



Rally in Red

PAGE 2

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A dead end

Many property owners, trapped by Map Act, are still waiting to be paid

MAP ACT TIMELINE

PAGE 12: A detailed account of the history of the Map Act, from 1987 to today.

ians, waiting years for a check.

"I feel trapped," Cindy said. "Like this is the only area where we can be."

Shawn bought the house in 2002. His real estate agent knew about the Map Act restrictions but insisted it wouldn't be a problem. He believed the agent and paid roughly \$110,000 for the property, which then was in an up-and-coming neighborhood.

He regrets the decision.

Because many of the surrounding properties are condemned under the Map Act, the neighborhood has declined, Shawn told *Carolina Journal*. Earlier this year, the Weeks house was targeted for a break-in. Important papers and valuables were taken, but it could have been worse, Shawn said.

Still, the family feels unsafe in its own home.

To make matters worse, their 3-year-old son can't play outside. Nearby houses were demolished, but the debris remains.

"I don't want my son running around and getting cut by a piece of glass or steel that they left behind," Cindy said.

In any other circumstance, they would move. But no one wants to buy a house that eventually will become a pile of bricks.

Chuck Watts, general coun-



continued PAGE 10

HEALTH CARE

Blue Cross Blue Shield of N.C. removes Stokes hospital from network

BY KARI TRAVIS

The state's largest health insurance company is removing a community hospital in Stokes County from its network after an alleged scheme to score millions in insurance revenue.

The move is effective Aug. 21.

LifeBrite Community Hospital of Stokes took over Pioneer Community Hospital in 2017 and has since taken in 22,000 percent more in lab billing revenue than its predecessor, Blue Cross Blue Shield of North Carolina says.

While under Pioneer management, the facility billed an average of \$37,400 a month for tests. To date, LifeBrite has pulled in a monthly average of \$8.5 million for the same services.

On Dec. 27, 2016, a federal bankruptcy judge approved purchase of operations for the Stokes hospital for \$400,000 by LifeBrite Hospital Management Co., the *Winston-Salem Journal* has reported. The company is an affiliate of LifeBrite Hospital Group LLC of Lilburn, Georgia.

"LifeBrite has engaged in a fraudulent scheme to enrich itself at Blue Cross NC's expense by billing for laboratory services that were not payable, were fraudulent, were

continued PAGE 3

 **KARI TRAVIS**
ASSOCIATE EDITOR

 **LINDSAY MARCHELLO**
ASSOCIATE EDITOR

Shawn and Cindy Weeks would like nothing more than to move.

They've outgrown their house, on a quarter acre in Winston-Salem, but can't find a buyer.

It comes down, really, to one law, which removed basic property rights and left homeowners in real estate purgatory.

The couple's property is in the path of a roadway planned under the Map Act, a 1987 law that allowed the state to take private land that fell inside planned roadway corridors. The law was designed to keep down state government costs.

But there was a catch. The N.C. Department of Transportation wasn't required to pay landowners until the road projects were under way.

Decades later, many still aren't.

That left the Weeks family, and hundreds of other North Carolin-



Interview: Dan Forest

Lieutenant Governor Dan Forest doubles down on priorities.

PAGE 18

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A SEA OF RED DESCENDS ON RALEIGH AS TEACHERS ADVOCATE FOR MORE EDUCATION FUNDING

On May 16, thousands of teachers and public education advocates descended on the General Assembly for the March for Students and Rally for Respect. The N.C. Association of Educators' rally drew upwards of 19,000 marchers advocating for higher teacher and principal pay, more educational funding, and safer schools.

Forty school districts closed to roughly a million students so teachers could take the day off to participate in the rally. Donning red T-shirts and protest signs, marchers flooded the Legislative Building to air their grievances, mostly toward Republicans. Several teachers were removed from the gallery for causing a disruption during session, but others engaged with lawmakers without issue.



QUICK TAKES



RURAL HOSPITALS ARE ENDANGERED. Eighty-three rural hospitals have closed since 2010.

BLUE CROSS

continued from PAGE 1

in violation of Blue Cross NC's contracts with LifeBrite, and were otherwise unlawful," Blue Cross stated in legal claims filed May 16.

The company is seeking "compensation for the injuries it has incurred because of LifeBrite's conduct," the claims say. "In addition, Blue Cross NC seeks punitive damages and injunctive relief prohibiting LifeBrite from further perpetrating its scheme."

"We disagree with the decision by Blue Cross Blue Shield of North Carolina," LifeBrite spokeswoman Sarah Mann told *Carolina Journal*. "It appears that Blue Cross has failed to take into account the role LifeBrite plays in providing high-quality health care to residents of Stokes and surrounding areas. We believe the decision reflects a fundamental misunderstanding about who we are and how we do business, and we are confident that our billing practices are lawful, appropriate, and consistent with LifeBrite's contract with BCBS of North Carolina. We intend to work with BCBS of North Carolina to address any issues in the hopes of continuing our relationship so we can keep providing vitally needed health care services to our community."

The situation in Stokes County

is one of many such scenarios playing out across the United States.

Rural hospitals are endangered. Eighty-three have closed since 2010, a CBS investigation shows. Insurance companies, in an attempt to rescue local health care, reimburse community hospitals at higher rates. The action has been a magnet for money schemes. To date, insurance companies have paid nearly a half billion dollars in fraudulent billing charges.

In Stokes County, LifeBrite, between August 2017 and April 2018, billed an average of 67,000 lab tests through its hospital, BCBSNC says. That tab totaled 525,000 tests and a total cost of \$74 million. In contrast, Pioneer billed a monthly average of 267 between January 2015 and January 2017.

Danbury, the hospital's locale, had a population of 189 residents in 2010. About 98 percent of the tests billed through the Stokes County hospital were for people living outside North Carolina, Blue Cross said.

In 2017, Empower iHCC Inc., an affiliate of the group that owns and operates LifeBrite, tried to acquire the failing Morehead Memorial Hospital in Eden. The deal fell through, and UNC Health Care bought the facility instead.

Most of the company's plans allow customers to receive covered services from out-of-network providers, but customers will typically pay higher out-of-pocket costs, the company said in the release.

Bissette hands reins of UNC Board of Governors to businessman Smith

Outgoing chairman leaves top slot on UNC board during emotional meeting

BY KARI TRAVIS

Stay in your lanes and keep pushing forward, the outgoing chairman of the University of North Carolina's Board of Governors said during an unusually emotional meeting to elect new board officers.

Lou Bissette, an Asheville attorney and the BOG's outgoing leader, delivered a bittersweet speech before the board May 24, making way for Chairman-Elect Harry Smith, who will assume the role in July. Members Randall Ramsey and Pearl Burris-Floyd also were elected as the board's vice chairman and secretary, respectively. All three members ran unopposed and received unanimous support.

Bissette teared up while thanking BOG members for their dedication and hard work. His colleagues responded with a standing ovation.

The scene was a far cry from the board's previous transfer of leadership.

Bissette led the board for nearly three years, weathering protests and politics, and riding out controversies he inherited from former BOG Chairman John Fennebresque. In late 2015, Fennebresque shook up BOG members and state legislators when he acted unilaterally to recruit now-UNC System President Margaret Spellings. His actions also triggered uproar among university administrators, faculty, and students.

Fennebresque resigned immediately after Spellings was elected to UNC's highest office. When Bissette stepped to the helm, the board was reeling, facing public accusations of scheming and secrecy. Faculty and student protests — some disruptive and violent — followed.

Unlike Fennebresque, who allowed little discussion during tightly scripted meetings, Bissette welcomed more relaxed, sometimes rowdy, debates. With the shift came some slip-ups. During Bissette's first months, the board made some procedural mistakes, violating the open meetings law and voting in closed session to raise chancellors' salaries.

Legislators later decided the misstep was a mistake, and Bissette ensured all members of the board — including him — were well-schooled on the N.C. Open Meetings



NEW CHAIR. UNC Board of Governors Chairman-Elect Harry Smith

PHOTO COURTESY OF THE UNIVERSITY OF NORTH CAROLINA SYSTEM

Spellings' presidency, and UNC's strategic plan for university success, highlight the legacy Bissette hopes he will leave, he told reporters.

Law.

The goal was to rebuild trust and enact the best policies for the university, Bissette said.

Spellings' presidency, and UNC's strategic plan for university success, highlight the legacy Bissette hopes he will leave, he told reporters.

Smith, who has served as the board's vice chairman, was not available for questioning after the May 24 meeting.

The Greenville businessman has faced recent allegations that he tried to manipulate a development deal at N.C. Central University. A lawsuit alleges Smith, fellow BOG member Darrell Allison, and N.C. Central Chancellor Johnson Akinleye made a deal to push up to \$120 million in student housing contracts to a Raleigh land developer. The suit claims Smith was involved in the project, and was in secret meetings with the developer, Preiss

Company of Raleigh. The bidding process was unfair and didn't allow other bids, the suit alleges.

The allegations are false, Smith stated. He and Allison were simply advising NCCU to get the best deal, he said.

The lawsuit was filed by Benjamin Durant, NCCU's former vice chancellor for administration and finance. Durant was fired in January.

In 2016, Smith discussed a potential investment partnership with East Carolina University, proposing to buy an apartment complex near the university. The deal didn't come together, and Smith later said "the optics are terrible," due to the appearance of a conflict of interest.

"In hindsight, it wasn't even a good idea to have the conversation. That was a regrettable mistake by me," he told the *Raleigh News and Observer*. "I learned a valuable lesson from it, but I didn't do anything malicious. ... Everything was good intent."

Smith is energetic with "an incredibly good mind," Bissette said. The incoming leader should set priorities carefully so he can avoid being pulled in multiple directions.

Bissette has expressed concern that some board members stray into university management — not the role of UNC's governing body, he said.

The focus should be on policy, he said.

QUICK TAKES

Despite strong charter-school growth, N.C. has many ‘deserts’

Charter schools have flourished in North Carolina since 2011, when the General Assembly removed the statewide cap of 100. Along with the rest of the country, though, that growth has started to slow.

This slowdown may be due to market saturation, as a report from the Thomas Fordham Institute suggests. Whatever the cause, some areas of high poverty still have no charter schools. They're called charter school deserts.

A comprehensive study from the Thomas B. Fordham Institute indicates North Carolina has 14 charter school deserts, above the 10.8 average per state. North Carolina is among 39 of 42 charter states that have at least one desert.

Mike Petrilli, president of the Thomas B. Fordham Institute, said the best charter schools can

change the trajectory of a child's life.

“What we have seen from the evidence is that quality charter schools now have a strong track record of boosting student achievement and other outcomes for low-income kids,” Petrilli said. “We have finally seem to have hit on a strategy that works, and so we want to make sure as many low-income kids as possible can benefit from it.”

The study looks at only elementary-grade charter schools. Using census data, researchers identified areas of middle to high levels of poverty. Deserts are defined as three or more contiguous impoverished tracts without elementary charter schools.

North Carolina's charter school deserts are mainly in the Charlotte metro area, the western and east-

ern parts of the Durham metro, and the eastern and southwestern parts of the Raleigh metro.

The study theorizes that political, legal, and fiscal obstacles including a lack of access to financial help to build facilities may cause these deserts. Policies restricting where charters can go and how many open also factor into where charter schools are built.

Petrilli said it is important to make sure policies governing charter schools don't limit them to select areas, preventing charters from locating where they may be needed most. In North Carolina, charter schools don't receive capital funding from the state and often have to find alternative ways to pay for school facilities, including direct fundraising.

— Lindsay Marchello



Discipline rather than detention needed for many young offenders, experts say

NORTH CAROLINA schools, which now refer more than 40 percent of all offenders in the state's juvenile justice system, need to stop arresting and charging kids for minor, nonviolent offenses, state court and public safety leaders say.

Harsh, aimless punishment only pushes delinquent students further into patterns leading to adult crime, said Judge Julius Corpening, chief judge for North Carolina's 5th Judicial District. A judge for 27 years, Corpening has seen many kids with troubled home lives and mental health issues — most of whom need discipline, not detention, he said.

A new state law is scratching out the “tough on crime” formula in favor of a more parental approach.

In June 2017, the N.C. legislature passed House Bill 280, legislation to raise the age for juvenile offenders. The law, which kicks in December 2019, pushes the juvenile age limit to 18 for those who commit low-level, nonviolent offenses. Juveniles 16 and older now are tried in North Carolina as adults, even for the most minor offenses.

Another part of H.B. 280 established School Justice Partnerships, a program connecting families, schools, social services, law enforcers, judges, and mental health experts to keep kids out of the court system.

Experts and practitioners discussed the likely impacts of the law April 25 in Cary. The forum was co-sponsored by the state's judicial branch and the Department of Public Safety.

High school dropouts are more



JUDGE JULIUS CORPENING. Workshop co-sponsored by North Carolina's judicial branch and Department of Public Safety discusses benefits of taking a more parental approach to troubled kids to keep them out of prison as adults.

likely to become involved with the courts, said LaToya Powell, assistant legal counsel for the N.C. judicial branch. By diverting kids from juvenile courts, the state is saving taxpayers money and probably preventing them from entering adult lockup later, Powell said.

Of roughly 37,000 prisoners in North Carolina, about 17,500 never earned a high school diploma, DPS data show.

New Hanover County has fostered the state's first SJP under Corpening's leadership. Since the program's inception, the district has seen school-based referrals decrease by 47 percent.

Brunswick, Greene, Lenoir, and Wayne counties have followed suit. In May, the Administrative

Office of the Courts was scheduled to release a set of guidelines to help all counties form SJPs.

School fights and squabbles top the list of most common offenses, said William Lassiter, North Carolina's deputy commissioner of juvenile justice. Disorderly conduct — such as disrupting a class — comes in second.

Mental health services, family counseling, and “tough love” punishments are better ways to handle the issue, Corpening said.

“We know that traumatized people traumatize people. We must return to discipline, like parents.”

— Kari Travis

STATE RANKINGS

N.C. gets top 10 ranking for positive economic outlook

North Carolina was seventh-best among states for its economic outlook, says the 2018 edition of the American Legislative Exchange Council's *Rich States, Poor States*.

ALEC, a nonpartisan membership organization of state legislators, has ranked states on economic outlook and performance for 11 years. Due to what ALEC calls a record of substantive pro-growth tax cuts, North Carolina made the top 10 list — along with Utah, Idaho, and Indiana. New York, Vermont, Illinois, and California landed at the bottom.

North Carolina didn't reach the top 10 for economic performance, but it was close at 11th. The economic performance index looks at a state's ranking in state gross domestic product, absolute domestic migration, and nonfarm payroll employment.

While the economic performance index looks to the past, the economic outlook index looks to the potential impact of tax rates, regulatory burden, and labor policies.

“The shakeup in rankings is exciting and a testament to how states are always compet-

ing to offer the most pro-growth tax climate,” Rep. Jason Saine, R-Lincoln, and the national chair of ALEC, said in a press release. “When states compete on the merits of good public policy, ultimately the taxpayer ends up being the real winner.”

North Carolina earned its lowest score — 26th — on economic outlook in 2011, and its highest score in 2016 — second. The Tar Heel State fell from third in 2017 to seventh in 2018, as other states made more substantive reforms this year.

Legislators passed tax cuts in the state budget bill (Senate Bill 257), but the cuts won't fully go into effect until 2019. These cuts include reducing the corporate income tax from 3 percent to 2.5 percent and lowering the individual income tax rate from nearly 5.5 percent to 5.25 percent. The bill also removed the mill machinery tax and reduced the franchise tax on small businesses.

Other variables contributing to the state's economic outlook ranking include its status as a right-to-work state and it having no inheritance or estate tax.

— Lindsay Marchello

QUICK TAKES

BCBS paying school lunch debt in Piedmont area

Blue Cross Blue Shield of North Carolina, the state's largest health insurance provider, is giving \$159,000 to five counties to cut debt in their school lunch programs. School districts in Alamance, Guilford, Forsyth, Rockingham, and Davidson counties will get the money.

"Blue Cross NC's mission to improve the health and well-being of our state starts with our children," said Blue Cross NC Director of Community Relations Cheryl Parquet in a news release.

