

**Election  
official:  
Overturning  
Voter ID will  
be tough/3**



# CAROLINA JOURNAL

A MONTHLY JOURNAL OF NEWS, ANALYSIS, AND OPINION  
FROM THE JOHN LOCKE FOUNDATION

<b>North Carolina</b>	<b>2</b>
<b>Local Government</b>	<b>9</b>
<b>From Page 1</b>	<b>12</b>
<b>Education</b>	<b>14</b>
<b>Books &amp; the Arts</b>	<b>18</b>
<b>Interview</b>	<b>19</b>
<b>Opinion</b>	<b>20</b>
<b>Parting Shot</b>	<b>24</b>

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STATEWIDE EDITION

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## State-Owned Railroad Won't Share Records

Media attorney says NCCR should comply with formal request for meeting minutes

BY DON CARRINGTON  
Executive Editor

RALEIGH

The state-owned North Carolina Railroad Company, which has become a major financial player in the evolving Greensboro-Randolph Megasite in Randolph County, has refused numerous requests from *Carolina Journal* to turn over records that might reveal where it obtained millions of dollars to complete recent land purchases.

*CJ* first asked on March 28 for all minutes of the railroad's board of directors meetings dating from September 2015 in an attempt to collect more information on the process that led to the board's decision to buy land.

Board Chairman Franklin Rouse refused to share the minutes. "It is our policy to not share confidential economic development or other in-



Two Norfolk Southern engines run on the North Carolina Railroad's tracks in Morrisville recently. Norfolk Southern leases the NCCR rail corridor, which runs from Morehead City to Charlotte. (CJ photo by Don Carrington)

formation which can affect active negotiations, legal matters, or economic development projects. If you have specific questions about board matters, I'd be glad to entertain them," Rouse wrote on March 29.

In subsequent discussions about obtaining meeting minutes, Rouse held firm in his position that the minutes were not public records. He said

that NCCR is a private company, not a state agency, and suggested it is exempt from open meetings and public records laws that apply to state and local agencies.

Attorney Amanda Martin, general counsel to the N.C. Press Association and a specialist in public records laws, said NCCR, as an asset of the state, should be forthcoming with records

and documents.

"Without question, NCCR is an asset of the state. If the state wants to be forthcoming and there is nothing to hide, it is well within the power of NCCR officials to release documents, and they should if doing so would shed light on the operations of a state asset," she said.

The company's most recent annual report indicates it didn't have enough cash on hand to make the land transactions.

Railroad company officials have given inconsistent and conflicting answers about the source of funds. A few days before concluding the land purchases, a company official also told *CJ* the railroad didn't have the money on hand.

As *CJ* reported earlier, the Greensboro-Randolph Megasite may be years away from being ready to host an automobile manufacturer or other major industrial site. Meanwhile, two locations — one in Chatham County and another in Edgecombe County — have completed a state certification process for industrial sites that the Randolph site has not. The Chatham and Edgecombe locations have received no

Continued as "State," Page 12

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## N.C.'s Syrian Refugees Still Cannot Be Tracked

State officials say refugee screening process is broken

BY DAN WAY  
Associate Editor

RALEIGH

The federal government relocated more Syrian refugees to North Carolina in the last six months than it did the previous 22 months, even as Gov. Pat McCrory and U.S. Rep. Richard Hudson, R-8th District, continue to warn that the screening process for admission to the United States remains broken, posing poten-



tial danger to the state.

Fifty-nine Syrian refugees were resettled in North Carolina from Jan. 1, 2014, through Oct. 31, 2015, and the number increased to 125 as of Feb.

25. Since Jan. 1, 2014, only eight other states received more. In the last 28 months, the federal government relocated to North Carolina 136 Afghans, 577 Iraqis, and 5,645 refugees from all countries, according to U.S. State Department data.

"We're not given any forewarning of when they're coming, where they're going to, or who they are," McCrory told *CJ*. That raises concerns, he said, because the refugees could be coming from countries embroiled in civil wars or they may be linked to Islamic terrorism.

Refugees are sent to charity relocation agencies that "have more information than my state public safety

Continued as "North Carolina's," Page 13

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## UnitedHealthcare Withdrawal Called Ominous

By DAN WAY  
Associate Editor

RALEIGH

Concerns about a potential Obamacare death spiral and rapidly escalating insurance premium costs reignited with the April 19 announcement by UnitedHealthcare, the nation's largest insurance company, that in 2017 it would pull out of most of the nation's health exchanges — including North Carolina's.

Since Blue Cross and Blue Shield of North Carolina has not ruled out exiting the Obamacare marketplaces in 2017, cutting further losses, UnitedHealth's announcement is particularly significant. BCBSNC says it has lost \$400 million on its Obamacare plans in 2014 and 2015.

UnitedHealth's decision "leaves North Carolina with just two companies offering plans to people who do not get health insurance through their employer," said Katherine Restrepo, health and human services policy analyst at the John Locke Foundation.

It also means "one-quarter of the state's exchange enrollees [155,000 policyholders] will be left with just one insurance carrier to purchase health insurance from starting next year," Restrepo said. The only other company selling plans in UnitedHealth's territory is BCBSNC. It services all 100 counties in the state. Aetna, which recently purchased the state's other exchange participant, Coventry, also offers plans on the exchange but operates in only 39 counties.

"I am disappointed UnitedHealthcare made the business decision to leave our individual health insurance market, and I remain concerned about North Carolinians' access to quality, affordable health care coverage," said state Insurance Commissioner Wayne Goodwin.

"Clearly, there is much work to be done by Congress and our state legislature to better protect consumers and rebuild our private health insurance market," Goodwin said.

Goodwin wrote to U.S. Health and Human Services Secretary Sylvia Burwell in February expressing alarm that burdens of the Affordable Care Act have caused insurers to drop plans, giving consumers fewer choices.

"Aside from confirming that we are exiting the individual exchange market in North Carolina, we are providing no additional comment" on why the company is leaving, UnitedHealthcare spokeswoman Maria Gordon-Shydlo told *Carolina Journal*.

But Gordon-Shydlo provided a statement UnitedHealth Group shared during its April 19 earnings call with investors saying that the company has been evaluating the public exchanges on a state-by-state basis, and had regular public dialogue with shareholders since November about its unfavorable experience and performance in those markets.

"The smaller overall market size and shorter-term, higher-risk profile within this market segment continue to suggest we cannot broadly serve it on an effective and sustained basis. Next year, we will remain in only a handful of states, and we will not carry financial exposure from exchanges into 2017," the statement said.

"We continue to remain an advocate for more stable and sustainable approaches to serving this market and those who rely on it for care," the statement read. No other details were released "out of respect for our state partners."

Obamacare plans are bleeding enormous sums of money because claims costs are outpacing premium revenue, Restrepo said. The insurance companies must accept people with expensive, pre-existing health conditions,

while other policyholders are signing up, receiving expensive treatments, and then dropping their plans.

"When Obamacare's exchanges opened for business in 2014, insurance companies knew they were in for an initial financial hit," Restrepo said. To limit their resistance to participating in the exchanges, the federal health law offered insurers temporary subsidies to offset some of the costs.

"But even with these funds, the losses are still pretty significant. Experts are now saying that insurers won't be enjoying balanced risk pools — where enough young and healthy enrollees will offset the costs of expensive enrollees — until 2018," Restrepo said.

"We have not made any decisions about participating in the ACA in 2017," BCBSNC spokesman Lew Borman said.

"We will make a decision by late summer. We are evaluating the sustainability and affordability of any plans we offer our customers for 2017," Borman said. "All options are on the table — from maintaining the status quo to withdrawal."

He declined to comment on whether UnitedHealthcare's decision would influence BCBSNC's

deliberations.

"I have no concern about them leaving the market," Mandy Cohen, the chief operating officer of the federal Centers for Medicare and Medicaid Services, told *The Hill* newspaper in a recent story regarding CMS conversations with BCBSNC.

"That is a very confident pronouncement," Michael Cannon, director of health policy studies at the Washington, D.C.-based Cato Institute, told *CJ*. If Blue Cross does pull out, "CMS would have serious egg on its face."

In an April 19 *Forbes.com* blog post, Cannon wrote: "Obamacare hasn't yet collapsed in a ball of flames. But UnitedHealth's withdrawal from Obamacare's exchanges is more ominous than the administration wants you to know."

UnitedHealthcare's sicker, costlier exchange members now will buy plans with other companies, increasing those insurers' costs, and requiring them to increase premiums, Cannon wrote. If costs become unbearable and premium increases aren't approved, those insurers will exit the exchanges.

"The law is literally rigged to create a race to the bottom. That's why so many carriers are offering plans with high cost-sharing and narrow networks," Cannon wrote.

"Here's the largest health plan [that] maybe has the best fiscal outlook,

and [its executives] have decided it's not worth it for them to be in the exchange," Twila Brase, president and co-founder of the Minnesota-based Citizens Council for Health Freedom, said of UnitedHealth's decision.

"If I had my druthers, this exit from most of the exchanges would be the beginning of a tsunami of exits from the exchanges, allowing [healthcare.gov](http://healthcare.gov) to essentially implode," Brase said.

The Obamacare exchange mostly is "a glorified, very expensive way of signing people up for Medicaid, and an expanded version of Medicaid called Obamacare, which is sort of sliding-fee-scale Medicaid," Brase said.

She believes a better alternative would be for Congress to reauthorize the sale of high-deductible, catastrophic insurance policies that are prohibited under Obamacare, and eliminate the coverage mandates and the ban on excluding patients with pre-existing conditions. Those changes would make insurance more affordable, she said.

CJ



Only one option  
remains for 155,000  
United Healthcare  
policyholders  
in North Carolina

# Election Official: Overturning Required Voter ID May Be Tough

Judge cited extensive findings of fact that will be difficult to challenge: Lawson

By BARRY SMITH  
Associate Editor

RALEIGH

Several parties on the losing side of the April 25 federal court decision upholding North Carolina's 2013 election reforms wasted little time filing an appeal to the ruling from U.S. District Court Judge Thomas Schroeder.

The North Carolina NAACP announced the following day that it would appeal the decision by Schroeder, who dismissed all claims brought by the plaintiffs.

Schroeder ruled that the legislation introduced as House Bill 589, which included a requirement for most voters to present state-authorized photo identification at the polls, does not run afoul of the U.S. Constitution or the federal Voting Rights Act.

"In short, North Carolina has provided legitimate state interests for its voter-ID requirement and electoral system that provides registration all year long up to 25 days before an election, absentee voting for up to 60 days before an election, 10 days of early voting at extended hours convenient for workers that includes one Sunday and two Saturdays, and Election Day voting," Schroeder said in his opinion.

He also said North Carolina is not moving to an election system that is outside the mainstream of other states.



Moral Monday protesters gathered in Raleigh in July 2013 to show opposition to election reform laws being considered by the General Assembly. (CJ photo by Don Carrington)

While Schroeder dismissed the plaintiffs' claims, he temporarily left in place a 4th U.S. Circuit Court of Appeals injunction allowing same-day registration and out-of-precinct voting. Schroeder allowed those provisions to stay in place through the June 7 congressional and judicial primaries, citing the "Purcell doctrine," which says that courts should refrain from issuing an opinion too close to an election if doing so would cause confusion.

Josh Lawson, general counsel for the State Board of Elections, said Schroeder's ruling means the state's election law is valid on all counts.

"That ranges from photo ID, the early-voting period is going to run for the same compacted period as it has since 2014, you've got to register by

the deadline, and you've got to vote in your properly assigned precinct," Lawson said. "That's pending anything different happening."

A lot different could happen between now and the November general election.

Since the plaintiffs have said they'll appeal, the case likely will be assigned to a three-judge appeals panel from the 4th Circuit, Lawson said. After the three-judge panel rules, the case could be appealed to the full 4th Circuit, he said. Once those appeals are exhausted, parties have the option of asking the U.S. Supreme Court to review the case.

Lawson said Schroeder's 485-page opinion was filled with findings of fact, which could be crucial when the case gets to the Appeals Court.

"Every bit of law gets reviewed," Lawson said, regarding the work done at the Appeals Court level.

But challenging facts is a different matter, Lawson said. "They're only kicked out if the appellate judges find that there was clear error." Lawson said the facts Schroeder cited were "really, really relevant."

Lawson said that if the Appeals Court decides to block part of Schroeder's ruling, he hopes the judges would do it sooner rather than later so that the State Board of Elections will have time to implement the order for the November general election.

"On our end, our last training for all the [county election officials] prior to the November election is in August," Lawson said. He added that the state board is contractually obligated in August to send to the printer a judicial voter guide, which is mailed to 4.3 million North Carolina households.

Soon after the North Carolina NAACP said it would appeal Schroeder's ruling, Wade Henderson, presi-

dent of the Leadership Conference on Civil and Human Rights, issued a statement supporting the appeal.

"As soon as the Supreme Court gutted the Voting Rights Act, North Carolina rushed to lead our nation in denying voting rights to its own people," Henderson said. "As a country that prides itself on being a beacon of democracy to the world, that is a national disgrace."

The ACLU also criticized the ruling.

"The sweeping barriers imposed by this law undermine voter participation and have an overwhelmingly discriminatory impact on African-Americans," said Dale Ho, director of the ACLU's Voting Rights Project. "This ruling does not change that reality."

Democratic U.S. Senate nominee Deborah Ross used the ruling to seek campaign donations. In an email, Ross, a former state representative from Raleigh, referred to incumbent GOP U.S. Sen. Richard Burr's inability to cast a traditional ballot in the primary because he did not have proper identification.

"Republicans in North Carolina have been trying to roll back voting rights and enact oppressive restrictions for years," Ross said. "I saw it first hand when I was in the General Assembly where I stood against their efforts to silence voters and passed a measure with bipartisan support that allowed same-day voter registration during early voting."

Republican Gov. Pat McCrory applauded the decision.

"This ruling further affirms that requiring a photo ID in order to vote is not only common sense, it's constitutional," McCrory said. "Common practices like boarding an airplane and purchasing Sudafed require photo ID, and thankfully a federal court has ensured our citizens will have the same protection for their basic right to vote."

The leaders of the Joint Legislative Election Oversight Committee, Sen. Bob Rucho, R-Mecklenburg, and Rep. David Lewis, R-Harnett, issued a joint statement praising the ruling.

"Despite the small but shrill opposition who continue to abuse the courts in an attempt to overturn the will of the voters, another reasonable, common sense law supported by a majority of North Carolinians has been upheld," Rucho and Lewis said. "We are glad the court recognized the law provides all voters an equal opportunity to vote and stopped this politically motivated overreach from the Obama Justice Department."

Lewis also pointed out that the photo ID law was in effect during the March 15 North Carolina primary.

"For all intents and purposes, it worked great," Lewis said. "People have more confidence in the system because of this common sense reform." CJ

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By John Hood  
Chairman of the  
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# N.C. Congressional Candidates: Should We Be Campaigning?

## Federal court has not issued map ruling; primary is June 7

BY DAN WAY  
Associate Editor

RALEIGH

U.S. Rep. Richard Hudson is "astounded" that a three-judge panel of the U.S. Middle District of North Carolina is holding the state's congressional candidates in electoral limbo by failing to rule on whether new district boundaries will be used for the June 7 primary.

"We haven't heard a peep out of them," said Hudson, a Republican seeking re-election to a third term in the 8th Congressional District. He spoke by phone with *Carolina Journal* in late April, just before this issue went to press.

"It certainly leaves a lot of open questions" if the court rules and a legal challenge is launched, whether the primary is pushed back because no decision is reached in time, "or the court draws its own maps," Hudson said. "Anything is possible. It's a mess."

"I'm just astonished that the court hasn't even had a hearing on the new map" with just weeks to go before the primary, Hudson said.

"It's a problem if you're a candidate," Hudson said. Congressional districts encompass new geographic areas after the maps were redrawn to comply with a February court order saying the old districts were unconstitutional under the federal Voting Rights Act.

