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# CAROLINA JOURNAL

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NORTH CAROLINA GENERAL ASSEMBLY

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## ATLANTIC COAST PIPELINE SERIES



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### Interview: David French

Free speech faces a strong cultural challenge in America today.

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# QUICK TAKES



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# Treasurer backs measures to limit state retirement system liabilities

DAN WAY

State Treasurer Dale Folwell says a revised Senate Bill 117 would eliminate some costly benefit options and impose forfeiture of retirement benefits for some criminal offenses. He supports the changes, which are intended to protect the underfunded system.

"We have to simplify this plan ... to make sure money is not leaving the plan that shouldn't," Folwell said Dec. 4, during his monthly Ask Me Anything teleconference with reporters.

"There are dozens and dozens of different ways that people can buy into the pension system."

The resulting costs far surpass the amount originally calculated to cover a vested state employee through life expectancy, Folwell said.

He cited the example of a retiree naming a child as beneficiary of his retirement payments. Doing so extends payouts much further into the future. The extra cost isn't figured into the retirement system's financial obligations, adding to its unfunded liabilities. Retirees also can take back pension benefits they signed away if the child dies before them.

The State Employees Association of North Carolina supports S.B. 117, which the House has passed. The measure was referred to the Senate Rules Committee.

"We really believe firmly that we've got to do everything we can to avoid this system getting into the kind of shape" other state retirement systems are in, Ardis Watkins, SEANC spokeswoman, said during a House Pensions and Retirement Committee meeting.

"We've been in this room for a couple of decades saying we want this pension plan to be taken care of. We expect accountability and transparency," Watkins said.

SEANC has been advised that the underfunded retirement system could shift from a defined-benefit plan which guarantees retirement payments. An alternative defined-contribution plan would provide a set amount of money employees could invest in retirement plans they choose.

"As long as I'm the state treasurer of North Carolina, I'm going to figure out how to preserve and strengthen the defined-benefit plan, but with that comes the responsibility of figuring out how to sustain it," Folwell said.

You can't have a plan that has no



**RETIREMENT CHANGES.** State Treasurer Dale Folwell supports bill to protect underfunded system.

CPHOTO BY DAN WAY

minimum retirement age, has not earned its assumed rate of investment return on average the past 20 years, is unlikely to hit that target in the next 20 years, and is dealing with longer life expectancies — thus more payments — than anticipated, Folwell said.

"On a gross basis we're going to pay out more in pension benefits this year than equal, or approaching the long-term debt of North Carolina," Folwell said. Retirement system payments will exceed \$6 billion this year alone.

Reps. Marcia Morey and Mickey Michaux, both Durham Democrats, objected to the changes during committee debate. They said bill sponsors violated House rules by missing a 9 p.m. deadline to give notice the night before a bill is introduced. They said state employees would lose constitutionally vested rights. The N.C. Association of Educators opposed the revisions for the same reason.

"That would require a judge to decide," said committee Chairman Allen McNeil, R-Randolph, drawing criticism from Michaux that the bill could end up in litigation.

"Y'all are going to do what you want to do," Michaux said.

Democrats said S.B. 117 is in conflict with legal precedent in the *Bailey v. North Carolina* case, which prohibits denying a state retiree vested contractual rights. The 1989 case enforced a settlement in which the state reimbursed employees \$799 million.

At the time the U.S. Supreme Court ruled in the case, states that exempted from taxes state and local employee retirement payments had to offer the same exemption for military and federal employees. Instead of extending the tax exemption to military and federal workers, the state repealed the exemption for hundreds of thousands of state employees.

Rep. John Blust, R-Guilford, defended S.B. 117. "We're talking about a retirement plan and health plan that have sizable unfunded liabilities. If we don't act, what's going to happen when mathematics takes away vested rights, when the money just isn't there to pay the benefits promised?" Blust asked. "I think a prudent legislature would try to start backing away from that fiscal cliff that's coming."

Folwell disagrees that the changes conflict with *Bailey*.

"Changing these options is something that Gov. [Roy] Cooper voted on himself in the 1990s" as a member of the General Assembly, Folwell said.

Under S.B. 117, judges who are convicted by impeachment or removed from office by the Supreme Court would not receive retirement benefits.

They would be reimbursed for their own contributions to the system, plus interest.

Retirement forfeiture rules would be adjusted for state employees convicted of work-related felonies. Another provision would prevent pension spiking. Folwell and lawmakers have complained that state agencies sometimes grant large pay hikes to employees shortly before they retire to increase their pension amount.

## The Decline of the English Department

Throughout much of the 20th century, English departments were the crown jewels of the humanities. Today, English departments have lost their position at the center of the American university.

### Why?

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## QUICK TAKES

# Speech battles intensify as adversaries are treated as enemies

Free speech is overwhelmingly popular in courtrooms around the United States, but the jury of public opinion doesn't support First Amendment rights, a conservative litigator and legal writer says.

Political mudslinging happens when people choose sides based on what they hate rather than what they believe, David French, a senior writer for *National Review*, said Dec. 11.

The presentation was co-hosted by the Federalist Society, National Review Institute, and John Locke Foundation.

Legal battles are easy to win, but cultural battles are easier to lose, French said, pointing to college and university campuses as incubators for negative polarization.

French, former president of the Foundation for Individual Rights in Education, spent years litigating free-speech cases at colleges across the nation. His presentation in Raleigh came on the heels of FIRE's annual report, "Spotlight on Speech Codes 2019: The State of Free Speech on our Nation's Campuses."

The report, which each year sur-



**FREEDOM OF SPEECH.** Attorney and legal writer David French speaks at a Dec. 11 forum at the N.C. State Bar headquarters co-sponsored by the John Locke Foundation.

veys more than 450 public and private universities, found 28 percent of campuses nationwide severely restrict speech, while 61 percent of institutions invite some type of

speech constriction via vague policies. These are classified as red- and yellow-light schools, respectively. Forty-five institutions — whose policies don't seriously threaten ex-

pression — were given the "green light."

Thirty-five schools were green-lighted in 2018. Only eight universities had green lights in 2009.

North Carolina is a national leader with eight green-rated schools, seven of which are part of the University of North Carolina System.

But restrictive policies continue to prevail at several of the state's institutions, and even schools with good ratings have issues. Campuses like UNC-Chapel Hill, which are rated green by FIRE, suffer from speech controversies like those surrounding Silent Sam, a Confederate statue toppled on the campus in August. Protests and counter-protests have ensued. In a recent proposal, UNC-Chapel Hill's Board of Trustees called for a mobile police force to respond to future protests — an action that could chill free speech, the National Council of Public History says.

Toxic political discussions from government elites have drained into the lives of average people, French said, recalling a case in which a uni-

versity "speech code" literally stipulated "acts of intolerance will not be tolerated."

Don't think about it too much, he joked of the illogic.

Speech zones and codes exist to suppress more popular or powerful points of view in favor of lifting up historically marginalized ones, French said. It's a model called "liberated tolerance," but it actually "delegates free-speech rights to the most offended person in the room," he said.

It's up to individuals to battle for a cultural return to the values of the First Amendment, and fighting for the speech rights of someone with whom you disagree is a good way to make room for more speech, not less, French said.

"Each one of us has to decide if we will continue to speak fearlessly. That doesn't mean speak like a jerk. The opposite of political correctness isn't assholery. The opposite of political correctness is actually speaking what you believe to be true with civility and conviction."

*Kari Travis*

## House School Safety Committee unveils new recommendations

AFTER MONTHS of meeting across the state, the House Select Committee on School Safety met for the final time in December to approve another round of recommendations to make schools safer.

The school safety committee was formed in the wake of the Feb. 14, 2018, shooting at Marjory Stoneman Douglas High School in Parkland, Florida, which left 17 students dead. Since the committee formed, lawmakers have approved more than \$35 million for mental health services, additional school resource officers, and security equipment upgrades.

The committee met several times across the state last year before meeting in Raleigh for the last time to approve a set of final recommendations. Legislation tied to those recommendations is likely to be filed this year.

"Some of the things that we'll be providing today may raise eyebrows, but the effort here is a positive effort to move forward," Co-Chairman Rep. John Torbett, R-Gaston, said. "I think if nothing else it raises the awareness that we have to start talking about this."

Lawmakers unanimously approved six recommendations at the Dec. 6 meeting.

The recommendations are:

- Further study the development of a statewide system for men-



**SAFER SCHOOLS.** Rep. John Torbett, R-Gaston.

tal health screening of school children in North Carolina.

- Require civic responsibility education in elementary, middle, and high school. This would include teaching students about respect for school personnel, responsibility for school safety, service to others, and good citizenship.
- Expand the first-aid training

requirement for students to include training in use of the automatic external defibrillator and bleeding control.

- Continuing and expanding school safety grants from \$30 million in recurring and nonrecurring funds in 2018 to more than \$53 million in recurring and nonrecurring funds for 2019.



**The school safety committee was formed in the wake of the Feb. 14, 2018, shooting at Marjory Stoneman Douglas High School in Parkland, Florida.**

- Reintroduce school safety legislation which didn't pass in the 2017-18 legislative session. This includes establishing threat assessment teams and peer-to-peer support programs, establishing vulnerability assessments for all school buildings, and requiring all public schools in a county to comply with the county school board's state-of-emergency plan.
- Form a House Study Committee on School Safety during the 2019-20 legislative session to study other ways to improve school safety.

Before lawmakers approved the recommendations, they heard a presentation from Charlotte-Mecklenburg Schools Superintendent Clayton Wilcox. He discussed the aftermath of the Oct. 16 shooting

at Butler High School in Matthews, where a 16-year-old boy was killed.

The school district made changes after the shooting, including starting random screenings and bag searches, increasing investment in student support, and expanding video surveillance systems.

"While we don't want to be in that airport-style security, we believe that we have to be in the 21st century," Wilcox said. "We know we have to look carefully at what kids bring into school."

The CMS superintendent said the model of "see something, say something" has been working. The day after the Oct. 16 incident, a CMS student reported seeing a gun on campus. The incident was handled by authorities before anything could happen.

Wilcox said any investment in the social/emotional health of kids is wise.

"I would take a careful look at what you're about to do as a legislature in terms of tax relief, and before you provide that relief to the citizens of the state I would make sure you've fully funded the mental health needs of young people across the state," Wilcox said. "I think our kids are in crisis. I think you need to step up."

*Lindsay Marchello*

## QUICK TAKES

# New chancellor announced for ECSU, CEO for UNC Health Care

Elizabeth City State University interim Chancellor Karrie Dixon was named permanent chancellor Dec. 14 during a meeting of the University of North Carolina System's Board of Governors.

Dixon took the interim seat in April. She will assume her permanent role immediately.

"Dr. Karrie Dixon's experience, passion, and proven track record of success is exactly what ECSU needs, and I'm thrilled that she will be the next chancellor," said outgoing UNC System President Margaret Spellings. "As interim, she has led an institution on the rebound, and I have the highest confidence that she and her team will continue to build a bright future for a proud pillar of northeastern North Carolina."

Spellings picked Dixon from three finalists, chosen by an 18-member search committee.

Dixon succeeds Chancellor Thomas Conway, who led the university from 2016 to 2018. Like Dixon, Conway served as inter-

im chancellor of ECSU before officially taking the job. He followed Chancellor Stacey Franklin Jones, who resigned abruptly in 2015 after one year on the job.

ECSU, a historically black college catering to low-income and marginalized students, for years has struggled to gain its financial and academic footing.

Dixon has been a "rock star," turning the institution around, said BOG Chairman Harry Smith at a news conference.

She didn't apply for the job, but was recruited, he added.

Dixon formerly served as the UNC System's chief of student affairs.

She also worked as assistant vice provost at N.C. State University from 2004 to 2008 and was an assistant professor with graduate faculty status at the university since 2011.

"I am deeply honored and excited to have the opportunity to serve as the next chancellor of Elizabeth City State University," Dixon said,



Karrie Dixon, chancellor of Elizabeth City State University



UNC Medical Center, Chapel Hill

thanking Spellings and the board. "I look forward to working with the ECSU Board of Trustees, alumni, faculty, staff, students, and the community as we continue to move ECSU in the right direction."

The board also named Dr. Wesley Burks CEO of UNC Health Care.

Burks will add that title Jan. 15 to his current responsibilities as executive dean of the UNC School of Medicine.

Burks will succeed current CEO Dr. Bill Roper, who is vacating the position to become interim president of the UNC System. Burks

was nominated by Spellings.

A 30-year veteran of the medical field, Burks joined UNC in 2011 as physician-in-chief of the N.C. Children's Hospital. He became UNC medical school dean in 2015.

Kari Travis

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## Chronic teacher absenteeism costs millions, causes unclear

**THE N.C. DEPARTMENT** of Public Instruction classifies about one in five teachers as chronically absent. The absenteeism costs N.C. schools about \$17 million a year to pay substitute teachers, DPI says.

Thomas Tomberlin, director of educator recruitment and support at DPI, presented a report on chronic teacher absenteeism to the State Board of Education in December.

DPI defines chronic absenteeism as a teacher taking 10 or more non-consecutive sick days in a school year.

For the 2016-17 school year, DPI labeled 22,121 out of 97,839 teachers chronically absent. Put differently, that's 22.6 percent of teachers considered chronically absent.

Tomberlin told SBE members chronic absenteeism appears to correlate with schools scoring low on the annual school report card.

Schools with an "F" grade had a higher percentage of chronically ab-

**22.6%**

**CHRONIC ABSENTEE RATE**

Teachers taking 10+ non-consecutive sick days in a year.

**\$17M**

**COST OF ABSENTEEISM**

Cost to pay substitute teachers due to absenteeism.

sent teachers than schools with an "A" or "B."

Similarly, chronic absenteeism seems to correlate with lower EVAAS scores, which are used to measure a teacher's effectiveness.

Tabari Wallace, the 2018 principal of the year and advisory member of the state education board, said his school district was able to reduce absences with policy changes.

Wallace said chronic teacher absenteeism was a problem in Craven County until a new policy required teachers to get a doctor's note or provide 60 days' notice to take off any Monday, Friday, or day after a

holiday.

After the policy was implemented, teacher absences dropped by 40 percent.

Terry Stoops, vice president for research and director of education studies at the John Locke Foundation, said the report on chronic teacher absenteeism is a good start, but more information is needed to identify the causes.

"Until we know why so many teachers are chronically absent, policymakers, in particular, cannot address the problem," Stoops said.

Tomberlin told board members part of the problem may lie with a misunderstanding of the policy.



Some local education agencies interpret state extended sick leave policy to allow teachers 20 additional sick days, beyond their accrued 10 sick days.

"Until we have data that say otherwise, we should assume that the extended absences are for legit-

imate reasons," Stoops said. "The question then becomes how teachers and administrators better manage student instruction in the absence of the regular classroom teacher."

Lindsay Marchello

## QUICK TAKES

# Three-judge panel named to hear redistricting challenge

**N**.C. Supreme Court Chief Justice Mark Martin named a three-judge Superior Court panel to hear the *Common Cause v. David Lewis* redistricting challenge.

In the order, dated Nov. 27 but released Dec. 6, Martin appointed Democrats Paul Ridgeway (Wake County) and Alma Hinton (Halifax County) and Republican Joseph Crosswhite (Iredell and Alexander counties). The same judges have served on panels in previous redistricting lawsuits.

No date for hearing the case was mentioned.

The N.C. Democratic Party and 22 individual plaintiffs joined *Common Cause* in its lawsuit challenging gerrymandered legislative districts.

Lewis was named a defendant in his capacity as senior chairman of the House Select Committee on Redistricting. Other defendants include Sen. Ralph Hise, R-Mitchell, chairman of the Senate Committee on Redistricting; House Speaker Tim Moore, R-Cleveland; Senate leader Phil Berger, R-Rockingham; the Bipartisan State Board of Elec-

**Plaintiffs argue the N.C. Constitution prohibits partisan gerrymanders and provides greater equal protection guarantees than the U.S. Constitution.**

tions and Ethics Enforcement; and its individual members.

Plaintiffs argue the N.C. Constitution prohibits partisan gerrymanders and provides greater equal protection guarantees than the U.S. Constitution. They say the court should view the complaint under N.C. constitutional protections, toss out the 2017 plans written to satisfy the federal *Covington v. North Carolina* case, and order new maps for 2020.

"The maps are impervious to the will of the voters," the lawsuit says. It noted Democratic candidates won a majority of the statewide votes cast in the 2018 elections, but Republicans still won a substantial majority of seats in each chamber.



**THREE-JUDGE PANEL.** From left, Superior Court Judges Alma Hinton, Paul Ridgeway, and Joseph Crosswhite hear arguments Sept. 28 in a legislative redistricting lawsuit.

The 2017 redistricting plan harms the plaintiffs' freedom of speech and freedom of assembly based on their identity, viewpoints, and content of their speech, making their votes less effective, the lawsuit claims. Money spent

by the Democratic Party on candidates for messaging is less effective because of the gerrymanders.