The donation is part of BCBSNC's annual giving and won't affect premiums. The payments will occur by the end of the school year when the debt tally is final.

North Carolina has the seventh-largest school nutrition program in the country, with nearly 60 percent of students in public schools eligible for free or reduced-price lunch. The federal government reimburses a good chunk of school meal funding through the National School Lunch Program. In 2017, the federal government reimbursed the state \$387,928,245 for providing more than 140 million lunches.

School districts typically incur school lunch debts when parents fail to pay for their children's lunch-

es and aren't enrolled in the child nutrition program.

The amount of debt ranges from district to district. Rockingham County Schools reported about \$12,000 in unpaid school lunches; Winston-Salem/Forsyth County Schools, about \$15,250. Those numbers are subject to change before the end of the school year as debt is paid off.

"Right now we have 59 percent of the district on free and reduced lunch programs, so this debt is accrued from those who are either just outside that qualification but still can't pay, turned paperwork in late and accrued debt before they qualified for free lunch, or those students whose families just do not pay for whatever reason," Brent Campbell, WSFCS chief marketing and communications officer, said.

If parents don't pay the balances, the school district covers the cost. Campbell said the district al-

ways plans in advance for meal plan debts.

Terry Stoops, vice president of research and director of education studies at the John Locke Foundation, said school nutrition programs share qualities with businesses despite being heavily regulated.

"Like all businesses, school nutrition operations have a responsibility to manage the accumulation of customer debt and address debt collection, preferably focusing on the adults responsible for providing funds for the purchase of school meals," Stoops said.

NSLP is intended for low-income families at or below 185 percent of

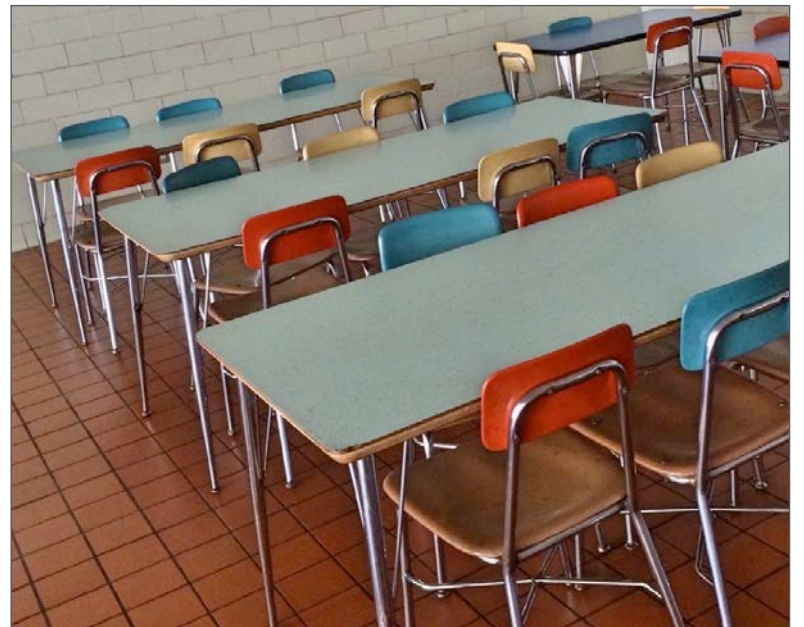
the federal poverty level. Parents or guardians are required only to self-report their income on applications without providing any proof of earnings.

Carolina Journal has reported extensively on school districts' failure



Like all businesses, school nutrition operations have a responsibility to manage the accumulation of customer debt.

- Terry Stoops
John Locke
Foundation



to monitor reporting and fraud that can result from it.

School districts are allowed to audit the program, but the federal government requires they use only 3 percent of all approved applications. Households that have annual earnings within \$1,200 of the income eligibility limitation are looked at first because they're the most likely to make a mistake.

"Although they are heavily reg-

ulated and government-subsidized enterprises, school nutrition programs are businesses that need to generate sufficient revenue to pay employees and purchase equipment, food, and supplies," Stoops said. "Unfortunately, most people don't think of school nutrition programs in these terms. And therein lies the problem."

— *Lindsay Marchello*

FCC chairman visits N.C. high school to celebrate connectivity

FEDERAL Communications Commission Chairman Ajit Pai visited Graham High School to recognize North Carolina's recent technological achievement. N.C. is the first and only state with broadband access in every single classroom.

"As we enter a digital economy, we want our students to be able to have the tools necessary to compete, and, increasingly, that means access to the internet," Pai said during the May 22 visit.

Joining Pai were Lt. Gov. Dan Forest; State Superintendent Mark Johnson; Alamance-Burlington Superintendent William Harrison; Rep. Stephen Ross, R-Alamance; Sen. Rick Gunn, R-Alamance; and Rep. Dennis Riddell, R-Alamance.

The achievement is long in coming. In 2002, the General Assembly created the Business Education Technology Alliance to determine how best to integrate technology into public education. Former Gov. Bev Perdue led that commission.

It wasn't until 2007 that the School Connectivity Initiative was created to connect every school district to broadband access with help from the Friday Institute. The General Assembly allocated \$12 million for the initiative, but eventually the pot grew to \$32 million.

The goal was to have every

classroom connected to broadband by 2022, but Forest wanted to get there sooner.

"I said, 'What do we have to do to speed this process up?'" Forest said. "Really, the equation amounted to money and manpower."

North Carolina reached the goal with help from the FCC and public-private partnerships with the Friday Institute, MCNC, and other agencies. The FCC contributed \$65 million to the endeavor.

The job isn't done just because every K-12 classroom has access to broadband. Johnson said he would continue working on a computer science plan to help prepare students for a job in that field.

"There are over 18,000 jobs here in North Carolina right now that are open in the field of computer science," Johnson said. "The lieutenant governor and I are looking for a way to connect every student to those opportunities, and having high-speed internet in the classroom will help with that endeavor."

Connectivity was one of the easier parts of moving the initiative forward, Forest said. Data management, teacher training, and integrating technology into school curriculums are part of future efforts.

— *Lindsay Marchello*



NORTH CAROLINA SCHOOL CONNECTIVITY. Federal Communications Commission Chair Ajit Pai, joined by Lt. Gov. Dan Forest and Sen. Rick Gunn, R-Alamance, talks about the future of digital learning at Graham High School.

QUICK TAKES

State treasurer looks to save \$1 billion by reducing medical provider rates

State Treasurer Dale Folwell has placed a number on a money-saving change he has talked about since taking office — \$1 billion.

That's how much savings might be generated by a 15 percent reduction in medical provider rates Folwell directed Blue Cross and Blue Shield of North Carolina to make. The insurer is a third-party administrator of the State Health Plan. It processes claims, arranges a network of medical providers, and establishes payment rates. Its contract was renewed in September and runs through 2021.

The Treasurer's Department oversees the State Health Plan and pays claims with taxpayer funds. In 2017 the plan spent \$2.5 billion to doctors and health care systems providing services to more than 550,000 teachers, state employees, non-Medicare retirees, and their dependents.

In a press release issued May 14, Folwell said the reductions could generate some \$300 million a year, potentially totaling close to \$1 billion over the next three years.

The savings would be plugged into an area Folwell repeatedly has warned is in need of attention —

lowering family premiums.

"Our family premium is unaffordable for most beginning teachers, troopers, correction officers, DOT workers, and other kinds of state employees," Folwell said in October. Generally speaking, the family premium amounts to five days' monthly pay for entry-level state employees.

Folwell said then that negotiating lower insurance rates would help to attract more younger, healthier people to enroll in the State Health Plan, thus increasing its financial stability. Some of the projected savings would help to narrow the gap in long-term health care liabilities.

"We have a \$34 billion unfunded health care liability for retiree coverage that has been growing for 40 years," Folwell said in February.

The State Health Plan is North Carolina's largest purchaser of medical and pharmaceutical services. Folwell has made it clear in past comments that its size and volume have not been used as leverage to achieve better contracts and drive down medical costs.

— Dan Way

State pension returns flat during first three months of 2018

RETURNS ON state pension fund investments were flat for the first quarter of 2018. That triggered a warning by state Treasurer Dale Folwell about long-term pension stability.

Folwell blamed the 0.2 percent gain for the three months ending March 31 largely on a volatile stock market. His department manages the nearly \$100 billion N.C. Retirement Systems.

"Our investment team has done a great job during a difficult first quarter," Folwell said in a news release. "However, the fact remains that we spent more than \$1.5 billion gross in benefits payments while producing little in investment gains. Those types of outflows without earnings are unsustainable in the long term."

Folwell said pension plan investments had a strong 2017. Echoing comments he made to reporters on his monthly Ask Me Anything teleconference May 1, Folwell said gains have not met assumed rates of return on average over the past 20 years.

He told reporters the pension plan is paying out \$500 million in monthly benefits. The Retirement Systems program manages benefits for



Those types of outflows without earnings are unsustainable in the long term.

— State Treasurer Dale Folwell

900,000 teachers, firefighters, police officers, state and local government employees, and other public workers. It is one of the five best-funded plans in the nation.

But it remains underfunded, and Folwell has been pushing to reduce long-term shortfalls. Recently the boards of trustees for the Teachers'

and State Employees' Retirement Systems and the Local Governmental Employees' Retirement Systems lowered the plan's assumed rate of return from 7.2 percent to 7 percent.

The lower rate more accurately reflects actual gains. Lawmakers then can decide how much state money is needed to keep the plan fully funded.

The Treasurer's Department released details May 3, showing the General Assembly would need to spend about \$276 million more during the next four years to make up for the lower return on investment.

TSERS would need \$18.7 million in fiscal year 2019, \$38.5 million in 2020, \$82.5 million in 2021, and \$129.2 million in 2022. Spending on LGERS would need to go up \$0.5 million in fiscal year 2021 and \$6.3 million in 2022.

Since taking office Folwell has slashed \$76 million in fees to outside investment managers.

He projects a \$300 million savings over four years — three times the pledge he made during his campaign.



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 Jacksonville, WJNC-AM 1240, Sunday 10 am
 Laurinburg, WLNC-AM 1300, Sunday 10 am
 Morehead City, WTKF-FM 107.1, Sunday 10 am
 Rocky Mount, WEED-AM 1390, Sunday, 9:30 am
 Sanford, WWGP-AM 1050, Sunday 7:30 am
 Smithfield, WTSB-AM 1090, Sunday 7:06 am
 Statesville, WAME-AM 550, Sunday 5:30 am
 Valdese, WSVM-AM 1490, Monday 6 pm
 Wanchese, WYND-FM 97.1, Sunday 7:30 am
 Wilmington, WAAV-AM 980, Sunday 5:30 pm

QUICK TAKES



Salisbury voters approve leasing Fibrant broadband to Hotwire

An overwhelming 81 percent of voters in Salisbury said on May 8 that the city should lease its Fibrant broadband service to Hotwire Communications.

The unofficial vote was 2,602 to 590.

As *Carolina Journal* reported, the proposed lease would go for 20 years beginning July 1, with Hotwire paying back the city a percentage of its revenue from its internet, video, and phone services.

Fibrant has been a financial drain on Salisbury taxpayers since its construction. Legacy providers AT&T and Time Warner reduced their rates after Fibrant began operations in 2008, which led to the municipal broadband network never meeting subscriber goals of

30 percent of city residents. The shortfall caused the city to borrow money from its water and sewer reserves for operating expenses. The city has been losing about \$3 million per year operating Fibrant.

Between the initial bond and the loan from the reserve, Salisbury borrowed around \$40 million for Fibrant and still owes about \$32 million. That's because revenue from Fibrant has been so meager that for many years Salisbury was just paying the interest on the loans and not the principal.

"The Hotwire lease will not reverse Salisbury's Fibrant situation immediately, but it gets the process going," says an editorial in the *Salisbury Post*.

— Staff reports

U.S. Reps. Hudson, Budd highlight concerns with human trafficking

STATE AND FEDERAL leaders are taking steps to rescue victims of human trafficking, but unless lawmakers increase support for survivors' care and rehabilitation, those efforts will be thwarted, a group of North Carolina experts say.

U.S. Reps. Richard Hudson, R-8th District, and Ted Budd, R-13th District, talked at length May 2 with a group of 13 community, nonprofit, and law enforcement officials. The discussion, which centered on North Carolina's rank in the top 10 states for human trafficking, was propelled by the April 11 enactment of the Fight Online Sex Trafficking Act, a law that blocks advertising websites from the "promotion or facilitation of prostitution."

That legislation received mixed reviews, with some organizations, such as the American Civil Liberties Union, claiming it might muzzle free speech. *Reason*, a libertarian policy magazine, protested that the bill would harm the welfare of voluntary sex workers who depend on Backpage to screen and regulate their clientele.

Those claims are bogus, Hudson told *Carolina Journal*.

"There is no such thing," he said. "There's no one that's involved in sex trade that is voluntarily there. Everyone has been coerced in some way. It's not a victimless crime."

FOSTA criminalizes "reckless disregard of sex trafficking." Punishments include fines and prison terms of anywhere between 10 and 25 years.

The federal government has seen an 87 percent drop in web-based trafficking ads since the bill passed Congress, Hudson said.



HUMAN TRAFFICKING. U.S. Reps. Richard Hudson and Ted Budd of North Carolina host a May 2, 2018, roundtable to discuss human trafficking issues.

CI PHOTO BY KARI TRAVIS

Those improvements are tremendous, but unless escaped victims have somewhere to go, the cycle will continue, said Carla Tweddale, founder and president of Lily Pad Haven, a Charlotte-based nonprofit that provides housing and rehab for survivors.

"The level of care that a trafficking survivor needs is different than any other population we see," Tweddale said.

North Carolina confirmed 221 cases of trafficking in 2017, making it the eighth-worst state for modern slavery in the U.S., data from the National Human Trafficking Hotline show. In 2016, the state identified 181 cases, putting it in 10th place.

The actual population of victims is likely much higher, said Tweddale. Those who are trafficked rarely self-report. Many are under the

influence of drugs. Stockholm syndrome and distrust of law enforcement also prevent women and men from seeking escape, said James Chavis, Kannapolis chief of police.

More than 70 percent of cases involve sex slavery, NHTH reports. The nation's top two trafficking venues are hotels and massage parlors. Online ads, such as those formerly featured on Backpage, which the FBI has seized, and Craigslist, are the third-highest resource for traffickers.

In 2017, North Carolina lawmakers passed legislation to regulate massage parlors and publicize the NHTH phone number. Some lawmakers pushed a move to fund survivor care centers and increase public education on the issue, but the bill gained little traction.

— Kari Travis

NORTH CAROLINA

BUDGET IN PICTURES

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www.johnlocke.org/research/north-carolina-budget-in-pictures-fy2017-18/

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

John Locke
FOUNDATION

ENERGY & ENVIRONMENT

Ohio bank claims 100 percent renewable power from N.C. solar project

BY DON CARRINGTON

Ohio-based Fifth Third Bank claimed in a March press release it's the "first Fortune 500 company and first bank to contract for 100 percent renewable power through a single new project." The project is a \$200 million, 80-megawatt solar facility slated for a 1,600-acre site in Hertford County.

But when questioned by *Carolina Journal* about the claim, a company official acknowledged the solar facility wouldn't power any of the bank's 1,200 locations in 10 states, including North Carolina. Director of Sustainability Scott Hassell said the company will "continue to consume electricity as we always have."

Fifth Third's claims rest on the concept that a megawatt hour of renewable solar electricity generated in rural North Carolina can offset a megawatt hour produced by traditional utilities — from coal, nuclear, natural gas, or other sources — and used at one of the bank's locations. Fifth Third has 55 locations in 33 North Carolina cities. The Fifth Third solar farm is about 120 miles from Raleigh — the nearest Fifth Third Bank office.

Fifth Third didn't come up with this concept on its own. The company is affiliated with RE100, a program launched in 2014 sponsored by the Climate Group and CDP (formerly the Carbon Disclosure Project). RE100 is a "collaborative, global initiative uniting more than 100 influential businesses committed to 100 percent renewable electricity, working to massively increase demand for — and delivery of — renewable energy."