Candidates had been campaigning in the old districts, but now they must introduce themselves to new voters, and spend unanticipated time and campaign money in unfamiliar towns and counties.

"We're out there campaigning, and the folks aren't even aware that there's a primary" because they believe they already voted in the March 15 statewide primary, Hudson said. "It's a real disservice to the people if they're disenfranchised by the confusion."

The congressional races appeared on the March ballots, which were printed prior to the court order. But those results were not tabulated and were sealed from view.

State Board of Elections spokeswoman Jackie Hyland said the board has not received any word from the three-judge panel indicating whether it would accept or reject the new congressional maps.

"If we don't have maps, we can't hold an election," Hyland said. In the meantime, the board is proceeding under the premise the election will proceed as scheduled.

"Absentee voting has started for the June 7 primary, and the counties



Former state Supreme Court Justice Bob Orr, seen here at an April 21 meeting on redistricting reform, says the three-judge panel reviewing the state's congressional districts will not rush its decision even if a late ruling disrupts the scheduled June 7 primary. (CJ photo by Dan Way)

have already sent out 55,000 absentee mail-in ballots," she said. Absentee voting began April 19.

"The court's not looking at convenience and how fair it may be to the immediate election process. They've got to examine the new plans pursuant to the law and Constitution that they utilized in striking down the first plan," said former state Supreme Court Justice Bob Orr.

The length of time that has elapsed without a decision "sort of tells you it may be a little harder" to rule on the case than originally anticipated, Orr said.

In February, the court struck down the congressional redistricting plan the General Assembly adopted in 2011, saying it unconstitutionally packed too many black voters into two minority districts, thereby diluting black voting strength in other districts. Two congressional elections have taken place since the maps were enacted.

The Republican-led legislature, over Democrats' objections, drew new maps avoiding any racial considerations, saying they were configuring the districts purely on a partisan basis in an attempt to assure a 10-3 GOP majority. They reasoned that U.S. Supreme Court rulings have said electoral districts may be drawn legally for partisan advantage.

The delay in rendering a decision might be due to the three-judge panel "trying to figure that issue out, and ... there's a real lack of clarity from the federal courts" on Voting Rights Act cases, Orr said.

"Essentially, the rule is you apply race when you're supposed to apply race, and don't apply race when you're not supposed to apply race, and who knows what that means?" Orr asked.

"The court wants to get it right,

so you take as much time as needed to research and analyze, and if they have a decision that's convenient to the state, fine," Orr said. "But if it's inconvenient, that's just the way the process works."

Hudson said members of the congressional delegation are talking among themselves about how to proceed with their campaigns while not knowing if they will be knocking on doors and sending out mailers to people who might not end up in their districts after a ruling.

On April 28, the Federal Elections Commission ended one concern candidates had expressed regarding campaign contributions. The FEC

ruled that, because the courts threw out the congressional maps that were intended for use in the March 15 primary after ballots had been cast, the March 15 and June 7 contests should be considered separate elections. The commission's ruling allowed donors to make the maximum contribution in each election cycle without violating campaign finance laws.

"I've been out talking to people, visiting people in the district, ... burning up the telephone lines, and trying to get to as many events as possible," said state Sen. Andrew Brock, R-Davie, who is running in the 13th District along with 22 other candidates. "It's just not enough time to have a really good dialogue with everybody."

He did not mince words in assessing the three-judge panel's decision to throw out the old districts and toss the congressional primary into turmoil.

"Once the election cycle starts, they should just let it run its own path," Brock said.

"The liberal activist judges have just gone haywire," Brock said. "Maybe we need to have term limits for our federal judges."

Neither U.S. Rep. Alma Adams nor campaign manager Sam Spencer responded to a request to comment on how the legal limbo is affecting her campaign. Adams, a Democrat, is running for re-election in the 12th District, even though she no longer lives within its boundaries due to the remapping.

Spencer sent a news release that Adams' campaign had raised \$505,159, and another with results of an EMC Research poll showing her as the front-runner with 37 percent, followed by former state Sen. Malcolm Graham at 28 percent and state Rep. Tricia Cotham, D-Mecklenburg, at 11 percent. Seven Democrats are seeking the nomination the 12th District. CJ

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# McCrorry Announces Limited-Scope Medicaid Expansion

## Other changes will await next president's administration

BY DAN WAY  
Associate Editor

As part of his Health and Human Services budget priorities for the short legislative session, Gov. Pat McCrorry announced plans to expand the state's Medicaid rolls in several limited areas and said he will continue to seek broader expansion from the White House.

At an April 19 press conference at the Executive Mansion, McCrorry outlined at least \$6.6 million in new funding for Medicaid services, and state Health and Human Services Secretary Rick Brajer said some of that state funding would be matched by federal dollars, all of which could reduce overall Medicaid spending by providing services to people in need in a less expensive manner.

McCrorry proposed \$30 million for a variety of expanded services for mental health and substance abuse, based on recommendations of a mental health task force he commissioned.

"And this is just the beginning, because we're going to have to make more investments in substance abuse and also mental health because it's an issue that's being hidden in our emergency rooms, in our county jails, and in our state prisons, and underneath bridges across North Carolina," McCrorry said. Referring to his initial State of the State address, the governor said, "I made that commitment that we will no longer ignore that issue."

The budget also includes \$8.6 million for enhanced child protection services, and increasing early childhood programs by expanding pre-K slots for 400 at-risk 4-year-old children at a cost of \$2 million. It would expand drug courts and military courts.

His budget proposes increased funding for medication-assisted treatment and access to Naloxone, a life-saving drug administered for heroin or opioid overdoses.

"I realize there are issues regarding Medicaid, and my major priority is to help those who can't help themselves and encourage those who can. That is the philosophy of this campaign," McCrorry said.

The piecemeal approach is being pursued because a North Carolina-designed Medicaid expansion was rejected by President Obama.

"I have personally met with the president of the United States in the Oval Office to talk about possibly getting a waiver for Medicaid expansion"



Gov. Pat McCrorry announces several limited expansions in Medicaid services at an April 19 press conference at the Executive Mansion. (CJ photo by Dan Way)

that would require work or training requirements for new participants, McCrorry said. "The president disagrees with that waiver, and therefore he's rejected that kind of waiver."

McCrorry said he was going to "keep approaching the administration about waivers which would encourage people to also help themselves" while receiving government benefits and health services.

McCrorry's announcement came days after two key senators told *Carolina Journal* they did not see any desire among the Republican caucus to expand the federal insurance program for the aged, disabled, and poor beyond its current level, which consumes 17 percent of the state budget.

"We are learning to do a better job with Medicaid, but we're not ready to open it up to a great number of new policyholders," said Sen. Louis Pate, R-Wayne, chairman of the Joint Legislative Oversight Committee on Health and Human Services, and a member of other health care committees.

Sen. Ralph Hise, R-Mitchell, chairman of the Joint Legislative Oversight Committee on Medicaid and N.C. Health Choice, said if the Obama administration rejected McCrorry's pitch for adding work or training requirements to Medicaid expansion, then there's little reason to expect any major changes in the program until next year, after a new president takes office.

State Budget Director Andrew Heath told *CJ* after McCrorry's press conference that his office is still "fine-

linked to the Medicaid rebase," Heath said.

"It's an expansion budget," Heath said, "but it's going to be a very conservative [spending] figure. We want to be mindful of being able to invest into the rainy day fund so that we have savings reserves. But we feel confident that we'll be able to fund every one of the items that were discussed today."

"I'm going to make sure our money goes to those people who can't help themselves, and that's including those with Alzheimer's," McCrorry said. His budget would add \$3 million to fund an additional 320 slots for community alternative programs for disabled adults through Medicaid for families requesting in-home services.

"Let's keep them in their homes as long as possible. The new slots will reduce waiting lists for these important services," McCrorry said. "Believe me, you can't help yourself when you have Alzheimer's. And we want to expand Medicaid services to those who do have Alzheimer's," he said, referencing his mother's nearly 12-year battle with the disease.

Another \$1 million in increased family caregiver support, including respite care, is part of his Alzheimer's proposal.

His proposal would expand Medicaid services for children with autism and adults with developmental disabilities.

"These children have a future now, and they have hope, and we need to help them get on their feet and help their parents," McCrorry said.

He is calling for \$2.6 million for 250 Medicaid innovation waiver slots for people living with development disabilities to lead successful lives in the community. *CJ*

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By John Hood  
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# Student BOG Member: Vulgar Protests Counterproductive

Unfocused demands from demonstrators will have no effect, says ASG president

By KARI TRAVIS  
Associate Editor

RALEIGH

As student protesters continue to wreak havoc at public meetings and expand their list of complaints against the University of North Carolina system's leadership, they will do nothing but hurt their chances of being taken seriously, said student Zack King, outgoing president of UNC's Association of Student Governments and ex-officio member of the Board of Governors.

Those demonstrators, who have attended every BOG meeting since October to contest the controversial hiring of new UNC system President Margaret Spellings — causing chaos at some points — now have added environmental complaints, concerns about UNC's Historically Black Colleges and Universities, and outrage over the General Assembly's recent passage of House Bill 2 to their list of issues.

Enacted March 23 by a special session of the General Assembly, H.B. 2, known as "the bathroom bill," overturned a Charlotte nondiscrimination ordinance that would have removed all limits on men using public bathrooms and changing rooms intended for women.

Under the new legislation, public schools and agencies must offer single-sex multiple-occupancy bathrooms, and students are required to use those facilities based on their biological sex, rather than their self-proclaimed gender.

While King said he sees problems with H.B. 2 — and supports peaceful, organized protest from students — he doesn't think that students who interrupt meetings or yell expletives at members of the board are being smart or effective.

"[These students] don't have a message," he said. "They don't have a focus. They're very uninformed. ... I understand their passions — but where are their facts? I was the same way before I got involved in student government from a more diplomatic angle. There is absolutely a role for advocacy and protesting peacefully, because then that pushes the topic onto the issue stage. That's basic political science. And then once it's on the issue stage, and once it is an issue, we can come in as diplomats and mediate that, hopefully, and make progress,"



Students protest outside the April 15 UNC Board of Governors meeting. Protesters have attended every BOG meeting since October. (CJ photo by Kari Travis)

he added.

Spellings, who has been at the center of protest since her election last year, on April 5 released a memo stating that the university would comply with H.B. 2, an announcement that fueled outrage among students and faculty alike.

"[Students] need to focus their protest at the right people," King said. "I mean the people doing the funding decisions. The only criticism that [students] could protest about is Spellings, but when they throw out all of these other [issues], and they become violent in some cases, that kind of action is misrepresentative of the larger student body. Unfortunately, those louder voices control the narrative."

King, who will relinquish his role on the BOG this summer to incoming ASG president Madeline Finnegan, was present for an April 15 board meeting during which students staged yet another disruptive protest.

The interruption began during a speech from Spellings, when several students in the back of the room stood up and began to chant, drowning out her voice.

"You can't stop the revolution!"

The shouting continued for several minutes until board members called a recess and security officers asked the students to leave. The students initially refused, but then complied, yelling vulgarities as they exited the meeting room.

"One, two, three, f--- the BOG!"

The meeting soon reconvened, but protests continued outside, with students yelling loudly enough to cause continued disruption.

In an interview with *Carolina Journal*, protester Femi Shittu, a senior from UNC-Greensboro who was arrested during a January demonstration against the BOG, said that her fight is about the protection of students

against a system that refuses to listen to those it serves.

"We're here ... to show that students oppose H.B. 2 — as well as [to continue] to demand the resignation of Spellings," Shittu said. "Margaret Spellings announced that she will be upholding H.B. 2 in the UNC system, and that is something that goes blatantly against the UNC system and its nondiscriminatory policies."

But outrage over H.B. 2 is misdirected and only confuses the issues that protesters say they want to impact, King said.

"Any sort of violent, vulgar protest ... is not productive at all," King said.

In an effort to encourage civil dialogue, future BOG meetings will include a public forum where individuals can voice concerns or complaints

directly to the board, said board Chairman Lou Bissette.

"The problem now is, these [students] out there are not advancing their cause, because they're out there screaming," Bissette said. "They're screaming vulgarities. It would be a lot better, it seems to me, if they came in and said, 'These are our issues we'd like to talk about.'"

Bissette said he is skeptical about whether such a conversation actually could happen with groups like Shittu's, but hopes that an understanding can be reached. A part of that understanding, he said, must be for protesters to recognize that the BOG isn't responsible for passing H.B. 2, and therefore cannot do anything to change the law itself.

"The university system didn't have anything to do with this. We didn't have anything to do with the Charlotte ordinance being passed. We didn't have anything to do with the General Assembly. Yet somehow we've been thrust into the middle, and I don't think that's fair," Bissette said.

"As far as I'm concerned, when the university finds out what the law is, we're like you," Bissette said. "We have to obey the law. And so I hope that reason will prevail and we'll all work our way out of this."

But protesters say that, given the board's failure to heed their demands, they will continue to voice their complaints using the same tactics they have over the past several months.

"I want people to realize that if Margaret is still here in two years, this will still be happening in two years," Shittu concluded. "The students will not let up. We are educating each other. We are making sure that we have a base that will stand." CJ

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# Managed Care Group Calls for Obamacare Medicaid Expansion

## Lawmakers say many Medicaid recipients drop private insurance

By DAN WAY  
Associate Editor

RALEIGH

The continuing calls to expand Medicaid coverage under the Affordable Care Act have what seems like an unlikely ally — Medicaid Health Plans of America, the trade association representing a number of top Medicaid managed-care organizations. MHPA likely will compete for administrative oversight contracts under the Medicaid reforms approved last year by the General Assembly.

"We absolutely believe at MHPA that expansion's the right thing to do, and that we are supportive of states moving to expand care to the working poor," said Jeff Myers, MHPA's president and CEO.

"But we also firmly believe that the state needs to do it in a way that is fiscally responsible and is appropriate for their citizens," Myers said. MHPA



N.C. Health and Human Services Secretary Rick Brajer addresses an April legislative Medicaid oversight committee meeting. (CJ photo by Dan Way)

member organizations already operating in North Carolina would like to see a transition to a model offering fixed payments per patient to providers, allowing higher spending on patients with more expensive medical conditions (or "risk-based adjustments"), "and as that transition occurs it may make sense to roll out some expansion," he said.

However, Myers cautioned, the system must be fixed first.

"Almost all of the states that have done expansion have done it

almost completely using a managed-care model. None of them are just expanding their population into fee for service, or even a [primary care case management] model" similar to the one North Carolina has used through the private nonprofit Community Care of North Carolina, Myers said.

Myers noted that states like Oregon and Washington have capped payments to providers with risk adjustments as they expanded Medicaid, and North Carolina would benefit from a similar approach.

"The state will get real value out of expanding care to those that are going to need the care anyway," he said, and MHPA does not advocate a particular model because the organization says states are in the best position to design a program specific to their needs.

"I don't agree with him at all," said Jonathan Ingram, vice president of research at the Florida-based Foundation for Government Accountability. "Medicaid expansion would be a bad decision even if North Carolina's Medicaid program was perfect."

Expansion would create a new welfare entitlement for hundreds of thousands of able-bodied, mostly childless adults who have never qualified for other types of long-term welfare, he said.

"That expansion would discourage work, shrink the economy, and trap more individuals in poverty and dependency," Ingram said. "And worst of all, Obamacare's funding scheme would prioritize welfare for these able-bodied adults over critical services for the most vulnerable."

North Carolina is taking steps to improve its Medicaid program to make sure it works for those who rely on it, he said. But even after the Medicaid program is fixed, it would be a mistake to expand Obamacare.

"States that expanded Medicaid under Obamacare are now seeing far more able-bodied adults sign up than they thought would ever enroll or, in many cases, would ever even be eligible," Ingram said.