The lawsuit further alleges the 2017 maps reduced the Democratic Party's representation and ability to elect a majority. That violates

plaintiffs' rights of association by making it more difficult to register voters, attract volunteers, raise money in gerrymandered districts, campaign, and turn out the vote.

Dan Way

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## ELECTIONS

# 9th District remains in limbo as investigation into voter fraud continues

BY DAN WAY

Democratic senators fumed June 28 as Republicans pushed through a proposed constitutional amendment placing a voter ID requirement on the Nov. 6 ballot.

Majority Republicans enjoying a successful campaign to pass the long-sought election safeguard eschewed proposed amendments to extend voter ID to absentee mail-in ballots.

"This amendment would not shut the door [on election fraud] because it only addresses one channel," Sen. Ben Clark, D-Hoke, protested.

Fast forward, and Democrats appear prescient. Suspicious absentee mail-in ballot activity marred the 905-vote win by Republican Mark Harris over Democrat Dan McCready in the 9th Congressional District.

The Bipartisan State Board of Elections and Ethics Enforcement has refused to certify the 9th Congressional District results while it investigates potential criminal activity by Leslie McCrae Dowless. Harris admits to hiring Dowless, but he denies knowledge of any wrongdoing.

An evidentiary hearing was scheduled Jan. 11 to determine whether Dowless, his team of operatives, and others engaged in widespread, coordinated misconduct. The proceeding will be like a trial. Each side will file briefs for elections board review. Board members will interview witnesses, and lawyers for the parties can cross-examine.

At issue is whether Dowless performed unlawful ballot harvesting — collecting and submitting absentee mail-in ballots from voters. State law allows only the voter, near family members, and legal guardians to turn in absentee ballots. To be determined is whether the Dowless crew illegally filled in voters' unmarked ballots for Harris and threw out those already checked off for McCready.

Allegations of ballot harvesting improprieties by both Democrats and Republicans were known by state election officials, political party representatives, and politicians going back at least to the 2010 midterm election. The Bladen County Improvement Association is under the microscope for ballot harvesting for Democrats in several election cycles.

Republicans voted overwhelmingly Dec. 5 to approve an amendment by Rep. Elmer Floyd, D-Cumberland, to insert absentee ballot voter identification requirements into the voter ID implementing legislation.



Republican Mark Harris



Democrat Dan McCready



**ABSENTEE BALLOTS.** The Bipartisan State Board of Elections and Ethics Enforcement has refused to certify the 9th Congressional District results. At issue is whether Leslie McCrae Dowless performed unlawful ballot harvesting.

Rep. David Lewis, R-Harnett, chairman of the House Elections and Ethics Committee, said the 9th Congressional District situation was "an impediment to the integrity of our entire election system."

Gov. Roy Cooper vetoed the voter ID bill, but the General Assembly voted to override his action.

Floyd's amendment directs the state elections board to adopt rules requiring identification "substantially similar" to in-person voting ID to obtain an absentee ballot.

Some political observers say the state should tread carefully to ensure absentee ballot reforms don't trample voter rights.

"I promote anything that will maximize the opportunity for citizens to vote," said N.C. Central University law professor Irving Joyner, who has represented the Bladen County Improvement Association.

"With any system there's always the possibility of scurrilous activity by unscrupulous people," Joyner said.

He thinks laws in place already address fraud protections. Viola-

tions in Bladen County should have been obvious to county election board officials, unless they were improperly trained or willfully ignoring them.

"The answer, I do not think, is to reduce the amount of options for folks to vote" when exploring security measures for absentee mail-in voting, said Mark Gaber, senior legal counsel for the Washington, D.C.-based Campaign Legal Center. He thinks the Bladen County mess puts North Carolina's new in-person voter ID law in a harsh light.

"If anything, it shows that certainly the focus has been wrong" on where election fraud occurs, Gaber said.

North Carolina's decision to include voter identification with absentee mail-in ballot requests is among security recommendations election reformers champion.

A 2012 report done by election researchers at the California Institute of Technology and Massachusetts Institute of Technology concluded states would be wise to roll back no-excuse absentee balloting,

except for people with disabilities and military and overseas civilian voters.

"It remains the case that having tens of millions of ballots being transmitted and marked without strict chain-of-custody procedures creates risks that simply do not exist with any form of in-person voting, whether on Election Day or in early-voting settings," the Cal Tech/MIT report stated.

The National Conference of State Legislatures lists North Carolina as one of 28 states and Washington, D.C., that don't require an excuse for absentee voting. Nineteen states, including Alabama, Kentucky, Louisiana, Mississippi, South Carolina, Tennessee, Virginia, and West Virginia, do require excuses.

Charles Stewart is a Massachusetts Institute of Technology political science professor and member of the Voting Technology Project that did the Cal Tech/MIT report. He isn't a big fan of curtailing no-excuse voting.

Stewart said North Carolina has strong safeguards in place to prevent fraud, such as requiring two witnesses to sign absentee ballots.

"It is probably the most transparent in the nation in terms of publishing data about the transmission and receipt of absentee ballots, so to do something with any scale in North Carolina you really are exposing yourself to being caught," Stewart said.

In states requiring excuses for absentee voting, people frequently fabricate reasons they can't make it to the polls to get an absentee ballot, which is also fraud, he said.

Oregon, Washington, and Colorado conduct all elections by mail. Nineteen states allow all-mail voting under differing circumstances in some elections.

Stewart said those states have invested a lot of thought, technology, and money into trying to deter and detect absentee voting fraud. Machines perform signature matching functions, local election judges receive extensive training to spot fraudulent signatures, they are very aggressive in tracking ballots in the mail stream through the end of the voting process, and protocols are de-

veloped to spot suspicious voting patterns.

By comparison, North Carolina has a small volume of absentee mail-in voting, Stewart said. Just 2.7 percent of Nov. 6 votes were absentee mail-in ballots, state data show.

In-person, one-stop early voting is more popular here. That accounted for 52 percent of ballots cast. Stewart said by encouraging more of that style of voting, fewer people would vote absentee, scaling back the potential abuses of that practice. Cleaning up voter maintenance lists should be a priority. People who don't vote for a long time are more susceptible to have an absentee ballot falsely requested in their name and far less likely to discover it.

Still, there are researchers who say absentee mail-in voting should be scaled back because it's susceptible to coercion, fraud, security concerns, and accuracy. It takes longer to count them. Ballot applications and the ballots themselves could get lost in the mail or delivered too late for voters to meet deadlines. The important public ceremony of voting — celebrating our democratic system of self-governance — erodes when voting in private.

More than 30 percent of states have passed regulations on ballot harvesting. Montana became the 16th in November. Some states ban all serial collection of absentee mail-in ballots. California is among states that allow ballot harvesting.

Some reformers advocate limiting how many absentee ballots a witness can sign and requiring their address and phone number to reduce ballot harvesting.

Stewart theorized a major reason ballot harvesting violations aren't usually prosecuted is because they are minor and fly under the radar. The situation in Bladen County was remarkable for its "scale and brazenness," he said.

He said elections officials he has talked with tell him they view anti-harvesting laws as unenforceable because they're hard to observe. Law enforcement officials usually don't have an interest in them, and prosecutors are wary about their ability to prove the cases in court.



**The National Conference of State Legislatures lists North Carolina as one of 28 states and Washington, D.C., that don't require an excuse for absentee voting.**

UNC

# What to do about Silent Sam?

BY LINDSAY MARCHELLO

The saga of Silent Sam will continue into 2019.

On Dec. 14, the UNC Board of Governors rejected a proposal from the UNC-Chapel Hill Board of Trustees to rehouse the Confederate statue in a \$5.3 million historical center. Instead, the BOG — with the exception of member Thomas Goolsby, who wanted Silent Sam returned to his pedestal — voted to create a five-member task force to assist the Chapel Hill BOT in crafting a new plan.

“At the end of the day, I think the \$5.3 million was very tough for a lot of us to swallow,” BOG Chairman Harry Smith said during a news conference after the board passed the resolution. “The goal here is to simply get this right.”

Board of Governors members Darrell Allison, Jim Holmes, Wendy Murphy, Anna Nelson, and Bob Rucho were chosen for the task force. A new deadline was set for no later than March 15 to devise a new plan for Silent Sam.

“We appreciate the opportunity to have more time to develop the best plan to relocate the monu-

ment,” UNC-Chapel Hill Chancellor Carol Folt said in a statement after the BOG’s decision.

Since protestors toppled Silent Sam in August, the university has struggled to find a home for the statue that complies with state law, ensures public safety, and satisfies students, faculty, and the local community.

The General Assembly passed a law in 2015 prohibiting permanent removal of historic monuments unless express permission is granted from the N.C. Historical Commission. The law limits the cases in which historical monuments can be relocated. If the “object of remembrance” is moved, it must be transferred to a place of “similar prominence, honor, visibility, availability, and access that are within the boundaries of the jurisdiction from which it was located.”

The law prohibits the monument from going to a museum, cemetery, or mausoleum unless that was where the monument originally stood.

On Dec. 3, Folt unveiled a proposal for Silent Sam she said was within the boundaries of the law.

Under the proposal, Silent Sam would be moved to a new historical center at Odum Village, where the statue and other historic artifacts would be available for public viewing or other educational purposes. The center would also feature a state-of-the-art security system.

Beyond the \$5.3 million construction cost, the center would require \$800,000 in annual operating costs.

Another part of the proposal would see a systemwide mobile police force created to respond to future protests.

Few people voiced support for the Silent Sam proposal. Whether it was concern over the hefty price tag or the prospect of Silent Sam returning to campus, opposition to the proposal was widespread.

Some 60 people gathered outside the UNC Center for School Leadership on Dec. 14 to protest the Silent Sam proposal.

In addition to the protesters was the prospect of a grade strike. At least 79 UNC-Chapel Hill teaching assistants and instructors threatened to withhold final grades if Silent Sam were to return to campus.

UNC BOG member Marty Kotis said the proposed strike crossed a line.

“When people start saying you have to believe something or we’re not going to release your grades unless this is done, they’re putting their personal agendas ahead of the students,” Kotis told *Carolina Journal*.

Kotis has called for swift action against potential strikers, including their dismissal if they indeed withhold grades.

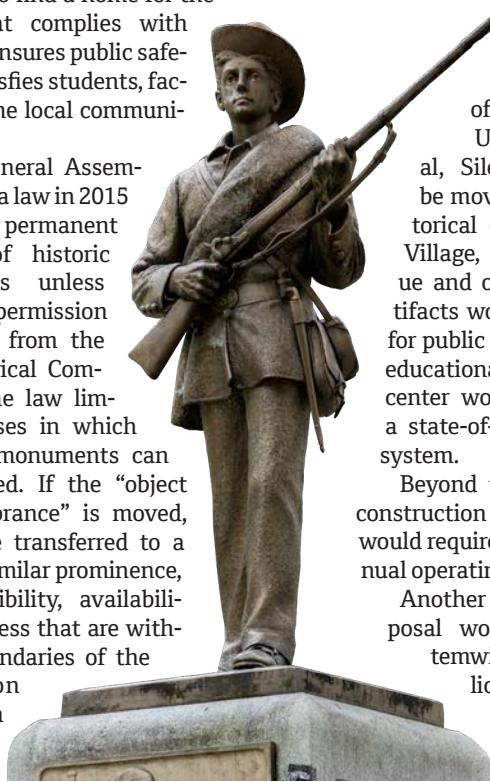
The TAs and instructors never carried through with their threat as

the BOG voted not to approve the BOT recommendation for a historical center.

“For the StrikeDownSam Anti-Racist Coalition, this new timeline necessitates a new strategy; we recently released all grades for the fall 2018 semester, but [we] will be in a strong position to continue our action in spring 2019 if the BOG, BOT, or members of the University administration decide to place UNC students at risk,” the coalition wrote in a news release.

While the group approved of the BOG’s rejection of the Silent Sam proposal, it criticized the board’s passing of a resolution to “prescribe minimum sanctions including suspension, termination, and expulsion for individuals who engage in unlawful activity that impacts public safety.” These unlawful activities range from inciting a riot to resisting arrest.

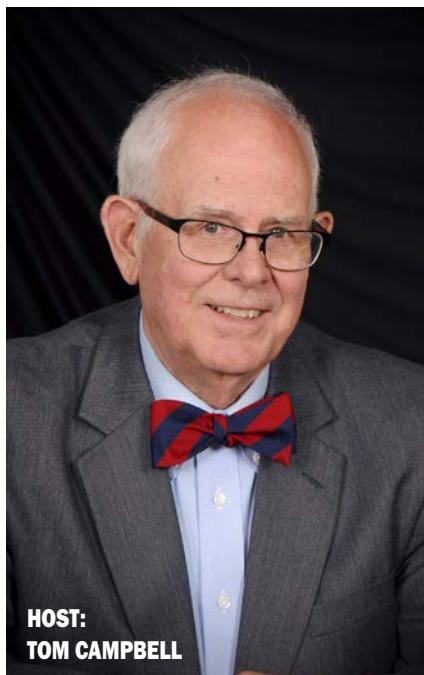
“The Confederate monument must never return to campus in any shape or form nor a center to its history be erected,” the coalition wrote. “We further express here our right to freely assemble and to practice our freedom of speech on a matter of great public concern.”



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## ELECTIONS

# Voter ID: Where are we now?

North Carolina's political battles over photo voter identification likely will persist until Republicans and Democrats find a diplomatic resolution — or a court forces them to.

BY KARI TRAVIS

Fifty-five percent of North Carolinians voted Nov. 6 to add a photo identification rule to the state's constitution. In December, lawmakers passed legislation to enforce it.

Senate Bill 824, Implementation of Voter I.D. Constitutional Amendment, was the result.

The bill, which had bipartisan sponsorship, still faced hard fire from Democrats, some of whom called it racist. It also disgruntled some Republicans, who thought the law should be stricter. That didn't stop it from passing through the House and Senate.

Gov. Roy Cooper vetoed the bill Dec. 14, calling it "a solution in search of a problem."

The General Assembly, which held a veto-proof Republican supermajority, overrode his veto the following week.

The supermajority voted to override Cooper in 21 of 24 occasions since he became governor in 2017. (Cooper has vetoed 26 bills.)

But the GOP's edge diminished in January, as Democrats took control of several legislative seats held by Republicans in the previous session.

Groups including the ACLU, Common Cause NC, and Equality NC had encouraged Cooper to veto the bill. Litigation will stall the process, presenting a conundrum for conservative legislators.

Voter ID is constitutional, but if lawsuits and vetoes keep blocking the way, will the law ever kick-in?

## The bill

Voters have multiple photo ID options under S.B. 824.

Driver's licenses, military IDs, student IDs from community colleges and public or private universities, tribal enrollment cards, state employee IDs, and free, state-issued voter ID cards are just a few examples.

Several Republican members wanted to shorten that list. Some found student IDs especially objectionable, saying the option would invite fraudulent voting.

Democrats said the bill is filled with arbitrary stipulations. Some, including House Minority Leader Darren Jackson, D-Wake, questioned the shunning of students' public school IDs.

## The history

After the 2000 presidential election — and the Florida recount that filled weeks of media airtime — Americans grew more uncertain of



the integrity of their votes.

The Help America Vote Act of 2002 followed, standardizing many election practices in federal elections while leaving states free to craft some requirements for voter eligibility — including the decision to require voters to bring identity documents to the polls.

A Pew Research study of the early to mid-2000s showed a dramatic decline in trust. Forty-eight percent of voters were confident of the vote count system in 2004; just 31 percent shared those feelings in 2012.

Those numbers have turned around in recent years. A 2018 study from Pew showed an uptick in voter confidence, with 40 percent sure that "the votes in their communities will be counted as voters intend."

The election system has problems, but voter ID isn't the answer Republicans want it to be, and its history of conflict in North Carolina only distracts from greater issues, said former N.C. Supreme Court Justice Bob Orr.

In 2013, the N.C. General Assembly passed a voter ID bill, which a three-judge federal appeals panel struck down. The judges called it "the most restrictive voting law North Carolina has seen since the era of Jim Crow."

That bill nixed a week of early voting and ended out-of-precinct voting in addition to requiring specific forms of photo ID.

The provisions targeted "African-Americans with almost surgical precision," according to the judges' 83-page ruling.

S.B. 824 bill is an improvement, but not a great one, said Rep. Pricey Harrison, D-Guilford.

Rep. David Lewis, who backed

the bill in the N.C. House, said the legislation was written to mirror an Indiana law passed in 2005. That statute was upheld by the U.S. Supreme Court in 2008.

The Indiana law was a response to the election fiasco of 2000, Indiana Rep. Todd Rokita, R-4th District, told *The Daily Signal* in 2016.

Rokita helped write Indiana's law. He also defended it before the Supreme Court. At the time, it was one of the toughest voter ID laws in the nation.

Like North Carolina's bill, the Indiana law includes driver's licenses, state ID cards, and military IDs. It also provides free IDs to low-income people.

Voter ID is a political talking point, but not a comprehensive solution to failings in election ethics, Orr told *Carolina Journal*. Voter registration, absentee ballots, ballot counting, and the voting process itself are the real issues, he said.

