a Republican elected in 2016, and the State Board of Education, which has a majority of Republican appointees, the state Supreme Court has sided 6-0 with Johnson. (Chief Justice Mark Martin didn't participate in the case.)

Justices with Democratic and Republican pedigrees rejected the state board's assertion that a law passed by the Republican-majority General Assembly after the 2016 election to transfer certain day-to-day responsibilities to the newly elected state superintendent, Johnson, violated the state board's constitutional authority over public schools.

In its decision, the high court expressed a nonpartisan — and welcome — consensus about the limits of judicial power.

Although the state board



State Superintendent of Public Instruction Mark Johnson

has a Republican chairman and majority, lawmakers were likely responding to the prospect Johnson would eventually be subject to a board populated mostly by appointees of Democratic Gov. Roy Cooper.

The legislature gave Johnson the authority to hire Department of Public Instruction staff even if the state board didn't agree or wanted to hire others. It also gave Johnson

more control over the department's finances and operations.

Until the passage of this law, an elected superintendent couldn't make such decisions without approval from an appointed board. But the state constitution, while requiring the statewide election of the superintendent and the other executive officers who make up the Council of State, doesn't offer

many specifics about their powers.

Indeed, the section authorizing the election of the executives other than governor and lieutenant governor addresses this with a single sentence: "Their respective duties shall be prescribed by law." In other words, the General Assembly assigns duties to these officers.

For educational officers, the state constitution provides additional guidance. The state superintendent is described as "the secretary and chief administrative officer of the State Board of Education," which is itself granted the power to "supervise and administer the free public school system and the educational funds provided for its support." This power includes making "all needed rules and regulations in relation thereto, subject to the laws enacted by the General Assembly."

The justices noted that,

according to past practice and precedent, the general division of labor between the state board and superintendent was that the former had "constitutionally based responsibility for the general supervision and administration of the public-school system" while the latter had "constitutionally based responsibility for directly administering the operations of the public-school system."

How exactly should the dividing line be drawn between these roles? The Supreme Court concluded that the legislature gets to draw that line, provided that its statutes don't try to give the superintendent the power to supersede the board on matters of policy.

You may think the General Assembly redrew the line in the wrong place. If so, the court is saying, your proper remedy is to elect lawmakers who agree with you.

# COMMENTARY

## Craft brewers' battle with state, distributors really just beginning



**JOHN TRUMP**  
MANAGING EDITOR

About a year ago, some N.C. craft brewers took on a couple behemoths in the state Alcoholic Beverage Control system and a well-funded and entrenched network of wholesalers and distributors.

The brewers, in plain terms, were fed up.

They were tired of what they view as one-sided and interminable franchise contracts, sick of worrying about an arbitrary state ruling telling them they can produce no more than 25,000 barrels of beer each year without contracting with a distributor, who takes control of their products and plays no small role in decisions about pricing and placement.

House Bill 500 last year gave brewers some hope.

For a minute or two.

A measure in the bill, which has since passed in the General Assembly, would have raised that cap to 200,000 barrels, but the

state's distributors — who said the increase would place their own businesses in jeopardy — along with religious objectors who see alcohol as morally abhorrent — persuaded lawmakers to eliminate the provision.

Which they did.

"We've been at the table since day one, but you can't negotiate with yourself," John Marrino, who owns Olde Mecklenburg brewery in Charlotte, said at the time.

Let a judge decide.

The brewers' complaint — filed in Wake County last year by Craft Freedom LLC, The Olde Mecklenburg Brewery LLC, and NoDa Brewing Co. — says the distribution cap and franchise laws injure and threaten to impose additional damage on the brewers.

Superior Court Judge Allen Baddour ruled the case will continue.

Baddour, who heard the complaint March 20, issued the ruling May 15. He denied a motion filed from the state saying the complaint should be dismissed with prejudice, and that the challenge, according to statute, must be heard by a three-judge panel of the Superior Court.