With cost overruns mounting, lawmakers are scrambling to find the money to cover the state's share of the costs, which start coming due in next year's budgets, he said.

"Ultimately, that will mean raising taxes, taking resources from other critical needs like education and public safety, or siphoning off existing Medicaid resources currently dedicated to poor children, pregnant women, seniors, and individuals with disabilities," Ingram said.

State Sen. Ralph Hise, R-Mitchell, said among his concerns is that in states that have expanded Medicaid, more than 50 percent of new enrollees shifted from private commercial insurance to heavily taxpayer-subsidized plans on the health exchanges.

"There is nothing about expansion that affects pregnant women [and] children," Hise said. "The outcomes on Medicaid are much lower than the health outcomes for individuals on private insurance. That's consistent across multiple states." Access to doctors and other medical providers is worse for Medicaid participants than the privately insured, he said.

Transferring coverage from private insurance to Medicaid will generate less revenue for rural hospitals and health care providers already struggling to keep their doors open, Hise said.

A day after Gov. Pat McCrory said the health budget he would present to the General Assembly includes a limited expansion of enrollment and services in a Medicaid system that is already growing, state Sen. Terry Van Duyn, D-Buncombe, said expansion under Obamacare was needed.

During the April 12 meeting of the Joint Legislative Oversight Committee on Health and Human Services, Van Duyn said at a recent public comment meeting on Medicaid reform she attended in Asheville, "one of the things that I heard over, and over, and over again, particularly from health care providers in my region, was the need for Medicaid expansion."

"It is our strong intent to really listen to the people of North Carolina," responded state Health and Human Services Secretary Rick Brajer. "It's obviously an important conversation" and will continue over the next year.

Later that day, state Rep. Nelson Dollar, R-Wake, said at a meeting of the Joint Legislative Oversight Committee on Medicaid and N.C. Health Choice that the state's Medicaid rolls already are expanding.

Year-over-year comparisons show a 2.5 percent enrollment growth in the past year, or about 44,000 additional people as Medicaid recipients, Dollar said.

"I think that demonstrates an incredibly healthy" and well-run program, Dollar said. CJ

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# Retired Judges Seek End to Partisan Redistricting Excesses

Goal is to push for independent, nonpartisan process

BY DAN WAY  
Associate Editor

**N**orth Carolina's constantly shifting population and demographics, and the sour taste both Democrats and Republicans have experienced as a minority party with no meaningful role in the legislative redistricting process, could offer strong incentives to transform redistricting to a nonpartisan, independent commission model, a group of academics, analysts, and retired judges said April 21 at a Duke University forum.

The group is exploring redistricting reform that would put North Carolina on the same path as several other states that have minimized the role of partisan politics in the drawing of legislative and congressional district boundaries. The group also will draft its own map based on the principles the members articulate.

"We may fail, but we're going to try, and I think that's the kind of thing that we should be doing," said former state Supreme Court Chief Justice Henry Frye.

"What's different is that we do have a time when members of both parties remember what it was like to be without power, and that's important" in hoping to convince them to adopt a less politicized system, said Bob Phillips, executive director of Common Cause North Carolina.

Phillips said legislative Democrats "couldn't see any reason" to adopt independent redistricting procedures when they were in the majority and Common Cause (along with other organizations, including the John Locke Foundation) raised the issue. Then the Republicans gained control of the General Assembly. "Now you have the majority party that remembers what it's like" to be powerless in drawing legislative boundaries.

North Carolina's rapid demographic shifts offer no guarantee that a district drawn to favor a current majority will remain that way for long, said Tom Ross, former president of the University of North Carolina system. Ross, now a fellow at Duke's Sanford School of Public Policy, said the dynamics of the state allow an opportunity to adopt a process that creates more competitive districts and spurs voter interest.

The Sanford School and Common Cause are leading the effort involving 10 retired judges. The April 21 daylong event was the first the group plans to host.



Former N.C. Supreme Court Justice Bob Orr, at left, and ex-Chief Justice Henry Frye field questions at an April 21 Duke University symposium on legislative redistricting. (CJ photo by Dan Way)

"The main purpose is really educational," to help the public better understand how redistricting occurs and various methods to accomplish it, Ross said. "I think we are at a time in our country where this is an issue that people are really concerned about. ... There is a sharp partisanship that I think many voters are tired of."

A better process of redistricting that does not take partisan politics into account might narrow that divide, he said.

"We've got current and former governors on both sides of the political aisle who support this," Ross said. Many municipal, county, and state office holders are supportive. "This is something that crosses party lines."

Iowa's independent redistricting commission often is invoked as a model of reform, but its process doesn't face the same potential for race-based litigation as North Carolina and other Southern states that must satisfy the federal Voting Rights Act. Even an independent commission would be challenged to draw legislative boundaries that would survive in court.

"We've got to have some sort of clarity on the voting rights and race issue" regardless of who is redrawing legislative districts, said retired state Supreme Court Justice Bob Orr. "We need to know exactly where that parameter fits into it."

Orr also said it would be benefi-

cial for the U.S. Supreme Court to state that "overly partisan gerrymandering ... violates the Constitution. As long as that's a viable option in drawing the districts, you're going to see the kind of safe districts which create [the] polarized voting and polarized attitude that we have."

Although he supports the independent commission approach, Orr said, "The state constitution does at this point require the legislature to draw the districts," so any reforms would have to address that issue. He believes a constitutional amendment setting forth inviolate criteria for an independent commission or other reform would be essential.

Orr said that he, former Chief Justice Sarah Parker, and former Chief Justice I. Beverly Lake, all members of the Duke study group, were on the state Supreme Court during the 2002 *Stephenson v. Bartlett* redistricting litigation over state constitutional provisions to keep counties whole when drawing state legislative lines.

"While it was fascinating in the context of legal and constitutional issues, it was a brutal experience," Orr said. The time and political pressures the court is put under when deciding momentous redistricting lawsuits are "unhealthy, so anything we can do to improve the system is a plus."

Unlike earlier redistricting, gerrymandering is made easier today due

to the sophistication of technology and computer graphics.

"You can draw any kind of district that suits your particular needs, partisan, whatever," Orr said. "Now it's reached such a level of sophistication, we see this increase in state seats that are safe" for both parties. The majority party always gets the lion's share, even though North Carolina is a more politically balanced state with the ranks of unaffiliated voters growing fast than either Democrats or Republicans.

It's unlikely the use of an independent commission would remove politics and lawsuits from the system completely, since political players would try to stack the panels with friendly members.

"I don't know if there's any process I've seen in the world of anything in which there aren't some unhappy people," Ross said, but he believes there would be far less litigation with an independent commission.

While one goal of an independent commission would be to promote voter participation in elections, Ross admits the only evidence of higher turnout in such a system is anecdotal.

"It's not an easy piece of research to get your arms around" because redistricting occurs only every 10 years, after the federal census, making exact voter comparisons difficult, he said. *CJ*

# Charlotte's 145th Airlift Wing Transitioning from C-130s to C-17s

By MICHAEL LOWREY  
Contributor

CHARLOTTE

If you live near Charlotte, you've probably heard and seen the big, gray-painted military cargo planes rumbling low overhead. They are the N.C. Air National Guard's C-130s, and they have been a familiar sight over the Queen City for more than four decades.

That could change soon, though, as part of a military restructuring proposal that has gotten considerably less attention than the withdrawal of C-130s from Ft. Bragg.

In February, the Air Force released its proposed force structure plan for the coming years. It includes a significant change for the N.C. Air National Guard 145th Airlift Wing. Under the proposal, in fiscal year 2018 (that begins Oct. 1, 2017), the unit, which flies out of Charlotte Douglas International Airport, would transition from the C-130 to the larger C-17.

While both the C-130 and C-17 are cargo aircraft — that's what the "C" stands for — they serve very different roles. The turboprop-powered C-130 is the U.S. military's standard tactical transport plane, acting as a sort of large flying delivery van for regional deliveries. The C-17, meanwhile, is a strategic jet transport, capable of hauling larger payloads, such as a tank or a larger number of troops, over greater distances.

The transition to the C-17 is particularly notable as the N.C. Air National Guard is one of only four C-130 units that are trained to engage in aerial firefighting, which involves dropping retardants on forest fires from very low altitude, often over rough terrain. The other three squadrons are based in the western United States. C-17s are not



The C-17, shown above, is a strategic jet transport capable of hauling larger payloads, such as a tank or a larger number of troops, over greater distances than the turboprop-powered C-130. (Pixabay photo)

used for aerial firefighting.

The 145th Airlift Wing is a long-time C-130 operator, having flown the type since the early 1970s. Despite this heritage, the Air National Guard's leadership pushed for the move to Charlotte of the C-17, says Maj. Paul Kurts, spokesman for the 145th.

Kurts says the 145th's good reputation played a critical role in the selection of Charlotte to convert to the C-17.

"The Air Force decided that Charlotte could best handle the mission," Kurts said, noting the unit's geographic proximity to the many military bases in the Southeast, good relation-

ship with Charlotte Douglas International Airport, and success in recruiting personnel.

The C-17s that the N.C. Air National Guard would receive would be older aircraft and would come from Charleston Air Force Base in South Carolina.

The Charlotte unit's conversion would not require any new infrastructure spending. The

Guard has enough ramp space to park the eight C-17s it would receive, and its existing hangar is large enough to accommodate a C-17.

The transition also isn't expected to have much impact on the total num-

ber of people assigned to the air wing. The switch in aircraft type may lead to some turnover, however, as some long-serving troops may see this as a good time to retire, while others may wish to stay on the C-130 and transfer to Air National Guard or Air Force Reserve units elsewhere.

The Charlotte unit's move to the C-17, subject to congressional approval, comes as the Air Force is downsizing. In 2015, the Air Force had 318 C-130s, and only a third of them served with the regular Air Force. The Air National Guard and Air Force Reserve operated the other two-thirds. By 2019, the Air Force would like to reduce its C-130 transport fleet to 300 planes, with Guard and Reserve units retiring older aircraft.

Even so, the Air Force simply can't close domestic bases. Doing so would require another round of Base Closure and Realignment Commission actions, something that Congress has been unwilling to authorize. So the Air Force must move planes around, being careful to give Reserve and Guard units something to do at facilities like Charlotte that are not situated at active-duty Air Force bases.

Ft. Bragg's 440th Airlift Wing, an Air Force Reserve unit, also had operated the C-130. Under an earlier force realignment plan, the Air Force proposed closing the unit. The state's congressional delegation is continuing to fight the elimination of the 440th.

The Air Force's new force structure proposal also would see Air Force Reserve units in Niagara Falls, N.Y., and Pittsburgh trade the C-130s they operate for an equal number of KC-135 tankers and C-17s, respectively. The Alaska Air National Guard also would lose its C-130 squadron but assume control over the eight active-duty C-17s currently based in the state. CJ

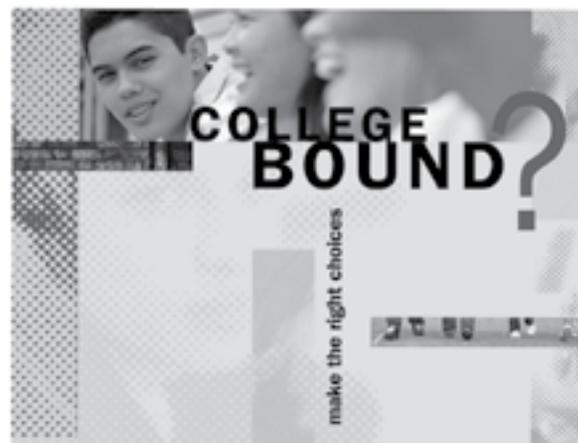
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# Appeals Court May Let N.C. Municipal Broadband Limits Stand

BY BARRY SMITH  
Associate Editor

**A** high-tech analyst suggests that a Federal Communications Commission rule pre-empting state laws limiting municipal broadband — including North Carolina's — could be in trouble.

Berin Szoka, president of Tech Freedom, a Washington, D.C.-based nonpartisan technology think tank, said that while it's difficult to predict the outcome of a lawsuit solely from the oral arguments made last month to a three-judge federal appellate panel, it appeared that two of the three judges were considering rejecting the FCC's rationale for adopting the rule.

North Carolina is one of roughly 20 states with laws regulating how cities and towns can get into the broadband business. Two cities, Wilson, N.C., and Chattanooga, Tenn., asked the FCC to pre-empt state laws and allow the municipal broadband operations to expand outside their geographical areas. Tennessee and North Carolina state officials appealed the FCC pre-emption in federal court, and the two cases were joined in a lawsuit before the 6th U.S. Circuit Court of Appeals.

Lawyers for the FCC argued that the agency has a mandate to promote the expansion of broadband services, so it can overrule the state laws in North Carolina and Tennessee. Attorneys for the states responded that a federal agency can't overrule a state law unless it has the explicit authority of Congress to do so, and in this instance the FCC doesn't have it.

Will Aycock, general manager of Wilson's Greenlight broadband operation, did not respond to a request for comment.

Last summer, Aycock told *Carolina Journal* that the city petitioned the FCC to pre-empt North Carolina law so it could provide broadband service outside Wilson's city limits.

"Our primary goal with the peti-

tion was being able to expand out to all of our electric customers that wanted access to the network," Aycock said.

Roughly 5,000 of the city's electricity customers live outside the corporate limits, some in adjacent counties, he said.

The North Carolina law, passed in 2011, requires municipalities to get a vote of the people before borrowing money to build municipal broadband systems. It prohibits the use of noncommunications sources to pay for broadband expenses, bans the practice of charging subscribers less than the actual cost of providing the service, and requires such entities to pay a comparable amount of local property taxes and state income taxes that a private entity would have to pay.

Rep. Marilyn Avila, R-Wake, who sponsored the 2011 law, last summer told *CJ* she doesn't blame city officials for trying to get their residents better-quality broadband services.

"It definitely falls within the purview of elected city officials to do the best for their citizens that they can," Avila said. "My concern is how they fund it."

Aycock said Wilson used certificates of participation, a type of bond that does not require voter approval, to finance its broadband operations.

Avila said citizens should be brought into the discussion, rather than just relying on what may be an overly rosy picture painted by a consultant. Avila said that can occur when voters are asked to approve the bonds to pay for the broadband construction.

Szoka said that if the three-judge panel does rule that the FCC overstepped its bounds, the FCC could appeal either to the entire circuit or directly to the U.S. Supreme Court.

"My sense is most of the time,

parties will want to go straight to the Supreme Court," Szoka said. However, the vacancy created by Justice Antonin Scalia's death leaves the nation's highest court with four Republicans and four Democrats, so a tie vote would sustain the lower court's decision.

Instead of a direct appeal to the Supreme Court, the FCC might consider an "en banc" appeal to the full 6th Circuit, Szoka said.

President Obama has nominated federal Judge Merrick Garland to the Supreme Court. However, Republican Senate leader Mitch McConnell says he doesn't plan to hold hearings on the nomination, arguing that the next pres-

ident should pick Scalia's replacement.

"It might just buy them time to wait until the Supreme Court has a full deck," Szoka said. "Garland might get confirmed and sit on the court by January at the earliest."

Szoka noted that the 6th Circuit is heavily Republican, suggesting it's less likely to favor the FCC's position than a more Democratic leaning circuit.

Matt Wood, policy director at Free Press, a lobbying group that supports increased government oversight of Internet service providers and "net neutrality," said the organization hasn't followed the legal case closely.