In 2016, Bank of America joined RE100 and committed to be 100 percent renewable by 2020. Wells Fargo Bank joined RE100 and set a goal to be 100 percent renewable in 2017.

RE100 uses its website and social media to urge members to use their green claims to prod other companies into joining the offset business. A recent post stated:

"As a member of RE100, we envision a future where renewables are the mainstream choice of electricity for all global businesses, and where corporations are active participants in energy markets and policy debates."

The goal? "Decarbonization" — ending the use of fossil fuels such as crude oil, natural gas, or coal.

"This optimism has led a momentum on climate action which has seen businesses leading the way in accelerating the transition to a zero-carbon economy, alongside cities, regions, and national governments committing to reduce their greenhouse gas emissions," the site says.



PHOTO BY DON CARRINGTON



PHOTO BY DON CARRINGTON

FIFTH THIRD BANK. The bank has 1,200 locations in 10 states, including these two in Raleigh.

Fifth Third and other companies, including Apple, Google, and Amazon, make green claims by securing power purchase agreements or renewable energy certificates. They buy "green" power offsets, though the energy often is produced far from the businesses' physical locations. Companies rely on this concept to project an environmentally responsible public image.

Indeed, Fifth Third's press release stated the "initiative affirms our bold commitment to advance environmental stewardship on behalf of customers, employees, and shareholders."

In 2016, less than 3 percent of the total electricity generated in

North Carolina came from solar facilities, according to the U.S. Energy Information Administration. Nationwide, solar generation in 2016 was less than 1 percent.

The project "powering" Fifth Third, off N.C. 11 in Hertford County between Ahoskie and Aulander, will be built and operated by Aulander Holloman Solar LLC, a subsidiary of Mooresville-based SunEnergy1. SunEnergy1 is one of the country's largest solar developers. Fifth Third will buy all the power generated by the project, estimated to be 194,000 megawatt hours per year.

Hassell, of Fifth Third, told *CJ* the solar project should produce

Fifth Third's claims rest on the concept that a megawatt hour of renewable solar electricity generated in rural North Carolina can offset a megawatt hour produced by traditional utilities — from coal, nuclear, natural gas, or other sources — and used at one of the bank's locations.

enough power to match the bank's estimated annual energy consumption. The bank signed a power purchase agreement with SunEnergy1 to buy all the power at a fixed price per megawatt hour.

The bank will resell the power to the regional transmission grid. Prices for the power will fluctuate along with the spot energy market. The difference between the energy Fifth Third actually buys from local utilities at its locations and the power produced in Hertford County will be reconciled monthly.

The bank will get either a check or a bill from SunEnergy1 for the difference.

He said the bank's contract let SunEnergy1 get a loan to build the project. Any profit or loss the bank makes from the energy transactions is confidential, Hassell said. "We have taken the risk in the short run and long run to say we are using green energy."

Other renewable claims

Major companies began announcing commitments to renewable energy in part through the efforts of the environmental organization Greenpeace. It called out Amazon in an April 2014 report about electricity consumption at large data centers.

"Among the major cloud providers, only Amazon refuses to provide any details on the energy performance and environmental impact associated with its operations," the report said.

In November 2014, seven months after the Greenpeace report, Amazon Web Services announced a "commitment to achieve 100 percent renewable energy usage for the global AWS infrastructure footprint," according to the company's website. Amazon fulfills its commitment in part with the output from the Amazon Wind Farm near Elizabeth City, N.C.

Apple announced on April 9 that 100 percent of its global facilities are powered by clean energy. "This achievement includes retail stores, offices, data centers, and co-located facilities in 43 countries — including the United States, the United Kingdom, China and India," the company's press release said.

SunEnergy1 initiated the Aulander Holloman Solar project in February 2015 when it submitted an application to the N.C. Utilities Commission. Like all other solar projects, this facility won't be able to produce reliable electricity 24 hours a day.

SunEnergy1 completed another large North Carolina project in 2017. Three parties — the Massachusetts Institute of Technology, Boston Medical Center, and Post Office Square Redevelopment Corporation — claimed energy from the 60-megawatt Summit Farms Solar project in Currituck County will offset their "carbon footprint."

MIT says solar power purchased from the Currituck facility will equal 40 percent of the institute's current electricity use.

Boston Medical and the redevelopment group say the Summit Farms Solar power will offset 100 percent of their electricity use. But none of the electricity generated at Summit Farms Solar will supply energy to those Massachusetts facilities. It will not even be on the electrical grid they use.

NORTH CAROLINA

Burr, Tillis praise Trump during lecture in Raleigh

DAN WAY

Both of North Carolina's U.S. senators and a member of its congressional delegation praised President Trump during their appearance at a conservative event in Raleigh.

U.S. Sens. Richard Burr and Thom Tillis and U.S. Rep. David Rouzer, R-7th District, all Republicans, had a united front supporting Trump.

They spoke May 11 at a 30th anniversary event of the Jesse Helms Center Foundation, titled "Foreign Policy, Trade, and Energy Challenges in the Age of Trump."

"The president has every day been out there talking about making America strong again," a theme that began with his 2016 presidential campaign, Burr said. "You don't accomplish the position of strength by necessarily being the guy that's liked the most."

Jesse Helms, North Carolina's late, five-term U.S. senator, used to say, "You're able to use a big stick because people think you're bigger than life," Burr said. "And to some degree I think that's a model that President Trump's trying to emulate."

Trump believes America has been marginalized on the world stage, Burr said.

"The president wanted to change the landscape we negotiated from. He wanted to change America back to where we negotiated from a position of strength, whether we were negotiating a trade agreement or whether we were negotiating a security agreement," Burr said.

"It shouldn't be a surprise to anybody that the president immediately looked at NAFTA, Korea, TPP, trade with China, and said, 'Whoa, wait a minute. We've got to change the rules of the road because we've gotten the wrong end of this. We negotiated a bad deal,'" Burr said.

He believes the Trump administration will seal an agreement to



PRAISE FOR TRUMP. U.S. Sen. Richard Burr, North Carolina's senior Republican senator, discusses President Donald Trump's CIA nominee, Gina Haspel, and special counsel Robert Mueller's collusion investigation at the 30th anniversary event of the Jesse Helms Center Foundation.

PHOTO BY DAN WAY

"It was passed when the Back Street Boys were popular and hasn't been updated since then," Tillis said.

He explained why he sponsored a bill to protect special counsels from presidential firings. Many assumed it showed Tillis had a beef with Trump. News reports claimed the president considered firing former FBI director Robert Mueller, who is investigating allegations of collusion between the Trump campaign and Russians.

Rather, Tillis said, it was designed to claw back congressional institutional authority. The bill allows for a special counsel to be fired only by a senior Justice Department official for good cause. Tillis said with Democrats so opposed to Trump, the climate was ripe to get bipartisan support they would be unlikely to give when a Democratic president is in office.

"I'm completely convinced that President Trump has no intention of removing the special counsel," Tillis said. He got assurances from the president when he called Tillis on his cell phone as he was checking out of a home-improvement store last August, just days after the bill was introduced.

Tillis said he knows he remains in Trump's good graces because he has not been the subject of a presidential Tweet.

The special counsel bill has cleared the Senate Judiciary Committee but has not been taken up on the floor.

Danielle Pletka, vice president for foreign and defense policy studies at the American Enterprise Institute, said Trump should be applauded for not kicking the can down the road on North Korea as his predecessors have done.

Pletka praised his withdrawal from the Iran nuclear deal and his decision to reimpose sanctions.

"That may not result in the world loving us ... but that requires real leadership," Pletka said. "Sometimes leadership doesn't involve compromise."

restructure NAFTA in a few weeks. "Everybody will claim victory."

He said most Americans are unaware the Trump administration is deep into trade negotiations with the United Kingdom since its withdrawal from the European Union.

Burr said Trump is a disruptive force whether in trade negotiations with China, NAFTA, or Southeast Asia, or national security concerns with NATO, Russia, Iran, and North Korea.

His goal is not to harm permanent relations, but to create a playing field where both sides win and to develop rules with conditions that must be followed.

Burr said the media castigating Trump's hardline dealings with North Korea as a headlong descent into a nuclear confrontation. Instead, he planned a summit with

the hermit state's leader, Kim Jong-un, who released three American hostages and pledged to halt nuclear missile development.

Burr said he talked with many people from both sides of the aisle who negotiated the past two agreements that failed to keep North Korea from becoming a nuclear power. They said Trump's approach from a position of strength might be the last, best option at this point.

"Sometimes God uses a blunt instrument to make the changes he wants," Rouzer said. But Trump's successor probably will use a scalpel, he joked.

China will be our long-term adversary, Rouzer said.

"You've got to remember China is communist. Their values are not our values," Rouzer said. Trump is

right to stand up to China's practices of intellectual property theft and market manipulation.

"I appreciate the president's approach ... hang tough, and keep cool," Rouzer said. "There's no lack of confidence with this president. That's for sure."

"The president has a genius style that's working," Tillis said, noting the release of the Korean hostages and a recent poll showing optimism among the nation's corporate CEO's jumping 154 percent since the last quarter of the Obama presidency.

He supports Trump pulling out of the Iran nuclear deal and reinstating sanctions.

NAFTA hurt North Carolina's textile industry, but it is an important trade pact that needed review, Tillis said.



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MAP ACT

continued from PAGE 1

sel for the DOT, contends property owners can still sell their land — they are simply restricted from developing or subdividing it. Some people even bought Map Act property in Map Act zones because they believed they could get a return from the government, Watts said.

Hundreds of others, who thought they had no such investment opportunity — Shawn included — instead took DOT to court. They want DOT to pay for properties taken years ago.

The DOT reasoned the restrictions were temporary and no actual takings were made. Instead, Watts said, all land in Map Act corridors was simply restricted from further development or subdivision.

Landowners, and the N.C. Supreme Court, disagreed. Winston-Salem attorney Matthew Bryant, of the firm Hendrick Bryant, took the Transportation Department to court. On his desk are more than 400 cases.

He's still waiting for most of them to resolve.

"The way I equate it ... was to imagine the government came in and told you, 'I want your car, I'm not going to let you drive it, but you still have to pay the insurance on it, and I'll come around and get it whenever I want to.'"

Bryant has a straightforward goal. Get the DOT to pay for the properties it took.

That's not so easy, Watts said.

The department, he told *CJ*, would like nothing more than to appraise and buy properties. But every case is different. DOT may only need to buy portions of some properties as others may be fully acquired.

"Was the map over the whole property? Was the map over a sliver of the property?" Greer Beatty, DOT communications director, said. "Did the map go through an area that had other restrictions based on zoning? Did the map go across a homeowners association that wouldn't allow you to do anything anyway?"

"Each property has to be looked at uniquely."

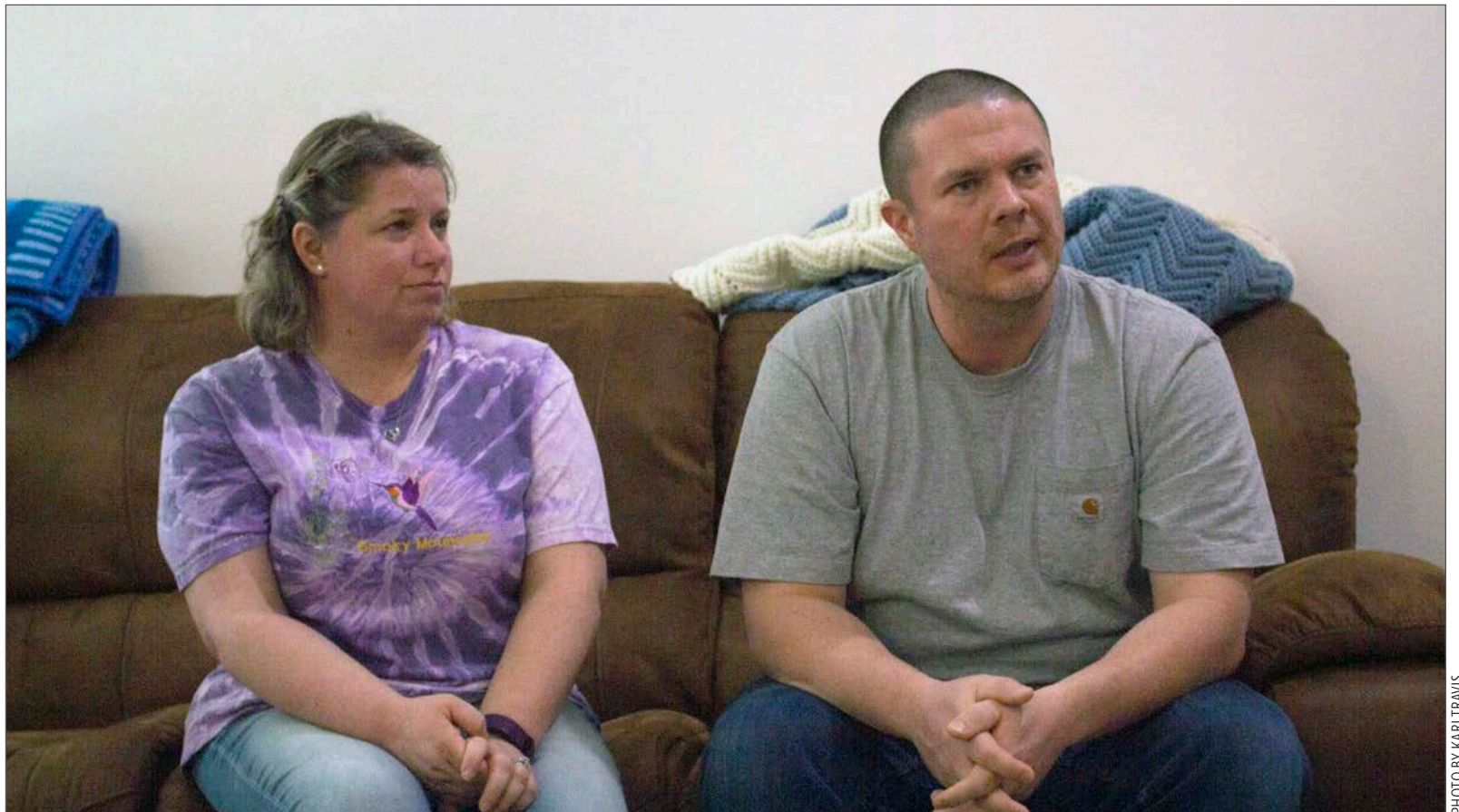
The department is working through each case in court, a process that so far carries a \$3.8 million price tag in legal fees. DOT has seven law firms on retainer, and there's no way to project how much DOT will have to spend before the cases are settled, Watts said.

Watts doesn't deny the price tag is large, but says the complexity in caseload should be considered, as well as the ultimate return on investment.

"If we have a case where the plaintiffs are demanding \$25 million, and we get it down to a few hundred thousand dollars, that ... dwarfs the amount of fees," Watts said. "That's the math we are looking at to be good stewards."



TARGETED FOR A BREAK-IN. Earlier this year, the Weeks house was broken into, which the family blames on the declining neighborhood.



"GETTING ON WITH IT" ISN'T POSSIBLE. Cindy and Shawn Weeks detail the difficulty of living under the Map Act.

Shawn Weeks doesn't see it that way. "That's absurd, because I am a taxpayer. At the end of the day, this is costing us more than it has to. DOT is bound to have accountants on staff. At some point, people have to say, 'You are costing us too much money. Let's just get it over with and get on with it.'"

"Getting on with it" isn't possible, Watts said, because the court rulings hold many uncertainties, and the DOT needs more direction from judges.

"It's just a very complicated is-

sue, and a sound bite doesn't really do it justice," Beatty said. "Everybody has a point of view, and every point of view is valid. It's a matter of how do you get to consensus."

Some legislators are pushing the DOT to reach that consensus more quickly.

"Long story short, they are not moving as quickly as they should. They are dragging their feet," said state Sen. Joyce Krawiec, R-Forsyth, who has been an outspoken critic of the Map Act.

