

Mountain
Faith Band
promoting
music,
literacy/2



CAROLINA JOURNAL

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

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UNC campuses no longer free-speech zones?

Legislation seeks to hold universities more accountable in accommodating open debate

By KARI TRAVIS
Associate Editor

RALEIGH

What started with a simple conversation among three students at North Carolina State University ended in a lawsuit.

Hannalee Alrutz wanted something different, but actions by the administration left her little choice.

Alrutz is president of Grace Christian Life, an evangelical campus group at N.C. State with roughly 100 members, who distributed pamphlets and talked to students on campus.

In October 2015, administrators targeted Alrutz and her group.

"Two of our members walked up to a student and asked if they could pray for the student. We pray for students. We also draw out a diagram of how you can get to know God through Jesus Christ's sacrifice," Alrutz told *Carolina Journal*.

An administrator interrupted what was, to Alrutz and her group, a routine process of practicing their free-speech rights.

The Grace Christian Life members were breaking an N.C. State policy, said the administrator. Under university code, the group needed a campus permit for almost any type of noncommercial communication.

"We were shocked because we had never heard of such a policy," Alrutz said. "We didn't really know which one it was. It put fear into the hearts of a lot of students in the organization."

Tough times followed. Some members were hesitant to continue, fearful of the consequences.

Members talked about what to do next. Grace Christian Life hired lawyers from the Alliance Defending Freedom, a nonprofit group defending reli-



Incoming UNC system president Margaret Spellings was greeted last year with vocal protests from students and faculty members. (CJ Photo by Kari Travis)

gious freedom, and the lawyers sent a letter to university leaders asking them to revise the unconstitutional policy.

The university refused.

In April 2016, Alrutz and her group decided to sue.

The decision was anything but easy.

"I love N.C. State. I support N.C. State, right? So I think that was hard. It was hard for me to go up against something that I loved," she said.

During a preliminary injunction in June 2016, the U.S. District Court for the Eastern District of North Carolina issued a stay against N.C. State's per-

mit code for noncommercial speech.

In July, the university settled the lawsuit, paying \$72,500 to cover Grace Christian Life's legal fees. The university also scrapped its permit policy.

The group was excited and relieved. Some feelings were hurt, too.

"I never set out to run up against N.C. State," Alrutz said. "I believe in a lot of the things that they promote. And they promote diversity and a marketplace of ideas, and everyone has a voice. And they love that, and they promote that, so the fact we were in this situation didn't make sense."

Most North Carolina lawmakers agree with Alrutz. It doesn't make sense to violate free speech on UNC campuses. Public university students and faculty members should be able to speak their minds without heckling, suppression, or harassment.

After all, that's the point of the First Amendment.

By an 88-32 vote, in late April the state House passed House Bill 527, Restore/Preserve Campus Free Speech. All 74 Republicans backed the measure. Only 14 Democrats agreed. The bill would fortify free expression at all 16 schools in the UNC system. The measure isn't breaking new ground, say the policy advisers and politicians who wrote it. It's a maintenance effort, a way to ensure UNC administrators are following the law.

But the Democratic lawmakers against it are asking one question: Does campus speech, already covered by the First Amendment, need more protections from the state?

Supporters of H.B. 527 have founded their arguments on a recent report from the Foundation for Individ-

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Currituck County is fed up with solar/11



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Mountain Faith Band makes play to inspire youth

By LISA SNEDEKER
Contributor

SYLVA

Mountain Faith Band, which has graced the stage of the Grand Ole Opry and Radio City Music Hall, wants to bring its unique blend of Americana/roots music to a school near you.

It's all in the name of promoting literacy and writing, sans government funding or related mandates.

The bluegrass, folk, and gospel family band from Sylva has been playing its unique brand of music since 2000. Named the 2016 International Bluegrass Music Association Emerging Artist of the Year, the group's members are Summer McMahan, Brayden McMahan, Sam McMahan, Cory Piatt, and Nick Dauphinais.

In 2015, Mountain Faith made it to the semifinal round on the popular TV show "America's Got Talent," propelled by a unique cover of the OneRepublic hit "Counting Stars." The same year the band traveled to the Persian Gulf and performed six concerts for the troops.

Mountain Faith Band is now in the studio working on a new CD. The band's most recent work, "That Which Matters," landed atop the *Billboard* Bluegrass chart.