"We're very supportive of giving localities and communities the ability to make those decisions themselves," Wood said. "We support the federal government stepping in saying states shouldn't be stepping in and taking away the choice from the local level." *CJ*



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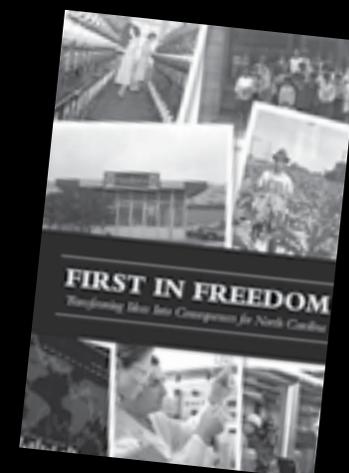
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# State Courts Forced to Review Sex Offender GPS Monitoring

By MICHAEL LOWREY  
Contributor

RALEIGH

North Carolina's courts continue to respond to the U.S. Supreme Court's March 2015 rebuke of state courts that had ruled that continuous satellite-based monitoring of sex offenders was constitutional. Earlier this year, the N.C. Court of Appeals ordered two cases to be heard again in trial courts as a response to the U.S. Supreme Court's decision.

In 2006, the General Assembly passed a law establishing the GPS-based monitoring program, which includes three elements: an ankle bracelet, a tracking device, and a base unit. Since then, a number of sex offenders subject to the program have challenged its constitutionality. One is Torrey Grady, who was convicted in 1997 of second-degree sexual offense and



in 2006 of taking indecent liberties with a child. After getting out of prison, Grady was ordered to appear at a hearing to determine whether he would be subject to the monitoring program. Grady didn't dispute the convictions, but instead argued that the monitoring requirement amounted to an unreasonable search in violation of his rights under the Fourth Amendment of the U.S. Constitution. The judge did not agree and ordered that Grady be monitored for the rest of his life.

Grady repeated his constitutional objection to the N.C. Court of Appeals. To the appeals court, Grady claimed that the U.S. Supreme Court's decision in *United States v. Jones* bolstered his constitutional argument. *United States v. Jones* was the 2012 U.S. Supreme Court decision in which the high court held that police attaching a GPS tracking device to a car to monitor the owner's movements amounted to a search under the Fourth Amendment.

The N.C. Court of Appeals was not persuaded by Grady's reasoning, citing its rejection of a similar claim in an earlier case, *State v. Jones*. After the N.C. Supreme Court declined to hear his case, Grady petitioned to the U.S. Supreme Court.

The U.S. Supreme Court takes only a small percentage of the many requests it receives to address constitutional questions raised in federal and state appellate court decisions. It took Grady's case and in March 2015 issued a short unsigned opinion overturning the North Carolina courts.

In its decision, the U.S. Supreme

Court held that the N.C. courts were wrong to conclude that satellite monitoring is not a search.

"In concluding otherwise, the North Carolina Court of Appeals apparently placed decisive weight on the fact that the state's monitoring program is civil in nature," the high court held.

"It is well settled," however, "that the Fourth Amendment's protection extends beyond the sphere of criminal investigations and the government's purpose in collecting information does not control whether the method of collection constitutes a search."

But this did not end the matter, as the Fourth Amendment only prohibits unreasonable searches. The justices sent the case back to the state courts to determine whether the monitoring program was reasonable when viewed as a search.

A week after *Grady* was decided, Malcolm Blue was due for a hearing to determine whether he would be subject to monitoring for life. Blue had pleaded guilty to second-degree rape in 2006 and was getting out of prison. At the hearing, he objected to monitoring after the state failed to present any evidence that the program was a reasonable search. Even so, Judge Winston Gilchrist ordered Blue monitored for life.

Blue challenged this determination before the Court of Appeals. The Appeals Court agreed that Gilchrist's analysis was inadequate.

"[The] trial court did not analyze the 'totality of the circumstances, including the nature and purpose of the search and the extent to which the search intrudes upon reasonable privacy expectations,'" wrote Judge Rick Elmore for the Appeals Court, in quoting the language of *Grady*.

"Rather, the trial court simply acknowledged that [monitoring] constitutes a search and summarily concluded it is reasonable, stating that '[b]ased upon [the second-degree rape] conviction, and upon the file as a whole, lifetime satellite-based monitoring is reasonable and necessary and required by the statute.'"

The Appeals Court said Gilchrist did not take into account the federal justices' admonition about the reasonableness of the search and ordered a new hearing.

The Appeals Court also ordered a new hearing for Charles Morris, another sex offender Gilchrist had ordered to face lifetime monitoring.

CJ

## COMMENTARY

### *Rural 'Decline'* *Defies Simple Answers*

At least half of North Carolina, primarily rural, seems to be in decline. That's the dramatic conclusion you'll sometimes hear drawn from the latest Census Bureau county-level population estimates. Such prognostications misstate and oversimplify the issue.

With the July 2015 population numbers, North Carolina crossed the 10-million-resident threshold. Since the 2010 census, the state's population is estimated to have grown each year by about 1 percent, or by roughly 100,000 residents. This growth isn't spread out equally across the state, as nearly half of the state's counties — 49 of 100 — are projected to have lost population since 2010.

Population growth can be a reflection of economic vibrancy. And certainly Mecklenburg and Wake counties have that, with each adding more than 110,000 residents since 2010. (By comparison, 74 N.C. counties had fewer than 110,000 total residents in 2015.) The counties around Charlotte and Raleigh are adding people as well, as is the Wilmington area. The Triad and Asheville area also are growing, though not as fast.

When you get beyond those areas, things get hit and miss, though the pattern isn't a simple urban/rural divide. For one thing, there's no single definition of "rural." The Census Bureau, the U.S. Office of Management and Budget, and the N.C. Rural Center all define the term differently.

According to the Rural Center's usage, the county that's gaining population at the fastest percentage rate, even faster than Wake or Mecklenburg — Brunswick — is actually a "rural" county. Does Brunswick represent a viable, transferable model for rural economic development? Almost certainly not. The OMB places Brunswick in the Myrtle Beach metropolitan statistical area, though North Carolina officials contend it should be in the same MSA as fast-growing Wilmington and New Hanover and Pender counties, which are adjacent to Brunswick County. Either way, Brunswick isn't quite so rural and

the combination of the beach plus nearby growing cities proves very attractive.

Even where counties are losing population, the situation is more often one of stagnation than a Detroit-like population exodus. Robeson County, for example, has the third-lowest per-capita personal income in the state and is relatively large, with a population exceeding 134,000. Despite that, the county's population is estimated to have dropped by 184 residents between 2010 and 2015.

It's a trend that's repeated often across the state. The 49 counties that shrank lost an estimated 37,486 people total between 2010 and 2015. Their remaining population is projected at 1,969,152.

Only 11 counties saw population drops of 3 percent or more between 2010 and 2015.

Those counties also had small populations to begin with; their combined population is only 281,471. The four counties with the largest percentage population drops — Gates (6.0 percent), Northampton (7.1 percent), Tyrrell (7.8 percent), and Washington (5.9 percent) — had a combined population of less than 50,000 in 2015.

North Carolina even has its own version of a struggling city. Rocky Mount straddles the Nash/Edgecombe county line with a population of over 55,000. It's losing population — as are both Nash and Edgecombe counties. The situation also provides another example of the conflicting meanings of "rural"; the Rural Center defines both counties as rural while the OMB says they comprise the Rocky Mount MSA.

Of course, there are places that are hurting. It's just that every community is different, and lumping all of them together into a single narrative misstates the issues and suggests that one-size-fits-all solutions exists. When it comes to economic development in rural North Carolina — however you choose to define what "rural" is — there often are no such simple answers.

CJ

Michael Lowrey is a contributor to Carolina Journal.

# State-Owned Railroad Refuses to Share Records

Continued from Page 1

financial support from NCR. Moreover, there is significant local opposition to the proposed Randolph site.

The N.C. General Assembly established the railroad as a private company in 1848, but the state is the only shareholder. The governor and legislative leaders appoint NCR's 13 board members, and the company is subject to oversight by the General Assembly. NCR owns and manages a 317-mile rail corridor connecting Morehead City to Charlotte.

The NCR announced in January that it would spend \$13 million to purchase 875 acres of private land for the 1,500-acre Randolph project for the purpose of attracting a major manufacturing facility.

Previous *CJ* stories noted the railroad's participation and investment in the project was a deviation from its stated mission "to develop the unique North Carolina Railroad assets for the good of the people of North Carolina." NCR's rail corridor in Greensboro is approximately 13 miles from the site. A rail line owned by Norfolk Southern is adjacent to the site in northeast Randolph County.

## The project

The property, located along U.S. 421 west of Liberty in Randolph County, is under the control of three entities: Randolph County, NCR, and the Greensboro-Randolph Megasite Foundation Inc., a nonprofit established to help develop the site.

The three entities have approved a document titled "Greensboro-Randolph Megasite Project Agreement," laying out the responsibilities and duties of the organizations. The agreement states that all decisions need to be unanimous.

Since it has promised to provide water and sewer services to the site, the city of Greensboro is in effect a fourth partner, even though the city is not a signatory to the agreement. According to the agreement, the goal is to recruit a "high-yield project" that would employ a minimum of 1,750 workers.

The agreement states that Randolph County has purchased 425 of the 1,400 acres for the location. The Megasite Foundation has purchased 43 acres and plans to purchase another 70 acres. The NCR is in the process of acquiring 862 acres in 19 separate parcels.

## Source of funds

The railroad has provided conflicting reports about its schedule for acquiring property and its source of funding for the acquisitions.

According to its 2014 annual report, NCR's primary revenues of



North Carolina Railroad's rail corridor runs east-west through Greensboro and never gets closer than 13 miles to the Greensboro-Randolph Megasite. (CJ graphic)

nearly \$15 million came from leasing its tracks to Norfolk Southern Railway. NCR had a net income of \$4.1 million.

On Feb. 17, *CJ* asked NCR spokeswoman Megan Hoenk where it would get \$13 million for the land purchases. Citing the annual report, Hoenk said, "if you want to determine an estimated annual cash flow, you should also consider depreciation totaling \$10,509,215. The \$13 [million] will largely come from sales of legacy properties no longer used for railroad purposes, such as old right-of-way and smaller storage yards," she replied.

In a March 18 email, Rouse said, "As we stated in our discussion with you in January, we are in the process of completing our due diligence on the properties within the site, with closings expected within the next few months. The purchase of these properties will be funded in part through sales of legacy properties no longer used for railroad purposes."

The process moved much faster than that, and the railroad made public statements that varied from those given to *CJ*. On April 4, NCR President Scott Saylor wrote to Randolph County Commission Chairman Darrell Frye, stating, "Within the next two weeks, we will close on the majority of the properties, followed by completing all remaining closings within the few months that follow, consistent with contracts and the sellers' expectations."

Saylor also stated that his board had set aside enough money to buy all

the property and that NCR would use "a wholly-owned LLC structure in order to optimize NCR's income tax planning."

On April 5, NCR chief financial officer Daniel Halloran registered two new limited liability companies with the N.C. Secretary of State: North Carolina Railroad Lessee LLC and North Carolina Railroad Holdings I LLC.

On April 13, NCR Holdings bought 14 parcels totaling 633 acres. Excise taxes indicate the total purchase price was \$8,007,500.

One was a 16-acre parcel already owned by the Megasite Foundation. NCR Holdings paid \$419,500 for it even though the foundation paid \$399,500 for the same property in December.

That same day NCR Holdings granted a deed of trust to NCR for a stated indebted amount of \$8,402,404, indicating that NCR loaned NCR Holdings the purchase money and used the newly purchased properties as security for the loan.

When asked about the source of the funds, Rouse responded in an April 19 email: "The purchase funds are from NCR funds set aside for this purpose. None of the funds for Randolph purchases were borrowed. Regarding your question about the sale of land, no land was sold for this transaction."

## Legislative oversight

Even though NCR is a private

company, state law requires it to submit an annual report to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee. At press time, Rouse said the 2015 report is being prepared and is not available.

The report must include a copy of the company's strategic plan and capital investment plan; a list of properties owned; compensation paid to officers and directors; descriptions of any transactions between the company and directors, officers, and their family members; and anticipated dividends for the next three fiscal years.

Transportation Oversight Committee Co-Chairman Sen. Bill Rabon, R-Brunswick, said, "I have no idea," when asked if he thought the railroad should abide by the public records law. Rabon, a veterinarian, suggested contacting committee member Sen. Warren Daniel, R-Burke, an attorney who also serves on the oversight committee. Daniel told *CJ* he would look into the matter.

## The laws

Martin, the NCPA's attorney, said two laws — the open meetings and public records laws — may apply to *CJ*'s request for NCR meeting minutes.

The laws seek to establish whether an organization is legally or functionally part of government. The open meetings law applies to any organization that comprises two or more members who are elected or appointed by government. It includes decision-making and advisory boards. Even a citizen advisory council to the Wake County Board of Commissioners is subject to the open meetings law. Martin said because NCR board members are appointed by the governor and the legislature, NCR appears to be subject to the open meetings law, meaning members of the public and reporters can attend board meetings.

The public records law is less precise, she said. It applies to any public agency, including any agency of North Carolina government or its subdivisions, elected or appointed institutions, and boards. A court would look to determine how independent or how much government control exists over an organization. In the case of NCR, she said it's unclear how much the company is controlled by government, and if the agency continues to fight *CJ*'s records requests, the matter may have to be decided by a judge in court.

But Martin added not every dispute over public records needs to go to court. NCR could decide to comply with a request based on the public's right to know how government entities operate.

# North Carolina's Syrian Refugees Still Cannot Be Tracked

Continued from Page 1

officials," McCrory said. The FBI does not have a list of entering refugees and where they are sent, prior to and after relocation, "which was astounding to me."

The feds "use the privacy card" to deny that information to state and federal public safety officials, McCrory said.

That is a cause for "great concern," he said. If refugees were involved in some criminal or terror-related activities, state law enforcement investigators would not know where to find them unless the nonprofit agencies provided the information. The state Department of Health and Human Services has some data the nonprofits have provided, but they're not obligated to do so.

The DHHS Refugee Services Office receives information after a refugee is settled and begins to receive services, such as employment help or English language training, said DHHS spokeswoman Alexandra Lefebvre.

"The challenge is the lack of information sharing from the federal government about individuals prior to arriving in North Carolina," Lefebvre said. "The state receives some information after the resettlement has taken place. The individual's personal information is protected by various privacy laws."

The FBI "does initial background checks on what they can" but is not allowed to maintain that information due to the privacy regulations, McCrory said. He wanted to ask President Obama about that situation during a February National Governors Association meeting, "but the president wouldn't take my question at the White House. I think he was given forewarning that I was going to ask."

Hudson said North Carolina "absolutely" remains at risk because of the weak vetting process for refugees.

Last year he introduced the American Safe Act barring entry to the United States of any Iraqi or Syrian national unless the FBI director certified a thorough background check had been completed. The House passed it overwhelmingly. Senate Democrats blocked it from coming to that body for a vote.

"I hope we don't have a problem with ISIS sneaking folks in through this program, but it's definitely a vulnerability," Hudson said.

"The three areas that I'm concerned about are the folks that can



N.C. Gov. Pat McCrory attempted to ask President Obama about the Syrian refugee situation when he attended the National Governors Association meeting in February, but Obama would not take his question. McCrory said he suspects the president "was given forewarning that I was going to ask." In the photo above, President Obama talks with Wisconsin Gov. Scott Walker at an event during the February Governors Association meeting. (White House photo)

come here without a visa, the terrorists exploiting the Syrian refugee program, and our porous Southern border," he said. "Until we get serious about that, we don't know who and what's coming across that border."

Hudson said he continues to highlight the refugee vetting vulnerabilities, but "everybody's moved on to another issue, and they're pretending like this isn't a problem," even though two terrorists were arrested on Jan. 8 after entering the country because of the refugee program, and the director of national intelligence "tells us that they've caught terrorists trying to come through the refugee program."

Obama's goal is to admit 1,500 Syrians per month and expedite the screening process "that we know is already broken," Hudson said. Some Democrats now want to raise the target number of Syrian refugees from 10,000 to as many as 100,000 Syrian refugees, he said.