The situation in Bladen County, where allegations of tampering with absentee ballots have surfaced, is one example of a real problem with the election system, he added.

So far as the looming litigation over S.B. 824, Republicans and Democrats are fully capable of solving the issue — if only they would choose civil discussion over court arguments, Orr concluded.

"People of good intentions from both political parties can come together and say, 'How can we create, revise, and improve our system of elections to ensure integrity, beginning to end, and to ensure a fair opportunity for everyone who is properly eligible to vote?'"

"I mean, really. It's not a hard concept."

## Court fights over voter ID law begin

The Southern Coalition for Social Justice filed the first lawsuit over North Carolina's new voter identification law, minutes after the N.C. General Assembly overrode Gov. Roy Cooper's Dec. 14 veto of Senate Bill 824.

The bill, implementation of Voter I.D. Constitutional Amendment, is the product of a new constitutional amendment passed by voters, 55-45, in November. Accordingly, photo ID must be enforced by state law.

The veto override votes came Dec. 18 in the Senate and Dec. 19 in the House.

Despite bipartisan sponsorship, the bill still faced opposition from most Democrats in the General Assembly. Legislative critics pointed to North Carolina's long history of voter suppression.

When Cooper vetoed the measure, he labeled voter ID "a solution in search of a problem." The bill was kicked back to the General Assembly, in which Republicans held a veto-proof supermajority through the end of December.

"The North Carolina Constitution provides numerous and inviolable protections for the fundamental right to vote of all its citizens," said Allison Riggs, senior voting rights attorney for SCSJ. "Just because the North Carolina Constitution now authorizes, with exceptions, the presentation of a picture ID when voting does not mean those other longstanding protections can be ignored or violated."

S.B. 824 also unduly burdens the fundamental right to vote, creates separate classes of voters, imposes a cost on voting, imposes a property requirement for voting, and impedes voters' ability to engage in political expression and speech by casting a ballot, the organization said.

"It is the legislature's duty to balance competing demands in the state Constitution. It has failed miserably in its exercise of balancing the new ID constitutional amendment, which explicitly allows for exceptions, with the numerous other state constitutional

demands that have been interpreted to aggressively protect the right to vote," Riggs said.

"Any legislative scheme that requires voters to present ID when voting must have fail-safe measures to ensure that not one single eligible voter is disenfranchised. Our state Constitution demands it. This legislation does not do that. It simply replicates a scheme that we know disenfranchised approximately 1,400 voters in the March 2016 primaries."

The claims are nonsense, said Sen. Joyce Krawiec, R-Forsyth, a primary sponsor of the S.B. 824.

"This is crazy. After suing to stop voters from even having the chance to amend the constitution to require voter ID, liberal activists are suing again saying the new constitutional amendment is unconstitutional," Krawiec said.

"It's clear nothing will ever appease them. Not the will of the voters, not the fact that a Democrat sponsored the bill, and not the broad additions based on Democratic feedback.

"We've seen this 'sue 'til blue' tactic before, only this time they're up against a clear mandate from 55 percent of voters who want common-sense protections against voter fraud," she said.

SCSJ is representing six plaintiffs in the case, which was filed in Wake County Superior Court, along with a request for a preliminary injunction.

In 2013, SCSJ challenged a North Carolina election law that included a voter ID requirement.

A three-judge federal appeals court panel ultimately struck that law down. The judges called it "the most restrictive voting law North Carolina has seen since the era of Jim Crow." That bill nixed a week of early voting and ended out-of-precinct voting in addition to requiring specific forms of photo ID.

The provisions targeted "African-Americans with almost surgical precision," according to the 83-page appellate court ruling. That language referred to the combination of election changes, not voter ID itself.

# ELECTIONS

## Back to the beginning with elections, ethics board fight

BY LINDSAY MARCHELLO

The end of 2018 saw the probable conclusion of a two-year battle between Gov. Roy Cooper and the Republican legislative leadership over the Bipartisan Board of Elections and Ethics Enforcement. After several court rulings and a failed constitutional amendment, lawmakers have passed a bill returning the elections and ethics board to its original makeup.

"I think the fact that we're seeing the return in almost all aspects of the previous structure seems to be a kind of reluctant admittance by the Republican General Assembly that they're not going to succeed," Jonathan Kappler, executive director of the N.C. Free Enterprise Foundation, said.

The battle began during a 2016 lame-duck session in which Republican lawmakers passed legislation merging state elections and ethics boards. It also required the new board to be split evenly among Democrats and Republicans, with the governor appointing four members and General Assembly leadership appointing the remaining four.

The governor sued after lawmakers stripped his ability to appoint a majority to the newly merged elections and ethics board. Lawmakers tried a legislative fix with Session Law 2017-6, which allowed the governor to appoint all members but still required that the board's makeup be bipartisan.

On Jan. 26, 2018, the N.C. Supreme Court — in a 4-3 ruling along party lines — ruled the board unconstitutional. Democratic Justice Sam Ervin IV, writing for the majority, said the 2017 law creating the merged board interfered with the



Gov. Roy Cooper



Democratic Justice Sam Ervin IV



Senate Leader Phil Berger

"governor's ability to faithfully execute the laws" as outlined in the state constitution. The case was remanded to a Superior Court panel for further proceedings.

The General Assembly placed a constitutional amendment on the fall ballot to keep the merged board in place, but the measure failed.

The Superior Court panel overseeing the legal battle over the board delayed dissolving it, giving lawmakers time to come up with a legislative fix. At first the courts gave legislators until Dec. 12 to pass new legislation, but the court agreed to extend the deadline to Dec. 28 because of the ongoing investigation into alleged absentee ballot irregularities in the 9th Congressional District.

On Dec. 3, the Republican leadership introduced House Bill 1029 as

a conference report, essentially resetting the clock on the elections/ethics board battle. Not only did the bill return the boards to two separate agencies, it returned the governor's majority appointment power for the elections board. Under the bill, the governor would have the ability to appoint all county election board chairs.

H.B. 1029 mandates a new primary if the State Board of Elections calls for a new general election in the 9th Congressional District. The current elections board is investigating alleged absentee ballot irregularities in the 9th District, which may lead the board to order a new election.

"This bill makes every effort to comply with the court's ruling and gives Governor Cooper the partisan control over the State Board of Elec-

tions that he has sued for," Rep. David Lewis, R-Harnett, said.

The bill on Dec. 12 passed the House and the Senate with bipartisan support. But Cooper announced a few days later his intention to veto H.B. 1029, due to a portion of the bill addressing campaign finance complaints.

The governor said he would withhold issuing the veto in the hopes the legislature would pass a new bill without Section 4, which would make investigations into alleged campaign finance violations confidential and place a four-year statute of limitations on investigations.

"This bill makes it harder to root out corruption in elections and campaign finance," Cooper said. "This bill was a rush job that at first glance is an improvement."



**The Republican leadership introduced H.B. 1029 as a conference report, essentially resetting the clock on the elections/ethics board battle.**

While Cooper acknowledged the bill passed with bipartisan support, he said lawmakers weren't given enough time to weigh the benefits of the bill with the drawbacks of Section 4. Since H.B. 1029 was a conference report, Cooper noted lawmakers couldn't amend the bill.

Cooper said if lawmakers passed the same bill without Section Four he would immediately sign it.

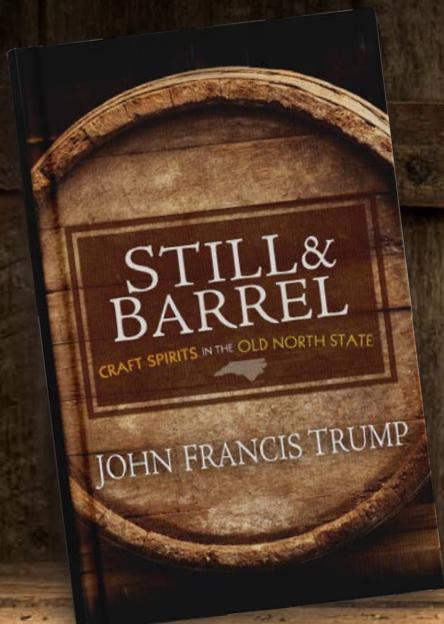
The Republican leadership fired back. The office of Senate leader Phil Berger, R-Rockingham, accused the governor of trying to weaponize the state election board's investigatory power.

"The legislature will not allow the governor to use the partisan Board of Elections as a blunt instrument to hammer his political adversaries," Patrick Ryan, a spokesman for Berger, wrote in an emailed statement. "Governor Cooper's failure to act is holding the entire Board of Elections hostage, including the NC-9 investigation, in his effort to achieve unchecked power to launch corrupt and unfounded partisan attacks on legislators."

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## ATLANTIC COAST PIPELINE

## Who is Doug?

## Pipeline committee wants to know role of DEQ official

BY DON CARRINGTON

Who is Doug Heyl? Members of a special legislative committee looking into the Atlantic Coast Pipeline would like to know. Heyl is a top official in the state Department of Environmental Quality.

But what role did Heyl play in the pipeline permitting process?

Sen. Paul Newton, R-Cabarrus, flashed a PowerPoint presentation during a meeting of the subcommittee Nov. 14. Slide No. 7 got people's attention. It posed a simple question: Who is Doug?

Newton referred to a document, from the ACP permit file, showing handwritten meeting notes from Jan. 4: "give HO report to Linda on Monday. Bridget will talk w/Doug about news release of decision." HO refers to hearing officer Brian Wrenn. "Bridget" is Bridget Munger, DEQ public information and communications specialist.

"Doug" is Doug Heyl.

Gov. Roy Cooper announced a pipeline mitigation fund — and DEQ announced the pipeline's approval — roughly three weeks after the Jan. 4 meeting.

Carolina Journal has learned Heyl, 56, spent about 30 years as a Georgia-based political consultant for Democrats before taking a full-time job Oct. 16, 2017, as a DEQ deputy secretary.

CJ asked DEQ: Who is Doug Heyl, and what's his role in the ACP?

"Doug had no role in the ACP permit process outside reviewing the external communications issued around the permit," DEQ spokeswoman Megan Thorpe told CJ.

"Doug had no role in the MOU."

The MOU was the memorandum of understanding connected to the the pipeline fund.

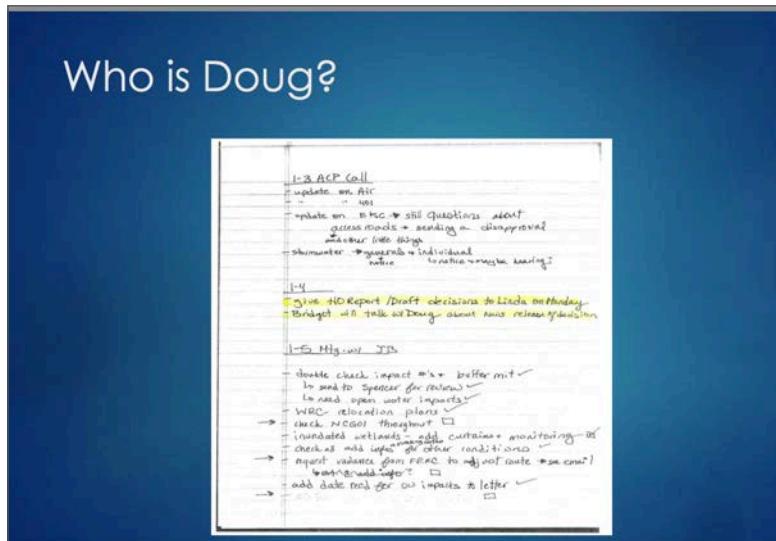
CJ asked to speak with Heyl but were told he was busy and unavailable.

Heyl's experience in state government — in state communications, particularly — is nebulous. CJ failed to find a profile page from Heyl on LinkedIn, a social media networking site ubiquitous among professionals and influencers. He has a Facebook page, but CJ found little about him on Twitter.

A state employee database lists Heyl as a deputy secretary in DEQ, Newton noted. But Heyl isn't listed on the DEQ website as a member of the leadership team or the communications office. Mysteries surrounding Heyl and the enigmatic nature of his employment raise the



**WHO IS DOUG?** Sen. Paul Newton, R-Cabarrus, raised questions about DEQ official Doug Heyl at a Nov. 14 meeting of the General Assembly's Atlantic Coast Pipeline oversight subcommittee.



**HANDWRITTEN NOTES.** PowerPoint slide presented in November to the legislature's Atlantic Coast Pipeline subcommittee.

question of whether the DEQ role is nothing more than a warm place for Heyl to land before leaving to help Cooper win re-election.

"We know he makes almost \$114,000 a year in salary," Newton said. "So, it appears that Mr. Heyl is now a deputy secretary in DEQ, with unknown job responsibilities, other than the fact the issuance of the ACP water quality permit had to be coordinated through him. Is this innocuous or nefarious? We don't know, but need to know."

On Oct. 15, Heyl's position with DEQ was reclassified from nonpermanent to permanent.

Heyl lived in Stockbridge, Georgia, a suburb of Atlanta, and did business under the name of Scout Communications and All Points Communications. He was also affiliated with the Washington, D.C.-based Columbia Campaign Group. In

August, nearly a year after he was hired at DEQ, he sold his Georgia home and bought a home in Garner.

CJ asked DEQ what led to his employment with the state. "Doug and his family were looking to move to North Carolina, and he sought out a job in the administration," Thorpe told us.

The broader goal of the investigatory subcommittee is determining whether state approval of the N.C. segment depended on Cooper's administration securing a \$57.8 million discretionary "mitigation" fund with the pipeline operators. Cooper's office negotiated the fund, established through the MOU.

The state announced the pipeline fund in January. Soon after the announcement, Republican legislative leaders cried foul. They said it appeared to be part of a "pay-to-play" scheme tied to the environ-

mental permit ACP hoped to obtain from the governor's administration.

Republican leaders said the deal was illegal. The N.C. Constitution gives the legislative branch the sole power to collect and appropriate money.

Cooper's chief of staff, Kristi Jones, has told legislators the "mitigation fund was established independently of the DEQ permitting process."

Lawmakers have sought answers from Cooper about the arrangement, but they haven't been satisfied with the responses. Cooper and his office, as is usual, have failed to respond to questions from CJ.

The ACP is an underground natural gas transmission pipeline originating in West Virginia, traveling through Virginia, and ending in Robeson County. The project is a partnership among Richmond, Virginia-based Dominion Energy; Duke Energy; Piedmont Natural Gas; and Southern Company Gas. ACP gas firwill supplement existing gas resources and fuel new electricity generation plants.

Dominion has suspended construction of the pipeline. The U.S. Fish and

Wildlife Service asked for a stoppage after finding potential environmental problems not covered by earlier federal permits. The 4th U.S. Circuit Court of Appeals granted a temporary stay, and Dominion voluntarily stopped work, the company said, until it gets more clarity from the court.

Money from the MOU fund originally was designated for mitigating all damage caused by the pipeline, economic development opportunities, and developing renewable energy projects.

Lawmakers stepped in.

In February, the General Assembly voted to direct the \$57.8 million to school systems in the eight N.C. counties along the ACP route. So far, North Carolina has seen none of that money.

Cooper's office said the legislative action was politically motivated.

"Legislative Republicans have set a new low for partisan hypocrisy this week," Cooper spokesman Ford Porter said. "Nearly every Republican legislator claims to support the Atlantic Coast Pipeline, yet they wanted to stop counties in its path from getting resources to ensure this project is a success."

On Nov. 14, the subcommittee voted to hire a special outside investigator to get answers from Cooper's office and DEQ.

In 1988, Heyl worked for Missouri U.S. Rep. Dick Gephardt, who lost in that year's Democratic presidential primary.

Heyl joined Bill Clinton's campaign for president in 1991 and eventually became the Southern political director. In 1994, Heyl served as executive director of the Tennessee Democratic Party. Heyl managed James McGreevey's 1997 campaign for governor of New Jersey. In 1998, Heyl was campaign manager for Florida Lt. Gov. Buddy MacKay in his race against Jeb Bush for governor. In 2000, Heyl worked for the Democratic Congressional Campaign Committee.

In 2001, Heyl managed Glenn Cunningham's campaign for mayor of Jersey City, New Jersey. Heyl managed Mark Taylor's 2002 campaign for lieutenant governor of Georgia, and in 2014 he managed Greg Hecht's campaign for Georgia attorney general.

Heyl worked for N.C. candidates, too.

He was campaign manager for Charlie Sanders' 1996 Democratic primary campaign for U.S. Senate. Sanders lost to Harvey Gantt. Heyl was a consultant for John Arrowood's 2008 campaign for the N.C. Court of Appeals and June Atkinson's 2012 campaign for superintendent of public instruction.

Will Heyl leave DEQ to help Cooper as he begins his re-election campaign?

"No," Thorpe said.