Krawiec told *CJ* she may intro-

duce legislation to set a hard deadline for DOT. Twenty or 30 years is long enough for DOT to take action, she said.

"It has been the most horrendous instance of government taking advantage of citizens."

No one denies the Map Act was an unjust law, but DOT must balance the needs of both taxpayers and landowners. Rushing the process will disrupt that balance, Watts told *CJ*.

"Are we tired of being painted as the big, bad DOT? That's not

who we're trying to be," Watts said. "We're trying to be responsible to taxpayers."

While DOT sifts through each case, the Weeks family and others plan for an uncertain future. In the meantime, they must continue living in a house where taxes have grown and conditions have fallen.

"I think we're just in a waiting phase. We go on the internet and look at homes and try to get an idea of what we want. At the end of the day ... we really don't know how long it's going to take."

PHOTO BY KARI TRAVIS

PHOTO BY KARI TRAVIS

MAP ACT

'...like a cloud over our heads'

Highway corridor crushes plans for family farm

BY KARI TRAVIS &
LINDSAY MARCHELLO

Tawfiq Abdel-Ghani had plans to turn his property into farmland. He planned to build some greenhouses, buy a few chickens, and settle down with his wife, Fayda Abdel-Ghani. Together they would raise their children and live off their land like they did back in the Middle East.

But the N.C. Department of Transportation had other plans.

The Abdel-Ghanis' property is in the path of a protected corridor, set into place by the 1987 Map Act law. Lawmakers have placed a moratorium on the Map Act, but Tawfiq and his family are still struggling with its effects.

Tawfiq bought a total of three lots, the first in 1994 and the others a year later. His brother-in-law owns part of the property.

"This was an investment and a project for him to get out of the restaurant business and start doing

something," Raaid Abdel-Ghani, Tawfiq's eldest son, said. "It was to get back to his farming roots."

It wasn't long after Tawfiq bought the property that NCDOT came knocking.

"During this process, I told them I need to clear some property to build greenhouses," Tawfiq said. "They told me it was located in the corridor of [Interstate] 540, so you can't do any permanent structure over this area."

While part of his property was in the protected corridor, another part was protected wetland. Tawfiq couldn't develop his land the way he wanted. He tried to sell part of the property but couldn't find a buyer.

Raaid tried to get relief for his father, repeatedly contacting DOT for more information on the planned road, but he couldn't get the answers he wanted.

"They would tell us it is a study area, and you can't do anything with it. It was usually a low-level person. We would ask 'when,' and they wouldn't know. We would ask 'how,' and they would say they don't know," Raaid said. "It was just a bureaucratic brush-off with low-level people saying this is all



PHOTO BY KARI TRAVIS

STILL WAITING. (From left to right) Raaid, Fayda, and Tawfiq Abdel-Ghani are still waiting for NCDOT to pay them for their property.

they know."

DOT still hasn't paid the Abdel-Ghani family for the property, which the N.C. Supreme Court later ruled was a taking. Hundreds of landowners are still awaiting pay-

ment while DOT works on court-ordered appraisals. But time is key for Tawfiq and his family.

Tawfiq lives on a fixed income from his Social Security payments. His sons help him pay the proper-

ty taxes, which are around \$4,000 a year.

"It eats him up because he doesn't want us to carry his burden," Raaid said. "It is like a cloud over our heads. It is frustrating."

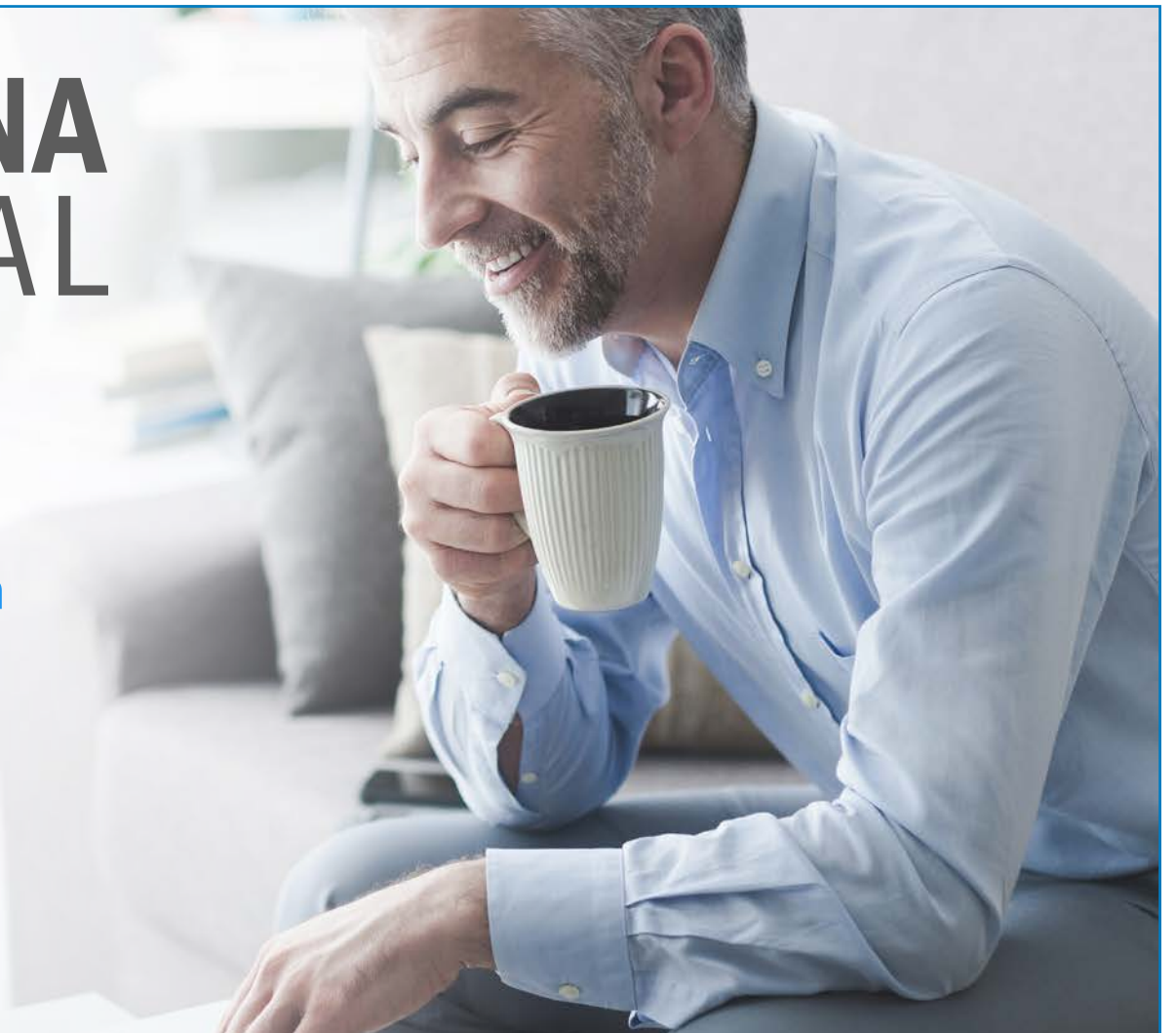


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MAP ACT TIMELINE

MAP ACT: A HISTORY

The Map Act, passed in 1987, allowed the N.C. Department of Transportation to file highway corridor maps that blocked local governments from issuing building permits. It also prevented landowners from subdividing property in the path of the planned highways.

The Map Act was designed as a temporary solution to help the state keep a lid on costs. But there was one major problem. DOT blocked use of the land and, in most cases, didn't pay landowners. The law left hundreds with land they effectively couldn't develop and couldn't sell.

Winston-Salem lawyer Matthew Bryant took interest in the case in 2009. In 2011, 24 years after the law was approved, landowners sued. More than 450 plaintiffs ultimately joined the lawsuit. The case climbed its way through the judicial system, eventually reaching the N.C. Supreme Court.

In 2016, the N.C. Supreme Court ruled in favor of landowners.

"Upon NCDOT's recording of the highway corridor maps at issue here, the Map Act restricted plaintiffs' fundamental rights to improve, develop, and subdivide their property for an unlimited period of time," the justices wrote. "These restraints, coupled with their indefinite nature, constitute a taking of plaintiffs' elemental property rights by eminent domain."

Property owners should be paid, but measuring payments would depend on market values both before and after DOT restricted their property, judges decided.

A Superior Court judge ordered NCDOT to complete appraisals in six months, but the process was too complicated to meet the deadline, said NCDOT General Counsel Chuck Watts.

Most are still waiting for a check from the DOT.

In March, Judge Bryan Collins gave DOT another six months to get the job done.

Aug. 7, 1987
The General Assembly adopts the Roadway Corridor Official Map Act into statute

Oct. 6, 1997
The N.C. Department of Transportation records a highway transportation corridor map with Forsyth County Register of Deeds, plotting the Western Loop of the Northern Beltway

Nov. 26, 2008
NCDOT records a second map plotting the Eastern Loop

Sept. 16, 2010
Landowners file suit against NCDOT in *Berth Oil Co. v. NCDOT*

Oct. 2011 – April 2012
Landowners file separate complaints against NCDOT in *Kirby v. NCDOT*

March 18, 2011
Plaintiffs in *Berth Oil Co. v. NCDOT* file a motion for class-action status

May 20, 2011
A trial court denies the motion for class-action status in *Berth Oil Co. v. NCDOT*

June 22, 2011
Plaintiffs in *Berth Oil Co. v. NCDOT* appeal the trial court's ruling denying class-action status

May 15, 2012
The Court of Appeals affirms the trial court's ruling denying class-action status in *Berth Oil Co. v. NCDOT*

January 8, 2013
In *Kirby v. NCDOT*, a trial court denies NCDOT's motion to dismiss the claim of inverse condemnation, but grants NCDOT's motion to dismiss the plaintiff's claims that NCDOT violated the U.S. Constitution and state constitution

Jan. 20, 2013
The trial court approves NCDOT's motion for summary judgment on the plaintiff's claims of inverse condemnation in *Kirby v. NCDOT*

Sept. 3, 2013
The N.C. Supreme Court hears oral arguments for *Berth Oil Co. v. NCDOT*

April 11, 2014
The N.C. Supreme Court issues a ruling in *Berth Oil Co. v. NCDOT* denying class-action but chastises the trial court for commenting on the merits of the claims

Aug. 12, 2014
The N.C. Court of Appeals hears oral arguments in *Kirby v. NCDOT*

Feb. 17, 2015
The N.C. Court of Appeals rules in favor of plaintiffs in *Kirby v. NCDOT*

May 29, 2015
MDC Investments files a complaint against NCDOT, seeking declaratory judgment that NCDOT took its property via the Map Act

Feb. 16, 2016
The N.C. Supreme Court hears oral arguments for *Kirby v. NCDOT*

May 6, 2016
Chapman family trust files a complaint against NCDOT seeking declaratory judgment NCDOT took its property via the Map Act

May 9, 2016
Robert Stimpson files a complaint against NCDOT seeking declaratory judgment that NCDOT took his property via the Map Act

June 10, 2016
The N.C. Supreme Court rules in favor of the plaintiffs in *Kirby v. NCDOT*

July 2016
The General Assembly effectively nullifies the Map Act

October 3, 2016
Superior Court Judge John Craig releases an order that DOT has 90 days to make deposits for the *Kirby* plaintiffs and seven months to make deposits for other property owners

November 2016
Superior Court Judge Bryan Collins releases an order setting a schedule for NCDOT to appraise Wake properties and begin making deposits

Dec. 6, 2016
NCDOT files a complaint against Chapman family trust seeking to take its property through direct condemnation

Dec. 13, 2016
NCDOT files a complaint against Stimpson seeking to take the property through direct condemnation

Jan. 11, 2017
Stimpson and Chapman file motions to dismiss NCDOT's claim, arguing that because there'd already been prior pending action and judgment on their property, NCDOT can't sue to claim it

Jan. 12, 2017
NCDOT files claim against MDC Investments to take its property under direct condemnation

Jan. 18, 2017
MDC Investments files a motion to dismiss NCDOT's claim, arguing there is already prior pending action and judgment on its property so NCDOT can't sue to claim it

Feb. 23, 2017
The trial court grants defendant's motion to dismiss in *NCDOT v. Stimpson*, *NCDOT v. Chapman*, and *NCDOT v. MDC Investments*

March 24, 2017
NCDOT files motion for relief from judgment in *NCDOT v. Stimpson* and *NCDOT v. Chapman*

April 25, 2017
The trial court releases an order denying NCDOT's motion to reconsider the Feb. 23, 2017, ruling. NCDOT appeals.

May 17, 2017
Court of Appeals hears NCDOT's appeal over Superior Court order

Nov. 13, 2017
Court of Appeals hears oral arguments for *NCDOT v. Stimpson*, *NCDOT v. Chapman*, and *NCDOT v. MDC Investments*

Nov. 21, 2017
In *Berth Oil Co. v. NCDOT*, the Court of Appeals rejects the state's argument that it had sovereign immunity from the lower court's order that it start compensating landowners

March 2, 2018
Superior Court Judge Bryan Collins releases an order that NCDOT must appraise properties within six months and make an offer to landowners to buy their land

March 20, 2018
The Court of Appeals rules in favor of landowners in *NCDOT v. Stimpson*, *NCDOT v. Chapman*, and *NCDOT v. MDC Investments*

2018-19 BUDGET

Secretive budget process efficient but bad for governance, analysts say

Conference process allows no amendments; GOP leaders say they're tweaking and improving two-year budget enacted last year

BY DAN WAY

Republican legislative leaders' decision to hold secretive budget deliberations was bad politics and could further motivate angry Democrats to flood the voting booth this fall, political observers say.

GOP leaders counter that the budget they unveiled May 28 merely makes some minor adjustments in the two-year agreement enacted last year.

In their view, Democrats used similar tactics when they had a lock on the General Assembly.

And the spending plan for the upcoming year is fiscally sound, including higher pay for teachers and state employees, more tax cuts, and a boost in state rainy-day savings — a tough budget to reject in an election year, Republicans say.

Even so, analysts say the choice to offer the budget as a conference committee report, allowing no amendments, gives Republicans, with supermajority margins in both legislative chambers, a tactical advantage.

"I certainly think that they recognize there's energy on the Democratic side," said Catawba College political science professor Michael Bitzer.

Cutting the process short will deny Democrats a high-profile platform in budget debates to criticize GOP policies.

"I think this could be the real test this November — how far a party can go in using absolute power to their advantage," Bitzer said.

"It's hard to compare, but it feels like the Democratic side is having their 2010 kind of a year."

In 2010 Republicans gained control of the General Assembly after more than a century of Democratic rule.

Rather than create a new 2018-19 budget bill, Republican legislative leaders chose to strip language out of an old insurance bill and replace it with a conference report



BUDGET BY CONFERENCE. The conference process shuts out minority party members.

featuring the \$23.9 billion General Fund budget plan. Lawmakers could vote only up or down.

Democrats condemned the tactic on Twitter.

"The disregard for the spirit of the democratic process is breathtaking," wrote Senate Minority Leader Dan Blue, D-Wake. "There is a real fear of civil discourse from #ncga leadership."

"Perhaps we can make it much more 'efficient' for #ncga leadership" to pass a budget, said House Minority Leader Darren Jackson, D-Wake.

He sarcastically suggested Republican lawmakers "could just sign a proxy [and] let just a handful of people write it and then approve it."

"Transparency is a hallmark of a democratic republic, and when the process is done behind closed doors, and only presented for ratification where the votes are already there, it raises real questions about the civic process," Bitzer said.

Shelly Carver, a spokeswoman for Senate leader Phil Berger, R-Rockingham, disagreed with the critics.

"The purpose of the short session is to adjust the two-year state budget that was fully vetted, debated, and passed over a six-month period last year — not to write an entirely new plan," Carver told *Carolina Journal* by email.

"Lawmakers of both parties will have the opportunity to vote on the bill, and make their voices heard," Carver said.