Congress has heard reports of counselors "just overwhelmed with the number of people applying for visas and needing to be screened," Hudson said. Pushing 1,500 Syrians

per month through a cheesecloth-like process already requiring between 18 and 24 months is "an absolute recipe for disaster, and I hope it's not going to take some terrible incident to wake people up," he added.

Jim Hanson, executive vice president of the Washington, D.C.-based Center for Security Policy, told *CJ* that identities and backgrounds of Syrians cannot be verified in most instances, regardless of how many times interviews are conducted. He called Syria a nonfunctioning state with no U.S. embassy, government offices that have been ransacked, and official records and databases that have been destroyed or are missing.

Jimmy Broughton, McCrory's deputy chief of staff, on Nov. 18 told the Joint Legislative Committee on Government Operations "the difficulty of thorough background checks was again confirmed" by the White House in a Nov. 17 teleconference with the nation's governors and their staffs.

Frank Perry, secretary of the state Department of Public Safety, told the Gov Ops committee that collaboration between federal agencies and state intelligence personnel authorized to receive all sensitive information collected about the refugees "simply doesn't exist. ... That's felony sad as to how they are not communicating" at state and federal levels.

Perry said he believes some of the Syrian refugees already in North Caro-

lina could present a threat.

"Alerts are going out as we speak that are serious, but not imminent," he said. "There are people here who seriously mean to harm us."

State Rep. John Szoka, R-Cumberland, a retired Army infantry officer in whose district Fort Bragg is located, issued a stark warning at the Gov Ops meeting.

"Make no mistake, ISIS is our enemy," Szoka said. "They've told us that they are our enemy. In fact, in North Carolina they've told us that Fayetteville and New Bern are targets that they want to hit." *CJ*

Governors concerned over the weak vetting of refugees from Syria

## Refugees by top states of relocation from Jan. 1, 2014, to April 25, 2016

The numbers in parentheses for North Carolina are its ranking among all states in the number of refugees absorbed.

	Syria	Afghanistan	Iraq	All refugees
<b>U.S.</b>	<b>3,357</b>	<b>2,649</b>	<b>33,082</b>	<b>158,677</b>
Arizona	222	141	1,580	7,037
California	364	497	4,782	13,546
Colorado			739	
Florida	186		734	6,421
Georgia			579	6,272
Illinois	236		1,637	5,853
Kentucky			752	
Mass.			1,111	
Michigan	371		4,020	7,510
New York		238	1,107	9,035
N.C.	(9) 125	(5) 136	(16) 577	(12) 5,645
Ohio	136		943	6,719
Penn.	264		665	6,213
Tenn.			819	
Texas	278	218	4,440	16,346
Wash.			1,343	6,111

Source: U.S. Department of State Refugee Processing Center

# Teacher Pay, School Choice Head K-12 Session Priorities

By KARI TRAVIS  
Associate Editor

RALEIGH

Teacher pay topped the list of K-12 education priorities as the 2016 legislative short session got under way, several of the state's top policymakers said.

At an April 22 presentation of his budget proposal for the 2016-17 fiscal year, Gov. Pat McCrory laid out a plan that would allocate 57 percent of the state's \$12.8 billion General Fund to public education. Seventy percent of the education budget would go to K-12 schools, with \$426 million set aside to raise the teacher salaries on average by 5 percent.

That pay increase, which would push average teacher salaries above \$50,000, also would be joined by a one-time bonus of 3.5 percent, assuring every teacher in North Carolina some additional compensation this year, said state Budget Director Drew Heath.

During his introductory speech outlining the budget, the governor predicted that the state has enough money to fund the raises and bonuses.

"Based on the revenues that are available, we feel like the major priorities that we've submitted today need to be the major priorities of the state of North Carolina, both in the state reductions and also in the areas that we need to increase, like teacher pay and compensation," McCrory said.

Legislative leaders have suggested a lower target for pay raises of between 3.5 percent and 5 percent. This raise would follow last year's move boosting the starting salary for new teachers to \$35,000, and providing an across-the-board bonus of \$750 and a step increase on the salary scale for all teachers.

Rep. Craig Horn, R-Union, chairman of the House Committee on K-12 Education, has cautioned against overpromising the magnitude of pay increases, saying that the uncertainty of state revenues should be taken into account.

"You don't give pay raises based on nonrecurring money," Horn said. "You give pay raises out because you believe you can afford it as long as things work as you anticipate them to work. That's how you do it in business, and that's how we have to do it here. You don't want to promise something to someone and then take it back in one year. So if we have reason to believe that we can afford a 5 percent raise, then I'm all for a 5 percent raise."



Gov. Pat McCrory outlines his budget priorities at an April 22 press conference. (CJ photo by Kari Travis)

Additionally, Horn said, effectively recruiting and retaining teachers should involve more than across-the-board salary increases and bonuses.

"I think [the answer] is a combination of increased pay and some other things such as differentiated pay that allows people who work in high-needs areas, or [people who] do extra work, to earn more money," he said.

"I believe in incentives. And I believe that most professionals like that kind of thing, because it gives you the opportunity to grow in your profession."

In an effort to offer such professional incentives, and to promote better retention of state educators, lawmakers will also examine principal training and pay,

said State Senate leader Phil Berger, R-Rockingham, at an April 20 press conference.

"We have some real concerns about preparation of individuals who are principals in schools," Berger said. "There is a lot of good data out there that makes the point that having the right principal is part of the right criteria for recruiting in schools. There are some issues about principal pay that we probably want to look at."

Boosting compensation for principals also is a priority for House Speaker Pro Tem Paul "Skip" Stam, R-Wake, as the current rules offer per-

verse incentives, spokesman Gregg fulltime to get an assistant principal or principal position, they're paid less than the teacher who goes to school part time and doesn't have a break in service," Sinderson said.

While legislators will not be able to end those discrepancies completely during the short session, Stam plans to propose changes in legislation that would ease them, Sinderson added.

School choice remains a priority for Stam, including increased funding for special-needs scholarships, which have a long waiting list of students for the program, Sinderson said.

The legislature also is likely to consider adding funds for North Carolina's Opportunity Scholarship Program, Horn said. Increased funding for charter schools also will be on the General Assembly's agenda, but it's unclear how much more money will be available, he said.

"Short session. Long session. Charter schools and funding options are always, always issues," he said. "Again, it all depends on what shows up in available cash as far as charter schools and charter school funding. ... There's always been, since I've been here, discussion about how money is shared between traditional public schools and public charter schools." CJ

Sinderson said.

"[Right now] If a teacher [wants] to be a principal and quits teaching and goes to school and then comes back

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Gov. McCrory says he is confident that the state has enough money to fund bonuses and raises

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# Achievement School District Bill Wins House Committee Approval

BY BARRY SMITH AND KARI TRAVIS  
Associate Editors

RALEIGH  
A state House committee in mid-April voted unanimously to advance a bill creating an “achievement school district” that is intended to boost North Carolina’s lowest-performing schools.

The bill, sponsored by Rep. Rob Bryan, R-Mecklenburg, proposes a special Achievement School District that would take over as many as five schools from the state’s bottom 5 percent and allow nongovernmental operators — such as charter school management organizations — to run them instead. The State Board of Education would select a superintendent for the district and decide which schools would be brought into the district.

The bill also includes a proposal to establish “Innovation Zones,” which would allow administrators of struggling schools more flexibility to manage programs, staffing, funding, and calendars, even though those schools would remain under district control.

“My goal and my passion for this is making sure that we don’t have another three, five, 10 years of kids sitting, watching another generation of kids not get the education they need

to be successful when they get out of K-12 in North Carolina,” Bryan said before the House Select Committee on Achievement School Districts.

In late March, the committee reviewed some of the successes and pitfalls neighboring Tennessee’s Achievement School District has experienced.

Malika Anderson, Tennessee’s Achievement School District superintendent, along with Vanderbilt University professor Gary Henry and George Washington University professor Joshua Glazier, told the committee that the special districts had shown improvement, although they said not to expect dramatic results and urged patience.

“This has been harder than they expected, and progress has been slower than they wanted,” Glazier said.

Anderson, who spoke to the committee via Skype, said that although the Achievement School District program is a recent innovation, the state is seeing signs of progress in priority schools, Tennessee’s label for low-performing schools.

“In the few short years that the

ASD has been serving priority schools, average student proficiency has increased nearly 10 percentage points,” Anderson said.

“The role of the state is to provide strong vetting of operators on the front end and to have a performance framework coupled with action decisions that will hold operators accountable for student achievement,” Anderson said.

Operators receive autonomy to determine programs, staffing, use of funds, and school calendars, Anderson said.

Innovation Zones, or iZones, are another part of the Tennessee reform plan. The iZones were designed in part to combat teacher turnover in lower-performing schools. The contracts of low-performing teachers were not renewed in iZone schools, Henry said. The top-performing teachers in iZone schools received an average 14 percent pay increase to stay at their schools, while high-performing teachers at other schools were offered a 17 percent raise to transfer to iZone schools.

Henry’s research shows iZone schools delivered greater improvement than achievement schools. Even so, Henry said the “iZone effect” would not have been possible without the threat of the state taking over iZone schools and turning them into achievement district schools.

Bryan, who chairs the committee, said it’s easier for schools to transition to an iZone status than it is for them to become achievement district schools.

“Certainly in year one and two, you have seen more immediate re-

sults in an iZone,” Bryan said. “But when you look at the year-three results from the ASDs, they were very strong. That’s when you would expect that transition to be complete for some of those schools.”

Bryan said the achievement schools and iZone schools have a “complementary nature.”

Marcus Brandon, a former Democratic state representative from Guilford County and current executive director of CarolinaCAN, which pushes for public school improvements and reforms, urged the committee to adopt the bill.

“It’s not a silver bullet,” Brandon told *Carolina Journal* after the March committee meeting. “We’ve seen it work in other states, and we can kind of take the lessons that they’ve had.”

Brandon said “this is all about accountability,” and he hopes the legislature will have the “political will” to adopt the reforms.

Bryan’s bill now moves to the House Committee on K-12 Education, where it will face a complex and “micromanaged” discussion, said Rep. Craig Horn, R-Union.

If the bill passes during the short legislative session, the ASD process is unlikely to be in place until the 2018-19 school year, Bryan said.

“People in my community have a sense of urgency,” said Rep. Cecil Brockman, D-Guilford, in response to Bryan’s timeline. “[In my district] there are schools that have been failing for years. Those people can’t wait. Those parents can’t wait for us to fix the problem. And it’s not a Republican problem. It’s not a Democratic problem. It’s our problem. It affects us all. And it’s something that we need to handle with a sense of urgency.”



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## Opinion

# Failing HBCUs: How Long Should They Receive Life Support?

Two years ago I attended a student debate at North Carolina Central University, one of the state's five public historically black colleges and universities. It was fascinating, especially given the self-examination raised by its topic, "HBCUs: Can They Survive?"

The moderator asked several incisive questions: Would the closure of HBCUs materially impair black students' access to higher education? Would closing some HBCUs make the remaining ones stronger? Would the civil rights leaders of the 1950s and 1960s support an enduring HBCU presence today?

As I reported in a Pope Center article at the time, the students eloquently argued both "pro" and "con" positions and deeply engaged the relevant facts and issues. If only more of today's political and higher education leaders did the same.

Many of America's 106 historically black colleges and universities are in crisis. Years of falling enrollment, declining academic standards and graduation rates, shrinking endowments, and poor management have called into question such institutions' staying power.

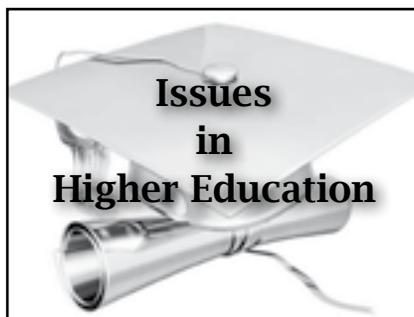
Nationally, only about one-third of HBCU students graduate in six years, compared to about two-thirds of students at other campuses. And ac-

cording to the U.S. Education Department, from 2000-14, half of HBCU graduates owed more than \$25,000 in student loans or other debt, while only one-third of non-HBCU graduates were carrying a debt load that high.

The institutions themselves face a dramatically different environment than they did in their heyday a half-century ago. Today, only about 10 percent of black college students attend historically black schools. Desegregation, along with a flourishing higher education market, have removed the barriers that at one time left many black students without access to advanced learning.

In addition to steep enrollment declines, the HBCU landscape has been marred by cases involving mismanaged federal and state aid, poor strategic planning, and even corruption. In that regard, Elizabeth City State University — one of North Carolina's five public HBCUs — may qualify as the poster child for failed campus leadership.

The story began with dwindling enrollment: Since 2010, ECSU's student count dropped by 52 percent. The reasons for the dramatic dip included tightened federal student loan credit requirements and a UNC systemwide increase in the minimum grade point average and SAT scores allowed for enrollment.



Responding to the enrollment plunge, state lawmakers in early 2014 introduced a budget provision that called for the study of ECSU's closure. The state's Legislative Black Caucus, however, nixed that plan.

Then in September, Stacey Franklin Jones was appointed as ECSU's chancellor, after not being vetted properly by system leaders.

Her selection proved disastrous. Last summer an ECSU whistleblower revealed that students had been admitted despite falling short of minimum standards (800 combined SAT, 2.5 high school GPA). Also, students ineligible for financial aid received it.

Following its investigation, the system's General Administration reported that almost 100 students admitted to ECSU in fall 2015 hadn't met admissions standards, and that 25 percent of enrolled students had not verified completion of required high school coursework. Almost \$500,000 was granted to ineligible students.

Worse, internal audits recently obtained by Raleigh's *News & Observer* indicated that Jones inappropriately received free meals, used a university employee as her personal driver, and disregarded hiring procedures when filling high-level campus positions. (Jones resigned in late December.)

Before and during the time ECSU made such blunders, the UNC system itself chased enrollment

increases and broadened access to underprepared students. Now it appears that the legislature, in concert with UNC system officials, may be preparing for an even bolder enrollment growth strategy.

A recent proposal titled "Access to Affordable Education Act" calls for growing enrollment at the state's historically black institutions by drastically cutting tuition (to \$500 per year for in-state students) and allowing schools to admit more out-of-state students (who would be charged just \$2,500 per year).

While it's unclear whether such changes would serve as a panacea, it is clear that they would require a major increase in taxpayer subsidies. Also, history suggests that in the conflict between enrollment and student quality, student quality will be sacrificed, which leads to the low graduation rates and poor academic performance for which many HBCUs are notorious.

Besides, several of the state's HBCUs are in dire financial straits, as evidenced by recent credit downgrades from Moody's. It's difficult to see how the structural financial issues and inept management seen at the HBCUs will be ameliorated by the above proposals.

Perhaps now is a good time for policymakers, rather than committing public funds and university resources to what could be a money pit, to consider answering the types of bold questions raised at the student debate I attended two years ago. CJ

*Jesse Saffron is a senior writer for the John W. Pope Center for Higher Education Policy.*



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## COMMENTARY

## Short Session K-12 Education Preview

As usual, teacher compensation will be the major focus of lawmakers during the short session.

Over the last four years, the N.C. General Assembly and Gov. Pat McCrory have raised average teacher pay by 10.3 percent. According to the latest available data from the National Education Association, those increases have lifted North Carolina's national teacher pay ranking from 47th to 42nd in the nation.

Lawmakers and the governor have stated their intent to boost teacher pay to remain competitive with other states in the Southeast, but there is no consensus about how much taxpayer money should be used to do so.

McCrory recommended a 5 percent teacher pay increase, which would boost the average base salary for 10-month teachers from \$47,900 to over \$50,000 a year. He also recommended granting teachers and principals an average 3.5 percent bonus that would focus on awarding North Carolina's most experienced teachers.

Alternatively, members of the General Assembly have pitched teacher pay raises of between 2.5 and 3.5 percent. The final number will depend on several factors, particularly the size of the expected budget surplus and budgetary pressures and priorities, such as health and human services initiatives or pay increases for other state employees.