**We know he makes almost \$114,000 a year in salary. So, it appears that Mr. Heyl is now a deputy secretary in DEQ, with unknown job responsibilities, other than the fact the issuance of the ACP water quality permit had to be coordinated through him.**

- Sen. Paul Newton, R-Cabarrus

## ATLANTIC COAST PIPELINE

## NCGA pipeline panel hires investigators, gets records request from Cooper

BY DAN WAY

A team of former federal special agents with a rich background investigating public corruption and fraud will dig through documents and interview members of Gov. Roy Cooper's administration to determine whether his \$57.8 million Atlantic Coast Pipeline discretionary fund was a political pay-to-play scheme.

"This matter is not a criminal matter so far as we know" from discussions with co-chairmen of the Joint Legislative Commission on Governmental Operations' Atlantic Coast Pipeline subcommittee, Thomas Beers said during a Dec. 12 meeting of the subcommittee.

As the legislative panel introduced the investigators, lawmakers also discussed a pointed letter they got from Cooper demanding documents related to the pipeline probe. Legislators noted the irony of a governor demanding a form of transparency from the legislature he has not exercised himself.

Beers retired as a special agent with the Internal Revenue Service Criminal Investigation Division. He partners with Frank Brostrom, a retired FBI special agent, and Kevin Greene, a retired IRS special agent, in Eagle Intel Services. They will be paid \$100 per hour to work the unusual case involving private investigation of a sitting governor.

Rep. Dean Arp, R-Union, said the subcommittee is constitutionally exercising the General Assembly's vital oversight role.

Republicans have called Cooper's side deal with pipeline partners a slush fund which unconstitutionally circumvented the legislative role to disburse state funds. They want to know if the governor coerced pipeline developers to pay extra to get a necessary state permit. The General Assembly passed



**MANY QUESTIONS.** Sen. Floyd McKissick, D-Durham, speaks at a Dec. 12 meeting of a legislative committee overseeing the Atlantic Coast Pipeline mitigation fund. At right is Sen. Joyce Krawiec, R-Forsyth.

legislation to take control of the fund from Cooper.

Cooper maintains local interests wanted the discretionary fund to extend gas lines to communities along the pipeline route to spur economic development, and for solar energy projects. He said the funds would repair environmental construction damage, though that mitigation claim has been challenged by his own Department of Environmental Quality.

Kristi Jones, Cooper's chief of staff, acknowledged the General Assembly's checks-and-balances oversight in a letter she sent to Arp and Senate Majority Leader Harry Brown, R-Onslow, subcommittee co-chairmen. But she characterized the investigation as political showmanship.

"North Carolina needs certainty that you are not wasting state resources on hearings and investigators for political gain," Jones wrote in the letter. "North Carolina needs opportunities for growth, not politi-

cally motivated hearings and investigations that waste time and taxpayer money and create a negative view of the state."

She said the governor's office would provide public records requested by lawmakers by Dec. 20. She attached a list of seven public records requests from the governor for information from the General Assembly, seeking communications among legislators, legislative staff, and third parties on matters involving:

- The subcommittee's purpose and work.
- Political benefits potentially gained from an investigation.
- The decision to hire investigators, and the legal authority to do so.
- Support expressed by legislators for House Bill 90, which removed the \$57.8 million from Cooper and shifted it to eight school districts along the pipeline's path in eastern North Carolina, and any opposition to seizure of the \$57.8 million.

- Costs for the subcommittee's work including budgets.
- A request by N.C. Republican Party Chairman Robin Hayes and Executive Director Dallas Woodhouse for a U.S. Department of Justice investigation.
- Plans or efforts to acquire the funds in H.B. 90.

"I guess that's the game we're going to play," Brown said about Jones' letter.

"We will of course honor a public records request. I hope the governor does the same in providing comprehensive and truthful responses to the questions and documents we've been requesting for nearly a year on this potential pay-to-play scandal," Brown told *Carolina Journal*. "His strategy has been to deny, delay, and distract, and that is unacceptable."

Sen. Floyd McKissick, D-Durham, lamented the governor's failure to produce requested documents. But he said the requests were so voluminous that it will take time to comply.

While Brown said the subcommittee was blindsided by Jones' letter arriving the day of the meeting, McKissick said Cooper personnel discussed the matter with him within the prior 24 hours. He defended his decision not to alert the subcommittee as protecting a confidential conversation.

McKissick pressed for information about how much the investigation would cost, cautioning against an open-ended account with public funds.

"I am so delighted to see you worrying about taxpayers' money. I share your concerns as always," Sen. Joyce Krawiec, R-Forsyth, said, generating laughter among committee members.

If the governor hadn't stonewalled lawmakers' records request, the matter would have been resolved at no cost, Brown said.

"We're representing the citizens of North Carolina," Greene said. "We know it's a limited scope we're looking at," but the investigation could expand depending on what is learned. He said there will be dozens of interviews with multiple people, and analysis of responses and documents. The committee will decide how the investigation proceeds.

Brostrom said how quickly the investigators can locate people and their cooperativeness would affect the probe's duration.

McKissick sought assurances the investigation will be objective, "and not based upon suspicions or apprehensions."

"We don't have a dog in this fight," and are not political agents, Beers said. "We will be objective, and we will present just the facts."

Greene said investigators will approach their work with an open mind, reviewing documents to determine who to interview. That would include people who prepared the documents and negotiated their preparation to determine "who, what, when, and why it was done the way it was done."

Arp said if witnesses don't cooperate the subcommittee has subpoena power to compel interviews, but he hopes that isn't necessary.

*CJ* broke the story about Cooper's pipeline deal. None of the \$57.8 million has been paid to the state while the energy coalition continues court battles over permits.

The \$6.5 billion pipeline is a 600-mile underground transmission line designed to carry 1.5 billion cubic feet of fracked natural gas daily from West Virginia, through Virginia, to Robeson County in southeast North Carolina.

Pipeline partners are Virginia-based Dominion Energy, Southern Company Gas, Duke Energy, and its affiliate Piedmont Natural Gas.



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# ATLANTIC COAST PIPELINE

## 4th Circuit panel revokes Atlantic Coast Pipeline permit

A Dominion Energy spokesman told *Carolina Journal* roughly 85 percent of the Atlantic Coast Pipeline will traverse existing utility right-of-way.

BY DAN WAY

Quoting a Dr. Seuss character, a panel of 4th U.S. Circuit Court of Appeals judges vacated a vital U.S. Forest Service permit developers of the Atlantic Coast Pipeline need to continue work on the 604-mile natural gas transmission line from West Virginia to North Carolina. The matter was returned to the Forest Service for further review.

Chief Judge Roger Gregory, James Wynn, and Stephanie Thacker issued the opinion Dec. 13. Gregory was appointed by President George W. Bush, Wynn and Thacker

by President Barack Obama.

In ordering the permitting process returned to the Forest Service for a review consistent with the panel's findings, the judges' decision quoted from the 1971 Dr. Seuss fable about the Lorax, a character with an environmentalist disposition.

"We trust the United States Forest Service to 'speak for the trees, for the trees have no tongues,'" the order stated.

"A thorough review of the record leads to the necessary conclusion that the Forest Service abdicated its responsibility to preserve national forest resources," the order stated. "This conclusion is particularly informed by the Forest Service's serious environmental concerns that were suddenly, and mysteriously, assuaged in time to meet a private pipeline company's deadlines."

Aaron Ruby, spokesman for the pipeline coalition of Virginia-based Dominion Energy, Southern Company Gas, Duke Energy, and Duke affiliate Piedmont Natural Gas, said the energy companies would appeal the decision immediately to the full 4th Circuit.



ACP. Pipeline route along existing right-of-way in Halifax County.

PHOTO BY DON CARRINGTON

About 195 miles of the \$6.5 billion pipeline would traverse eight North Carolina counties, from the southeastern Virginia border to just south of Lumberton. The pipeline is embroiled in political controversy over whether Gov. Roy Cooper coerced pipeline developers to pay extra money to get a state permit.

"We strongly disagree with the court's ruling," Ruby said. "With this decision, the 4th Circuit has now undermined the judgment of the dedicated, career professionals at nearly every federal agency that has reviewed this project."

The U.S. Department of Interior, U.S. Department of Agriculture, National Park Service, and Forest Service had agreed the Forest Service could approve the pipeline's crossing of the Appalachian Trail. Several environmental groups challenged the Forest Service permit.

Ruby noted 56 other oil and gas pipelines have operated across the Appalachian Trail for decades under Democratic and Republican administrations. The 4th Circuit opinion brings into question whether those existing pipelines can remain in place, he said.

Ruby said opposition legal tactics don't protect the environment.

"They are only driving up consumer energy costs, delaying access to cleaner energy and making it harder for public utilities to reliably serve consumers and businesses," Ruby said. The pipeline would carry 1.5 billion cubic feet of West Virginia fracked gas daily.

The Federal Energy Regulatory Commission approved the Forest Service's pipeline route. The 42-inch pipes would cross 16 miles of the George Washington National Forest and five miles of the Monongahela

National Forest, as well as the Appalachian National Scenic Trail.

The three-judge panel said the Forest Service violated the National Environmental Policy Act and National Forest Management Act, and did not have authority under the Mineral Leasing Act to grant permission to cross the Appalachian National Scenic Trail. The judges remanded the matter to the Forest Service for further proceedings.

D.J. Gerken, senior attorney for the Southern Environmental Law Center, who argued the case before the judges, applauded their decision. He painted a picture of political pressure leading to a faulty Forest Service decision.

"The national forest is a difficult place to build this kind of an industrial use under the best of circumstances, and these are not the best of circumstances," he said. "Landslide hazards, erosion hazards, rare species. They picked the worst possible route and counted on political bullying to make it happen."

Other lawsuits are challenging the pipeline. Gerken expects it will be some time before they all work their way through the courts.

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# BOARD OF GOVERNORS

## Spellings' exit leaves Roper to pick up the pieces

BY KARI TRAVIS

University of North Carolina System President Margaret Spellings is about to leave her job in Chapel Hill, saddling her successor with a daunting task: wrangling a perfect storm of campus and state politics.

On Dec. 14, while Spellings gave her final remarks to the UNC Board of Governors, dozens of protesters gathered in the rain to protest loudly against Silent Sam, the Confederate monument toppled by protesters in August. The statue is in storage awaiting its fate. The board was set to make a ruling in December, but members announced they needed more time to weigh options.

More than 100 police officers stood guard outside UNC's Center For School Leadership Development while the crowd chanted things like "this is what democracy looks like." One protester was detained for obstructing police. Law enforcers were expecting more trouble, but the rain staved off the crowd, a handful of officers told *Carolina Journal*.

The setting is similar to that which greeted Spellings during her first year in office, as she faced a crowd with a frenzy of objections over her hiring.

Since then, it's been a roller-coaster ride for Spellings, who leaves in January. She has established a new brand and strategic plan for the university. She has overseen big tuition cuts at a handful of UNC schools.

She has also weathered hurricanes, lawsuits, and House Bill 2, North Carolina's controversial "bathroom bill."

Spellings, former U.S. secretary of education under President George W. Bush, at times said the "crisis management mode" she experienced at UNC made her feel as though she never really left Washington. Balancing long- and short-term priorities was always a challenge.

"Major in the majors, and minor in the minors," Spellings often said during interviews, pushing policy decisions above political ones.

Sometimes those lines were blurred. Other times they weren't.

Spellings built an administration of steely diplomacy. She opened doors to the press, answering and cloaking questions with the ease that comes from years in national politics. She visited with students and faculty. She worked with other state educators as part of the My Future NC Commission, looking for ways to smooth transitions among all stages of public education.



**PICKING UP THE PIECES.** Dr. William Roper answers reporters' questions on Nov. 1, 2018, in Chapel Hill, minutes after the UNC Board of Governors voted to make him interim president of the UNC system.



**BOG.** UNC Board of Governors Chairman Harry Smith at a Dec. 14 meeting.



**PROTESTS.** Demonstrators gather outside UNC Board of Governors meeting to protest Silent Sam.



But politics fray progress, and, as Spellings has said repeatedly of her decision to leave UNC, "all leaders are for a time." Both liberals and conservatives at some point have taken issue with decisions made by Spellings' administration.

The system now becomes the responsibility of interim President William Roper, who had been CEO of UNC Health Care.

Roper, taking the reins of a university under fire for its handling of

Silent Sam, must step to the helm of an administration that acts as a political emissary between UNC's Board of Governors and all 17 campuses.

Spellings faced a similar challenge in 2016, when the firing of her predecessor, Tom Ross, caused an uproar over lack of transparency in board dealings. Upon taking office, Spellings sought to boost transparency by instating video broadcasts and public comment sessions at regular board meetings.

Roper's professional background may provide some advantages as he builds out his priorities as interim president.

Unlike Spellings, a Texas native and Washington insider, the 70-year-old Roper is no newcomer to North Carolina, having joined UNC-Chapel Hill in 1997 as dean of the School of Public Health. He became CEO of UNC Health Care and UNC's medical school dean in 2004.

But Roper still must navigate board politics in a room full of for-

mer state legislators and lobbyists. Harry Smith, the board's chairman, has shown a hands-on approach while dealing with Spellings' administration — and it's led to some strain.

CJ reached out to Roper for comment on his own relationship with Smith and the board, but he was unavailable for an interview. Smith praised Roper in October, calling him an outstanding and easy choice to lead UNC while the board seeks a new president.

# COMMENTARY

## Listening to voters and politicians talk education spending



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

Most North Carolinians believe the state spends too little on public schools, a Civitas Institute poll from September says.

That finding was hardly surprising. After all, the same poll found nearly two-thirds of the respondents believe that, on average, public schools spend less than \$7,000 per student. Data published by the N.C. Department of Public Instruction show the average per-student expenditure in North Carolina was nearly \$9,500 last year, a figure that doesn't include expenditures for school facilities, capital funds spent on behalf of school districts for debt service, and school district fund balances.

The surprising part is that, when the pollster informed the respondent of the actual state average expenditure at the time, 45 percent of respondents still said it was too low. This suggests that a sizable share of N.C. voters will remain dissatisfied with North Carolina's education spending level until it



rivals the big spenders (and even bigger taxers) in the Northeast. Unfortunately, politicians are all too aware of this fact and are all too eager to exploit it for political gain.

Complaints about "insufficient" education spending have been a part of the American political tradition for at least the last century. It is one of the few policy priorities that Democrats and Republicans share, but that doesn't mean they approach it in the same way. Democrats support unconditional and everlasting tax increases so long as they feed the insatiable public school establishment beast.

Republicans are willing to increase the flow of dollars as long as they tame the beast through competition, limitations on state funding for administrative and non-teaching positions, and stronger accountability measures.

Between 2012 and 2018, N.C. Republicans have increased the per-student average expenditure by around \$1,000 per student in nominal dollars or \$200 per student in inflation-adjusted dollars. Despite these increases, the adjusted per-student expenditure still doesn't exceed the surge in spending during the years immediately preceding the Great

Recession, the nonsensical benchmark set by those who reflexively oppose Republican education and tax policies.

Republicans have been much more successful increasing competition. In 2012, North Carolina's 100 charter schools enrolled around 44,500 students. In 2018, North Carolina had 175 charter schools that enrolled more than 98,500 students. This year, at least 8,553 low-income children will receive an Opportunity Scholarship that will enable them to attend the private school of their choice. Additionally, 1,245 special-needs children received a Disability Grant, and 268 received an Education Savings Account. The popularity of these public and private school choice programs hasn't wavered since Republican lawmakers expanded or introduced them beginning in 2011.

They've had moderate success in reducing the number of administrative and nonteaching positions. The number of state-funded central office administrators decreased from 919 positions in 2012 to 898 positions in 2018. Unfortunately, school districts have been using local funds to grow the ranks of their central offices, leading to a slight increase in the total number of these positions over the past six years. And despite attempts to reduce funding for consultant and supervisory positions, this

category of public school employment also grew, albeit slowly, during this period.

Of course, this doesn't speak to voters' knowledge of how school districts spend their tax dollars in ways that raise student achievement and cultivate an industrious and active citizenry.

In a subsequent poll, the Civitas Institute pollster asked likely voters if they believe student outcomes in public schools would improve if state government simply spent more money. Interestingly, 44 percent said yes, 44 percent said no, and the remaining 12 percent were unsure or refused to answer. That is the question we should be asking. Such questions are a reasonable starting point in discussions of spending on public schools because they ask respondents to think about the relationship between student outcomes and funding. After all, how the money is spent is just as important as how much is spent.

And if an objective evaluation of the system's needs suggests that more taxpayer funding is justified, then North Carolinians need to be presented with a range of budget and policy options that reflect the trade-offs that inevitably occur because taxpayer resources are scarce. Most elected officials understand that fact, even if they are terrified to admit it publicly.