The plaintiffs' brief included a deposition by N.C. ABC Commission Administrator Robert Hamilton and an affidavit from



**The brewers' complaint says the distribution cap and franchise laws injure and threaten to impose additional damage on the brewers.**

Dustin Canestorp, founder of Beer Army, LLC. The affidavit provides an account of a recorded phone conversation and email exchange between Canestorp and Freedom Beverage Co., a distributor, and the way Freedom has handled the distribution agreement. The statements in the affidavit border on shocking, and the language in the emails is raw and sometimes sophomoric. Its contents, though, may offer some insight into Baddour's thinking and the resultant decision.

Discovery will continue, subpoenas will be issued, and members of the N.C. Beer and Wine Wholesalers will be deposed.

The National Beer Wholesalers Association, interestingly,

has recently launched a public relations campaign to, in its words, bring "attention to the scope of its industry ... highlighting the many jobs it creates."

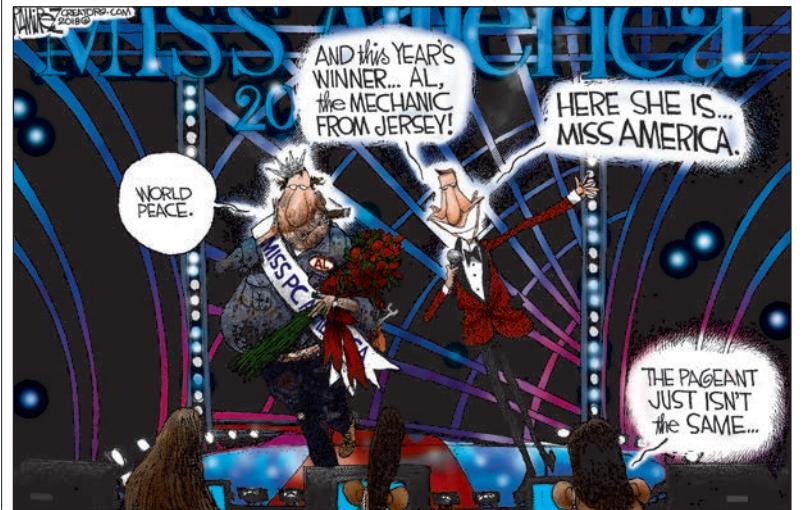
"The organization," a news release says, "that helps stock beer aisles in stores around the country wants to remind the world that the industry does more than deliver beer — it brings local jobs to local industries."

The campaign, called Delivering Local Jobs, "draws attention to the 135,000 jobs the industry creates in multiple career tracks, including graphic designers, inventory specialists, receptionists,

sales representatives, and truck drivers. Those jobs represent \$11.2 billion in salaries, and in the U.S., the industry drives \$70 billion in GDP, \$180 million in community impact, and around \$13 billion in tax revenue."

The wholesalers make important points, and we mean in no way to disparage the people who work hard and do their jobs. Sure, beer and wine distributors offer an important service and, in certain aspects of the business, are indispensable.

In other aspects, particularly in regard to state control, the brewers see things quite differently.



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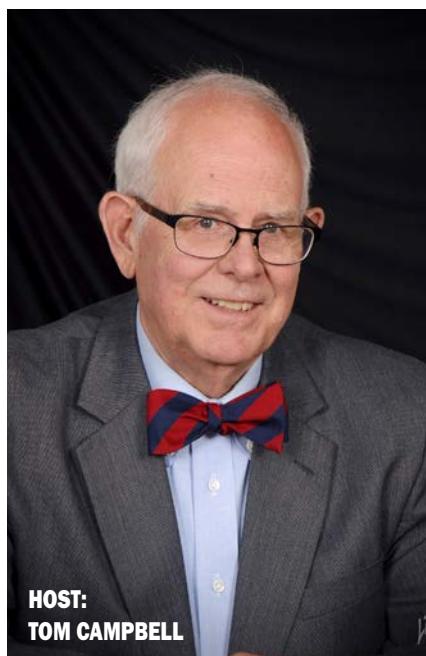
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 Sanford, WWGP-AM 1050, Sunday 7:30 am  
 Smithfield, WTSB-AM 1090, Sunday 7:06 am  
 Statesville, WAME-AM 550, Sunday 5:30 am  
 Valdese, WSVM-AM 1490, Monday 6 pm  
 Wanchese, WYND-FM 97.1, Sunday 7:30 am  
 Wilmington, WAAV-AM 980, Sunday 5:30 pm