But when Mountain Faith Band's tour schedule allows, the members are taking to a different sort of stage, one they hope will inspire youngsters to tell their own story, in their own words. The members are promoting literacy and character education at elementary and high schools along their route, trying to fill a gap schools — both public and private — sometimes struggle to fill.

"I Write My Story" is a literacy initiative and a 501(c)3 nonprofit organization.

The project is dedicated to promoting the benefits of writing among all students to ensure future successes in any career path, says Sandra McMahan, band wife and mother, and a teacher.

For McMahan, the seeds for the program began to sprout as she studied for her master's in school administration and her family was on tour. It started with a band promoter who asked if they would play en route to a gig at his alma mater. That grew into performances at more than 30 schools since 2015 in North Carolina, Florida, Tennessee, Georgia, Kentucky, and Ohio.

"Summer wrote a song about her grandfather's 1969 red Ford truck, which is now used in a Universal Ford commercial," Sandra McMahan explains. "There's a story behind every song you write. Every song isn't about chew, tobacco, spit. I thought we need a literacy foundation to buy writing journals for kids to brainstorm so that any thought they had, they could write down."



Mountain Faith Band plays to promote literacy, writing. (Photo courtesy of Mountain Faith Band)

ROOTS MUSIC: MerleFest reaches out to students, schools Page 10

She was inspired, in part, because she has seen, firsthand, high school grads who can't write a paragraph or format a paper.

"My mission is guided by the desire to inspire students to be lifelong writers. Without writing we lose generations of stories and thoughts. I want to bring to the forefront the importance of sharing their stories in any writing format possible. My focus is to get them ready for college. I am anxious to see where this goes."

Programs like this offer innovative teaching techniques outside of government programs and the subsequent government funding. President Trump, in fact, has proposed eliminating the entire \$148 million National Endowment of the Arts budget, giving these types of programs added importance.

It's based on the idea of a civil society, which the Cato Institute's David Boaz defines as a spirit of cooperation so we all have a chance to flourish.

Sandra McMahan has taken a year's leave of absence to travel with her family's band and take the nonprofit's mission to motivate students to write creatively and discover the importance and benefits of quality writing. All the while with the goal of improving their literacy skills, for as many students in as many schools as possible.

By providing students with a motivational, engaging musical program

highlighting songwriting, McMahan hopes students will embrace a fun, musical experience that incorporates personal stories through poetry, story writing, and song.

"It's that simple," she explains. "I want it to be profound, but in a simple way."

"Students," the nonprofit says, "will be provided a personal writing journal to encourage their creativity. They will hear an inspiring message from the program that will assist in introducing students to ways of being creative both in the classroom and at home. The broader message emphasizes that writing is a critical component and a necessary skill to compete effectively in life in order to fulfill potentials and reach goals toward a successful path."

The nonprofit status will help buy journals and defray some of the band's travel expenses when it goes to schools.

Every student attending a Mountain Faith school performance receives a journal, pen, and pencil to begin their writing journeys. Many students for the first time will get to experience a musical concert performed by a nationally recognized band.

Rae Parker is the instructional technology facilitator at Rosman Middle/Rosman Elementary / TC Henderson Elementary schools and a big fan of Mountain Faith's literacy efforts.

She has seen the results from the band's March visits.

"I had one teacher tell me that she had a student that hated writing. After Mountain Faith came to our school,

Continued as "Mountain," Page 4

Cooper's reaction to House Bill 2 reset a missed opportunity, analysts say

BY DAN WAY
Associate Editor

RALEIGH

Roy Cooper was mending fences. Just not the ones you might have imagined.

The governor spent most of his March 30 press conference, after he signed the measure repealing House Bill 2, going after the Republican General Assembly, the lawmakers with whom he had spent the previous day trying to hold together the tenuous deal.

He said the Republican legislators were the bad guys and tried to reassure progressive activists that the law he just signed, at best, was necessary but unfortunate.

"In a perfect world, with a good General Assembly, we would have repealed House Bill 2 fully today and added full statewide protections for LGBT North Carolinians," the governor said after signing House Bill 142 into law, eradicating H.B. 2.

"Unfortunately, our supermajority Republican legislature will not pass these protections," Cooper said, not long after he reached an agreement with Republican and Democratic legislative leaders that had eluded them since his January inauguration.