Analysts say the choice to offer the budget as a conference committee report, allowing no amendments, gives Republicans, with supermajority margins in both legislative chambers, a tactical advantage.

"But we fully expect legislative Democrats and Gov. Cooper will attempt to use this to justify their opposition to a budget that will include a fifth consecutive teacher pay raise and substantial tax relief for millions of North Carolinians."

Joseph Kyzer, spokesman for House Speaker Tim Moore, R-Cleveland, defended the budget process.

"As appropriations leaders have emphasized, the legislature is only making adjustments to the biennium budget passed last year based on the state's \$356 million revenue surplus and record reserve fund," Kyzer said.

"This year's state budget will continue to deliver strong investment growth in North Carolina's priorities like education and public safety while maintaining tax relief for families and businesses," Kyzer said.

The process Republicans chose is legal, but unconventional, according to Gerry Cohen, former General Assembly special counsel.

He told the *News & Observer* he researched budget bills dating to 1985. This is the first instance when amendments would be prohibited on the House and Senate floors.

Over 34 years, only three times did one chamber adopt the other's budget without amending it.

But former House Majority Leader Paul "Skip" Stam recalls Democratic power plays. "We protested loudly" as a minority party in 2007, the Wake County Republican said.

Republican senators urged their House counterparts to pass the Senate's budget unamended. Minority House Republicans sought nine Democratic colleagues to join them, backing the Senate budget so it wouldn't go to a conference committee.

House Democratic leaders foiled the scheme. The ensuing conference report contained a half billion dollars of new spending neither the House nor Senate had approved separately.

It also created land transfer taxes that had failed in both chambers.

"I won't say there was no debate, because we debated it hard. But just like this one, there will be debate but no amendments, and no real part of the process," Stam said.

In 2004, Stam said, Democrats brought a budget conference report to the House floor for an immediate

late-night vote.

Stam objected, and then-House Speaker Jim Black allowed representatives less than an hour to review 500 pages of budget documents before voting.

N.C. State political science professor Andy Taylor said Republicans' decision to budget by conference report is not surprising.

Power has crystallized for many years among a small cadre of leaders who control budget decisions, the legislative process, committee appointments, and district maps.

Veteran lawmakers who weren't part of negotiations didn't know what would be in the final package and bristled at being excluded.

Retiring state Rep. John Blust, R-Guilford, had spoken in late April about the concentration of power. In a letter to House and Senate Republicans dated May 10, he strongly urged colleagues to reject a budget dropped into a conference report.

He said Republicans have accelerated abusive practices Democrats started.

"It is elementary that each citizen of this state is entitled to equal representation in the chambers that make the laws which those citizens are bound to follow," Blust wrote. "This is fundamental constitutional law and fundamental to the very essence of a republic. It should never be abused or traded away for any reason short of a public emergency."

The conference process shuts out minority party members, Taylor said. But rank-and-file majority members also are affected because they can't offer amendments.

Rep. Jeff Collins, R-Nash, who's also retiring at the end of the session, said the conference committee approach would be OK merely to tweak the budget.

But the Republican caucus is split. Big policy issues or objectionable spending items inserted into the final plan were bound to prompt some critics to vote against it.

UNC-Greensboro political science professor Thomas Little said legislative leaders may prefer a speedy process, but it doesn't inspire faith in representative government.

"It's not a healthy process for democracy. If your argument is efficiency, democracy's not efficient. That's not one of its qualities. Never has been, never will be," Little said.

"The quality is representation and responsiveness, and you don't get either with this."

CI FILE PHOTO

BEER BATTLES

Court rules: Brewers' lawsuit against state moves forward

BY JOHN TRUMP

A Wake County Superior Court has ruled against the state of North Carolina in a lawsuit seeking a permanent injunction against enforcement of the state's distribution cap and franchise laws on breweries.

The complaint — filed last year by Craft Freedom LLC, The Olde Mecklenburg Brewery LLC, and No-Da 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.

A subsequent motion filed by the state says the complaint should be dismissed with prejudice, and asserted the challenge, according to statute, must be heard by a three-judge panel of the Superior Court.

Superior Court Judge Allen Badour, who heard the complaint March 20, issued the ruling May 15.

"We are pleased with the Court's ruling, which rejected the State's arguments for dismissal and held that we sufficiently alleged that these laws are unconstitutional," Drew Erteschik and Bob Orr, lawyers for the brewers, said in a statement.

"Our craft brewery clients, the entire craft beer community, and craft beer consumers across North Carolina can all share in this major victory."

The ruling allows the lawsuit to proceed toward a trial.

"We are grateful for the Court's ruling today," Olde Mecklenburg founder John Marrino said. "Today's victory upholds the basic principle that the government cannot enrich one group of private parties at the expense of another."

Craft Freedom, in a news release, announced it immediately issued subpoenas to distributors and others. "These subpoenas seek information about distributors' political contributions, as well as communications involving their lobbyists."

The plaintiffs challenge "the constitutionality of state regulations that do not protect the public, force consumers to pay higher prices, and benefit private beer distributors at the expense of the hard-working craft brewers who have made North Carolina one of the leading craft beer states in the nation."

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."

The plaintiffs' brief includes a deposition by N.C. ABC Commission Administrator Robert Hamilton.

"In his deposition," the brief

says, "the state's top beer regulator offered a number of damning revelations." Craft Freedom says that includes "an illegal contract with Anheuser-Busch to suppress craft beer sales and push Anheuser-Busch sales by giving Anheuser-Busch beers priority over all other products."

Dustin Canestorp, founder of Beer Army LLC, filed an affidavit May 15. It 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.

Beer Army, says the affidavit, is a nonprofit fundraising company with the mission of organizing beer festivals to raise funds for various charities, including charities focused on helping veterans.

"I am providing this affidavit to the plaintiffs in this case of my own volition, and in exchange for nothing," Canestorp says in the affidavit.

"I believe that the laws that the plaintiffs are challenging are laws that are taking away our American freedoms — specifically, the freedom to control the businesses that we build with our own hard work," Canestorp says.

"Having fought and risked my

life for those freedoms, and having been the victim of our State's misguided laws, I am compelled to come forward and share my story in the hope that it will illustrate how truly unjust North Carolina's system of beer distribution has become."

Special Deputy Attorney General Matt Tulchin on March 20 argued the state, specifically the N.C. Alcoholic Beverage Control Commission, does indeed have far-reaching authority in controlling alcohol consumption and sale.

The commission has, over the years, developed a complex statutory scheme toward that end, beginning with the 21st Amendment and the implementation of the state ABC system in 1937.

"The alcohol industry is different, and the regulation of the alcohol industry is different," Tulchin said in court.

Decisions regarding those rules are left to the state.

"We live in America, the land of the free," Marrino said in a statement. "Yet our small craft breweries are being punished because one small group of well-connected business owners have greased the skids for years. Now it's time to find out just how much grease has been applied."

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COMMENTARY

The teacher walkout and its aftermath



DR. TERRY STOOPS
VICE PRESIDENT FOR RESEARCH
JOHN LOCKE FOUNDATION

The day after thousands of teachers gathered in Raleigh for a walkout that shuttered schools for two-thirds of the students in the state, Pope “Mac” McCorkle, a political consultant and public policy professor at Duke University, observed that it “could be the start of something much bigger with significant impact in the 2018 election.” The voting public’s response is less certain than the fact that the union-organized rally was designed to have a significant impact in the November election and beyond.

The leadership of the N.C. Association of Educators, the state National Education Association affiliate, openly admitted the prospect of electoral change underlies the walkout. Referring to



the N.C. General Assembly, NCAE president Mark Jewell told WRAL news, “We don’t anticipate much change from this group. So, we’re going to change the players in the game.” The NCAE’s sheet of prepared chants included “Remember, Remember, We vote in November!” Most speakers expressed the desire to weaken or depose the Republican leadership of the General Assembly through the ballot box, much to the delight of the Democratic politicians who appeared on stage with NCAE leaders.

Those who coordinated the walkout recognize that their efforts won’t yield immediate results. The 2018 short session is under way, and the Republicans in the General Assembly maintain a supermajority that will overturn a likely budget veto issued by Gov. Roy Cooper. As they have done in the past, lawmakers will approve a prudent plan that does not raise taxes, spends no more than the combined rate of inflation and population growth, and stashes millions in the state rainy day fund. Teachers will

receive their fifth consecutive pay raise, an average 6.5 percent salary increase for the upcoming school year, and additional state dollars will flow to teachers for retirement, health benefits, and performance pay initiatives.

Instead, event organizers are playing the long game, working toward a restoration of the trifecta: control of the legislature, governor’s mansion, and the courts. With a Democrat in the governor’s mansion and a Democratic majority on the state Supreme Court, the legislature is the obvious target. It is also the most critical one. The N.C. Constitution affords significantly more power to the General Assembly than the other two.

If the Democrats regain the legislative majority, they likely will use their power to raise corporate and personal income taxes for the benefit of school districts, halt the expansion of North Carolina’s booming private school-choice programs, and subvert the state’s thriving public charter school market by imposing onerous regulations and restrictions. Taxpayers will hand over more of their hard-earned dollars to school

district bureaucracies and enjoy fewer educational options for their children.

Despite the stated goals of walkout organizers, some have claimed the walkout transcended partisan politics because participants spoke broadly about their passion for educating children and their genuine desire to improve the system that gives them that opportunity. And surely it could not be classified as partisan if the protest included Republicans, Democrats, and unaffiliated voters, right?

I have little doubt that there were scores of naïve teachers who didn’t conceive of their participation as a political act. But their participation will be used for political ends. As McCorkle points out, “Such visually rich, outdoors events as the teachers’ ‘all-red’ protest tend to be far more effective in planting lasting memories in the minds of less partisan, average voters.”

In the end, I suspect the event organizers cared less about teachers’ classroom activities and the diversity of their viewpoints than their enthusiasm for traveling to Raleigh to create a politically potent photo op.

Scholars agree N.C. should pick, ‘stick to’ one judicial selection process



MITCH KOKAI
SENIOR POLITICAL ANALYST
JOHN LOCKE FOUNDATION

IT’S NO SHOCKER that a fan of partisan judicial elections urges North Carolina to maintain its current system for selecting state judges. More surprising? A skeptic of partisan elections also urges caution as lawmakers consider changing the system.

The fan and the skeptic both took part in a May 7 judicial selection forum at Campbell Law School in Raleigh. The John Locke Foundation and Western Carolina University’s Center for the Study of Free Enterprise co-hosted the panel discussion. Organizers wanted to inform an ongoing debate among lawmakers.

As of 2018, the status quo means partisan elections for judges across the state. You’ll hear no argument against that system from Chris Bonneau, associate professor of political science at the University of Pittsburgh. For the second time in three months, Bonneau traveled south to tout the benefits of parti-

san judicial elections. (He offered a similar defense of North Carolina’s current system during a Feb. 15 panel discussion in Raleigh sponsored by the Federalist Society.)

“Partisan elections provide the courts with an independent system of power and authority that you don’t get with appointed systems,” Bonneau told his Campbell Law School audience.

In addition, partisan elections offer the most transparent form of judicial selection, Bonneau said. “There is no apolitical method of judicial selection,” he said. “Politics is always involved when we’re talking about selecting judges. So the question is: Do you want your politics up front, and visible, and transparent, or do you want them behind closed doors?”

In addition to transparency and the independent source of authority linked to partisan elections, Bonneau stresses the information provided to voters. “Party ID is the single most important piece of information any voter can have in any election.”

Given his endorsement of the current system, it makes sense that Bonneau ended his prepared remarks with a warning. “Y’all need to pick a system and stick to it.”

“If we’re concerned about the legitimacy of courts, we need to protect them,” he added. “What

that means is we can’t simply change the method of selection or change how the courts function simply because we don’t like the outcomes we’re getting from decisions or we’re worried we’re not going to win elections.”

It’s easy for Bonneau to argue against major change. The status quo mirrors his policy preferences.

It’s not as easy to argue against change when you hold doubts about the current system. Count among the skeptics Edward Lopez, WCU professor of economics.

While moderating the May 7 debate, Lopez stated his concerns. He emphasized academic research and opinion polls focusing on the performance of state legal systems. That includes the systems’ reputation within the legal community.

“In a recent national survey of 1,321 practicing attorneys, North Carolina ranked 33rd out of 50 in the overall quality of the legal system,” Lopez said. “That is down 26 spots from the state’s seventh-place ranking in the 2015 version of that study.”

“Why the big drop? Research suggests that the reason we have dropped in that ranking is due to the switch to partisan judicial elections.” Lopez noted that the drop mirrors findings of an academic study cited in his 2010 book, *The Pursuit of Justice*.

Lopez pointed to other research that suggests links between partisan judicial elections and higher levels of government corruption. “Criminal convictions tend to spike before elections,” he said. “Is this the way that an impartial normative analysis of our legal system would prefer that it works? Do we really want criminal convictions to be affected by the proximity of ... an election?”

Elections also appear to have an impact on the size of lawsuit judgments, Lopez said. “In elected systems, tort decisions are orders of magnitude higher than in appointed systems, which affects the business climate in the state.”

Despite his obvious concerns about partisan judicial elections, Lopez is not endorsing a quick, large-scale overhaul of the current system.

During an interview with Carolina Journal Radio, he emphasized that any consideration of a new judicial selection system would have to take account of factors that could limit judges’ independence and accountability.

What if lawmakers ultimately decide to stick with partisan elections? “I think the decision — if it is representative of what the people of North Carolina communicate is their desire — then that is the right thing to do,” he said.

“Once the policymakers in our state decide on a system, we’re all better off if they just stick with that system instead of going back and forth between partisan and nonpartisan to maybe going to an appointment and then going back to elections at some point in the future.”

“Stability in our judicial institutions matters a lot to the well-being of the people in the state,” Lopez added. “I would encourage those policymakers to pick a plan and stick with it.”

That sounds like the warning Bonneau delivered during the panel discussion. “Nobody likes uncertainty,” Lopez agreed.

Lawmakers who reconvened May 16 in Raleigh will have plenty of work to do in the coming weeks. They are revising the state budget. They are addressing school and prison safety concerns.

They are approving additional measures related to GenX dumped in the Cape Fear River. Legislative leaders have signaled their interest in finishing these and other major pieces of business by July 4.

Does that leave them time for a major overhaul of the state’s judicial selection system?

Based on the advice of both a fan and a skeptic of the current system, it might make more sense to stick with what we have.

EDUCATION

Six ideas to depoliticize the American campus

The politicization of higher education is a huge societal problem. Even though there's an overwhelming consensus universities' ultimate purpose should be a search for the truth, this is increasingly not the case.

But that doesn't mean we have to submit to this assault on the open society. There are also hopeful signs. The Martin Center asked representatives from leading academic reform organizations for ideas on how to build on recent successes. Here are their solutions:

TOM LINDSAY

TEXAS PUBLIC POLICY FOUNDATION

Most college graduates older than 55 remember that their best teachers refused to allow themselves to be pigeonholed as mere hawkers of one political agenda over another. They refused to do this not because they were politically indifferent, but because they knew that their job was to teach, not indoctrinate.

On both constitutional and prudential grounds, what is required to depoliticize our schools are measures that reduce the federal role in higher education. The main way to accomplish this is by making state accreditation sufficient for receipt of funding authorized by Title IV (of the Higher Education Act).

With states in control of Title IV authorization and free to experiment without the federal government imposing conformity on them, the states would become again the laboratories of democra-



cy the Constitution intends them to be.

DAVID RANDALL

NATIONAL ASSOCIATION OF SCHOLARS

The one thing legislators should do to depoliticize higher education is to make colleges and universities co-responsible for student loans — the so-called “skin in the game” policy. If these institutions were responsible for some significant amount, say 30 percent, of each student loan, they would acquire several incentives to change in positive ways. None of these incentives are directly political, but each of them would reduce the opportunities for the politicization of higher education.

Make colleges and universities co-responsible for student loans, and they will also have an incen-

tive to have students learn skills that actually qualify them for well-paying jobs in the work force. Junk politicized courses, or junk politicization of solid courses, will run up against the incentive of colleges not to lose money.