## COMMENTARY

## Relating teacher pay to teacher performance



**ANDY TAYLOR**  
COLUMNIST

In May, about 19,000 North Carolina teachers gathered in Raleigh to “Rally for Respect,” an event organized by the N.C. Association of Educators. The choice of the word “respect” was important. It implied attendees felt disrespected.

By whom? The Republican-led General Assembly, of course. You can select all sorts of statistics, but many important ones aren’t consistent with NCAE’s argument. For example, we often hear how low North Carolina teacher pay is in state rankings, but a better way is to compare it against measures of cost of living or median income. We are 29th in average public elementary and secondary teacher pay as a percentage of median household income. It’s nothing to write home about, but a lot higher than blue-state “models” — such as Hawaii, Maryland, and Minnesota — and the statistics cited by NCAE. Mississippi, the perennial laughing

stock of the education “numerati,” is 12th.

We could measure pay against outcomes. By this metric, salaries are high. According to the 2018 *Education Week* “K-12 Achievement Scores,” we came in 33rd, four spots below where the John Locke Foundation’s Terry Stoops places current North Carolina teacher salaries as a proportion of living costs.

And what about teacher “flight”? I’ve seen a number of stories about “Yankee” N.C. teachers suggesting they will return home to Illinois, Michigan, or New York for better pay. To teach whom? They’ll be trampled by students and parents running in the opposite direction.

The ralliers might have accused two other groups of disrespecting them. They didn’t. The first are administrators. The state’s public schools undoubtedly have some fine leaders, but as a group, statistics reveal they consume more than their fair share of K-12 resources. The National Center for Education Statistics reports that in 2015, the last year for which data are available, public school instructional costs in North Carolina were 76.3 percent of the per-student national average. General and school-level administrative costs were 79.1 percent of the national number.

Teachers complain of incessant



meddling by government officials. “Too much testing” is a familiar refrain. But the regulatory burden created by school administrators can also be high. No systematic data on these matters exist, but nearly every teacher has a story of a principal or area superintendent who prevented them from doing their job adequately. The biggest percentage-point decreases in “school leadership” items between the 2016 and 2018 North Carolina Teacher Working Conditions survey were for the items on administration’s consistent support of teachers and ability to create “an atmosphere of trust and mutual respect.”

With the infiltration of administrative practices shaped by identity politics, teachers, particularly in urban districts, are increasingly

subject to all sorts of training and policies designed to diminish the use of their professional judgment. The assumption of this effort is that teachers are racist, homophobic, and generally incapable of knowing what’s best for the children in their classrooms. That’s disrespect. An example is the new procedures adopted by several districts in response to claims of activists that, because minority students are suspended and expelled in disproportionate numbers, existing rules are, by definition, discriminatory.

Now “in-school interventions” are a preferred form of discipline. It’s impossible to get any real data about the effects on academic outcomes, but it makes sense schools are directing significantly more resources away from instruction as a result. At the very least, instead of deferring to teachers’ professionalism, administrators are bowing to outside political pressure.

The second group of “disrespecters” is teachers themselves — the bad ones. I’m sure there were many hardworking, skilled, and underpaid teachers at the gathering in May. But I’m equally sure there was significant variance among the ralliers in terms of the value they add and that many of North Carolina’s roughly 100,000 teach-

ers are overpaid for the work they do. Studies show that about 20 percent of teachers are “chronically absent,” for instance. As a quasi-union, NCAE really promotes the interests of its worst members. Our best teachers should understand that it prevents them from the salaries and resources they deserve by standing in the way of a system of merit pay.