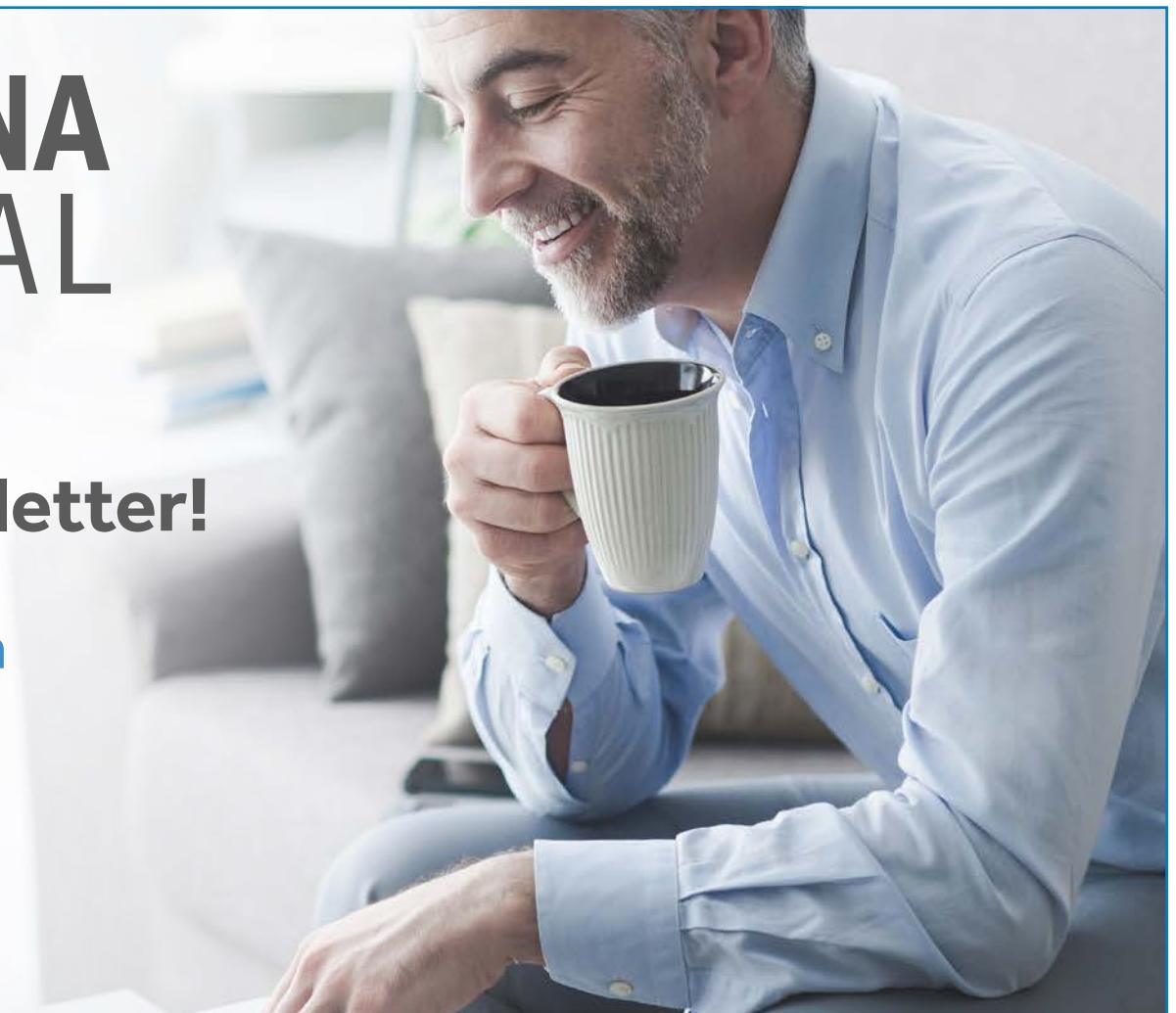


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## COMMENTARY

# Headline reminds us about critical difference between charter, district schools



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

It's hard to feel good about the following headline: "Charter school closing due to poor performance."

But this observer has to admit to at least one positive reaction while reading the sad news spelled out in the Dec. 11 edition of the *Raleigh News and Observer*. While contemplating the story of Hope Charter Leadership Academy's struggles, I couldn't help but think: This is what's supposed to happen to a charter school that underperforms.

The demise of Hope Charter, located near downtown Raleigh, offers a sharp contrast to traditional district schools that fail year after year. In almost every case, those schools continue to operate with no threat of closing. While Hope Charter students and families must seek other educational options, many of their counterparts in failing schools across the state remain stuck with the status quo.

Short of a shutdown, even efforts to shake up operations of a failing district school tend to face an uphill battle. Witness the protracted fights over placing two elementary schools — one in



**THE DEMISE OF HOPE CHARTER.** Sad news, but this is what's supposed to happen to a charter school that underperforms.

Robeson County and the other in Wayne — in the state's relatively new Innovative School District. That district targets the state's worst-performing district schools. It allows them to continue operating under new management.

Imagine the outcry if state or local education officials had recommended an alternative: shuttering those schools completely. It's safe to say that option would not have proceeded as smoothly as the process that will lead Hope Charter to close its doors.

Charter school advocates often point to good news associated with these publicly funded schools that operate outside the control of traditional school

systems. And they have strong evidence on their side.

The John Locke Foundation's K-12 education expert, Terry Stoops, noted this fall that a higher percentage of charter schools (42 percent) earned A and B grades from the N.C. Department of Public Instruction in 2017-18 than their district school counterparts (35 percent). Charter schools made up 7.8 percent of those higher-grade schools, even though charters represent just 6.6 percent of the more than 2,500 graded public schools statewide.

On the other end of the scale, eight charter schools (5 percent) earned F grades, while 83 (4 percent) of their traditional district

school counterparts failed to make the grade. Charters represented 8.8 percent of all failing schools, according to the state's grading system.

One major difference, of course, is that each failing charter school faces the threat of following Hope Charter's path to closing. Few, if any, of the dozens of failing district schools are likely to hear any suggestion that they shut down.

The prospect of closing forces struggling charter schools to innovate or disappear.

Innovation remains a realistic option. Ask Richard Vinroot, the former Charlotte mayor and Republican candidate for governor. Vinroot shared with state lawmakers last spring the story of Sugar Creek, the charter school he helped start in Mecklenburg County.

Sugar Creek's early performance results fell well short of Vinroot's expectations. He conveyed his concerns to school director Cheryl Turner. "Our numbers were exactly like the poor schools at [Charlotte-Mecklenburg Schools] — no different," Vinroot said. "We had no gym. No playground. I said, 'Cheryl, we need to shut this darn thing down. Why are we taking kids in our school who aren't doing any better than anywhere else? We need to shut it down.'"

As Vinroot recounted during his April legislative presentation, Turner asked for another year to find a way to boost the school's performance. Two decades later, a school that started with about a quarter of its students meeting grade-level proficiency boosted

that total to 60 percent.

In 2016-17, Sugar Creek's African-American students scored 12 points higher on standardized tests than their CMS peers and 19 points higher than African-American students statewide. Sugar Creek's Hispanic students scored 19 points higher than those in the surrounding school district and 21 points higher than the statewide average. Among all economically disadvantaged students, Sugar Creek topped CMS by 18 points and the statewide average by 21.

The school eventually expanded into high school grades. All 30 members of its first graduating class were expected to go on to college. As the school compiled these achievements, 94 percent of Sugar Creek students qualified for free or reduced-price lunches, Vinroot said.

It would be great to see repeat performances of Sugar Creek's success story. State leaders would be wise to give new charter schools sufficient time to mirror Turner's impressive turnaround.

But some charter schools won't make it. Those that can't find the key to success should shut down. Just as the top-performing charters offer examples for other schools to emulate, the shuttered charters should provide evidence of education approaches to avoid in the future.

Yes, it's sad to read about a "Charter school closing due to poor performance." But that's a better headline to see than "Charter school lingers on despite repeated poor performance."

NORTH CAROLINA

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## EDUCATION

# A unique opportunity for athletics reform



**SHANNON WATKINS**  
COLUMNIST

Many colleges are setting up their student-athletes for failure. Whether one looks to the long-term neurological health risks that young athletes are subject to, or the myriad cases of academic dishonesty within athletics departments, it appears the personal and academic well-being of student-athletes is often compromised for the sake of “the game.”

Fortunately, the N.C. legislature is taking a close look at how to improve colleges’ treatment of student-athletes. Over the summer, the General Assembly passed a bill establishing a Legislative Commission on the Fair Treatment of Student-Athletes. The commission is chaired by Lt. Gov. Dan Forest and will have six meetings before it recommends legislation.

For its part, the Martin Center has had several long-standing recommendations for college athletics reform that could strengthen the commission’s recommendations.

### STOP ISSUING ACADEMIC WAIVERS

First, the Martin Center recommends that colleges and universities stop issuing academic waivers for student-athletes who fail to meet minimal academic admission standards.

In the 2016-17 academic year, 4.3 percent of UNC system student-athletes received academic waivers. The minimum admissions requirements for all UNC institutions is an 880 new SAT score and a 2.5 cumulative GPA. That means the 54 student-athletes who received waivers scored *below* the minimum requirements. And those are just minimum systemwide requirements: that same year, the average score of accepted students at one of the system’s most athletically competitive schools, UNC-Chapel Hill, was 1381 on the SAT and a 4.66 GPA.

At the same time, student-athletes’ academic schedule is severely restricted by their athletic time requirements. It is absurd to expect students who are already dramatically behind the academic average to catch up while sustaining such a schedule.

### ELIMINATE ATHLETIC SCHOLARSHIPS

The Martin Center also recommends the elimination of athletic scholarships because they per-

versely incentivize students to put their sport before their studies.

In many cases, athletic scholarships expire and must be renewed on an annual basis. And the coach usually decides whether to renew a student-athlete’s scholarship. This power imbalance puts a great deal of pressure on student-athletes who must meet their coach’s standards of athletic performance to keep their athletic scholarship — while maintaining academic eligibility.

But simply requiring student-athletes to maintain a certain GPA is not enough to ensure their studies remain a top priority. Students find ways to keep their heads above water while still putting academics on the back burner. Indeed, student-athletes are known to be encouraged to cut corners. One dramatic example is UNC-Chapel Hill’s athletics scandal, where a disproportionately high number of student-athletes were funneled into fake “paper classes” to boost their grades.

### LIMIT TIME REQUIRED FOR ATHLETIC ACTIVITY

According to NCAA bylaws, student-athletes are limited to 20 hours a week of “countable athletically-related activity” such as practice, competition, and strength training. However, the 20-hour limit only applies *during* the

season, not before. Furthermore, team travel doesn’t count toward those 20 hours — even though traveling is a large time commitment.

And even though existing rules limit the amount of time athletes can dedicate to athletics, given the intense pressures they are under, it’s quite possible students spend an excessive amount of time training and practicing anyway.

As such, some of the Martin Center’s recommendations include:

- A full enforcement — by means of greater oversight — of the 20 hours per week limitation on athletic activities when classes are in-session
- No competition scheduled during final examination periods

### COLLEGE ATHLETES RIGHT TO KNOW ACT

The Martin Center also recommends that all states adopt legislation based on the College Athletes Right to Know Act. The act was first signed into law in California by governor Arnold Schwarzenegger on Sept. 30, 2010, and requires coaches and recruiters to “disclose their institutional and the NCAA’s policies regarding medical expenses, scholarship renewals, and transfers to other institutions.” Only Connecticut has followed California and adopted this legislation.

According to Ramogi Huma, a former UCLA athlete and director of the National College Players’ Association, young high school students decide which college to attend “based on false information given to them by athletic recruiters.”

Passing legislation similar to the College Athletes Right to Know Act would give parents and students critical information, enabling them to make the best decision possible.

### CONCLUSION

The current college athletics culture places a disproportionate emphasis on athletic success — over academic success. Even if that emphasis is unintentional, the current inflexible demands on athletes’ time, and the pressures involved with maintaining eligibility for athletic scholarship renewal, put athletes in a nearly impossible position.

The legislature has an important opportunity to reverse a great deal of the abuses that college athletes suffer through its legislative commission. If they seize the opportunity, they can reaffirm the primary purpose of colleges and universities: education.

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

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# EDUCATION

## Solving the trust problem between teachers and parents



**KRISTEN BLAIR**  
COLUMNIST

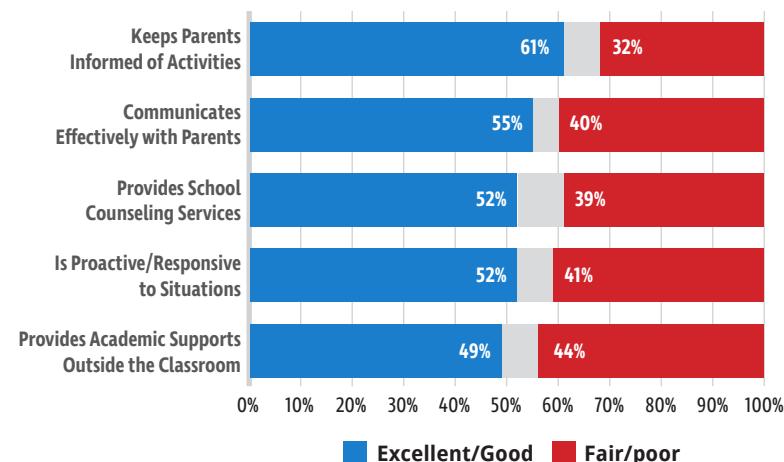
Teachers and parents, we have a trust problem. Just 36 percent of public school teachers express “complete” or “a lot of” trust in parents, EdChoice’s new “Schooling in America Survey” says.

What’s eroding trust? One likely culprit: Parental expectations are sky-high. Harried Millennial parents want schools to teach skills once considered part of child rearing. In a new Walton Family Foundation/Echelon Insights survey, Millennial parents say schools bear more responsibility than they do not just for academics, but also for teaching kids how to balance a checkbook, set personal goals, build good relationships — even how to change a tire.

Wow. No teacher has the time or mandate to lead on all that. Teachers assume numerous roles in the classroom. But they aren’t

### Parents’ Ratings of Local Public School Districts

Current and former school parents are more likely to give their school district positive ratings, but one-third give low marks in most categories.



SOURCE: EdChoice, 2017 Schooling in America Survey (conducted Aug. 18–Sept. 2, 2017), Q4.

bankers, life coaches, therapists, or mechanics. Nor should parents expect them to act as if they were.

What’s a first step toward rebuilding relationships? Remember the kids, and work to get along. It sounds trite, but optimal outcomes occur when kids are supported by adults working in harmony. Allies on the same side, cooperative teachers and parents can

improve everything from academic achievement to conflict resolution, research shows. Of course, trust cuts both ways. But on this, schools should lead. A study from researchers at Ben Gurion University, assessing Israeli schools of choice, found that “parents who feel trusted by the school staff are more inclined to trust and therefore engage in school. This implies

that trust, being a component of social capital, is rooted in norms of reciprocity.”

Where to look for inspiration? Atlanta’s Ron Clark Academy, “a private school with a public mission,” is a model for positive partnership. Founded by teachers, RCA serves 120 mostly low-income students in grades five through eight. The school is small, but its reach is global: RCA has trained 50,000 educators from 50 states and 26 countries; 90 percent are public educators. Academic growth is the stuff of educators’ dreams. Yet RCA’s culture stands out most. Each fall, staff pile into a van, logging 12-hour days to conduct home visits to new families.

“What we’ve found is that when the parents recognize how dedicated we are to their kids, there’s also a sense of trust that is being established,” says Junior Bernadin, RCA’s dean of students.

Parent get-togethers provide input on how to support students. Staff members have even hosted parents in their own homes, says Bernadin. On Parent Day, moms and dads attend school. Those failing to suit up for PE class get an F. School expectations are clear. Parents are asked to “trust the process,” says Bernadin. Parents

sign a contract of obligation, committing to support school policies. They must volunteer 40 hours annually; most give hundreds of hours. During Teacher Appreciation Weeks, parents have catered food, redecorated the school, and brought in massage therapists, says Bernadin.

What do teachers wish parents knew? “We’re all on the same team. When there are issues, we might not always agree with one another, but we still have the best interests of your child in mind,” says Bernadin, known on campus as the “parent whisperer.”

Parents should respect teachers’ professional expertise just as they would a doctor or lawyer, says Bernadin. They should ensure communication is effective. Negative or accusatory emails can offend teachers who are working hard to help kids succeed. Conveying concerns is fine, but “the tone in which you have a conversation is really important,” Bernadin adds.

About those earlier nonacademic skills: Schools can help with some. But most are the work of parents — especially the one requiring a lug wrench.

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

## What the hoax papers tell us about the decline of academic standards



**PHILLIP MAGNESS**  
COLUMNIST

**BY NOW, MOST** followers of the higher education press have heard of the “grievance studies,” or Sokal Squared hoax.

In this incident, a team of three researchers successfully published several hoax papers on intentionally absurd subjects in ostensibly serious scholarly journals. Their purpose was to demonstrate the susceptibility of these venues to low-quality, ideologically charged “research” that advances left-wing identity politics.

The hoax articles lampooned the academic fashionability of its chosen subject areas. Samples of the published papers included an article on “rape culture” among dogs in urban dog parks, a piece espousing a theoretical framework for the acceptance of obese bodybuilders, a nonsensical string of computer-generated “therapeutic” political poetry, and even a passage of *Mein Kampf* repackaged



James Lindsay, left, and Helen Pluckrose of the Sokal Squared hoax project.

as critical gender theory.