JENNIFER KABBANY

THE COLLEGE FIX

Higher education is past the point of no return. Proactive parenting is the only solution. While vocational schooling, tech opportunities, independent entrepreneurship programs, the military, and other pathways offer strong alternatives to the kindergarten-to-university pipeline, they don't fill all of society's training needs.

We must prepare our youth for the intellectual battle they will face when they enter the higher education arena. That means

proactive parenting is essential. We may not be able to altogether reform higher education, but we can arm our children with facts, awareness, and logical reasoning that will counteract the half-truths and bias lobbed at them by professors.

JAY SCHALIN

JAMES G. MARTIN CENTER FOR ACADEMIC RENEWAL

One way to push back against politicization is to empower alternative alumni groups. Currently, most official alumni organizations are controlled by their administrations. As a result, some of the most important voices are missing from the governance of the Ivory Tower.

Enabling alternative alumni groups to thrive could disrupt the administration's control of information. Since individual alumni (or small groups of them) often have deep inside knowledge of the college, they would be able to spread the word rapidly through the alumni network — and from there enter the public arena. In this way, corruption and politicization could be countered.

DEBRA MASHEK

HETERODOX ACADEMY

Those of us in academia must work to change campus culture from the bottom up to ensure a free and open exchange of ideas. We can best accomplish this by helping students, faculty, and others develop the skills for “constructive disagreement.”

In constructive disagreement, perspectives are raised, considered, and challenged with a shared commitment to mutual inquiry. It is typified by fearless, respectful engagement with others. While essential to learning and strong research, constructive disagreement isn't easy. It requires a range of cognitive, emotional, and social skills, including intellectual humility, curiosity, resilience, respect, perspective taking, and empathy.

KAREN HYMAN

AMERICAN COUNCIL OF TRUSTEES AND ALUMNI

The phrase “viewpoint diversity” has become the locution du jour for what was long called “ideological diversity.” When it comes to the serious ills besetting our universities, calling for any brand of diversity — be it racial, class, gender, or viewpoint — is a common response. But, as a curative for education's ills, focusing on creating viewpoint or ideological diversity is bound to come up short.

Higher education reformers need to seek practical ways to solve university problems with a return to the liberal arts: the pursuit of truth, the self-critical and self-reflective use of reason, and humane learning balanced by a sense of humility about human limits. We need to build frameworks that will promote the best of the liberal arts.

From invited contributors to The James G. Martin Center for Academic Renewal



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EDUCATION

What to know about teens, nicotine, and ‘JUULing’



KRISTEN BLAIR
COLUMNIST

The latest device flooding schools resembles a flash drive but doesn't store data. Its purpose: delivering a flavored nicotine hit. Called a JUUL, it's a hipper, younger iteration of the e-cigarette, which debuted a decade ago. Adolescents, who love JUUL's super-slick appearance, brand magic, and fun flavors, have sparked "JUULing" mania. It's a terrifying trifecta of teen pleasure-seeking, peer pressure, and trendy tobacco product. Health experts and policymakers — years into youth tobacco prevention efforts — know this battle is a big one. They're in it to win it, but they'll need an army of messengers to help.

Statistics confirm new users are looking more like Hannah Montana than the Marlboro Man. State data show e-cigarette use increased from 1.7 percent to 16.8 percent of high schoolers between



2011 and 2015, an 888 percent uptick; use among middle schoolers rose from 1 percent to 6.99 percent of students, a 600 percent increase. National numbers reveal similar trends. "We're very concerned with the rise in e-cigarette use among middle school as well as high school students," says Jim Martin, director of policy and programs for the Tobacco Prevention and Control Branch of the N.C. Department of Health and Human Services.

Young users face long odds of walking away. "JUUL is highly

addictive," notes the American Academy of Pediatrics. "Kids are getting so much nicotine that they're vomiting at school," says Martin. E-cigarettes heat e-liquid, creating an aerosol that users inhale. E-liquid in one JUUL pod delivers as much nicotine as a pack of cigarettes. That might surprise some. "Many kids we've talked to feel like it's flavored water," says Martin.

Early research on health effects is concerning. Toxicologist Ilona Jaspers, deputy director of UNC's Center for Environmental Medi-

cine, Asthma, and Lung Biology, has found a "unique response pattern" in the respiratory immune responses of e-cigarette users. "What is this going to do long term? Is this reversible? All of these things we don't know yet," says Jaspers, adding, "Atypical patterns give me concern."

Even flavorings, safe to ingest, can be toxic when inhaled. Cinnamaldehyde, used for cinnamon flavoring in e-liquids, "completely shuts down immune cells that are the first line of defense, cells that are patrolling airways and gobbling up invading pathogens," says Jaspers. Her study of lung cell physiology shows cilia stop beating following cinnamaldehyde exposure. "It's reversible," Jaspers says, but one exposure "completely shuts down the ability of cilia for about two hours."

Kids need to know about risks. DHHS is working to educate teachers and administrators, and is reaching out to school nurses, PTAs, pediatricians, and others. "It's going to take a multipronged strategy," to effect change, says Martin.

Schools need guidance. Along with the Department of Public Instruction, DHHS sent a letter

to school superintendents and charter school directors, informing them that e-cigarettes are covered under schools' 100 percent tobacco-free policies and aren't permitted on campus. State statute also prohibits e-cigarette purchases by minors.

Education is critical: DHHS has provided schools with information about Catch my Breath, an e-cigarette prevention curriculum, Martin says. For kids caught using e-cigarettes, he recommends Aspire, a program explaining nicotine dangers and ways to quit, as an alternative to suspension.

Teens, already jaded JUULers, are taking action themselves. The "JUULers against JUUL" video, created by two teens, features the stories of fresh-faced addicts. Uploaded in May, the video garnered more than 50,000 views during its first week. Both parents and kids should watch it. Jaspers, who told me about the video, shared it with her teens. I had my 16-year-old watch it.

Kids need the truth about e-cigarettes. It's up to all of us to make sure they get it.

Kristen Blair is a Chapel Hill-based education writer.

Feminist activism masquerading as education



SHANNON WATKINS
COLUMNIST

THE SUPPOSEDLY academic discipline of women's studies is "an arm of the women's movement," according to philosopher Christina Hoff Sommers. And that movement is political — political activism is at least as fundamental to women's studies as its academic components.

As it says in the National Women's Studies Association's constitution, the underlying goal of women's studies departments is that of "transform[ing] the world" to one "free of oppression." One can argue whether that goal is overly ambitious. It's hard, however, to argue it isn't political.

One area in which this politicized agenda reveals itself in full is the euphemistically named "experiential learning" programs run by campus women's centers. Not only do women's centers approach issues in terms of a specific ideology,



they also mobilize students to put that ideology into practice.

Such blatant activism is not how academic units at public universities are supposed to conduct themselves. The purpose of education at public universities — and in some cases, private — is not to advance ideologies; rather, it is to instill students with the capabilities to come to their own conclusions through properly academic methodologies.

And it appears that women's centers and programs within the UNC system often fall short of that

purpose. At the University of North Carolina at Charlotte, for example, there's a program titled "Gen-X: Where Academics Meets Activism." Students admitted to the program function as a "community," where they usually live in the same housing and attend the same classes. Gen-X students focus on "social justice and activism work" and are required to take a class on "Gender, Activism, and Leadership."

But the women's and gender studies program at UNC-Charlotte is not the only one with an activist bent. UNC-Chapel Hill

has a program called the Moxie Project. The aim of the program is to train students through coursework and internship experience to be feminist activists in their local communities. One Moxie Scholar claimed that:

"All education, whether in the field of English, Biology, or History, is inherently political — especially in a public university system, threatened with the closure of entire campuses ... and budget cuts."

Other organizations that Moxie Scholars have worked with include: The National Abortion and Reproductive Rights Action League — NARAL Pro-Choice — the N.C. Justice Center, and Women AdvANCe — a progressive-leaning, pro-choice nonprofit. Despite the women's center's apparent partisan leanings, it has received generous support from the state.

A quick look around North Carolina reveals other examples of similar politicization. UNC-Wilmington's Women's Studies and Resources Center is also steeped in radical feminist values. For one, in collaboration with NARAL Pro-Choice, the center sponsors an "Activist in Residence Series." In 2014-2015, the center invited Emily Letts — known for filming her own

abortion — to speak to students. (UNCW, along with UNC-Chapel Hill and UNC-Greensboro, grant students course credit for interning with abortion provider Planned Parenthood).

It's important to note that not all activities at women's centers are blatantly ideological. They do positive things, such as providing counseling and helping homeless, abused, or incarcerated women. Indeed, some might defend women's centers because of the health services they provide students such as counseling. But those services can be provided at campus health and counseling centers.

Indoctrinating students with specific ideologies and then creating corresponding programs for them to put those ideas into practice isn't education — it's recruiting political actors and most certainly is not the purpose of higher education. It may be time for the state to take a good look at its universities' women's programs and see which are excessively political and which — if any — serve an educational purpose.

Shannon Watkins is a policy associate for The James G. Martin Center for Academic Renewal.

POLITICS

Lieutenant governor doubling down on his priorities

INTERVIEW



Dan Forest
Lieutenant Governor

While Gov. Roy Cooper and members of the N.C. General Assembly scramble to check items off their to-do lists during a short session, Republican Lt. Gov. **Dan Forest** is doubling down on his own priorities.

An architect, and the state's second-in-command since 2013, Forest is an advocate of charter schools and private school vouchers. He has taken staunchly conservative stances on First Amendment rights and family issues.

This year, Forest — like many others — is setting his sights on school safety. But 100 counties are a lot to consider, and the legislature should critically consider local and state responsibilities, Forest says.

Forest is pushing for computer science and financial literacy courses in all schools, projects that aren't a "heavy lift," but that will take time and energy from lawmakers and teachers.

On May 7, Forest sat down with *Carolina Journal* Associate Editor Kari Travis.

KT: School safety is clearly a pressing issue for you. How much do you anticipate it costing to fund student resource officers for every public school in North Carolina?

DF: [Gov. Roy] Cooper has a plan out there. The legislature is going to have a plan. I think we're going to be all over the place in [terms of] dollars ... but I think the balance will be struck when we determine what the counties' role is. Counties always point their fingers at the state as though the state is going to solve all their problems, and that's just not the way it's supposed to be. We're No. 6 in the country for state education spending. So, the counties aren't pulling their weight in North Carolina as they are across the country.

I think we need to push back and not say "we're going to bite all of this off at [the state] level." Counties are going to have to pick some of this up. And part of me wants to say shame on the counties for not addressing this already. Where is their responsibility? It's not like there haven't been issues [in schools] before. We have schools all over our state that have no technology whatsoever. They have open doors. And you point to the state and say "shame on the state" for that? No, there's personal responsibility.

There's responsibility for the parents. There's responsibility for the school board at the county levels. There's responsibility for the county commissioners. [Yet] there are many places in the state saying this is the job of the legislature. The legislature can't possibly know the right solution for 100 counties.

KT: What accountability measures should be established to ensure we're hiring the best SROs for each school?

DF: I think they should have a clean background, just like everybody else that works in a school. There are military veterans that could serve in those roles. [Some] sheriffs' departments are already stepping up and saying, "We want to provide



DAN FOREST ON MENTAL HEALTH: 'Schools shouldn't be a mental hospital for people with those disorders.'

these resource officers." Sometimes they want to do it [during work hours], and sometimes they want to do it as a second job for the sheriff's deputies. Sometimes SROs may be armed teachers in the classrooms who are military veterans or may [be teachers] who have their concealed-carry permits. [Teachers] should be allowed to participate if they say, "I want to be part of this system, however this system works." Some people say, "Don't arm teachers." Well, I think if a teacher has their concealed-carry permit, and they're perfectly willing to help protect their students, why would you not [allow that]? If you have 10 armed teachers in school, that's going to be a whole lot better than none.

The General Assembly is going to have to write the rules for what kind of background checks [we should do]. [They're going to have to determine] what we're looking for in those officers. In most cases I think they're going to be police officers, retired veterans, and retired police officers. SROs aren't going to be hard to find. There are a lot of people out there who want those jobs.

KT: Some say increased security could instill a kind of militant enforcement unless we establish trust between law enforcers and students. What kind of training should we

put in place to promote relationships between SROs, students, and teachers?

DF: I don't think it takes a lot [of training.] I don't think you have to go out of your way. I mean, the training should be letting [students] watch the video of the shooting in Parkland. Let them watch the video of Columbine. SROs are there to protect you. Why should you not trust them? What are they going to do? SROs aren't there to have an adversarial relationship [with students and teachers]. They're there to protect them, just like a police officer.

KT: How do you propose we care for children with mental and behavioral health issues?

DF: Mental health in general is a train wreck right now. Schools were never intended to be mental health providers for our communities. They were never intended to be the place where you would send your kids so that they could get two square meals a day. But that's what has happened all across America. We've overpoliticized everything in America, so now we say, "Oh, let the government schools handle everything else." So now mental health is handled in our schools.

Obviously, this is an issue that parents need to be

responsible for. I think that what you're seeing is the blowback of the pendulum swinging from one side to the other. Thirty and 40 years ago we were saying the mental health institutions like Dorothea Dix were horrible places to put patients, so public outcry was to shut all of those down. Then you saw all the people dealing with those issues being held in hospitals and prisons. Hospitals and prisons couldn't deal with it any more, so we have kids in schools who have mental issues, and now schools have to deal with that, as well. You need professionals who know how to deal with those issues. Schools shouldn't be a mental hospital for people with those disorders. But that's what we're clamoring for today. You saw it in the governor's budget. He has \$40 million in there for mental health in schools. We need to start asking: Why are we asking the government and the schools to handle these problems?

KT: You've outlined financial literacy as a priority in public schools. When you say "financial literacy," what specifically do you mean? What will those courses look like?

DF: [I'm talking about] financial literacy courses that have curriculum that can fit into either an economics class or into several weeks of home economic classes or those kinds of social studies. We would like to see [financial literacy] become mandatory. Right now, it's not. We don't believe you necessarily need to have a full semester of [such courses], but it needs to be enough of a class that the basics are covered. It certainly should include things like balancing your checkbook. [Students should] understand how finances work. For some people it's learning about buying and selling stocks. It's understanding what mortgages are, understanding what debt looks like, understanding loans. You know, all of the basics. There's more American student debt than there is American credit card debt right now. That's pretty scary. Students are

coming out [of college] with \$80,000 of debt, and then they expect someone to relieve their debt.

KT: What drew your attention to that issue? How long will it take to implement?

DF: [We] used to teach all of this in economics classes, but now we don't even see economics being taught in most cases. I think it's just a change in times like everything else. We put all of these priorities on teachers and tell them "these are the things you have to teach." And there's only so many hours in a week or in a school year. Something always has to be cut. What we don't do is go back through and say, "What are the most important things we should be teaching?"

KT: Let's move on to computer science education, another priority you've discussed. How do you plan to attract experts from technology fields when those professionals can collect significantly more pay in other jobs?

DF: We're not going to hire computer science professionals to go into the classroom. That's been the failure of the program all along. People think we have to go get people from the industry to teach it. We've gotten Code.org, [among others], to bring [a training] program into our schools. [Code.org has] developed a curriculum online, and they go in and train existing teachers in the schools to facilitate computer science education in the classroom. We can roll [this program] out in three or four years. When we started this initiative a year ago we had about 20 teachers actually trained for computer science across all of our schools across the state. By 2040, close to 80 percent of our jobs will have some component of computer science. So we're behind. We need to make sure that all high schools are teaching this. [We need this] at all elementary schools and such down the road. And don't get me wrong; a lot of schools are. But we're missing a lot of opportunities at the high school level.

POLITICS

Partisan divide does not block search for political solidarity



Yuval Levin
Editor
National Affairs

It's no secret that recent American politics has featured a sharp partisan divide. **Yuval Levin**, editor of *National Affairs*, documents the impact of that divide in his recent book, *The Fractured Republic*. Despite our divisions, Levin devoted his recent John W. Pope Lecture at N.C. State University to the idea that Americans are searching for political solidarity. Levin discussed this concept with Mitch Kokai for Carolina Journal Radio.