The battery of tests students take today make it possible for schools to measure accurately the value teachers add over the course of a year. Schools also could empower parents, principals, and peers to evaluate teachers. This wealth of data could be used to relate pay to performance.

Americans have a right to advocate for their interests. They should do so. But the May 16 marchers were a more heterogeneous group than we’ve been led to believe. I’d encourage many of them to realize their personal professional interests and those of the children they teach aren’t synonymous with NCAE’s. They need a more sophisticated understanding of who disrespects them.

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

## Note to lawmakers: Don’t mess things up



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

**STARTING IN 2011**, N.C. lawmakers have implemented transformational changes resulting in a strong and growing economy. More people are working, more opportunities are available, and a streamlined, more efficient state government is treating residents more fairly and equitably.

We’ve come a long way. Don’t mess it up.

Faced with a \$2.6 billion shortfall in 2011, legislative leadership had to make big changes quickly. They reduced the size of government, reined in spending, offered temporary tax cuts to small businesses to jump-start the economy, and restructured and consolidated the Department of Public Safety, saving millions. They further reduced spending in 2012.

In 2013, with Republicans controlling both the General Assembly and the governor’s office, lawmakers enacted House Bill 998, the Tax Simplification and Reduction Act. The estate tax was repealed, and personal income, corporate income, and franchise taxes were all reduced. Sales tax exemptions were repealed for certain products, two silly sales tax holidays were eliminated, some tax refunds were capped, and the estate tax — and various other taxes and charges — were repealed.

The standard deduction increased from \$3,000 for individuals to \$7,000, and from \$6,000 for those married and filing jointly to \$15,000. Numerous tax earmarks were eliminated, and the sales tax base was widened. The corporate income tax base was broadened by eliminating almost all credits. Bringing North Carolina’s unemployment benefits more in line with neighboring states enabled us to begin paying off a \$2.6 billion debt owed to the federal government.

Since then, rates have been lowered even further, the standard deduction increased even more, and carve-outs and exemptions

were rolled back. North Carolina’s tax system is simpler, fairer, and more transparent than it was eight years ago.

Even so, there’s still more work to do. Eliminating savings from the tax base, repealing or reforming capital gains tax, eliminating economic development programs that subsidize targeted businesses, and allowing immediate expensing of capital equipment and land would further improve our state’s tax system.

Despite the direction toward more fairness and economic freedom, we saw moves in the short session that raised red flags of lawmakers going in the wrong direction. Senate Bill 153 offers a warning sign. Introduced and passed in the Senate in 2017, it offered income tax breaks for military retirees. The House beefed it up with additional tax breaks and special treatments during the short session. Proposed tax breaks include a special separation allowance for state and local firefighters and rescue squad workers, a property tax homestead exclusion for disabled veterans and surviving spouses of emergen-

# 65,000

Net new jobs have been created since May 2017

cy personnel officers, property tax exemptions for cemeteries, and a sales tax exemption for the sale of cranes used for metal work. The total estimated cost to state and local government of these breaks that only some folks get is about \$250 million over five years.

The bill didn’t pass, but it offers a warning sign. When special groups get special treatment, it makes the system more complicated and less fair. In addition to the provisions we saw in Senate Bill 153, we saw a continuation of special treatment for the film and solar industries, a big tax break to the Carolina Panthers on land they lease from the city of Charlotte (Senate Bill 561), and 30 years of property tax abatement offered to Apple. A new, pumped up program to entice big fish like Amazon HQ2 includes a 100 percent break on withholding taxes plus up to \$50 million for infrastructure such as

water, sewer, and rail access — and up to \$5,000 per year, per job, for up to five years. This makes for a huge tax break for one at the expense of the rest of us. Fair?

If property taxes are too high for the Panthers or Apple, lower them for everyone. If income taxes are too high for military retirees, what about the rest of us? If crane equipment warrants a sales tax break, shouldn’t there be lower sales taxes for all? When one is allowed a break, someone else pays more. That’s neither fair nor smart.