Cooper said he hoped the fight over rights for transgender people would result in legislative gains for Democrats in 2018. He said local governments should push legal limits and implement broader nondiscrimination ordinances, and repeatedly vowed to fight for a statewide bill.

"I'll sign it [statewide expansions of LGBT nondiscrimination laws] today if they'll pass it. But we know they won't," Cooper chided.

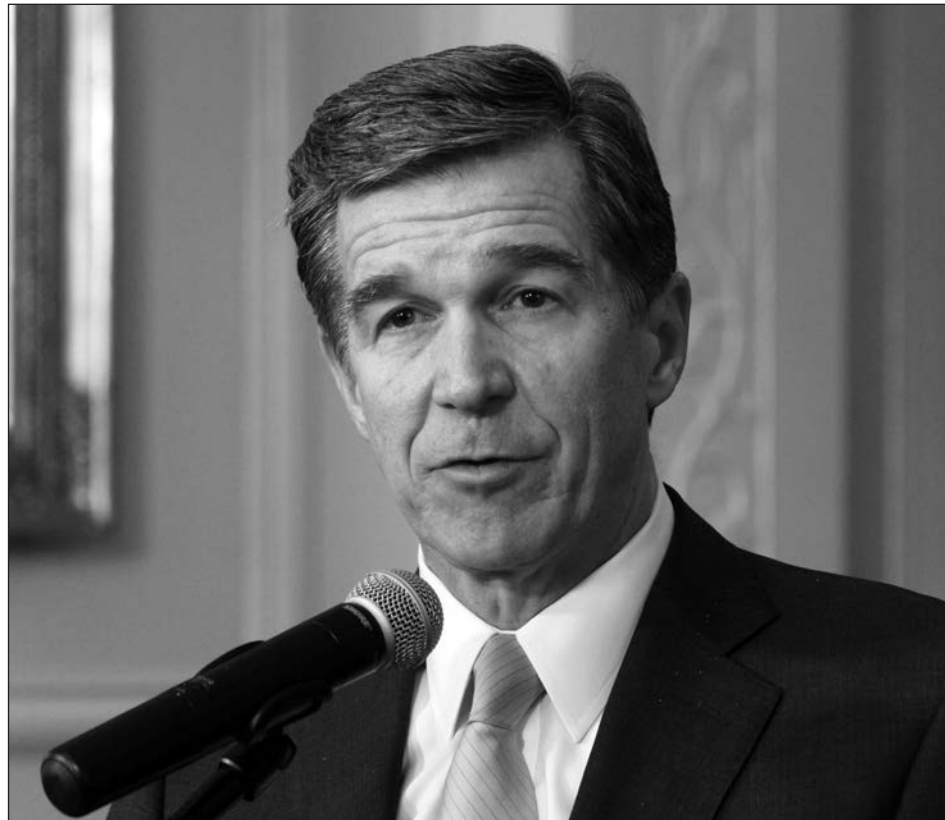
And he assailed Republicans' character.

Culturally conservative GOP lawmakers revolted when a previous compromise bill failed to pass in a special session in December, Cooper said, and several spoke out March 30 on the House floor. He said earlier compromise proposals "allowed people to use religious beliefs to discriminate."

The environment between the branches of government has been toxic for months. Cooper missed a rare chance to embrace a bipartisan compromise and mollify his opponents, who also gave ground on H.B. 142, several political experts said. A brief pause might have given both the governor and legislature an opportunity to agree on several key policy areas they'll confront in the next few weeks. Instead, Cooper turned up the volume, prodding both supporters and opponents of the compromise to keep fighting.

"Yes, he missed an opportunity," David McLennan, a political science professor at Meredith College, said of Cooper's handling of the H.B. 2 reset.

"Even though this is a political issue for Gov. Cooper, it probably



Gov. Roy Cooper used his March 30 press conference just after signing the measure repealing House Bill 2 to excoriate Republicans. (CJ photo by Kari Travis)

Yes, he missed an opportunity ... Even though this is a political issue for Gov. Cooper, it probably wasn't an appropriate time to look forward to the next election cycle.

- David McLennan, political science professor, Meredith College

wasn't an appropriate time to look forward to the next election cycle," McLennan said. He likened it to the sort of misstep President Trump commits in escalating political rhetoric when a temperate approach would be more astute politically.

Like McLennan, N.C. State University political science professor Andy Taylor thinks the tone of Cooper's speech was in response to the heat he was taking from the more passionate segments of his Democratic base, who protested the bill.