While identity politics have dominated the fallout discussions, the real lesson of the hoax is what it revealed about the crisis of rigor afflicting academic publishing. The fabricated articles advanced to publication only because decades of lax standards have made academically fashionable nonsense — including other forms of fraudulent work — the norm for celebrated scholarship in several of the humanities and social sciences.

The hoax succeeded precisely because its products were indistinguishable on their face from the type of “serious” scholarship that regularly appears in academic journals.

A full accounting of similarly dubious scholarly outputs in the past five years could easily fill hundreds of pages, but suffice it to say that low-quality and even unintentionally comical research is a commonplace feature of the ivory towers.

The Sokal Squared hoaxers began their quest as an attempt

to out-absurd the absurd, yet at most, they succeeded only in a convincing replication of an unfortunate new norm. They attempted parody of a style of writing that, through its own willingly embraced and celebrated devices, has become impossible to parody.

Nonetheless, the empirical results of the hoax remain impressive. In total, they secured publication for seven hoax papers out of 20 that they prepared for the experiment. While six were rejected, another seven were under various stages of review or “revise and resubmit” at the time the hoaxers decided to pull the plug on their deception.

By academic standards, their success rates are well above average. At least four of the accepted pieces appeared in highly ranked “field” journals of a caliber that usually qualifies for hiring and tenure decisions.

Considering that the median academic in the United States has published only one to two professional works of any type in the past two years, the seven accepted hoax papers in only a year’s time would be more than sufficient to establish a fictional author as an “expert” in a subject.

The proliferation of academically fashionable nonsense — and the treatment of such nonsense as if it were credible scholarship — is itself only one of the more visible signs of the ongoing crisis of rigor in the academy.

Perhaps the revelations of the hoaxes will direct some attention to the problem of scholarly rigor in the coming years. The two are related. The normalization of fashionable nonsense as a basis of academic publishing — and thus hiring and promotion — is itself epistemically destructive to the rigor of the entire enterprise. And stripped of any standards of rigor or quality, academia is left without any basis to scrutinize and self-correct for breaches of scholarly trust.

Low-quality nonsensical academic publications are both abundant and easily replicated in convincing form, as the hoaxers demonstrated. But attempted parody alone will not solve a much deeper crisis of rigor.

*Phillip Magness is a senior research fellow at the American Institute for Economic Research and co-author of the forthcoming book Cracks in the Ivory Tower: The Moral Mess of Higher Education.*

# MEDIA

## Network uses video productions to tout free markets' benefits

### Q & A



**Robert Chatfield**  
President & CEO  
Free To Choose Network

Though Noble Prize-winning economist Milton Friedman died in 2006, his ideas live on through multiple channels. That includes the videos of his widely viewed television series, "Free To Choose."

**Robert Chatfield**, president and CEO of the Free To Choose Network, continues to promote Friedman's ideas through new video productions. Chatfield discussed the network's projects with Mitch Kokai for Carolina Journal Radio.

**MK:** First of all, tell us about the Free To Choose Network. What is it, and what is it that you're trying to do?

**RC:** As you may have surmised, we are the original film company that produced Milton Friedman's "Free To Choose" series. A little trivia for you is the book actually came out after the film. Most people are unaware of that. But our founder, Bob Chitester, sort of created this idea of how do we get Milton's ideas out there. And it was a response to a public television program that I believe was a 13-part series on [economist John Maynard] Keynes. And somebody from public television said, "We should have another side of this here." And Bob says, "Well, we can do it in 10 [parts] because Milton is much more efficient."

**MK:** And so, this company produced the "Free To Choose" series, which was on PBS.

**RC:** Correct.

**MK:** People may remember that. And then it became a book. But now, 12 years after Milton Friedman is gone, you're still putting together projects.

**RC:** I was going to say: 40 years after that project, we're still going strong as a film studio. So we still produce documentary films. Our primary outlet is still public television, so UNC-TV around here will often air our programs. We are still looking to figure out how to reach the masses that haven't heard the message yet. And I think that's probably the key differentiator for us and a lot of people that might be considered libertarian, conservative, etc., is we go out of our way to really go out and try to look for the people who have never heard this message before.

**MK:** And the message is still the same message about the value of policies that promote freedom and individual liberty ... and letting markets work.

**RC:** Correct. And most people consider these conservative ideas or liber-

tarian ideas. Milton never considered it that way. Milton considered himself a self-described radical. And that's one of the things that we continue to say, is that we're not pushing a conservative agenda. What we're pushing are winning ideas. And these winning ideas, essentially, are, you know, if you leave people alone, let them choose what they want to be able to do, in general, they'll choose well, and they'll be happier people.

**MK:** One of the things about "Free To Choose" that set it apart from what was there before is this was not a book. This was not something with a bunch of charts and graphs, or talking heads and academics. Basically, Milton Friedman, though he was very intellectual and an academic, was telling stories that normal, everyday people could understand. Is that still the goal?

**RC:** Absolutely. And Milton was coached along well, as I said, by our founder Bob Chitester. It lasted him a lifetime in terms of the coaching there. But ... we just did a series on Adam Smith called "The Real Adam Smith," for example. He's still relevant today. Well, let's get on a Maersk ship and go around the world and find out if Adam Smith is still relevant today, by looking at trade specialization and other matters like that.

We did a program called "India Awakes," where we went and saw what's happening in India. Almost anywhere we go to, where we see them making reforms toward a more market-based economy, we'll still travel the world, we'll still find those stories, and we'll still put those stories on air.

**MK:** Do you see that people who see these programs, some of them will have the light bulb go off and go, "Oh, yes, this does make sense — I get it now"?

**RC:** One of the funniest stories was a colleague of mine was in a taxi cab in New York and was just talking to the cab driver. The cab driver says, "Yeah, I saw this thing



**FREE TO CHOOSE NETWORK:** Robert Chatfield at CJ Radio.

on Adam Smith. What an interesting guy he is." And the colleague was not from our organization. He says, "You know, I'm going to see that film producer right now. I hope you don't mind if I tell him that." So I think, yeah, the light bulb still goes off for a lot of people.

Again, they're just not exposed to the ideas. Nobody really gets a giant economics curriculum in high school. If you went through college, you might have taken a course or two in this. But unless you're well-versed in it, these continue to be esoteric ideas for many. And the more we can turn them into stories that people understand, the more people realize economics really boils down to choices. And if you are free to choose, again, you're more happy.

**MK:** You mentioned that people may have had an economics course in college, and [they are] probably still scarred by thinking of supply-and-demand curves, econometrics, and all of the jargon. How difficult is it to translate these concepts — some of which are intuitive, but others are not — into things that people who don't have that economics background or don't want to have to think about economics can understand?

**RC:** I'll take you to our latest production. It's a film called "Sweden: Lessons for America?" ... Bernie Sanders said, "America should be more like the Nordic countries. We should be

more like Sweden." And we proceeded to go in and take a real deep dive into some of those statistics. But how do you tell those statistics? We have very few graphs in this documentary film. But there are a couple that really point out some ideas to you. And as I said, you hit it on the head there with regards to not having the supply-and-demand graphs. You can't do that.

But what can you talk about? What happened with tax rates, by showing people who are literally driven out of Sweden because of the tax rates? And they were the Swedish celebrities: the author of *Pippi Longstocking*; Ingmar Bergman, the famous film producer. These people were driven out of their native country because of the tax rate. And when the labor unions started to take over more and more of the companies and the entrepreneurship went away, what happened?

So we tell those things through the stories. You're not going to be able to say, "Oh, yeah, tax rates of 102 percent are punitive. Everybody understands that component." But if you can tell it through the eyes of the story and how it impacted even the people in Sweden, then ... it resonates more with the people who are watching this here, to say, "Yeah, now I seem to get this." The idea that Sweden is social democracy is really a falsehood.

**MK:** This work, as you said earlier, goes back 40 years, and we have seen the media landscape change quite

a bit over that time. Even over the past few years, people are getting their information in new ways. They don't really watch TV or films as much. People get their information from their phones, through the internet. Does that create challenges for the Free To Choose Network about how do we get this valuable information to people so they'll actually see it and hear it?

**RC:** There's two avenues we're still going through. We still go through public television as our distribution outlet for a couple of reasons. One is: If you're a school teacher that wants to be able to use this, and it was shown on public television, it has sort of a stamp of approval. That somebody else has sort of vetted this product out there and that it's safe for general consumption, if you will. And again, I don't know what's so scary about an idea that says, you know, people who are free tend to be happier than those who aren't. But there is this concept that, "Oh, my gosh, you know, for some reason the conservative right wing has a monopoly on freedom, therefore nobody else can have this, and it's bad."

So, public television, as I said, reaching out to that audience and making sure we're spreading that message through there in a broad form. Also, make sure that we're getting audiences of 500,000 to 1 million people on a regular basis for what we're putting out. And it's a diverse audience, as we well know.

The side question you asked on that one is more about the fragmented market and people having to go out and search and find things. I think that's where everybody's facing the challenge there. But I think if you push this out through channels, as I said, public education, public television, and still use the purpose of mass media, which is not to hit a targeted swath of audience that already agrees with your message, but to try to show other people maybe there's another way you can think about this — I think we still do a good job, and I don't think we should be ignoring those markets.

# FREE SPEECH

## Free speech faces strong cultural challenge in America today

### Q & A



**David French**  
Senior Writer  
National Review

Free speech is one of the most important rights protected in the U.S. Constitution's Bill of Rights. But free speech faces continual attacks. One source of those attacks comes from those who pursue so-called "political correctness." **David French**, senior writer for *National Review*, discussed the problem during a recent presentation in Raleigh for the John Locke Foundation, Federalist Society, and National Review Institute. French shared themes from his speech during an interview with Mitch Kokai for Carolina Journal Radio.

**MK:** We all know that free speech is important, but we really have been seeing this new line of attack on free speech recently, haven't we?

**DF:** Yeah. You know, what we're dealing with now is less of a legal attack on free speech, although there are important free-speech cases that the Supreme Court has decided. But the Supreme Court has been protecting free speech pretty consistently, with some exceptions, but pretty consistently for a while now. To the point where you probably have greater freedom now from government interference with your free-speech rights than virtually any time in American history.

The problem that we have is cultural. The problem we have [is] shame campaigns, other campaigns, where people ironically use their free speech to try to silence free speech. In other words, you have a right to boycott, for example. So you try to boycott and economically ruin people you disagree with. You have a right to launch a shame campaign. So you launch a shame campaign with the design to silence someone. Or employers have the right to fire workers whose politics they don't like, so they use that right to cleanse their work force of ideological disagreement.

All of these things are a cultural effort, where people in a very shortsighted way, I believe, use certain free-speech rights to silence, shame, terminate people who engage in dissenting speech. And it's creating a very, very toxic environment.

**MK:** You mentioned that you think this is shortsighted. Why are these people being shortsighted?

**DF:** The reason why they're doing it is they're being empowered by hate and rage, which are contagious. Hate and rage are contagious. And one of the things, when you do not respect free-speech rights, ultimately, over time, what you begin to have is you begin to have a culture, including your own opponents, who do not respect free-speech

rights. And so what ends up happening is we are in a position where the only people who can be guaranteed to be able to speak freely are the people who are in a majority of any given institution. And it's a mistake to think that you're always going to be in a majority in any given institution.

Free-speech rights exist not to protect the majority. Majority speech has the protection of popularity. Free-speech rights exist to protect minority speech, to protect dissenting speech, including dissenting speech that we don't like. And so I think as a matter of principle, what's best for our society in general, we should protect the free-speech rights of people we disagree with. But it also happens to be in our long-term better interest, as well. Because you press out five years, 10 years, 15 years, 20 years, do we know what the society is going to look like? Do we know if our point of view is going to be the one that's dominant? No, of course you don't. But if you protect a culture of free speech, five years, 10 years, 15 years, 20 years from now, you'll know that you'll at least have the opportunity to share your views.

**MK:** This is a different sort of challenge than the legal challenge involving free speech. How has this challenge differed in the sense of the way you go about attacking it?

**DF:** Yeah. You know, with a legal challenge to free speech, you file lawsuits to deal with that. And I have filed many, many lawsuits in my career defending the rights of people I agree with and the people I don't agree with. But defending the right of free speech, defending rights of religious liberty — in a way, that's kind of straightforward. You see government censorship, you move to stop government censorship, you collect attorneys' fees, and then you go on.

The cultural threat is much more insidious and much more difficult to combat. There are laws that can help. So, for example, laws that protect anonymity or donor privacy, to prevent people who give money to



**SHAME CAMPAIGNS:** People ironically use their right of free speech to try to silence free speech.

**The cultural threat is much more insidious and much more difficult to combat. There are laws that can help.**

causes, especially to controversial causes, to prevent them from suffering reprisals because of state-mandated disclosure. That's a legal protection when the culture of free speech starts to falter, and that's a very important legal protection. But you're not going to deal with the loss of the marketplace of ideas just through anonymous speech, or just through donor privacy. It's a piece of it, but it's not the whole.

So the whole is you have to make that cultural argument for free speech. You have to step up, make the argument, defend the right of free speech, defend the value of free speech. You just can't assume anymore that people will understand and respect free speech for what it is. You have to make the case for free speech as a value, even as you defend the right of free speech, even as you defend the ability of people to speak freely in circumstances — private and public.

**MK:** You mentioned donor privacy, and I want to loop

back to that because some people may hear this and say, "Wait a minute. Isn't transparency important? We want to know who is delivering these messages that we're hearing. It's important to know who's behind these things." Why is donor privacy such an important piece of protecting free speech?

**DF:** That's a great question because advocates for greater and greater and greater disclosure of the way in which people fund nonprofits and other entities that advance values and ideas that they agree with, they use that "transparency" word all the time. "We want more transparency." And it sounds great, because who's against transparency? But the transparency obligation is for the government, not for the private citizen.

So when we want transparency, in a free society, transparency is a government obligation. Privacy respects the individual liberty and protects the individual liberty. So, literally, we would like transparency for the government, privacy for the individual. The government doesn't like that. The government likes to flip that around and have privacy for the government. In other words, you know, opaque processes, opaque proceedings, where they want a high degree of public trust in the government, and at the same time, a low degree of governmental

trust in the public. I think that's exactly the opposite of what a free people should seek.

**MK:** If we had a reversal of the privacy that we now have, what would be some of the negative consequences we would see?

**DF:** All the same consequences you see now in a world where a quarterback can win a Heisman Trophy and immediately have tweets dredged up from when he was 14 years old and used to humiliate him on the best day of his life. Or we saw with Kevin Hart, announced to be the host of the Oscars, and many-years-old tweets are drug up, and he's fired summarily or forced to step aside in less than 24 hours.

... You could just go on and on and on, of examples of people who've lost their job, who've lost their public reputation, have been humiliated and driven from public life because of people who use the search function on Twitter. When you have a search function that could work much more globally on people's overall political activities, not just Twitter and Facebook, but the money that they give to the causes that they love, you're going to see — and you already have seen — some people sort of hounded out of their jobs because of money that they've given. You would see that even more.

**MK:** Do you have much confidence that we are going to see a sea change and have people more inclined to support free speech culturally than we have seen in recent years?

**DF:** No. I think it's going to have to get worse before it gets better. There's this concept you often hear in addiction — drug addiction — that someone has to hit rock bottom. And I think in a rage addiction, we may have to hit a version of rock bottom, sort of a version of where we realize that the misery that we experience and the suppression of ideas that we experience [are] so extreme that people begin to rebel.

Unfortunately, right now, I think sort of the online censors are winning.

## COMMENTARY

# One way to draw the maps: Just follow the rules



BECKI GRAY

SENIOR VICE PRESIDENT  
JOHN LOCKE FOUNDATION

**RULES ARE IMPORTANT.** Whether it's a sporting event, a corporate meeting, or a board game, rules set the parameters of the interaction. Without rules there's confusion, uncertainty, and ambiguity with participants jockeying for an advantage.

Nowhere are rules as important as in apportioning election districts to ensure fair and equal representation in government. Our state constitution lays out who draws the maps and the guidelines. Even so, nowhere has there been as much controversy and litigation over redistricting than in North Carolina. Historically, the party in control of the General Assembly following the national census uses redistricting to give itself an electoral advantage. This has resulted in many lawsuits for decades. Courts have become rule arbitrators.

In 2002, the N.C. Supreme Court handed down a historic redistricting decision in *Stephenson v. Bartlett*, throwing out gerrymandered maps drawn by Democrats who controlled the General Assembly after the 2000 census. The court determined what the constitution said and clarified redistricting rules.

The N.C. Constitution under Article II empowers the General Assembly, after each decennial census as ordered by Congress, to revise and apportion districts.