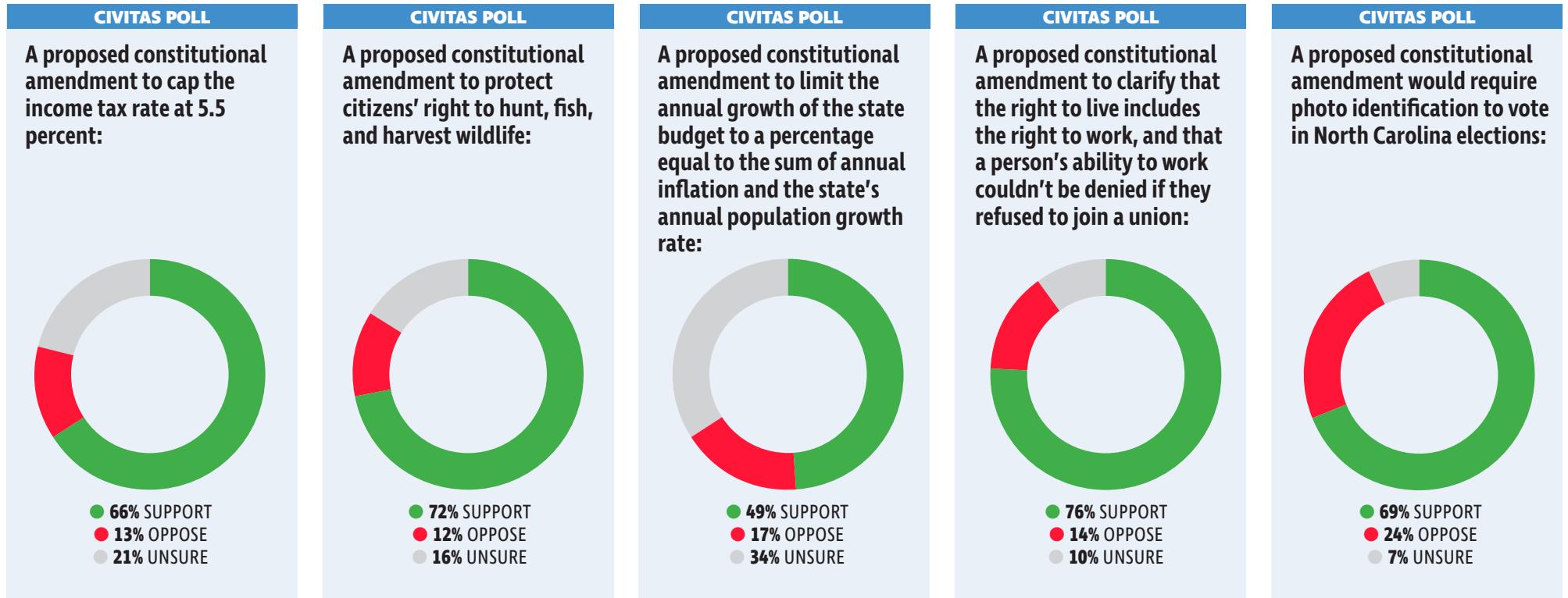
Cleaning up the tax code has paid real benefits for North Carolina’s economy. Rolling back regulations and keeping spending in check has helped, too. Unemployment is at its lowest point in years, incomes are rising, and 65,000 net new jobs have been created since May 2017. We have a \$356 million revenue surplus and \$2 billion in the rainy-day reserves.

Three lessons from the 2018 short session:

- Keep the tax code clean, simple, fair, and equitable.
- Stop with the carve-outs and special breaks.
- Don’t mess this up.

# POLLS

## Civitas Institute poll on constitutional amendments



The poll was conducted between June 9 and 12 and surveyed 650 adults, 541 of whom are registered voters. The margin of error is plus or minus 5.2 percent.

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