"This is sort of visceral," Taylor said of the personal values embedded in H.B. 2. "For certain people, this orientates their universe on both sides. They are a minority, but they are vocal. I think Cooper probably felt a little bit vulnerable to them in the aftermath and possibly felt that having signed the bill he needed to do something to placate them."

Finally reaching a compromise could have led to a pivot in sour relations, Taylor said.

That might have helped Cooper and the General Assembly agree on some policy areas as budget and other high-priority items move forward, Taylor said. "Obviously, the governor wanted to disabuse anybody who thought that was possibly the case."

Given the fractures on many fronts, "it's hard to see in the short term if there are any winners" now that H.B. 2 is scrapped, McLennan said.

Cooper has been hit from the left, he said. But Senate leader Phil Berger, R-Rockingham, and House Speaker Tim Moore, R-Cleveland, faced an onslaught from factions in the conservative movement, and the GOP must cope with infighting. The state's national reputation will be slow to improve because it took so long to kill

H.B. 2, McLennan said.

"I think if Speaker Moore or President Pro Tem Berger can take anything away from this it is the value of the legislative process," McLennan said. They could have spent more time treating H.B. 2 more like normal legislation last year when it was introduced, he said.

The legislative process in late March also was ill-advised, he said.

"It was rushed, not fully vetted, not fully debated, witnesses not brought in to committee hearings," McLennan said. "If they don't learn this lesson now, we may be forced to repeat it on other policy issues."

Lt. Gov. Dan Forest, a staunch supporter of H.B. 2, told *The News & Observer* that "there's a good opportunity" some Republicans could draw primary opponents in the next legislative session over their votes to repeal.

"He stands by what he said," Forest spokesman Jamey Falkenbury told *Carolina Journal*. "I can let you know that he is not planning in any way to recruit people for primaries."

Forest also told the *N&O* "there's going to be some hard feelings." They were on display, especially March 30, during a two-hour House floor debate.

Rep. Jeff Collins, R-Nash, bristled from the floor about the "dirty politics" that were employed to reach repeal.

"We've had members of our caucus threatened in various ways," Collins said. Sometimes the Senate was the source of the threats, and other times fellow House members stabbed H.B. 2 supporters in the back, he added.

"I think any bill that has to be passed by dirty tactics is a dirty bill," said Collins, who is in his fourth term. "This is the saddest day of my service."

Rep. Dana Bumgardner, R-Gaston, said he has been called names and vilified by colleagues for opposing repeal, and chafed at the integrity of the process used to pass H.B. 142. The Senate stripped language out of an unrelated bill that already passed the House, inserted the repeal bill, and sent that back to the House for concurrence, meaning it only could be voted up or down.

"This is not going to go away," Bumgardner said of the issues in play. "It is a new beginning."

McLennan agrees. He said the language in H.B. 142 is vague and uncertain about what municipalities may or may not do with nondiscrimination ordinances.

Eventually the General Assembly will challenge a local government's nondiscrimination ordinance, McLennan said. Lawmakers then will pass another law or file a lawsuit.

"I think it has a lot of ramifications for the future of the relationship of municipalities and the state government," McLennan said, "and it's not particularly good." CJ

Folwell pursuing fees from pension fund managers

BY DAN WAY
Associate Editor

RALEIGH

State Treasurer Dale Folwell wants to know if Wall Street investors charged the state fees on \$9 billion of state pension plan money that never got invested.

In recent years, unfunded liabilities in the retirement system grew to more than \$13 billion.

Folwell said some investment fund managers collected all the fees they were entitled to receive from the \$91.7 billion retirement system but left some of the money idle. Others didn't invest all of their obligations because they never withdrew it from the treasury in the first place.

Folwell, who launched a 100-day reform blitz after taking office in January, said he would seek repayment of any fees improperly paid on the \$9 billion of uninvested money.

He said he was disappointed the state recently paid tens of thousands of dollars for a compliance and fees report commissioned under previous Treasurer Janet Cowell that was delivered in February.

The project should have been designed to examine every contract and ensure that fees were paid according to the terms, Folwell said. "That's not what occurred."

Folwell's comments came in April, during his second monthly Ask Me Anything teleconference series with reporters. He also was featured in a recent *Bloomberg Businessweek* profile.