The General Assembly will also consider a plan that would allow a so-called Achievement School District to supervise and operate five of North Carolina's lowest-performing elementary schools. The N.C. State Board of Education would oversee the ASD and select an established, independent entity to manage it. School districts that transfer a school to the ASD would then be allowed to establish an "innovation zone." Under this plan, up to three of the district's continually low-performing schools would be granted the same exemptions from statutes and rules that public charter schools receive.

Republican lawmakers have evaluated these ideas carefully in an interim committee and remain

cautious. They recognize that the initial results from similar plans in other states are encouraging but did not necessarily produce immediate or consistent gains in student achievement. As such, the design of North Carolina's ASD legislation will build on the considerable strengths of the idea, while accounting for shortcomings identified by ASDs in other states.

A number of additional issues will be on the table. School choice proponents would like to see additional funding to meet the growing demand for private school scholarships awarded to low-income and, as McCrory recommended in his budget, special-needs students. Charter school advocates are likely to ask legislators to tweak counterproductive regulations and the unbalanced charter funding system.

The General Assembly undoubtedly will address teacher recruitment, retention, and quality issues. A recent *USA Today* article revealed that some North Carolina school districts have done a poor job of vetting candidates for classroom teacher positions. In response, lawmakers are looking at legislation that strengthens confidentiality protections, authorizes fingerprint background checks, and allows the State Board of Education to share background check information with school boards.

In addition, legislators will consider solutions to longstanding teacher shortages in math, science, and special education. McCrory outlined a plan to fund 300 college scholarships to support math and science education students at North Carolina institutions, and it is very possible that the General Assembly will adopt a similar approach.

They also may consider adding incentives to the state salary schedule, thereby strengthening recruitment and retention of those who possess requisite credentials, skills, and experience.

In the end, if the short session is as short as promised, then lawmakers will wait until 2017 to consider more comprehensive changes to state education policy. *CJ*

*Terry Stoops is director of research and education policy at the John Locke Foundation.*



**TERRY  
STOOPS**

## COMMENTARY

## N.C. Universities: Prestige Trumps Assessment

Whether it's *Princeton Review*, which grades schools based on students' evaluations, or *U.S. News and World Report*, where rankings rely heavily on graduation and retention rates, schools celebrate a high position as an indication of a quality education.

But such rankings tell a prospective student almost nothing about the most important aspect of a higher education: Will he or she actually learn anything?

This is because universities dragged their feet for nearly a decade to avoid the standardization of college learning assessments. The University of North Carolina system is no different.

A new report by the UNC General Education Council, comprising faculty and administrators and tasked with evaluating assessment pilot programs, shows that, again, no consensus has been reached on a universal assessment tool.

The UNC report highlighted three pilot programs tested at different campuses: the Collegiate Learning Assessment, e-Portfolios, and the newly developed ETS HEIghten test. Each program attempts to test both written communication and critical thinking skills. The council found strengths and weaknesses in all three testing methods, but ultimately failed to recommend a unified method of testing.

The CLA test uses essay-based and multiple-choice questions to evaluate both entering and graduating students on core competencies. This method is often cited as the most trusted assessment tool currently in use nationwide, but the council found weaknesses in the reliability of test scores and the influence of student motivation on the results.

Unlike the e-Portfolios (which rely on student writing samples), the CLA test results are quantifiable, and the results aren't very flattering. For instance, UNC-Asheville ranked high among the seven campuses that tested the program, achieving a 96th percentile ranking among all institutions that currently use the CLA test, with 93 percent of seniors scoring proficient or advanced. Fayetteville

State University, however, scored near the bottom, in the 5th percentile among all institutions that use the CLA test, with only 20 percent of seniors achieving proficiency.

Furthermore, East Carolina University and Fayetteville State University ranked at a basic mastery level. This means the majority of students were able only to "demonstrate that they at least read the documents, made a reasonable attempt at an analysis of the details, and are able to communicate in a manner that is understandable to the reader." No university achieved an advanced mastery status.

The third pilot, the ETS HEIghten test, is a new assessment piloted at all 16 UNC universities in spring 2015, but the test will not be used for evaluations until after the spring 2016 semester. The UNC report did not include initial results. Although not yet available, the findings are likely to meet the same criticism as the CLA test, due to its attempt to quantify learning outcomes.

The General Education Council is likely to continue its languid support for a systemwide assessment method, but after years of stalling, it's time to apply more pressure. The UNC system is in a unique situation to recommit to meaningful assessment measures under the leadership of new President Margaret Spellings, the former U.S. education secretary. The Commission on the Future of Higher Education, commonly known as the Spellings Commission, carried out the first national push for higher education assessment during President George W. Bush's second term.

A transparent assessment system would allow students to make more informed choices about their education and offer faculty and administrators an unparalleled opportunity to improve curricula to close gaps between expectations and outcomes.

It's not unreasonable to expect universities to provide data showing that students learn the things universities claim to teach. *CJ*

*Stephanie Keaveney is a policy associate for the John W. Pope Center for Higher Education Policy.*



**STEPHANIE  
KEAVENEY**

# North Carolina Constitution Is an Important Governing Document

I often have wondered how many North Carolinians have taken the time to study or at least generally refer to the North Carolina Constitution. Most likely, more than a few from the Old

North State would be surprised to learn that such a document exists.

In this regard, North Carolinians probably are not alone. Most certainly, we are no more ignorant regarding our state's constitution than our counterparts in our sister states are of theirs. Even those who promote constitutionalism and decry a lack of constitutional understanding speak only rarely about state constitutions. This constitutional deficiency is understandable, to some degree, for many decisions that once were decided at the state level increasingly are being settled at the national level. As a result, more people pay attention to the U.S. Constitution.

It is important to study the North Carolina Constitution, too, for we live in a national polity that

includes federalism. I am not an attorney, but, as a nongambler, I am tempted to venture that the North Carolina Constitution affects some aspect of every case in the North Carolina courts.

Although the length of constitutions varies from state to state, every state constitution is longer than the U.S. Constitution; they are more detailed and therefore are more easily amendable. State constitutions can include varying rights, liberties, and protections. State constitutions therefore reveal that states can have widely differing governing documents while co-existing and operating as part of the same general, constitutional union.

Since separation from Great Britain, North Carolina has had three state constitutions — ratified in 1776, 1868, and 1971.

Extensively amended in 1835 at a constitutional convention, the 1776 constitution survived. There are several fascinating and intriguing histories within the history of the 1835 convention, including the paradoxical debates regarding the free black vote and William Gaston's speech regarding Article 32 and religious qualifications for office. (For more, see [www.northcarolinahistory.org](http://www.northcarolinahistory.org).)

Although different, the North

Carolina constitutions have similar passages, and it is evident how elements of the 1776 constitution were incorporated into the 1868 constitution and how many parts of the 1868 constitution were incorporated into the 1971 constitution. All three have a Declaration of Rights, albeit the number of declarations is different. All three, however, include a reminder that the study of history can affect current policy: "a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty."

The 1971 Constitution of North Carolina is now the governing document of Tar Heels. As noted previously, state constitutions are more specific, thereby creating a political environment fostering frequent constitutional amendments. After the 1868 constitution, approximately 70 amendments were passed within a century — more than half of them between 1933 and 1968. With so many amendments, many wondered if a new constitution was in order, and after a commission report and recommendation, a General Assembly deliberation and vote, and a general election, North Carolina had its third constitution.

What is the general overview of

the current North Carolina Constitution? Here are the basics:

The state constitution has a preamble and 14 articles. The first article lists the Declaration of Rights. Articles 2-4 describe the three branches of government in the exact order as the U.S. Constitution: legislative, executive, and judicial. The remaining articles deal with finance; suffrage and eligibility for public office; local governments; corporations; education; homesteads and exemptions; punishment, corrections, and charities; military forces, and constitutions and constitutional amendment and revision. The last article, "Miscellaneous," addresses issues such as the conservation of natural resources and marriage.

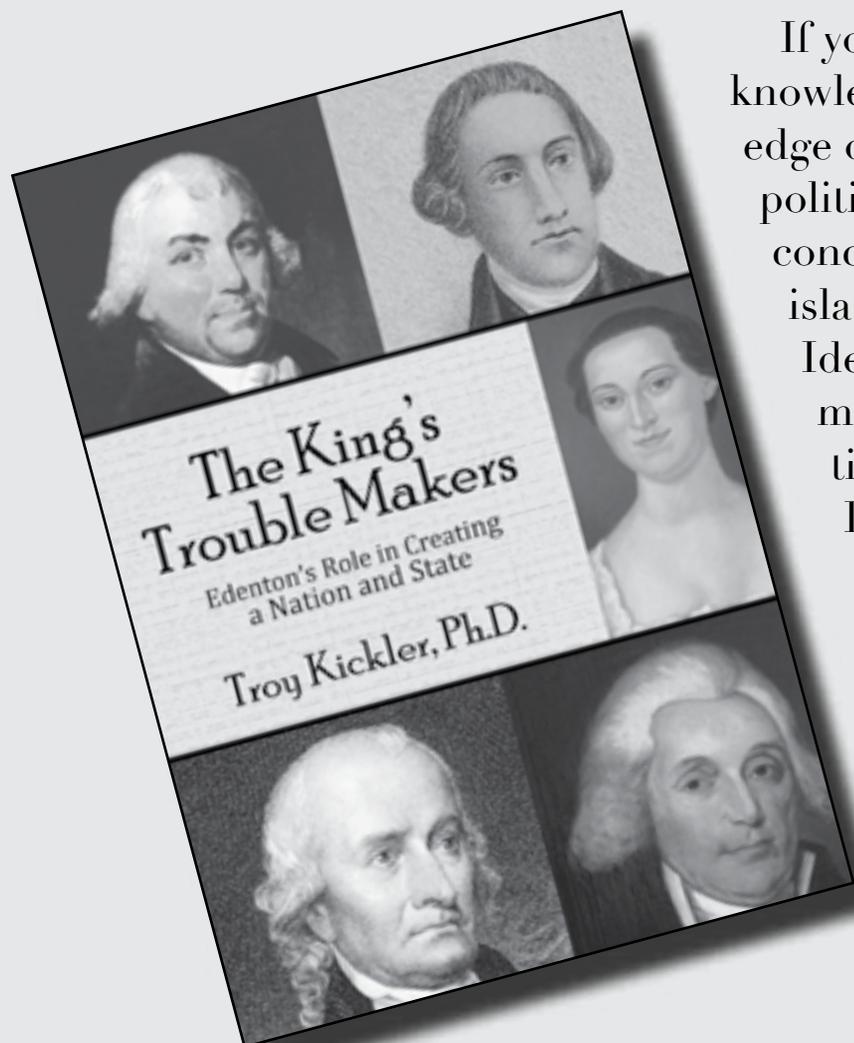
Concerned citizens should consult the U.S. Constitution when discussing national policy. Far fewer have been encouraged to pick up their respective state constitutions when discussing state policy. That should change: The North Carolina Constitution, in particular, should be a constant part of our state's political discourse. CJ

*Troy Kickler is director of the North Carolina History Project ([northcarolinahistory.org](http://northcarolinahistory.org)).*



**TROY  
KICKLER**

## BOOKS BY JOHN LOCKE FOUNDATION AUTHORS



If you don't know about Edenton, North Carolina, your knowledge of U.S. history is incomplete and your knowledge of North Carolina insufficient. Organized women's political activity in America was born in Edenton. The concept of judicial review — that courts can declare legislative acts unconstitutional — was championed here. Ideas for a national navy and defense were implemented here. Many passages of the N.C. Constitution (1776) and the U.S. Constitution originated here. Leading proponents of the U.S. Constitution (a.k.a. Federalists) lived in this small place, and so did nationally known jurists and politicians.

Dr. Troy Kickler, founding director of the North Carolina History Project, brings Edenton, its people, and its actions into proper and full focus in his book, *The King's Trouble Makers*.

Go to [northcarolinahistory.org](http://northcarolinahistory.org) for more information.

# Morrissey: GOP Must Learn Lessons of Demography In Order to Win

BY CJ STAFF

**RALEIGH**  
In a country with more than 300 million people, roughly 2 million residents of seven U.S. counties could determine who wins the 2016 U.S. presidential election. That includes people in Wake County. Columnist and HotAir.com blogger Ed Morrissey makes that argument in his new book, *Going Red*. Morrissey discussed the book with a John Locke Foundation audience in Raleigh. He also shared details with Mitch Kokai for Carolina Journal Radio. (Head to <http://www.carolinajournal.com/radio/> to find recent CJ Radio episodes.)

**Kokai:** I imagine some people hearing that intro will say, "Really? This comes down to the people in just seven counties across the United States?" How so?

**Morrissey:** Well, these are the bellwether counties, if you will, or, in a couple of the places, just the most important counties in seven swing states that, combined together, would move the map from the 2012 election from Democrat to Republican, if Republicans and conservatives could find ways to win these bellwether counties.

... What I was looking for were seven states that Republicans have won fairly consistently prior to Barack Obama running for president in 2008, which [Republicans] ended up losing in one or both of the Obama elections. And I looked for the key counties in seven of these states. And, of course, Wake County, N.C., is a very important county, not just in the 2016 election, but that's sort of the primary premise of this book. But it's going to be important down the road, as well.

**Kokai:** Now you, in finding these seven counties, took a look at ones that, as you mentioned, Republicans had been winning up until 2008. What's changed?

**Morrissey:** Several things have changed. One is that demographics have changed, probably nowhere more true than in Wake County. This is a county of change. ... It was, at least in the first decade of the 21st century, the fastest-growing county in the United States. You had a lot of people that were moving to Wake County, and they were bringing their politics with them.

But it's more than just that. The way that Republicans have campaigned has changed, and not for the better. They didn't learn the lesson in 2008. They're struggling still to incorporate the lesson of 2012, although the Republican Party famously came up with what they called the Growth Opportunity Project, but what the rest of us called the "autopsy" from 2012.



*"The way that Republicans have campaigned has changed, and not for the better. They didn't learn the lesson in 2008. They're struggling still to incorporate the lesson of 2012. ... And that is one of the launching points of Going Red."*

*Ed Morrissey  
Columnist and blogger  
HotAir.com*

And that is one of the launching points of *Going Red*.

**Kokai:** One of the things you also point out in this book is that there are some particular groups that conservatives and Republicans really need to do a better job of reaching.

**Morrissey:** There are. And, to be honest with you, when I started writing the book, people from these communities actually came to me and said, "You need to hear what it is that we're saying because there's a large reason why the Republican and conservative footprint keeps shrinking, and it's because we don't go to these demographics." We don't open ourselves up to a conversation with African-Americans, with Latinos, to some extent with women, although ... there's a little bit more context to that.

Not to say that we're going to pander, not to say that we're going to change our philosophy or our beliefs, but to explain those philosophies, beliefs, policies in ways that matter to those communities. Mostly, though, just to have a conversation, because the way that Republicans and conservatives have been addressing these groups has been through sort of a top-down lecture that more or less says, "You need to be more like us," rather than, "We really want to know who you are, what matters to you, what your concerns are, so that we can craft a policy, a plan that uses conservative policies to address the real needs of your communities."

You can't even do that until you find out what those needs are, and you can't do that until you start having a conversation.

**Kokai:** You mentioned in particular, among these groups, African-Americans, Latinos, young voters. All of them are going to be very critical in

2016, and especially moving forward.

**Morrissey:** Yes, young voters especially. ... I'm getting older, and so are the rest of the conservatives that we have, you know? And in order to grow a movement, you have to bring in younger people. I mean, regardless of what the other demographics are, you need to be able to reach younger people and engage them and make them excited about the conservative agenda.

And yet, too often we tend to either just assume that they're not going to listen to us because ... I think it's a Churchill quote that "if you're not a liberal when you're 20, you don't have a heart. If you're not a conservative when you're 40, you don't have a brain." That's a paraphrase, but that's roughly what Churchill had said.