MK: As we mentioned at the outset, no one should be surprised if we're going to talk about a partisan divide.

YL: Right.

MK: But you did focus on this notion that, despite the divide, that there is a search for solidarity. How do you see this?

YL: Yeah. You know, I think even in some respects because of the divide there is a desire for unity, a desire for solidarity. One of the problems we have in our politics is that our parties are deeply divided about how the country ought to be unified. And that's a challenging thing to be divided about. But I think that if you listen to each party, there is a strong desire to offer people ways of coming together, to offer people ways to be unified, so that in the language that comes out of today's Republican Party — and, in some respects, also from President Trump — the idea is that we ought to find ways to unify Americans by drawing clearer lines between “ours” and “others.”

[It is] a concern for “Americans first,” for although that language certainly does have a dark past, it seems to me the way it's used today is really about making this a home for Americans in a way that allows Americans to be unified together. There are a lot of problems with how that's taken shape in the language of the administration and in the policies. But I think the desire is there. The desire for solidarity is there.

Similarly on the left, where I have also a lot of problems with how policy ideas are taking shape and with how language is used and has fallen into a kind of identity politics, I do think there is a desire there to find ways to unify Americans across lines. And that desire is what we can work with.

I don't think that there's a lot constructive in contemporary identity politics, but the desire for solidarity can be a place to start for politics that's more focused on where America ought to be.

MK: Now, some people may hear us and think,



YUVAL LEVIN: ‘It is easier to find unity in your community than it is to find it at a national level. And ultimately, when we build national unity, we often build it — at least in peacetime — by building up from the bottom and not by building down from the top.’

“OK, we're either going to unify around the goals of the left or unify around the goals of the right. That's never going to happen.”

YL: Right.

MK: Are there some real opportunities, do you think, to take some from one side, some from the other, and maybe find something that does unify?

YL: I think the American answer to that question has always been “start local.” It is easier to find unity in your community than it is to find it at a national level. And ultimately, when we build national unity, we often build it — at least in peacetime — by building up from the bottom and not by building down from the top. And so it seems to me that this is a moment to decentralize power in American political life and to find ways to empower communities, to empower civic institutions, even to empower families — to have more control over their lives in ways that might allow them to find their path toward unity, to rediscover what unifies them with their neighbors. And, ultimately, that is the way to build up the path toward greater national unity, too.

MK: Given that we have seen people self-segregate in terms of where they live, is local really going to be the only answer for this? That you'll see some communities that are more unified, that, perhaps, lean more left, some communities that are more unified that lean more to the right?

YL: I think you will see some of that. There's no way around that when you turn your attention to localism. But the fact is: Even left and right mean different things in different places. And it does seem to me that if we think of our parties as broader national coalitions that take into account regional differences as well as ideological differences, we'd be in a better place to find our path toward unity, or at least toward accommodation at the national level.

And so I'm a big believer in federalism. I'm a big believer in subsidiarity, in allowing solutions to arise from the bottom up. That is ultimately just a better way to make it possible for people to work together even when they disagree. The disagreements are not going to disappear. And so what we need are ways of living with them and ultimately of finding some commonality.

MK: Do we have some opportunities also if we see more of these solutions coming from the local level, that people will get to see what their neighbors are up to and say, “Yeah, that works,” or, “No, I was right. That's doesn't work”?

YL: Exactly. I think that's right. You know, we've always thought in some degree of this — of federalism — as a kind of mode of experimentation, allowing states to learn from one another, from both their successes and their mistakes. The same is true at the local level. And so, absolutely, try it out is often the only way to know if a new idea is a good idea. And so better to try it out first at the local level and the state level than to impose upon the whole country an idea that ends up being a disaster.

MK: Obviously, this is an interesting concept that we're talking about here. Are you hearing anyone who's in a position of power actually making these same types of arguments, or is this something that we need to inculcate within the political class?

YL: It's certainly something we need to inculcate. There

are some people in our politics who are interested in localism and in federalism. They're mostly on the right. They are people like Sen. Mike Lee of Utah. Utah, of course, has a long tradition of self-reliance and community-mindedness. There are some other members of Congress who will hear talk like this now and then: Ben Sasse, the senator from Nebraska.

On the left, you know, there's much less of an inclination to decentralize. Although right now there are some people that I would call kind of “foul-weather federalists” on the left, who because President Trump is president, and because Republicans control Congress, have suddenly discovered that it's possible to try different things in California than in North Carolina. Although that is often cynical, I think we should make the most of it and try to use that as a teaching opportunity and call their bluff.

MK: We've seen in the recent political past that it's been successful to be divisive. ... How do you convince others within the political realm that this other idea of making locals have more power and ... building up more solidarity is a good way to go?

YL: I think you would want to focus on an issue. And so it seems to me that welfare reform is a good place to start. It's a place where the problems to be solved are very different from place to place, and where the argument for localism makes sense as a practical matter, as well as a human matter, as a spiritual matter. The problems to be solved run very deep. And so I think I would start by advancing an agenda of welfare reform that is rooted in an idea of federalism and decentralization.

MK: Do you see a push toward doing that any time soon?

YL: ... At this point, it doesn't seem as though Donald Trump wants to do it. And so I wouldn't count on it happening, but talking about it is a good start.

COMMENTARY

EDITORIAL

Bridging the state's health care divide

Here's a simple illustration of the urban/rural population divide in North Carolina: The state's two most-populous counties — Wake and Mecklenburg — are home to about as many people as the total number of residents in the 18 smallest counties. The spread between dense and sparse is growing.

Community leaders and policymakers have noted this gap in myriad ways: income, job opportunities, quality of education, and access to private and public services, among others. Finding health care nearby of any kind, let alone getting the most-sophisticated medical treatments, has gained more attention among rural lawmakers, as reported recently in a series of stories by *Carolina Journal's* Dan Way.

Ratios of doctors and dentists to patients are shockingly low. Death rates are higher, and life expectancy and overall health quality often are stunningly lower than what you'll see near the large population centers. In remote areas, it's often quicker getting to a trauma center by helicopter than by ambulance.

The acute problem for a few million rural North Carolinians is access to basic medical, dental, and prenatal care. The chronic

concern is persuading trained and qualified practitioners to work and live in areas that — aside, perhaps, from natural beauty and a low-key lifestyle — offer fewer amenities and lower incomes than cities, large towns, or suburbs.

The General Assembly may take a stab at part of the problem during the current legislative session with House Bill 999. The measure would offer a financial boost to nurse practitioners and physician assistants who practice in rural areas.

It would move \$3 million in recurring General Fund spending to the Department of Health and Human Services' Office of Rural Health. Of that, \$800,000 would go to the N.C. State Loan Repayment Program — a fund run by DHHS — forgiving as much as \$30,000 in student loan debt to medical providers who make a two-year commitment to work in "underserved" areas.

The \$800,000 in H.B. 999 would go to physician assistants and nurse practitioners, who can diagnose and treat many illnesses and injuries, prescribe most medicines, and — in the case of NPs — order and review tests.

They don't have to complete as much training as medical doctors, though NPs must have years of

Ratios of doctors and dentists to patients are shockingly low.



RURAL HEALTH CARE. Death rates are higher, and life expectancy and overall health quality often are stunningly lower than what you'll see near the large population centers.

nursing experience to be certified. They can handle most basic health care for most patients and do so for less than doctors typically charge.

The state's repayment program is aligned with a 45-year-old federal program which either repays loans or gives scholarships to medical professionals who work in hard-to-staff areas. Even if the NPs and PAs getting this relief move on after their two-year commitment, they're easing a health care

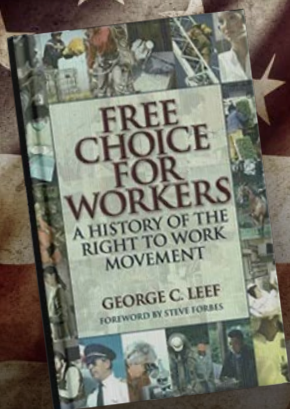
crunch. They also may save everyone money, as rural North Carolinians whose "family doc" is only a few miles away may take care of minor health concerns before becoming medical emergencies.

The bill orders the Office of Rural Health to study formally where more dentists are needed in rural areas of the state and report to a legislative oversight committee how loan repayment might entice more dentists to move to those places.

H.B. 999 isn't the only answer. Lawmakers should look at letting NPs, PAs, and other "advanced practice providers" — such as certified nurse midwives and dental technicians — operate independent practices without needing a doctor's or dentist's supervision. Or at least consider setting up pilot programs in low-income, remote parts of the state.

But it's a start. In large areas of North Carolina, it couldn't happen soon enough.

Free Choice for Workers: A History of the Right to Work Movement



BY GEORGE C. LEFF
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COMMENTARY BY JOHN HOOD

Freedom is a growth strategy

WHEN POLLSTERS ask voters to list the issues they care about most, economic concerns usually rank high — even when unemployment rates are relatively low.

There's a stolen base here, however. With very few exceptions, most people think a rapidly growing economy is critically important. They recognize that other social problems usually get better if jobs are plentiful and incomes are rising. Where voters differ is how policymakers can most effectively boost growth. So including economic concerns in a list that also includes, say, education or tax relief can obscure what voters really value. Some will rank "the economy" as a top issue, even as they are thinking about specific policies that, in their minds, will improve the economy.

In North Carolina, we have for many years witnessed a robust debate about how best to enhance our state's economic competitiveness and growth rates. Republicans argue the tax reductions and regulatory relief they've enacted were wise investments in future economic growth, in part by making it more likely that new or expanded business operations and professional enterprises will be in North Carolina.

Democrats argue that it would have been more growth-enhancing to forgo the tax cuts, in favor of spending more on education and other public services, as well as to forgo the regulatory relief, on the grounds employers, entrepreneurs, professionals, and workers would place a higher value on the anticipated environmental or safety benefits of the regulations than on the lower costs that come from reforming or eliminating them.

The two alternatives represent core philosophical differences, but that doesn't mean they aren't testable propositions. I have prepared a test score for each.

I keep a running tally of all peer-reviewed studies examining relationships between state policy factors and growth measures such as gross state product, job creation, income gains, and business starts. My database contains nearly 1,000 such studies published since 1990.

Based on the empirical evidence, N.C. Republicans get an A. Most studies show that, after adjusting for a range of control variables, states and localities with higher degrees of economic freedom — lower taxes, fewer

Cooper budget relies on extra taxes

What is a tax increase? Sounds like a simple question. But when politics intrudes, simple becomes complicated — or even convoluted.

One possible definition is a tax increase is when you pay more taxes this year than you did last year. But what if you get a pay raise at work? All other things being equal, it is certainly the case that if your taxable income rises, the amount of income tax you pay rises, too. But that doesn't really feel like a tax increase, does it?

The definition gets more problematic if you recognize that changes in tax policy aren't always intended to be permanent. For example, if lawmakers impose a temporary tax hike to balance a governmental budget during a recession, or a surtax over a fixed period of years to pay for a particular capital project, would it be a tax hike if they later chose not to let the higher tax rate expire as promised?

Technically, the next year's tax bill would look the same as the previous year's tax bill. But you'll pay more tax than you otherwise would have. It would be like taking out a car loan, getting to the



last payment, and then having the lender tack on an extra two months of payments. Your monthly budget would stay the same. Yet you'd conclude, properly, that you'd been swindled. The price tag you were promised would not be the price you actually end up paying.

Under the budget enacted by Republican lawmakers last year,

state tax rates are scheduled to decline during the coming year — to 5.25 percent on personal income, down from about 5.5 percent, and to 2.5 percent on corporate income, down from 3 percent.

The Cooper administration wants to spend upward of \$1 billion more than the GOP-led General Assembly would like over the next two fiscal years. Specifically,

legislative leaders have announced a General Fund target of \$23.9 billion in 2018-19. That's about \$900 million, or 3.85 percent, more than this year's budget, and includes another round of significant teacher-pay raises.

The governor isn't satisfied. He wants a \$1.5 billion spending hike in 2018-19 plus another big budget increase in 2019-20. One of the ways Cooper proposes to pay for it is to freeze the corporate tax at the current 3 percent, and to keep the 5.5 percent personal rate for some high-income taxpayers.

Under Cooper's plan, would the affected companies and households pay more next year than they will this year? No. But they would clearly pay more than current law allows. Flowery language aside, the administration properly books its proposal as an increase in tax collections — of nearly \$400 million over the next two fiscal years.

These extra taxes Cooper wants to collect fall far short of what progressives want. They think state spending is billions of dollars too low. Still, \$400 million is a lot of money. And North Carolinians are surely entitled to accurate information about it.

READING LIST

Goldberg book tells valuable tales

WHEN EXPLAINING modern American conservatism to students, I mix my methods. There are tables and charts. There are lengthy readings from ancient, medieval, and modern thinkers. There are philosophical arguments. And there are stories, lots of stories — comedies, tragedies, analogies, and parables.

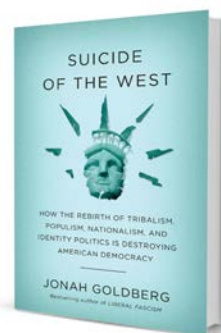
Among the latter, a favorite of mine is Chesterton's Fence. The British writer G.K. Chesterton introduced it in his 1929 book *The Thing*. An illustration of the critical importance of tacit knowledge, the parable began with Chesterton imagining a fence or gate across a road.

"The more modern type of reformer goes gaily up to

it and says, 'I don't see the use of this; let us clear it away,'" Chesterton wrote. "To which the more intelligent type of reformer will do well to answer: 'If you don't see the use of it, I certainly won't let you clear it away. Go away and think. Then, when you can come back and tell me that you do see the use of it, I may allow you to destroy it.'"

Notice that Chesterton didn't say the fence — representing social institutions or traditions — shouldn't be removed. Both characters in the parable are "reformers."

Rather, Chesterton's point was that institutions and traditions have histories. Over the course of time, many people apparently thought them useful



or valuable.

These people could be mistaken, of course. Human beings are fallible. But the fallibility principle applies to past, present, and future humans. Forcibly changing things without fully understanding origins, complexities, and consequences can produce disaster.

In his new book *Suicide*

of the West, Jonah Goldberg explores this thesis with wit, wisdom, and an infectious dose of intellectual curiosity. Goldberg mixes his methods, too. He supplies plenty of empirical data and philosophical reasoning in support of his timely argument that the blessings of the Enlightenment are imperiled by the persistence of cognitive biases, tribal identities, and the emotionally gratifying but foolish schemes of progressives and populists.

Goldberg posits that the Enlightenment-era classical liberalism that produced "the Miracle" — the unprecedented surge in human well-being of the past two centuries — is both indispensable and artificial. "Imagine a

brand-new car in a field," Goldberg writes. "Left untouched for a decade or two, it will still be the same car." But it will show signs of corrosion and decay. A century later, "a passerby will find a shell and some relics." After a thousand years, "it may be like there was never a car there at all." Constitutional government, free enterprise, the voluntary associations that form civil society — they are just as subject to corrosion and decay.

"Nature takes back everything," Goldberg later warns, "unless you fight it off with every pitchfork at your disposal." After reading, you may well grab the nearest farming implement and join us. I'll be the one holding the ax.

regulations — have stronger economic performance than less-free jurisdictions do.

One new study from the journal *Contemporary Economic Policy* found that "a 10 percent increase in economic freedom is associated

with a 5 percent increase in real per-capita GSP."

The Democratic thesis? I'll give it a D. Most studies do show a correlation between conditions such as educational attainment or infrastructure quality and state

economic growth. But they don't find a link to expenditures.

Only a third of studies find that states with larger education budgets have stronger economic performance, for example.

These findings suggest that

state policymakers should find ways to boost economic freedom while making their education and infrastructure systems more productive. North Carolina's legislative leaders would say that's precisely what they've been doing.

COMMENTARY

Economic freedom, press freedom go hand in hand



JOHN TRUMP
MANAGING EDITOR

Freedom of the press and the freedom to operate in a free and open market are critical to maintaining the ideals of liberty and democracy.