State Treasurer Dale Folwell (File Photo)

He's trying to determine where fund managers made alternative investments — investing in nontraditional assets like real estate, hedge funds, or derivatives contracts — and will examine the billions of dollars the state has invested in what are known as a fund of funds. Under that arrangement, one investment manager gets a state contract but spreads the money around to let multiple fund managers who do not have state contracts invest it.

The state will begin shifting alternative investments into indexed funds, Folwell said, which should be more transparent and generate higher returns.

Folwell said he is continuing to work with his investment management division to whittle down other investment management fees, in keeping with a campaign promise to eliminate \$100 million in Wall Street payouts.

He talked to 170 investment agents with state contracts and immediately saved almost \$25 million in re-

curring annual fees, he said.

By the end of his four-year term he would have hit his \$100 million target, but he's seeking even more, because it would represent only 5 percent of the nearly \$2.5 billion the state would pay in fees during his term.

A substantial portion of the \$25 million savings came from investment managers who did not deliver promised returns. He said the state could have earned more money if those investments had gone into an index fund.

His office also is looking at investment arrangements that are 10 to 12 years old "to make sure that they're even supposed to be charging us fees," he said.

Folwell warned there is a looming financial problem with the State Health Plan.

"We're going to run out of reserves sometime in the next 30 months," Folwell said.

The State Health Plan lost \$125 million in 2015 and is projected to come up short \$160 million when 2016 figures are finalized. Losses are projected to be \$300 million in 2017, \$500 million in 2018, and \$550 million in 2019.

"There's a very strong possibility that the appropriation in the State Health Plan this year is going to exceed the appropriation to the university system," which would be a huge change, Folwell said.

The State Health Plan will charge members a \$25 monthly premium (they now pay nothing), and premiums now charged by other state plans will

increase to help offset the drain. With the changes, the state will pick up 82 percent of the health plan's costs, with employees responsible for the rest.

Folwell said several large contracts are coming due in the State Health Plan over the next 19 months. He intends to use the state's clout as the largest purchaser of health care in North Carolina to negotiate better deals.

He has initiated an eligibility audit to root out fraud and abuse. The last audit, conducted in 2012, found 7,103 ineligible people on the State Health Plan at a cost of \$22 million.

"I think this eligibility audit will be even more dramatic," Folwell said, promising stiff penalties against individuals who deliberately enrolled ineligible spouses and dependents over the past two or three years.

Other State Health Plan reforms will deal with cleaning up enrollment processes, and eliminating other poorly functioning programs and paperwork that gum up the system.

The Senate is pushing a \$1 billion tax cut package, and the House plan might end up with a larger proposed cut. Folwell said he has neither reviewed the competing plans nor received legislative feedback on them.

"This is like yoga for us. We are trying to breathe and pay attention to our own mat," Folwell said. House Bill 651 would create a State Health Plan solvency fund. He said he's curious to see how that fits in with the tax package proposals. *CJ*

Mountain Faith Band seeks to inspire

Continued from Page 2

this student will write if the teacher plays one of Mountain Faith's CDs. The students have also written beautiful letters to Summer thanking her and the band for coming to their school."

Among the three schools the band reached nearly 900 students who got to hear Mountain Faith perform and learn what prompted the members to write their own stories. There was also interactive time that included writing lessons, as well as an air band competition among the teachers in which students got to scream to determine the winner.

Parker adds, "I feel students need positive role models that encourage hard work, creativity, and the desire to do their best. Mountain Faith Band does that with their new 'I Write My Story' literacy program. Many students watched them on 'America's Got Talent' and look up to them. Through [the band's] love of writing and performing songs, they pass their love and passion to students to tell

their own story. The students are using their journals and are excited to show me their stories."

That is all the proof McMahan needs to deem the program a success. "Music goes hand in hand with writing. I taught kindergarten through first grade, and I can remember using a lot of music videos to learn how to count and read."

Summer McMahan enjoys sharing her music and songs with students because, as she explains, "Writing has always been a way for me to express exactly what I am feeling. I write things that I find difficult to articulate to others."

"I Write My Story" isn't limited to North Carolina or the Southeast. "The band is going to Utah in the fall for concerts," she says, "and I plan to reach out at some point to find out where we can go to schools there as well." *CJ*

Lisa Snedeker is a music writer who lives in Madison. Visit her blog at musicreporterblog.com.



Students at Rosman Elementary in Transylvania County write in their journals during visit from Mountain Faith Band. (Photo courtesy of Mountain Faith Band)

High Point council OKs stadium, but where's the team?