We just tend to assume that that's true and just figure we're going to catch them when they're 35 or 40, but that's not really the way politics work. You have to engage people early. And Barack Obama did that with young people, and, as a result, it's going to make our job all that much more difficult to reach them in an effective manner down the road. We have to start doing that now.

**Kokai:** Now, we've been talking about some themes that are general to all of these seven counties. Let's focus on the one that would be probably of most interest to people listening to this show. Wake County in North Carolina is one of your seven counties across the country. What are some specifics about Wake County that people should know?

**Morrissey:** Wake County is a fascinating place, and I really enjoyed my time here in Wake County talking with folks. The demographics have changed in Wake County from what they were 20 years ago, when this was a fairly re-

liable Republican county in presidential elections.

It's changed. A lot of people are moving in from out of state. Some come here to go to college and decide that they just love the environment here so much that they want to stick around. Some are moving here for career purposes. Some are just moving here because it looks nice: the tax rates are fairly low; the cost of living is low compared to wherever else they're at. But they're bringing their national politics with them.

... You have an opening then, when people come in from these places, to explain why they like this place so much and why maybe New York, Connecticut, New Jersey, maybe we can explain why they don't like those places as much anymore, and explain the principles that made this such an attractive spot.

But when we're talking about people moving in from other places, we're also forgetting the fact that African-Americans have lived here — the African-American community has been very stable. They've lived here for a very long time, and Republicans haven't done much outreach to them in decades.

And that is a constituency that is going to take a long time to rebuild trust with, but you can't even start that until you start it. I mean, you can't get to the trust level until you start having the conversation, start listening to what it is that they're concerned about.

I talked with Pudgy Miller down here, and he introduced me to several African-American conservatives, and they're very clear that what they're looking for is engagement. They're not looking for Republicans and conservatives to stop being conservative. They just want to know that we're listening to what the concerns are in their communities and that we find ways of addressing those through conservative policies.

## COMMENTARY

## Public Choice And Self-Funded Campaigns

With Donald Trump funding his own campaign for president — as opposed to relying on the contributions of individuals and businesses — we are hearing a number of claims about the virtues of self-funding as a model for political campaigns. The argument is made not only by Trump himself, but by many others, including his detractors, that self-funding eliminates or at least ameliorates the influence of special interests who might otherwise be contributing to the candidate's efforts.

The argument goes something like this: The candidate who “pays his own way” and is not accepting contributions from rich donors (other than himself, of course) or large corporations is beholden to no one. By funding his own campaign, he doesn't have to worry about “returning any favors” and the electorate doesn't have to worry that he will be a tool of the big banks, big oil, big unions, the environmental lobby, etc., once he assumes office. As one advocate has put it regarding the campaign of Donald Trump, “he will be beholden to no one but the people.”

Former California Gov. Arnold Schwarzenegger made a similar argument during the 2003 campaign that resulted in the recall of incumbent Gov. Gray Davis and the election of the champion body builder and Hollywood action star.

When announcing his candidacy, Schwarzenegger said, “We have to always have public interest first and self-interests as an end,” also claiming that, as the highest-paid entertainer in the world, he was “too rich to bribe.”

But is this really the case? In fact, what is called public choice theory, which, in part, analyzes economic influences on the political process, would argue otherwise. Public choice economists, like Nobel Prize winner James Buchanan and his co-author, Gordon Tullock, argue that people, whether in the economic or the political spheres, behave in ways that are consistent with their self-interest.

It is because of this that public choice economics leads to the prediction that large campaign contributors or large blocks of contributors — like unions or trial lawyers — will have some influence on the decisions of those to whom they contribute. This arrangement furthers the self-interest of both the donor and the politician.

But there is likely to be a silver lining to this otherwise dark cloud that hangs over the political process. In a democratic society, where there are likely to be many big-donor contributors to any given candidate or party, the influences will often be diverse and competing.

For example, while there may be large industries that compete with foreign producers that could benefit from protectionist trade policies, there are likely to be other industries that benefit from the lower prices that free trade delivers. If both of these industries are contributing money to the political process, they will be tugging on that process from opposite directions, counterbalancing one another.

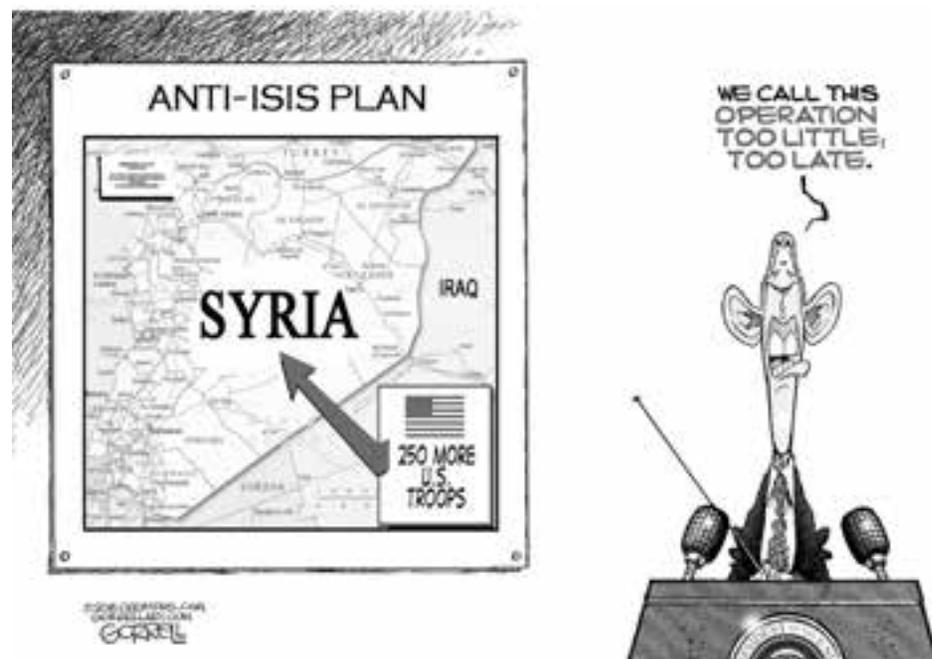
When it comes to the impact of self-financing, public choice analysis would not predict that the special-interest effect on politics would disappear but that the number of special interests would be reduced to one. Instead of being beholden to many contributors, possibly with competing interests, the self-funding candidate is beholden only to the interests of one contributor — himself.

This is likely to be particularly true when the politician/office holder is a business owner whose interests may be closely linked to public policy decisions that he has influence over or, in the case of someone with influence over judicial appointments, interpretations of the Constitution, for example the eminent domain clause of the Fifth Amendment. CJ

Roy Cordato is vice president for research and resident scholar at the John Locke Foundation.



ROY CORDATO



## EDITORIAL

## Voter ID Ruling Vindicates Reforms

U.S. District Court Judge Thomas Schroeder's decision upholding the sensible election reforms enacted in 2013 may have sent liberal activists into hysterics, but more reasonable North Carolinians should applaud the care Schroeder employed in reviewing and sustaining the law.

The judge's 485-page opinion meticulously details the facts surrounding these contentious changes in election law. It recounts the legislative debates surrounding the 2013 law and changes made last year in response to a U.S. Supreme Court decision regarding a voter identification requirement. It acknowledges the state's shameful history of discrimination, while acknowledging the progress of recent decades — and the absence of evidence that such discrimination persists.

And those facts knock down, one by one, the claims of voter suppression and disenfranchisement made by the plaintiffs — led by the NAACP's state chapter, the League of Women Voters, and others.

Ending election-day voter registration, reducing the early-voting period (while extending hours and opening more early-voting sites), and ending the “preregistration” of 16- and 17-year-olds at schools did not reduce minority participation, as the plaintiffs predicted.

“The evidence shows that African-Americans have fared better in terms of registration and turnout rates in 2014, after the new law was implemented, than in 2010, when the old provisions were in place,” Schroeder wrote.

As Carolina Journal reported in 2013, even after the election reforms were enacted, North Carolina pro-

vided more liberal access to the polls than a number of traditionally “blue” states. New York, Massachusetts, and Connecticut don't allow either early voting or no-excuse absentee voting, according to the National Conference of State Legislatures. Other states allowing neither include Rhode Island, New Hampshire, Delaware, Pennsylvania, Michigan, Missouri, Kentucky, Virginia, South Carolina, Alabama, and Mississippi.

Schroeder noted that while states should “make it as easy as practicable to exercise the right to vote, ... a state's repeal of a convenience or ‘failsafe’ [is not] unlawful, or unconstitutional per se,” Schroeder wrote.

“[The] question in this case is whether plaintiffs have demonstrated that the measures violate the [Voting Rights Act] or the Constitution,” the judge said. They didn't.

The judge concluded that “North Carolina has provided legitimate state interests for its voter-ID requirement and electoral system,” including generous time periods to register, vote by absentee ballot, and cast ballots at early voting sites (including early voting locations open on Saturdays and Sundays).

The left-wing opponents of election reforms claimed that North Carolina's system is repressive and outside the American mainstream. Their arguments always relied upon overwrought rhetoric and not-so-subtle allegations of racism or other evil intentions.

Fortunately, Schroeder considered the facts, examined the law, and came to the proper conclusion. The opinion is a model of judicial restraint at a time far too many judges mistakenly believe their role is to write laws rather than interpret them. CJ

## EDITORIALS

## Brisk Pace

*State economy chugging along*

As the 2016 general election unfolds in North Carolina, you should expect to hear a lot about how the state's economy has fared under Republican governance in Raleigh.

If Donald Trump is not the GOP nominee — his nomination would instantly become the central theme of most fall contests, to the advantage of Democrats — then the electoral fates of Gov. Pat McCrory, Roy Cooper, and other officeholders may well hinge on how voters perceive the recent track of North Carolina's economy.

In comparison to the economic performance of the 1980s and 1990s, growth in North Carolina has been lackluster. But this statement applies to the nation as a whole, not just to the Tar Heel State. Compared to the rest of the Southeast and the nation, North Carolina's recent economic performance fares better.

Do voters care more about historical patterns or state-by-state comparisons? There's not much political-science research to go on here. Some scholars say the re-election prospects of governors tend to reflect the economic performance of the nation as a whole. Others think voters do have a general sense of whether their state is leading or falling behind.

When it comes to North Caro-

lina's economy, there's little dispute about the numbers. Since the mid-2013 adoption of a flat income tax, regulatory reform, unemployment insurance changes, and several other key priorities of the General Assembly and the McCrory administration, the state has outperformed the regional and national average in most standard measures of economic growth, including job creation, gross domestic product, and personal income.

Since June 2013, North Carolina employers have added 266,000 net new jobs. That's an increase of 6.6 percent, a rate significantly higher than the national average of 5.5 percent. If North Carolina had matched the national average in job creation, there would be about 43,000 fewer jobs in our state right now.

In addition, since mid-2013, North Carolina's GDP has grown at an inflation-adjusted annual rate of 3.2 percent, higher than the national (2.5 percent) and regional (2.4 percent) averages. Using the same starting point, per-person incomes rose 3.6 percent in North Carolina, 3.4 percent in the nation, and 3.3 percent in the Southeast.

Pat McCrory and the Republicans have a good story to tell about North Carolina's economy — if developments in the presidential race allow them to get a word in edgewise. *CJ*

## False Charges

*Turnout spoils liberal 'voter suppression' charges*

If Republicans have been attempting to suppress the vote in North Carolina, they must be the most incompetent tyrants in modern American history.

On March 15, 2.3 million North Carolinians cast ballots in the Democratic, Republican, and Libertarian primaries for president, governor, U.S. Senate, and other offices. That comes to about 36 percent of all registered voters. The turnout rate was similar to the 37 percent who voted in the 2008 presidential primaries and the 35 percent who voted in the 2012 primaries. During the 1990s and early 2000s, presidential primary turnouts in North Carolina ranged from 16 percent to 31 percent.

This year's primaries were the first under a set of new election rules that included both a more compact early-voting schedule and a requirement that voters either show a photo ID or sign an affidavit attesting to one of several specified exceptions.

It was also the first time in decades that North Carolina held its primaries earlier than May.

None of these changes appears to have had a substantial effect on turnout.

According to early reports, about 40,000 North Carolinians cast provisional ballots in this year's primaries. But the new ID law was not the cause; only 2,400 North Carolinians voted provisionally because of problems with ID compliance.

By all means, the state should continue good-faith efforts to assist those who lack acceptable IDs. Those without valid identification lack access to many other institutions and services. Addressing such problems will benefit them greatly.

As to the larger issue, the Left will no doubt continue to allege "voter suppression." It fits their preferred narrative and advances their preferred political agenda. But it doesn't comport with the facts. *CJ*

## COMMENTARY

School Choice  
Is Now Mainstream

When I first advocated the idea of parental choice in elementary and secondary education, it was considered by many to be a radical notion.

It shouldn't have been. For decades, American students and their families have been free to choose among public and private colleges — even when they paid with government grants and loans. For decades, families have been able to spend government subsidies for child care and preschool at providers of their choice, including for-profit and religious institutions. Similarly, the creation of Medicare and Medicaid in 1965 didn't compel retirees, the disabled, and poor Americans to get their health care only from government employees or hospitals. Patients remained free to choose.

What was truly odd, actually, was that so many policymakers in North Carolina and other states thought K-12 education ought to be entirely different, that it ought to consist overwhelmingly of district-run public schools delivering services to students assigned to them by central authorities.

Fortunately, this odd idea rapidly is disappearing from the public discourse. Nearly all states now have policies that encourage choice and competition in K-12 education. Some of these choice programs consist entirely of public school options, including magnet schools, charter schools, or some kind of open-enrollment program that allows parents to rank nearby public schools in order of preference.

Increasingly, however, state legislatures also are enacting choice programs that encompass private alternatives. In fact, most states now have at least one of these: school vouchers, tuition tax credits or deductions, educational savings accounts, and tax credits that fund privately administered voucher programs. We're not just talking about deep-red states here. Minnesota, Illinois, Maine, Pennsylvania, Rhode Island, Vermont, and most recently Maryland are among those that have enacted private-school choice.

Here in North Carolina, a Democratic governor, Jim Hunt, and a split-control General Assembly authorized the creation of charter schools 20 years ago. Within

the past three years, Republican Gov. Pat McCrory and a GOP-led legislature (with some Democratic votes) have expanded the state's choice offerings dramatically by removing artificial caps on charter-school expansion and creating two new voucher programs providing private-school scholarships for disabled and low-income students.

Roughly speaking, about a quarter of North Carolina's K-12 students attend a school of choice. That includes private schools, home schools, charter schools, and open-enrollment public schools. As new charter schools come online and the state's scholarship programs enroll growing numbers of disabled and low-income students, the share accounted for by schools of choice will continue to expand.

Does that mean district-run public schools are going to disappear? Hardly. They will educate the majority of North Carolina students

for the foreseeable future. Choice and competition are indispensable tools for improving education in our state, but they aren't the only tools required to do the job. State policymakers need to build on their past K-12 initiatives by setting high academic standards, administering valid and independent assessments, giving local districts more budgetary and managerial flexibility, training teachers and principals more effectively, and reforming teacher compensation so that we attract and retain excellent talent.

If some future governor or legislature shut down North Carolina's charter schools or defunded its scholarship programs and marched all their students back into an assigned-school monopoly model for delivering education, it would be both wrong and highly unpopular.

The notion of parents choosing the schools that best meet the needs of their children, from among a wide range of options, is no longer a radical one. Of course, it was always the privilege of wealthy families who could afford either to pay private-school tuition or to relocate to a desirable school-assignment zone. Now the mainstream view is that all families deserve a choice. *CJ*



**JOHN HOOD**

*John Hood is chairman of the John Locke Foundation.*

## MEDIA MANGLE

## Journalism As Street Theater

Don't you hate it when you read a story in a newspaper or online, or watch a news report on TV, and the reporter seems to have completely missed the essential question? I know I do.