Article II, Sections 3 and 5, lay out four requirements that apply to drawing the districts:

1. Each state senator and representative represents as nearly as possible an equal number of inhabitants. The state's population is divided by 50 for Senate districts; 120 for House seats.
2. Each district must consist of contiguous territory.
3. Counties must be kept whole in the formation of districts.
4. Once established, the districts remain the same until the next national census is taken each decade.

Even with these constitutional rules in place, there was enough wiggle room and self-interested intent that Republicans sued Democrats for gaming the system to ensure an advantage in elec-



## North Carolina has more pending litigation in federal courts than any other state by far...

tions. The case is *Stephenson v. Bartlett*, also known as *Stephenson 1*. This is the state Supreme Court decision that litigation over the past 16 years has relied on. And that Democrats have used to sue Republicans over for their alleged efforts to game the system.

*Stephenson 1* lays out the fundamental principles in the state's role in redistricting and establishes the N.C. Supreme Court as the final word on what is constitutional and what isn't.

The court laid out nine clarifying rules that "must be present in any constitutionally valid redistricting plan."

To comply with federal law, voting-rights districts have to be drawn first. They must be consistent with federal law, must not have a retrogressive effect on minority voters, and must keep counties whole as much as possible.

1. To comply with the one-man, one-vote principle, population numbers can deviate no more than 5 percent of the ideal number based on the census count.
2. Keep counties whole in non-voting-rights districts.
3. In nonvoting-rights districts whose population numbers warrant two or more districts, each district will be single-member districts.
4. When population warrants combining counties for a cluster, group the minimum

number of whole contiguous counties to form one compact district.

5. The whole county provision must be enforced to the maximum extent possible, with the smallest number of counties per district.
6. Communities of interest should be considered.
7. No multimember districts, unless there's a compelling governmental interest.
8. No plan can deviate from these rules unless it's necessary to comply with federal law.

Subsequent cases have returned to and insisted on strict compliance with the *Stephenson 1* criteria over the years, mandating that in "creating legislative district, counties shall not be divided except to the extent necessary to comply with federal law, including the one-person, one-vote principle and the voting rights act."

Districts must be compact and contiguous and keep communities of interest intact.

Even with the *Stephenson 1* criteria clearly laid out, litigation over redistricting continues. North Carolina has more pending litigation in federal courts than any other state by far, currently with three separate cases challenging the state's 2016 remedial congressional plan.

Common Cause and the N.C. Democratic Party sued in state court on Nov. 13, 2018, asking that legislative districts be redrawn for the 2020 election.

When the 2019-20 General Assembly convenes this month, they will consider many things — reining in the growth of government, fair taxes, reasonable regulations and investments in education and infrastructure, and likely redistricting for the 2020 elections.

Luckily, there are rules for the latter. Follow the rules, and there's only one way to draw the maps.

## EDITORIAL

## Incentives' sway didn't keep Apple away

Was Apple's choice of Austin, Texas, over the Research Triangle for its new, \$1 billion campus a win or a loss for North Carolina?

The answer isn't as obvious as local boosters would have you believe. Sure, the sudden infusion of capital investment and (eventually) high-paying, high-skilled jobs would have been a boon for the area. But there was a price tag, as our John Locke Foundation colleague Jon Sanders noted: massive tax incentives.

They included:

- Refunds of as much as 90 percent of the company's withholding taxes for new hires for 40 years
- Tax-funded water, sewer, and rail hookups
- Local property tax exemptions for 30 years

Offering these massive giveaways wasn't enough to reel Apple in. The rejection led to a rare joint statement from Gov. Roy Cooper, Senate leader Phil Berger, and House Speaker Tim Moore:

"We're on pace to add thousands of good-paying jobs this year with more expected next year. There's no better place to find a top-tier IT workforce, and legislative leaders have worked closely with the administration to attract large employers and technology companies like Apple. We'll keep doing everything we can to bring more good jobs to North Carolina," they said.

By "doing everything we can," with taxpayer handouts, the state's leaders are implicitly rejecting the policies that have boosted North Carolina's standing as one of the nation's best places to do business: lower taxes at a single rate; streamlined regulations; increased spending on education with rewards for improved classroom performance; highway spending intended to move people and products more efficiently; cutting debt; and increasing savings.

*Forbes* named North Carolina the nation's No. 1 state for business. We earned that designation even though Apple didn't come here, Amazon passed us by for its second corporate headquarters, and we still haven't secured the elusive auto assembly plant.

Conservative legislative leaders have championed growth-based policies to contrast themselves from the favoritism and pay-to-play games of previous regimes.

Embracing policies that instead pick winners and losers with special giveaways undercuts that progress.

As Sanders points out, 99.6 percent of businesses in North Carolina are small businesses. They stand to gain nothing, and perhaps wind up net losers, if policymakers consciously craft deals to benefit headline-grabbing megacompanies and shift the costs to entrepreneurs who are already here.

So if our state is such a boon for businesses, why did Apple go elsewhere? It turns out our incentive package was less important than other advantages Austin had and we didn't.

An existing relationship with the company, with more than 5,000 employees already there, gave Austin a leg up. Apple was comfortable with the local culture and clearly liked it enough to make another major investment.

It also helped that Austin-area developers had a 130-plus-acre site, which would be perfect for a standalone, expandable corporate campus. The location is close enough to the downtown area to let employees and clients enjoy the city's amenities, but separate, so that employees won't have to navigate as much downtown congestion as they might have at an urban campus in RTP.

Finally, business executives admit economic incentives aren't really that important when they're deciding where to relocate or reinvest. Sanders cited an article from *Economic Development Quarterly*, in which researchers asked executives from 150 companies that received economic incentives and 465 companies that didn't to rank factors that mattered to them in determining a region's business climate.

Nineteen were named. State and local economic incentives ranked 15th and 16th. (Mass transit ranked even lower — sorry, light-rail fans.)

Executives are much more swayed by access to skilled labor, a light regulatory and tax burden, a solid university and community college system, housing costs, major airports, and work force training programs.

Incentives may make a slight difference at the margins, but a state has to get many other policies and practices right before tax-funded handouts gain notice.

Once our elected officials and economic development boosters figure this out, and insist on improving the factors that really attract and retain businesses and employees, North Carolina can show it doesn't need to bribe people and entrepreneurs with tax dollars to move here.





## COMMENTARY BY JOHN HOOD

### Take time to broaden the mind

In the January 1953 edition of the magazine *If: Worlds of Science Fiction*, a fan of the genre from Texas, Marilyn Venable, made her debut as an author. “Time Enough at Last,” Venable’s story of a bookish man who survives a nuclear holocaust, made such an impression that “Twilight Zone” creator Rod Serling chose it as the first story not written by himself to be adapted for the initial season of his pioneering television series.

**The core subjects of liberal study are not a growth industry on today’s campuses.**

In the famous last scene of the 1959 episode, Burgess Meredith’s character, Henry Bemis, discovers with delight a public library full of books. Before the nuclear disaster, both his employer and his wife had interfered with his reading habit. Now, Bemis says to himself, there will be “time enough at last” to indulge it. Then his thick glasses fall from his nose and shatter. The conclusion of the written story is, if anything, more powerful than the final moments of the TV episode:

“He bent down, clawing blindly and found, finally, their smashed remains. A minor, indirect destruction stemming from the sudden, wholesale smashing of a city. But the only one that greatly interested Henry Bemis. He stared down at the blurred page before him. He began to cry.”

I’ve felt a certain kinship with the fictional Henry Bemis at times. During the first 30 years of my career as a columnist, author, and think tank executive, I read virtually every day. But it was work. I enjoyed the subject matter. Still, given my professional and family responsibilities, I lacked the time to delve deeply into other subjects.

That changed a couple of years ago. With the encouragement of my wife and others, I enrolled in graduate school at the University of North Carolina at Greensboro to study the liberal arts.

Alas, the core subjects of liberal study are not a growth industry on today’s campuses. From 2011 to 2017, the number of degrees awarded in history, religion, literature, philosophy, political science, and the humanities declined markedly — by 20 percent or more in some cases.

Now, Bemis says to himself, there will be “time enough at last” to indulge it. Then his thick glasses fall from his nose and shatter. The conclusion of the written story is, if anything, more powerful than the final moments of the TV episode:

## It’s not about urban versus rural

**H**ow should we respond to the urban-rural divide? The question has legions of politicians, scholars, journalists, and businesses scrambling for answers.

I respect their efforts. But I feel compelled to point out, respectfully, that the question is poorly conceived. Most people live in neither truly urban nor truly rural places. They reside in suburbs — in inner suburbs within a short drive of a truly urban downtown, in outer suburbs further out on the fringe of major metropolitan areas, or in the suburbs of smaller cities such as North Carolina’s Hickory, Salisbury, or Greenville.

People who live in the suburbs, broadly defined, tend to reside in single-family homes and rely largely on personal automobiles for transportation. These are personal preferences they have chosen to satisfy, not grim realities they’d rather escape.

In the aftermath of the Great Recession, there was an uptick in transit usage and in demand for downtown apartments and condos. Some excitable analysts thought these choices signified the beginning of a major turn toward “new urbanism,” perhaps



driven by Millennials with fundamentally different values and preferences than those of their parents and grandparents.

But Millennials aren’t so different. As economic conditions and job opportunities have improved, many have been looking for opportunities to buy cars and homes, often in the suburbs where many would prefer to rear their anticipated or recently born children.

From a policy perspective, the resumption of an overall societal

trend toward suburbanization has clear implications. For example, like many other states, North Carolina has inadequate road capacity to handle current and projected traffic.

Over the past decade, state policymakers of both parties have made real progress on the issue. There is still a gap. Can we close it by getting people out of their cars altogether, by expanding transit service and bike paths while discouraging low-density development? If you

think so, I would submit you are mixing up your urbanist dreams with our suburban realities.

As for politics, the 2018 midterms should have dispelled any sense that “urban versus rural” adequately conveys the sharpest competition between Democrats and Republicans. As a *New York Times* reporting team explained, many of this year’s Democratic gains in U.S. House seats — and, I would add, in N.C. legislative seats — came in suburban areas.

Many voters in these places feel “more cosmopolitan than in rural areas and turned off by culture-war issues that animate other Republican voters,” the *Times* noted, but are also “more fiscally conservative than many urban voters, and opposed, for example, to the higher taxes some liberal policies would require.”

Suburban districts flipped in 2018 for a variety of reasons, including the effects of the president’s persona on the GOP brand as well as good candidate recruitment and message discipline by Democrats.

Many of these Republican-to-Democrat flips were by small margins. They’ll be competitive again in 2020. That’s the story.

### TAXATION AND THE ECONOMY

## Redistributing income isn’t investment

**WHETHER YOUR** frame of reference is a country, a government, a business, or your own household, being better off in the long run requires patience and discipline in the short run. To have more income tomorrow, you must deny some immediate gratification today. You must save and invest.

Capital is accumulated savings invested in a new or improved tool to make work more valuable. Combine hard work with useful capital, and you get higher productivity, higher incomes, and a higher standard of living. But if you fail to save and invest sufficiently to maintain and enhance your stock of capital, you get lower productivity, stagnation, and frustration.

So far, I’ll bet that whatever your party or political ideas, you’re nodding in agreement. But if you are a progressive, we part company. Precisely because I place such a high value on savings and investment, I

# 89%

Private net domestic investment as opposed to government.

want to limit the scope and cost of government, particularly at the federal level.

In 2017, for example, the U.S. Bureau of Economic Analysis estimated total domestic investment at about \$4 trillion. At the same time, however, Americans used up \$3.1 trillion of their fixed capital assets, so that the net domestic investment was about \$900 billion.

Using these measures, about 84 percent of gross investment and 89 percent of net investment is private. Of the remaining \$100 billion or so in net investment by government, nearly all of it was done by states and localities — most on infrastructure such as roads and schools.

Does the federal government invest? Sure. But its operations also consume lots of capital. Net federal investment is low and likely to remain so regardless of who is in power in Washington. That’s because the federal government now primarily redistributes current income. In 2017, 72 percent of all federal spending went to transfer programs such as Social Security, Medicare, Medicaid, pensions, and welfare.

Standard government accounting of investment expenditure leaves something important out: education. Unlike buildings, equipment, vehicles, or even intellectual capital, those who invest in human capital don’t necessarily acquire an ownership stake in it.

If we add expenditures on education and training into the mix, however, investment remains overwhelmingly private — remember that households and firms spend a lot of money on them, as well — while states

and localities continue to dominate the public part.

These facts shape conservative thinking about fiscal policy. Private investment is not only more common but also tends to be more productive. The incentives are more closely aligned with value. If households or businesses invest poorly, the consequences can be severe. Poor public investment rarely results in bankruptcy or unemployment.

There are clearly public investments worth raising taxes to finance. But after a certain point, higher taxes depress valuable private investment more than they increase valuable public investment. Conservatives believe we have already reached that point, that any additional public investment ought to be “paid for” with lower transfer spending.

I find this argument sensible. Even if you disagree, perhaps now you at least understand it better.

# COMMENTARY

## N.C. spends two years squabbling over board only to finish where it began



**JOHN TRUMP**  
MANAGING EDITOR

**HERE WE ARE**, two years later.

We've taken many arduous, often tedious, steps.

Only to return to where we began, having gone nowhere.

In late 2016, as Gov. Roy Cooper was preparing to take office, the General Assembly decided it would change the makeup of state elections and ethics boards. They created a Bipartisan Board of Elections and Ethics Enforcement.

Republicans lost the governorship, so it's tough to argue the move by GOP lawmakers wasn't an attempt to accumulate power — while at the same time removing power from the new governor, a Democrat.

It didn't work.

Maybe that's something lawmakers should have known.

Nonetheless, we traveled hundreds of figurative miles and spent tens of thousands of real dollars on a perpetual roundabout.

Starting, stopping, starting again. Wait your turn. Much like rush-hour traffic on Hillsborough Street.

Before state lawmakers' first attempt in 2016 to merge the state elections and ethics boards, state elections were administered by a five-member board. The governor's party held three seats. The other major political party held the other two seats.

Lawmakers' first move — two years ago — was to create an eight-member board divided equally among Democratic and Republican appointees, the legislature picking all members.

Cooper challenged the move on grounds that it violated separation

of powers, and he won.

Subsequent versions of the boards gave some power back to the governor and added a ninth, unaffiliated member, selected by the board.

The courts didn't like those ideas, either. Any of them.

A proposed state constitutional amendment to preserve changes to the elections and ethics board failed in November. Although Superior Court decisions from October ruled the board unconstitutional, midterm election voting had already started,

so the court kept the board in place until Dec. 3, and then Dec. 21.

At press time, the board had asked the court to let it stay in place until it wraps up an investigation of ballot irregularities in the 9th Congressional District.

So, back to the start, the General

Assembly essentially handing Cooper a victory in the separation-of-powers struggle.

As *CJ* reported, lawmakers approved legislation Dec. 12 to return the elections and ethics boards to two separate agencies with the governor having majority appointment power over the elections board.

Jonathan Kappler, executive director of the N.C. FreeEnterprise Foundation, told *CJ* it didn't look like the Republican leadership was interested in continuing the battle.

"I think the fact that we're seeing the return in almost all aspects of the previous structure seems to be a kind of reluctant admission by the Republican General Assembly that they're not going to succeed," Kappler said.

Back to start.

Republican lawmakers in Wisconsin and Michigan are making efforts to usurp power from the respective incoming governors, who are Democrats. National writers and pundits are comparing those efforts to similar moves by N.C. Republicans two years ago.

North Carolina "wrote the play-

book" to undermine democracy, a headline on one national news website reads.

Echoing Kappler, Andy Taylor, a political science professor at N.C. State University, has told *Carolina Journal's* Lindsay Marchello it looks as if lawmakers simply decided to abandon their quest for a bipartisan board of elections and ethics.

"If you're going back to what the [2016] status quo was, that seems as uncontroversial of a position as you possibly can get," Taylor said.

So be it.

The fact that lawmakers — and the governor, too — spent two years doing expensive circles isn't lost on us. It won't be lost on taxpayers and voters, either. We certainly don't want more government, nor should we spend more time in court.

It's time to, well, get real. At some point we must stop governing and fighting solely for the sake of partisan labels. This two-year quagmire over the elections and ethics board was much like a mirror, held up to all involved.

And they all looked very small.



## What the NFL can teach us about business



**MICHAEL WALDEN**  
COLUMNIST

Many consider the National Football League to be the most successful professional sports organization in the world.

But the NFL wasn't always a success, as recounted in John Eisenberg's fabulous new book, *The League*. The New York Giants were purchased in 1925 for \$500 — \$7,140 in today's purchasing power. Many teams floundered and disbanded — including an earlier NFL team in my hometown — the NFL Cincinnati Reds — which lasted only two years from 1933-34.

Eisenberg describes the birth of the NFL and its numerous struggles to achieve the predominance it has today. I don't know if Eisenberg intended this, but the NFL's story reveals some rules about economics applicable to any business.

First is perseverance. Starting and running a business and making it successful are hard. The process often takes years. When the NFL was formed, football was considered a college game.