Those points are unassailable. Going further, snarky, mean-spirited, and even physically threatening attacks on credible journalists must stop. Curbing or regulating the Fourth Estate unsettles an indispensable pillar, the failure of which would send our ideals and way of life crashing down upon us.

A stark essay by Kevin Brookes and Patrick Déry, public policy analysts at the Montreal Economic Institute, reinforces these principles, starting with a terrible statistic.

Sixty-five journalists were killed in 2017, according to a report from Reporters Without Borders. This includes 10 women, double the number from 2016.

That's not fake news.

"Twenty-six were killed in the

course of their work, the collateral victims of a deadly situation such as an air strike, an artillery bombardment, or a suicide bombing," the report said. "The other 39 were murdered and deliberately targeted because their reporting threatened political, economic, or criminal interests. ... The aim in each case was to silence them."

In May, a radio news host was killed in southern Mexico, bringing to at least 32 the number of journalists killed since 2012.

"Fernando Valenzuela, the chief prosecutor of the Gulf coast state of Tabasco, said radio host Juan Carlos Huerta was killed in his car by gunmen traveling in another vehicle," *The Washington Post* reported.

"The attackers pulled up to Huerta's car, then ran into the vehicle, forcing him to stop. A man got out and shot Huerta before fleeing. Two .45-caliber shell casings were found at the scene.

"The killing did not seem to be random or robbery-related, Tabasco Gov. Arturo Nunez said.

"They apparently went to execute him," said the governor, who described Huerta as a friend."

Expanding economic freedom is one step toward making the world a safer place for journalists, they write. "In modern times, there has

Curbing or regulating the Fourth Estate unsettles an indispensable pillar, the failure of which would send our ideals and way of life crashing down upon us.

never been a democratic society that respects individual rights without at least a minimum of economic freedom."

In a real market economy, the MEI authors say, "an avid defender of socialism will always have the possibility of finding donors, investors, and readers to finance the dissemination of his opinions. But in an economy controlled by the government, diverging opinions will have greater difficulty being heard because of bureaucratic obstacles, the difficulty of finding financing, and even outright censorship. A good way to silence a media outlet is to tax or regulate it."



The freer a country is economically, they say, the greater the chance that the press will be free. Countries with scant economic freedom generally don't have a free press. Consider Venezuela, Bolivia, Argentina, or Algeria.

North Korea.

"By increasingly controlling and regulating their economies over the past decade and a half, the governments of these countries have substantially wounded the media."

The authors point out that economically free countries such as Singapore sometimes, conversely,

have a low level of press freedom.

"But the data show that a minimum level of economic freedom is a necessary precondition to ensuring a minimum level of press freedom: For 2015, the last year for which data [are] available, no country with a free press is in the bottom quartile of economic freedom. In countries with a high degree of economic freedom, fewer journalists are attacked, fewer laws and regulations are imposed on the media, and there is less political pressure to control content. Economic freedom is simply good for journalists."

Is it time to implement a mileage tax?



MICHAEL WALDEN
COLUMNIST

TWO DECADES AGO I wrote an op-ed piece discussing the idea of a mileage tax as a replacement for the gas tax. Those were also the days when people wrote letters or made phone calls.

I received several letters about my column, but one was particularly interesting. The writer said anyone attempting to track his mileage to levy a tax would first have to get past his shotgun. I don't think he liked the idea of a mileage tax.

A mileage tax is simply a way of collecting money from drivers to pay for roads. It's based on the principle that a driver's use of a road is directly related to how many miles are driven. A mileage tax is an example of a user fee.

People who use roads more pay more than people who use roads less.

The gas tax is also a user fee. The more we drive, the more gas we use, so if we pay a set number of cents per gallon of gas when we fill up, there will be a direct link between our use of the roads and revenue collected from the gas tax.

Or, at least there used to be. The gas tax is being impacted by two changes, both tied to our society's desire to reduce the carbon footprint of vehicles.

First, fuel efficiency — miles per gallon of gas — is increasing. This is good because it means we can travel farther on a tank of gas, and therefore gas-powered vehicles aren't emitting as much pollution into the atmosphere.

Second, alternative fuels are appearing. Hybrid vehicles and electric-powered vehicles are becoming more and more common. In the future, some experts think there might be natural gas-powered vehicles.

So, what's the problem? Aren't

The more we drive, the more gas we use, so if we pay a set number of cents per gallon of gas when we fill up, there will be a direct link between our use of the roads and revenue collected.

getting more miles per gallon of gas and having hybrid and electric-powered vehicles good things? Yes — good for you and me and good for the environment — but not good for gas tax revenue.

Here's why. As fuel efficiency rises, drivers are getting more miles per gallon of gas. This means the same wear and tear on the roads is occurring, but with

less money collected from the gas tax. With an all-electric or mostly electric vehicle, either no gas taxes are collected, or the gas taxes collected are significantly lower. Both of these changes are breaking the traditional link between road usage and the gas tax.

There are studies already showing states losing hundreds of millions due to the improvements in fuel efficiency and the use of alternative fuels. Some experts think gas tax revenue could run out sometime this century.

This is where a mileage tax comes in. A mileage tax is not impacted by gains in fuel efficiency or use of different kinds of fuel. If you drive a mile, you pay a set fee for that mile.

How much would a mileage tax be? Current estimates say a mileage tax of between 2 and 3 cents per mile would be adequate to fund today's roads. But since the wear and tear created by a vehicle is related to the weight of that vehicle, there are recommendations to make the mileage tax higher

for heavier vehicles and lower for lighter vehicles.

There are legitimate concerns about the privacy of drivers' trips. To accept a mileage tax, people will have to be convinced their driving information won't be shared with either public or private entities.

Still, the world is changing, and digital data are being used for more and more of our daily transactions. I expect the tech sector will continue to add safeguards and security that will enhance the privacy and confidentiality of all these transactions.

Surveys do show that attitudes about the mileage tax are changing, with younger people being more comfortable and accepting of the idea.

So, there may be a future in which drivers are taxed by the mile and not the gallon.

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

COMMENTARY

Josh Stein, Democrats, and the rule of law



ANDY TAYLOR
COLUMNIST

As soon as the U.S. Department of Commerce announced its proposal to add a citizenship question to the 2020 census, there were howls of protest. Very quickly, more than a dozen Democratic state attorneys general, including North Carolina's Josh Stein, filed a lawsuit to prevent the agency from moving ahead. Their argument is essentially this: Since immigrants are so skittish at the moment — the federal government is led by Donald Trump, after all — they'll be afraid to respond to the census, preventing the government from fulfilling its constitutional mandate to get an actual enumeration of the country's residents.

It's a poor one. If a citizenship question makes you twitchy, you're unlikely to feel comfortable giving the feds other personal information — including your race, which progressives believe is essential to any survey. What's more, immigrants aren't more likely to worry about

the government sticking its nose into their business. A 2010 Pew Hispanic Center poll revealed 80 percent of foreign-born Hispanics thought that year's census would have a "good" impact on their community, 23 percentage points more than native-born Hispanics.

Opponents of the citizenship question worry its novelty will make participants wary. That hasn't stopped a new same-sex marriage question being asked in 2020. Moreover, a citizenship question has been posed before. It was asked of all respondents up until 1950 and a sample of participants in every census since then. The question was omitted from the full census for the past 70 years because the proportion of the U.S. population who were foreign-born was relatively low. It's back at historically high levels now. Removing the question from the full survey in 1960 didn't improve undercounts — which, by the way, are highest among renters and the transient, regardless of their race or ethnicity.

Stein has justified North Carolina's participation in the lawsuit saying only a full count helps us get our "fair share" of congressional seats, schools, and roads. The census is crucial in determining the amount of important federal resources states get on a per-capita



POLITICAL LAUNCH PAD. Attorney General Josh Stein

PHOTO BY DON CARRINGTON

basis. But at about 5 percent, North Carolina's noncitizen population is lower than the nation's. We'd be more confident of getting our "fair share" if only citizens were counted; meaning by Stein's logic Commerce should actually insert a citizenship question.

The census is about as clear a federal government function as there is. It's the right and obligation of sovereign nations to know how many people living within their borders are citizens. It's done by dozens of countries, including those like Canada and Germa-

ny that have strong progressive credentials. The United Nations recommends members ask such a question. It's also against U.S. law for the government to use any information gleaned from the census against an individual.

So why is North Carolina party to the lawsuit? Because this is about the ambitions of Stein and the Democratic Party. The lawsuit is one of many he has joined to block the federal government's environmental, energy, education, health care, and immigration policies. It's therefore hard to avoid the appearance he and his colleagues are orchestrating their actions through the national Democratic Party to play to its base. This isn't about legal principles, the state's interests, or even policy. It's about politics.

The position of state attorney general has traditionally been a launch pad for a political career at the highest levels. There are eight former occupants of the position sitting in the U.S. Senate, and six of them are Democrats. Stein's two immediate predecessors, Democrats Mike Easley and Roy Cooper, went on to become governor. Stein is considered "one to watch." The citizenship question lawsuit burnishes his credentials with the Democratic Party's increasingly dominant left wing.

The episode also says a lot about today's Democratic Party. Republicans get a lot of criticism for their positions on immigration, much of it deserved. But compared to the past, Democrats are now much less interested in the millions of immigrants who have embraced American values, provide needed skills, and become proud citizens by playing by the rules. They would prefer to win cheap points by characterizing Republicans as "cruel." It is easier to stand up for individuals whose stories tug at heart strings than something as abstract as the rule of law. Yet behind every person who has laid down roots in this country but overstayed his visa by years lies hundreds of faceless others who respect U.S. law and left for their home country or went through the proper process to obtain residency or citizenship. There are also thousands of industrious and decent people living in poverty or under despotic governments who would prefer to be in the U.S. but are unwilling to come illegally. What about them? What do the Democrats of today offer rule followers?

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

Vote wisely when considering constitutional amendments



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WHAT CAN LAWMAKERS consider during the 2018 short session? Not everything is eligible. Rules from the long session adjournment resolution limit what can be considered during the short session. Important issues such as school funding, certificate-of-need repeal, work requirements for Medicaid, repeal of the capital gains tax, changes to the ABC system, and more will be delayed until the 2019 long session.

But there's still plenty of short session work for legislators. Cross-over bills are OK, as are all budget bills and any affecting the pension or retirement system. Recommendations from study committees, local bills, and appointment bills or action required by the governor are OK, too. Lawmakers can bring up

some contentious issues, such as those dealing with election laws, impeachment, and litigation. Joint resolutions and bills vetoed by the governor, including three not yet overridden from last year, can be considered.

Bills proposing amendments to our state constitution are eligible for consideration during the short session.

North Carolina has had three constitutions — 1776 after the Declaration of Independence, 1866 after the Civil War brought North Carolina back into the Union, and 1971, during a reorganization of state government. The current constitution has been amended more than 20 times.

Section XIII reserves the power to amend or change the constitution to the people. It can be done either by a convention of the people or by legislative initiative.

A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of

each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection.

Although the General Assembly can initiate changes to the constitution, the power to actually change it lies with the people. All lawmakers can do is bring amendments before us for our vote.

Eighteen constitutional amendment bills were introduced during the long session. Because of the eligibility rules for the short session, more will probably be introduced.

- Senate Bill 74 proposes to cap the income tax rate at 5.5 percent. It's now capped at 10 percent. The personal income tax rate will drop to 5.25 percent in 2019 due to tax cuts in the state budget.
- Senate Bill 677 would protect the right to hunt, fish, and harvest wildlife.
- House Bill 727 would impose constitutional limits on the growth of state spending to the annual growth rate of inflation plus population.
- House Bill 3 and Senate Bill 34

would prohibit condemnation of private property except for a public use and provide for just compensation with right of trial by jury in condemnation cases.

- House Bill 551 would strengthen protections and establish rights for crime victims.
- House Bill 145 would repeal the constitutional provision that allows the General Assembly to prohibit carrying concealed weapons.
- House Bill 819 and Senate Bill 632 would clarify the right to live includes the right to work and that right shall not be denied because of membership or nonmembership in any labor union.
- Senate Bill 702, House Bill 735, and House Bill 674 would establish an independent redistricting commission.
- House Bill 133 would provide for the election of the State Board of Education. Members are now appointed by the governor.
- Several proposed amendments would limit government service. House Bill 682 would

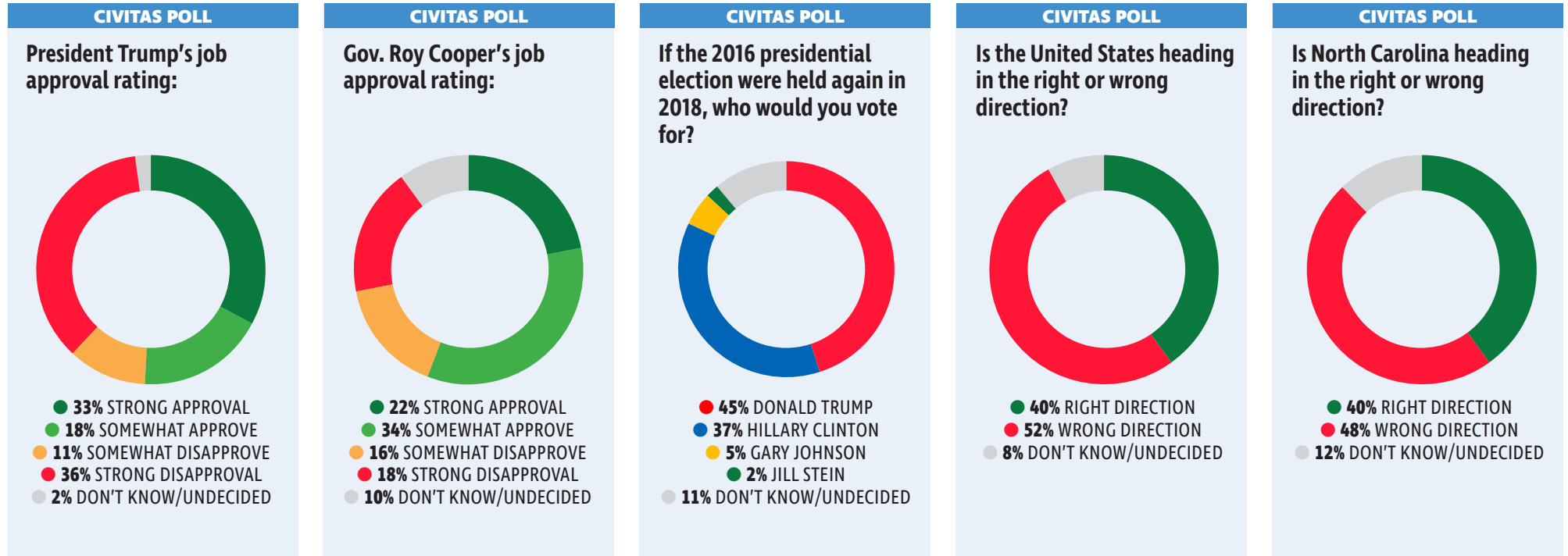
limit the length of legislative sessions, House Bill 413 would limit service in the General Assembly to 16 years, House Bill 193 would extend legislative terms to four years — now two-year terms — and House Bill 105 would limit the governor and lieutenant governor to a lifetime maximum of two terms.

New constitutional amendments can be proposed during the short session. One likely proposal is a requirement for identification when voting. Judicial selection, moving toward a retention election or merit-based process from our current system of competitive elections, may be considered. Leaders have hinted for months that numerous amendments may be brought forward.

North Carolina's constitution lays out the process for voting on amendments initiated by the General Assembly. In addition to voting for your congressman, members of the General Assembly and local candidates and issues, expect to be asked to amend our state constitution. It's not only a right, but it's also a responsibility. Use it wisely.

POLLS

Civitas Poll: Are U.S., N.C. headed in the right, wrong direction?



The Civitas Institute surveyed 600 likely voters between May 1-3 through a live caller model. The margin of error is plus or minus 4 percent.

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