It happens more than you think. Sometimes it's a product of lack of time, in the case of a TV or radio interview, or it can be a product of a lack of preparation by the reporter. But too often the news consumer gets the feeling that it's a way to get past an inconvenient fact or issue that the reporter or his or her editors wants to de-emphasize.

A good example of this kind of thing occurred late last month when a group of people opposed to House Bill 2 gathered on the grounds of the N.C. State Capitol with a large number of boxes stacked one upon the other, 26 of them by my count, 20 large moving boxes and six smaller file boxes. The media were told, or were led to believe, that these boxes were filled with petitions signed by people against H.B. 2.

However, once these boxes arrived at the governor's office and were opened, the governor's staff reported that there were only enough petitions to fill two of the smaller boxes, and most of those were from out of state.

So here's my question: Didn't one reporter notice that these large boxes, supposedly filled with paper, seemed to be pretty easy to carry? Even the women in photos and videos seem to be carrying them with the ease of Arnold Schwarzenegger in his prime. Have you ever carried a box of copy paper to your car from the office supply store? Pretty hard to carry, right? Did not one reporter say, "Hey, let me look inside that box. It seems to be empty"?

I'm guessing they didn't, because not one news outlet that I could find reported the 24 empty boxes. Instead, they published photos of protesters carrying the empty boxes and stacking them dramatically, giving the impression that they were filled with petitions signed in outrage.

In the very last paragraph of the story that appeared on *The Charlotte Observer's* and *The New & Observer's* websites, the reporter noted that "the governor's office released a statement" saying that they received only enough petitions to fill two boxes.

Twenty-six boxes of petitions versus two boxes of petitions is a big discrepancy, one that any news consumer would be fair in thinking that a reporter should try to resolve. Did the governor's office throw away 24 boxes of paper, or did the protesters carry empty boxes? From the photographs and the video of people carrying very large boxes with ease, it's clear that the latter is more plausible.

But the media didn't check. And if they did, they didn't report it. Instead, they acted as if this was a case of conflicting claims that could not possibly be resolved. That's not journalism. That's complicity in street theater. CJ

*Jon Ham is a vice president of the John Locke Foundation and publisher of Carolina Journal.*



**JON  
HAM**



## End the CON

We talk a lot about freedom in North Carolina. Freedom to choose the education opportunity that best fits your needs, freedom to spend your hard-earned money the way you want, freedom to pursue your dreams without burdensome regulations, freedom of ensured property rights. In recent years, solid ideas and bold leadership have made North Carolina more free in many areas. It's now time to restore health care freedom.

North Carolina has some of the most restrictive certificate-of-need laws in the country, driving up health care costs, limiting competition, and stifling innovation. By law, state bureaucrats (not health care providers, not the free market) determine the availability of new, updated, or expanded health care facilities and services. Health care providers must get a permission slip from government to decide where, when, and how you'll get your health care.

Introduced in 1974, federal CON laws were intended to increase access and lower costs. But by 1987 it had become clear that CON laws were not meeting their stated purpose, and the federal government repealed the mandate requiring state CON laws. North Carolina is one of 36 states that have kept them in place.

North Carolina has the nation's fourth-most-restrictive regulations. The average number of services, devices, and procedures regulated in a CON state are 14. North Carolina regulates 25.

The process for approval is long, complicated, and costly. As you'd expect, by limiting competition and choice, North Carolinians pay more and have less access to medical services.

Imagine the young couple having their first child at a local hospital. Unforeseen complications ensue. But because of CON laws, their hospital does not have a neonatal intensive-care unit. The baby and mother and child must be transported to the closest NICU unit — two hours away.

Or imagine a couple married for 50 years. The wife suffers a stroke and requires special long-term care. But because of CON laws, no facility near their home offers the needed care. Her husband must travel more than an hour each way to be with her and stay in a hotel room, incurring expenses far

away from their home, family, and community.

Because of CON laws, we don't have to imagine these scenarios. North Carolina families are living these stories and others every day. From knee replacements, rotator cuff repairs, life-saving screening tests, mental health services, dialysis — we're paying more and are denied access every day.

CON laws are perverse. They lock out competition, discourage entrepreneurs, and stifle new ideas. Doctors and health care providers are kept from developing and investing in new technology, life-saving innovations, and life-changing procedures.

The loser is the patient, and the winner is an outdated, behemoth system that denies health care freedom to every North Carolinian.

We don't have to imagine what would happen if CON laws were repealed in North Carolina. In 2005, CON rules restricting colonoscopy centers were loosened. Since then, 56 new facilities have opened across the state. These freestanding facilities charge 58 percent of the rate charged by hospitals. Every year, 50,000 Americans die from colon cancer. Forty percent of those deaths could be prevented with a colonoscopy. Greater access and lower cost save lives. Imagine how much more health care could be delivered if all CON laws were repealed.

The John Locke Foundation's first research on CON was published in 2005 — "Certificate Need Laws: Time for Repeal." Since then we've written and reported extensively, partnered with national advocates, and worked with health care providers and legislators to repeal North Carolina's CON laws. Even so, health care costs have increased, access has been denied to many who needed services, and limits on competition have hindered innovative health care breakthroughs. It is way past time for CON repeal; it is time to restore health care freedom in North Carolina.

Go to [RestoreHealthCareFreedom.com](http://RestoreHealthCareFreedom.com). Add your name to the thousands of North Carolinians who want to restore health care freedom. Because freedom matters. CJ

*Becki Gray is vice president for outreach at the John Locke Foundation.*



**BECKI  
GRAY**

# Brexit Tempting, but the U.K. Should Stay

The voter rage propelling the presidential candidacies of Donald Trump and Bernie Sanders is not just an American phenomenon. Throughout Europe citizens are expressing deep discontent with self-serving political elites uninterested in addressing issues that threaten their futures, particularly uncontrolled immigration, radical Islamic terrorism, and economic insecurity.

In the United Kingdom, this sentiment has transformed a June 23 referendum on whether the country should

stay in the European Union. Prime Minister David Cameron, his top Cabinet officials, most members of the opposition Labor Party, and big business are working for what is called the “Remain” campaign. But with the public both angry and fearful, the coalition calling for Brexit, or British exit from the EU, expands. Comprising an eclectic band of small businesses, cultural conservatives, socialists, and an uncomfortably large number of Cameron’s fellow Tories — including the always-entertaining mayor of London, Boris Johnson, who nakedly covets the premier’s position — the “Leave” crowd is growing confident. It is no longer



**ANDY  
TAYLOR**

obvious that Britain will continue as a member of the organization it joined in 1973.

Leaving now seems a distinct possibility for two reasons. First, the EU’s inability to solve the problems that most vex its people patently is not an illusion. It cannot control its external borders from a flood of Middle Eastern and African migrants — more than a million came in 2015 with more than that expected this year. The problem is exacerbated by the Schengen Agreement that permits free travel within just about all the bloc and illuminated brightly by the recent terrorist attacks in Paris and Brussels. And it’s not just peace the EU seems incapable of delivering. The Euro, the great symbol of European cooperation and success, continues to bind its users in a painful monetary union.

Cameron himself is responsible for the second reason. The prime minister last year pledged he would hold the referendum and support continued membership on the condition that Britain’s position in the organization was improved — for example, if it was allowed to reduce benefits to immigrants and services were placed on par with goods in the EU internal market. Because the agreement he ultimately reached with the 27 other leaders fell well short of this ambitious goal, Cameron appears to be championing an ineffectual organization over which he has little influence.

The current debate about Brit-

ain’s future obscures a more fundamental problem, however. When it was established in 1957 as the European Economic Community, the EU was essentially a free-trade zone intended to generate prosperity and economic cooperation on a continent that only recently had been brought to its knees by World War II. The plan worked. But flushed with this success, technocratic leaders like Germany’s Helmut Kohl and France’s Valéry Giscard d’Estaing pushed for political union and regulation of the European open market in the 1970s and 1980s. By 1999 they had their crowning achievement: a common currency.

The new EU quickly ran into trouble. Tremendous cross-country variation in fiscal policy meant that the kind of coherent and authoritative monetary policy required for a healthy Euro never materialized. Members fudged their budget numbers so they could use the currency. Southern members like Greece and Italy, with their dirigiste economies and bloated public sectors, no longer had the ability to fund deficits by devaluation. Northern colleagues like the Germans and Dutch who bailed them out began, quite understandably, to demand significant structural reforms.

Europeans don’t want economic integration if it means EU bureaucrats will be regulating commerce, orchestrating national fiscal policy, and generally limiting their freedom. They also don’t want political union. The

continent should celebrate its different inherently European cultures, treasure sovereign national parliaments, and protect the free exercise of rights such as the freedom of speech, assembly, and religion that seem to evoke the ire of Brussels. Europe already has a common defense within NATO and, besides, the EU apparatus seems impotent to meet threats from non-governmental actors like ISIS.

Just because the EU is no longer the EEC does not mean the U.K. should leave, however. Some of those who want out envision Britain becoming part of an alternative organization consisting of countries like the United States, Canada, and Japan. That would be great, possibly preferred, but the idea betrays a severe misreading of the interests of these countries that tend to see Britain as a fading power and of no real utility outside the EU.

The U.K. should stay to exploit the economic advantages of an open European market and push to bring down barriers to free trade in services. It should stay to protect the capitalistic principles that would lose Europe’s most effective champion upon its departure. And without Britain, any hope the EU could avoid the efforts of socialist technocrats to erase all memories of its great cultures and liberal past would evaporate. *CJ*

*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.*

## Recollections of Nancy Reagan

In 1980 it was my distinct privilege and honor to be part of the team that worked on the Reagan campaign for president.

And to be clear, I was just a small cog in a movement that helped elect one of the greatest presidents in American history.

Gov. Ronald Reagan had quite a team. Most had been with him for more than 20 years, even before his tenure as governor of California: Ed Meese, Mike Deaver, Lyn Nofziger, and Martin Anderson, just to name a few.

But the greatest member of his team was Nancy Reagan. The Reagans were totally devoted to each other, and Nancy was his most trusted confidant.

I first met Gov. and Mrs. Reagan in 1980 after he became the nomi-

nee of the Republican Party and the campaign headquarters was moved from Los Angeles to Arlington, Va. The Reagans moved as well from the West Coast and rented Wexford, a 160-acre horse farm in Middleburg, Va., previously owned by President Kennedy.

Wexford was named by Jackie Kennedy after a town in Ireland where the Kennedy family had roots. Unfortunately, JFK would spend a very short amount of time there before his assassination.

It was at Wexford where Meese introduced me to Gov. Reagan. The governor had been riding earlier, and he was coming from the barn when he welcomed me to the team. Suffice it to

say it was a surreal moment that I will never forget. Later I would meet Mrs. Reagan.

It was at Wexford where then-Gov. Reagan prepared for the debates against Jimmy Carter. And it was there that most of the top meetings took place when Reagan was not out campaigning.

Roughly six of us were detached to the senior staff, and we shuffled between the Arlington campaign headquarters and the farm in Middleburg.

To be honest, we were drivers and gophers, but many times we had a ringside seat to history. When meetings were transpiring, one

or two of us usually would hang out in the kitchen. From time to time, Mrs. Reagan would come in and offer us a sandwich or ask us to run an errand. We would pick up the laundry or even bring the barber from Washington, D.C.

Several times, Mrs. Reagan asked us to carry a handwritten note to Cap Weinberger; at other times we delivered private correspondence to senior staff members, and once I carried a note to George Will.

Mrs. Reagan was always engaging and gracious to us.

Yes, Mrs. Reagan was extremely loyal and protective of “Ronnie,” as she lovingly referred to him.

For me personally and for those who were on the team during the last five months or so of the 1980 campaign, we saw a woman of great strength and kindness who went on to become an extraordinary first lady. *CJ*

*Marc Rotterman is a senior fellow at the John Locke Foundation.*



**MARC  
ROTTERMAN**



# McCrory, Roberts Offered 'Naked and Afraid' Appearance (a *CJ* parody)

BY RIELLE EDWARDS  
Reality TV Correspondent

RALEIGH

Seeking to capitalize on the national debate over bathroom protocol for transgendered people, producers of the hit Discovery Channel survival series "Naked and Afraid" have offered Gov. Pat McCrory and Charlotte Mayor Jennifer Roberts an episode of their own.

"This would be a very special episode," said a show staffer who asked not to be identified. "We've never done one with elected officials. We felt that, what with all the movie companies saying they weren't going to come to North Carolina because of H.B. 2, this would be a way for North Carolina to recoup some of that revenue and for us to take advantage of a huge national story."

According to the staffer, producers see the Great Dismal Swamp near Elizabeth City, the Linville Gorge Wilderness near Morganton, and Umstead State Park near Raleigh as prime locations for the 21-day in-the-buff survival show. The filming would take place July 10-31.

Typically, the show's participants do not know each other, but in this instance, they do. McCrory was mayor of Charlotte during Roberts' tenure as a member of the Mecklenburg County Board of Commissioners. The staffer said that could provide additional tension and anxiety to the North Carolina



The producers of "Naked and Afraid" have produced some mock-up promotional material to try to convince Gov. Pat McCrory and Charlotte Mayor Jennifer Roberts to do an episode of the show, but neither has consented yet. (CJ spoof graphic)

episode.

The staffer shared a copy of the show proposal and included some proposed promotional art work it may use if the two elected officials agree to do the show. The staffer said the transgendered bathroom issue likely will remain in the news for several months, and the network wanted to capitalize on publicity generated by the issue.

Each 21-day event is edited down to a one-hour "Naked and Afraid" episode. Each survivalist is required

to strip naked before they meet each other, is given no food or water, and must depend on their own skills and only a few survival tools and a map. A camera crew is nearby but can only intervene only for a medical emergency.

Participants can opt out at any time. At the end of the 21-day filming cycle, they travel to a designated extraction point where they are picked up by a boat, helicopter, or other vehicle.

Roberts became mayor in Decem-

ber 2015. Shortly after she took office, the Charlotte City Council passed an ordinance allowing the transgendered to use the bathroom of the gender they identify with. Before the ordinance could go into effect, the North Carolina General Assembly convened a special session and passed a law known as House Bill 2 that overrode Charlotte's ordinance. The law requires that people using bathrooms and shower facilities open to the public use the facility assigned to the gender on their birth certificates. Private companies are free to adopt their own guidelines.

McCrory signed the bill and has defended the bathroom provisions. Roberts supports the ordinance as passed by her city council.

Roberts says she is "torn" over the proposal to do the show and is undecided, but said she has no doubt the city council would support her participation. "If they'll do something as crazy as mandate that men can use women's restrooms, I'm sure they'd go for this," she said. "But I have to give this some more thought and maybe do some polling first."

McCrory has not confirmed receipt of the TV show's offer. A friend of the governor pointed out that the proposed time frame would require McCrory to miss the Republican National Convention in Cleveland. "I know he'll do almost anything to promote North Carolina, but this just may be a bridge too far," the friend said. *CJ*



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- WITN (7.1 & 7.2) Greenville/Washington/New Bern, Sunday 11 am
- WTBL Lenoir, Sunday 9 am, Monday 5:30 pm, Tuesday 12:30 pm
- WRAL Raleigh-Durham, Sunday 6:30 am
- WRAL-DT Raleigh-Durham, Sunday 6:30 am
- WRAZ "Fox 50" Raleigh-Durham, Sunday 8:30 am
- WGSR-TV Reidsville, Saturday 7 am, 9 am, Sunday 12 pm, 10:30 pm
- WNVN Roanoke Rapids, Sunday 10:00am
- WHIG Rocky Mount, Sunday 1:30 pm
- Cable 10 Roxboro, Sunday 6 pm
- WILM Wilmington, Sunday 5 am

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