**Their innovation was to change the nature of the game by shifting away from running the ball to passing the ball.**

Many thought paying people to play football was wrong. For years, attendance at NFL games was a fraction of the number attending college games. Although some NFL owners had deep pockets (Tim Mara of the Giants), others like George Halas of the Bears and Art Rooney of the Pirates (later Steelers) had to constantly borrow or rely on good fortune to stay afloat.

By the 1930s the NFL owners knew they had to innovate to compete with colleges because they were still losing money.

The league's challenge was to make the professional game more exciting than the college game. Their innovation was to change the nature of the game by shifting away from running the ball to passing the ball.

So the NFL enacted rules to make the passing game more lucrative and useful to coaches. It worked. Point totals rose and with them

went excitement. Attendance soared, and money flowed in.

Branding is another important business tactic. Using names, logos, and advertising, branding is a way to communicate quickly a positive image of a product or company. So when success was not achieved at the box office in the early years of the NFL, several teams were quick to realize they needed to revise their brand. Here are two examples.

The Chicago NFL team owned by Halas was originally known as the Staleys, after a company that sponsored the team. In Chicago, the Staleys played at Wrigley Field, home to the pro baseball team, the Chicago Cubs. Hoping the popularity of the Cubs would rub off on his football team, Halas renamed his team as a larger version of the Cubs — the Bears.

Going in the opposite direction of rebranding was the NFL's Pittsburgh team, the Pirates. Owner Art Rooney first named the team the Pirates to again capitalize on the popularity of the local baseball team by the same name. But after struggling during the Great Depression of the 1930s, Rooney tried a different image by renaming his team the Steelers, after the dominant industry of Pittsburgh.

Even successful industries have to deal with adapting new technology, and the NFL was no exception.

Owners were initially worried the development first of radio, and then of television, would hurt their business by keeping fans away.

Yet over time they incorporated use of these media as they found radio and TV expanded both their fan base and revenues.

Last, successful businesses must learn how to adjust to new competitors. In the case of the NFL, new competitors came in the form of several upstart rival leagues, including the first American Football League in the 1930s, the All-American Football Conference

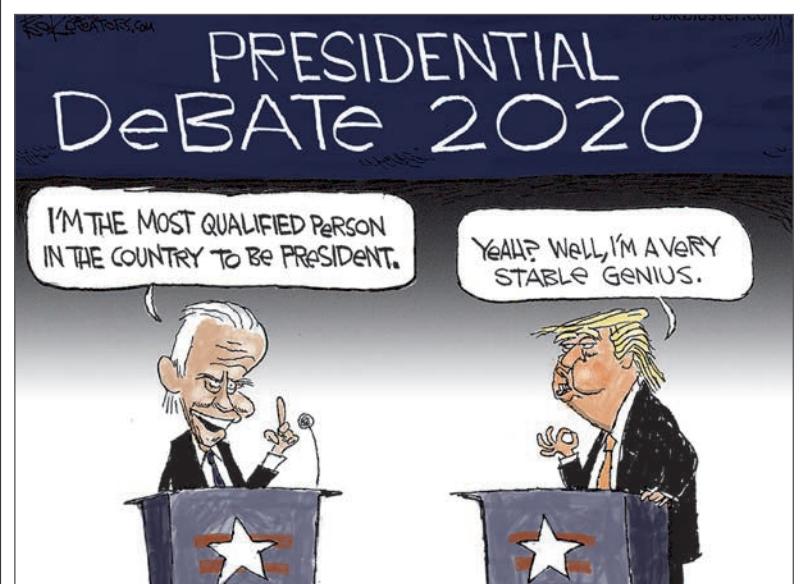
of the 1940s, and a later version of the AFL in the 1960s.

In the case of the AAFC and the 1960s AFL, the NFL tried a "beat them, then join them" strategy. Only the Cleveland Browns survived the AAFC, then later joining the NFL.

Faring better, all teams of the 1960s AFL were ultimately absorbed into a reorganized NFL.

Using good business principles, the NFL grew from humble to huge.

*Michael Walden is a Reynolds Distinguished Professor at N.C. State.*



## COMMENTARY

*George H.W. Bush: patriot, statesman, president. RIP*

**MARC ROTTERMAN**  
COLUMNIST

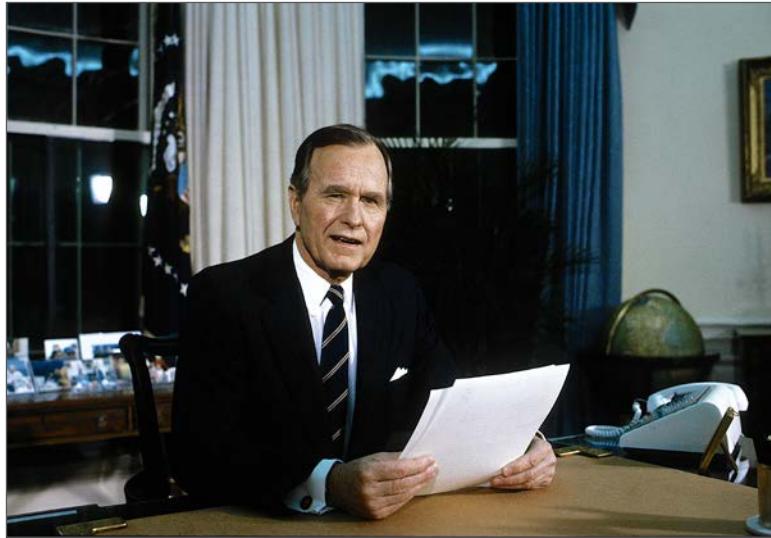
When I reflect on the “Greatest Generation,” I’m always amazed at the selflessness which characterized them. Men and women stood tall, rolled up their sleeves — and fought in Europe and the Pacific, saving the world from tyranny.

They knew the stakes. They understood their mission in combat or back home, and fought or worked to support the war effort.

President George H. W. Bush, who passed away Nov. 30 at 94, truly personified that generation.

Service to country may have been instilled in George by his father. Prescott Bush served in World War I and had a distinguished career in both politics and business.

After the attack on Pearl Harbor, George enlisted in the Navy and became a naval aviator at age 18. After completing a 10-month course, Bush was assigned to a torpedo



**PATRIOT, STATESMAN, PRESIDENT:** George H.W. Bush in 1991.

squadron as the photographic officer. Later in 1943 he was promoted to lieutenant and piloted one of four Grumman TBM Avengers that attacked Japanese installations in the Bonnin Islands, specifically the island of Chichijima.

During the mission, the Avengers encountered intense anti-aircraft fire. Bush’s plane was hit, and his engine caught fire. But Bush and his two-man crew continued and released their bombs over the

target, inflicting several damaging hits on the enemy. Still in peril, Bush flew several miles away from the island when one member of his crew bailed out of the plane. Sadly, the man’s parachute did not open.

As the Avenger’s engine failed, it is unclear which member of Bush’s crew bailed out with him, as both crew members were lost in battle that day. It was reported that Bush waited at least four hours in a life raft while several fighters circled

overhead until a lifeguard submarine rescued him. During 1944 Bush flew 58 combat missions, for which he received the Distinguished Flying Cross.

Home from the war, he got married and got his college degree. After college he became a successful wildcatter in the oil business and was a millionaire by age 40. He went on to become a U.S. congressman from Texas, ambassador to the United Nations, chairman of the Republican National Committee, and director of the CIA, before running in 1980 for president in the Republican Party primary and being nominated as Ronald Reagan’s running mate.

After the Reagan-Bush ticket won, Bush became one of President Reagan’s most trusted and able advisers. Never seeking the limelight, Bush gave advice privately to Reagan. And in Bush, Reagan found a loyal soldier and friend.

After being elected president in 1988, Bush successfully prosecuted the mission to bring to justice Manuel Noriega — the drug-dealing dictator of Panama. And in a mere 100 hours, the coalition led by Bush against Saddam Hussein pushed Iraq’s military out of Kuwait and back to Baghdad. Bush also

presided as the Berlin Wall fell and the Soviet Empire collapsed.

While in office, the country experienced a mild recession, but by mid-1992 the country had its lowest interest rates and inflation in years, even though unemployment was the highest it had been since 1984.

In the 1992 presidential election, Bush lost to Bill Clinton by a margin of 43 to 37 percent. Independent candidate Ross Perot got 19 percent of the popular vote, votes most political observers think cost Bush a second term.

But consider this:

What would a second-term Bush presidency have looked like?

For sure, Bush’s first concern would have been for the country, and as president he would have continued to conduct himself with honor and grace.

Every day we lose more of the “Greatest Generation,” and with the passing of America’s 41st president, we are reminded of their selflessness, patriotism, and love of country.

*Marc Rotterman is host of “Front Row with Marc Rotterman,” a weekly public affairs program on UNC Public Television and the NC Channel.*

## For America, it’s closer to morning than midnight



**ANDY TAYLOR**  
COLUMNIST

**CLEARY, 2018 WAS** a Democratic year, as it should have been given a Republican was in the White House. The Democrats picked up 40 seats in the House and seven governorships. The Republicans’ veto-proof “supermajorities” were broken in both chambers of the General Assembly. It wasn’t quite the “blue wave” Democrats were hoping for, and, indeed, Republicans have strengthened their position in the U.S. Senate. But there is little doubt which party “won” the election.

Enough time has now elapsed for us to ruminate on the midterms’ depiction of American politics more broadly. I think there are two particularly important takeaways. The first concerns the state of the parties. A glance at the Electoral College map from recent presidential contests reveals whole swaths of the country to be red or blue — the Northeast and West Coast are solidly Democratic,

the South and much of “flyover country” Republican. Many observers have argued our parties are regional, not national.

To some extent, the results of 2018 continued the trend. There will be only one Democratic senator from the South in the 116th Congress, and the GOP will have no representatives among the House’s New England delegation. But if you dig deeper into the data, there is evidence Democrats are awakening in red states and Republicans in blue ones. Democratic gubernatorial candidates snagged back mansions in the Trump states of Michigan and Wisconsin and secured an unlikely victory in Kansas. Democrat Joe Manchin easily won re-election to the Senate in West Virginia “coal country.” Very popular Republican governors were returned in Maryland and Massachusetts, and the party almost scored upsets in Connecticut and Oregon. In fact, near misses tell much of the story. Democratic gubernatorial candidates came close in Georgia and Florida, and the new darling of the left, Beto O’Rourke, gave Ted Cruz a huge fright in ruby red Texas’ Senate race.

The results suggest a party label can be a burden in hostile parts

of the country, but it need not be a death sentence. Smart candidates with the right message and an appealing biography can win just about anywhere. Republican governors Charlie Baker and Larry Hogan have persuaded liberals in Northeastern states that sound management and fiscal responsibility are desirable qualities in chief executives. Democrats recruited intelligently for many contests, persuading accomplished and experienced women, minorities, and veterans to run. The party’s biggest challenge will be keeping some new House members with extreme leftist agendas in check. Giving power to them will greatly tarnish the party’s national reputation.

My second observation is of the campaigns’ deep pessimism. Democrats talked of Trump’s America, a dystopic world of creeping authoritarianism, growing racism and sexism, and rampant corruption. Republicans, most notably the president himself, projected a similarly dark image of American values and prosperity lost forever to the forces of socialism, rampant immigration, and divisive identity politics.

I understand why the parties chose such negative messages. It

is much easier to demonize opponents than provide reasons why you should govern. Describing an unknowable future is straightforward, explaining a complex reality significantly more difficult.

Yet the narrative of decline was odd. We have our problems, to be sure, but important macroeconomic indicators are positive. Growth is accelerating after a decade of near-stagnation, inflation is low but wages growing, and unemployment is nonexistent. The employment and income data have been particularly strong for the working class, a claim we were unable to make during the Obama years. China’s economy is still less than two-thirds the size of ours and is slowing appreciably.

The United States is not at war. The Iraq and Afghanistan conflicts have wound down, and international terrorism — at least its direct threat on the U.S. mainland — seems to have abated. The growth in the immigrant population has nearly leveled off after brisk acceleration between 1980 and 2010. Those who come are increasingly educated.

Violent and property crime continue at historic low rates. Racial and religious violence grabs headlines now and again, but FBI

data show it has declined over the past 20 years, and surveys suggest we are becoming more tolerant toward one another — except when we think of fellow citizens in partisan terms.

Americans were an optimistic people, with boundless confidence in their abilities and more than capable of overcoming challenges the world threw at them. They are individualistic but want unity and a sense of collective purpose. Despite — or perhaps because of — all the gloom, I think we are hungry for leadership that feeds these desires and recognizes our strengths. We got a glimpse of this in the nostalgia invoked by President George H.W. Bush’s passing.

In truth, it is closer to morning than midnight in America. And I believe happy political warriors, like another former president, Ronald Reagan, can still win. This is something President Trump and his Democratic adversaries should keep in mind as they prepare for 2020.

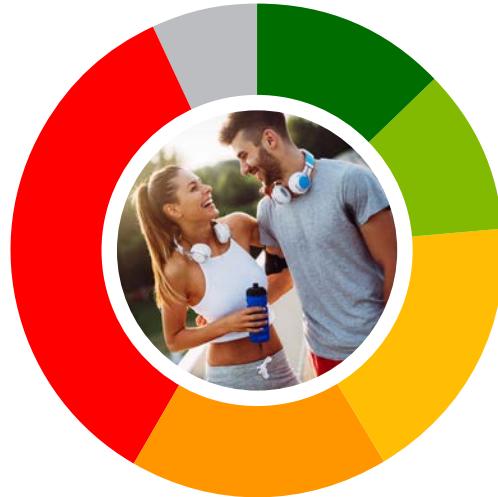
*Andy Taylor is a professor of political science at the School of International and Public Affairs at N.C. State University. He does not speak for the university.*

# POLLS



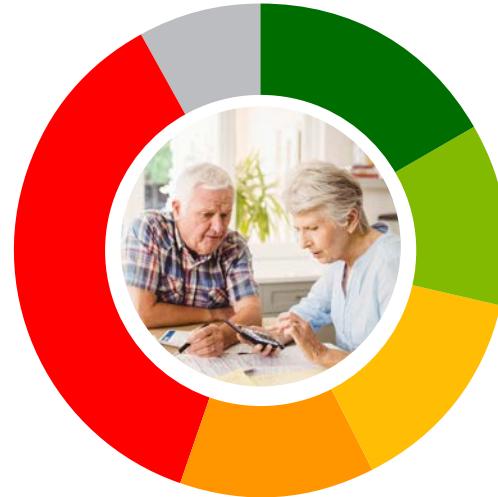
**Do you favor or oppose Medicaid expansion in North Carolina?**

- STRONGLY FAVOR - **42%**
- SOMEWHAT FAVOR - **19%**
- SOMEWHAT OPPOSE - **8%**
- STRONGLY OPPOSE - **18%**
- UNSURE - **12%**



**Medicaid expansion would mainly cover healthy, working-age adults with no children. Many of these people already have private health insurance. Are you more or less likely to favor Medicaid expansion in North Carolina?**

- MUCH MORE LIKELY - **13%**
- SOMEWHAT MORE LIKELY - **11%**
- NO DIFFERENCE - **18%**
- SOMEWHAT LESS LIKELY - **17%**
- MUCH LESS LIKELY - **35%**
- UNSURE - **7%**



**Expanding Medicaid in North Carolina would likely add 500,000 new individuals to the program and would cost state taxpayers more than \$340 million per year. Are you more or less likely to favor Medicaid expansion in North Carolina?**

- MUCH MORE LIKELY - **12%**
- SOMEWHAT MORE LIKELY - **12%**
- NO DIFFERENCE - **14%**
- SOMEWHAT LESS LIKELY - **13%**
- MUCH LESS LIKELY - **37%**
- UNSURE - **8%**

## Hood

continued from PAGE 21

I understand why many young people gravitate toward technical degrees promising immediate financial payoffs. Whatever else might be done in response, one thing we can do is encourage precisely the path I chose: a pursuit of liberal studies later in life.

In the case of Henry Bemis, he couldn't take advantage of his opportunity to learn because, without his glasses, his vision was too blurred. In my case, a figurative blurriness would have come from trying to go solo, from a lack of guidance and stimulation from professors and classmates.

I suppose one might say, then, that one applied science I sought to acquire from my studies, just now completed, was that of "intellectual optometry." By taking courses in multiple fields, with professors guiding me through a diverse set of sources and subjects, I gained proper lenses so I could discern underlying lessons about the human experience. Fortunately, I found the time to get my scholarly vision corrected — time enough at last.

Harper Polling surveyed 650 likely voters in North Carolina for the Civitas Institute. Questions were fielded over a landline or mobile phone from Nov. 17 to Nov. 19. The margin of error is plus or minus 3.84 percent. The total percentages for responses may not equal 100 percent due to rounding.



**CAMPBELL UNIVERSITY**

Norman Adrian Wiggins School of Law

FROM THE CAPITAL

**10**

---

**40**

TO THE CREEK

**CELEBRATING**

40 YEARS OF DEVELOPING LEADERS

10 YEARS IN N.C.'S CAPITAL CITY

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