By SAM A. HIEB
Contributor

HIGH POINT

Greensboro has its downtown baseball stadium. Winston-Salem has its downtown baseball stadium. So why shouldn't High Point — the Triad's least prominent city — have its own downtown baseball stadium?

It should — or at least the City Council said so April 3, when it approved \$15 million toward a proposed \$30 million stadium project that boosters call the Catalyst Development, intended to revive High Point's "Core City."

Among the problems raised by some critics — including council member Cynthia Davis, who cast the lone dissenting vote on the nine-member council — is the vote zipped through with little notice, the public will have no direct say in funding for the project, and, crucially, High Point doesn't have a team to occupy the stadium.

Davis believes the council vote was rushed and lacked transparency.

"Constituents were left out of the process entirely," Davis told *Carolina Journal* in a phone interview. "I'm just up in arms over the lack of citizen participation and knowledge. I'm not against any development, but transparency is No. 1."

At the very least, Davis said, the project should be funded as part of a bond referendum, as are other government projects involving public debt.

"We have the audacity to approve this project, but we have to go to the polls for facility needs?" Davis asked.

For years High Point has been thinking of ways to attract people downtown at times other than during the High Point Market, the inter-



Artist rendering of the High Point stadium complex approved in early April by the City Council. (Image from Odell Associates)

national home furnishings market the city hosts twice a year.

A couple of years ago, downtown booster organization Ignite High Point enlisted famed architect Andres Duany to craft a plan for downtown. Duany's report did contain practical recommendations, such as easing the bureaucratic red tape for builders. But the highlights were "sea-can developments" around downtown using empty shipping containers and a community "gathering space" next to the city library.

Plans for a new baseball stadium had been floating around High Point for some time. Most of the talk involved luring the Coastal Plain League Thomasville Hi-Toms up Business Interstate 85, but the Coastal Plain is a summer college league with fewer dates — 34 home games scheduled this season. A professional minor

league team would be the goal.

In the presentation by Forward High Point executive director Ray Gibbs, the plan is to attract an independent Atlantic League franchise pending completion of the ballpark, although plans for a local ownership group are still being worked out. Atlantic League teams each play 70 home games. The Hi-Toms haven't been ruled out as a co-tenant.

As for the stadium, it would sit on a tract of land bordering Elm, Gatewood, English, and Lindsey streets. The first \$15 million approved by the council would go toward preliminary design work and environmental studies. Construction could begin as early as this fall and be completed in time for the 2019 season.

The capacity would be 5,000, with seating options ranging from grass berm and picnic area seating to

luxury suites. And naming rights will be for sale, bringing in an estimated \$3 million over 10 years.

The stadium would be owned by the city, but in theory would not require any new taxes. The project debt — funded in part through "internal loans" from the city's landfill reserve and electricity funds — would be repaid with proceeds from the team's annual lease, facility fees, parking surcharges, naming rights, and increased property tax revenues from development around the stadium.

Forward High Point, the city's public-private economic development group, estimates \$99 million in mixed-use development surrounding the stadium, which in turn would generate \$708 million in consumer spending.

That project is now called Main Street Station. It's projected to house 32,000 square feet in retail and restaurant space, 20,000 square feet of office space, and 120-150 residential units.

While the project sounds promising, some High Point residents are skeptical, starting with council member Davis.

For one thing, there was little notice of the plans or the vote. "We weren't given a handout until Monday night" of the meeting, she said.

There are also a lot of unanswered questions, Davis said. For example, the "internal loans" from city departments are undefined, as is the role Guilford County would play.

As of yet, the county Board of Commissioners has no planned agenda item to discuss the ballpark, although Forward High Point's presentation mentions "county participation regarding increased tax base."

"How can the council make such a decision when we don't even know what [the county's] role is?" Davis asked. *CJ*

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By John Hood
Chairman of the
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Choice
April 2006

Commentary

North Carolina brewers exploring all options to raise barrel threshold

It would be hard to find a more blatant example of cronyism than the North Carolina law that forbids beer brewers who produce more than 25,000 barrels per year from selling their products directly to retailers. The law serves no legitimate purpose and exists for two reasons only: to protect the national and international beverage conglomerates from local competition, and to enrich the members of the wholesale distribution oligopoly to whom the craft brewers are forced to turn over their distribution operations.

The good news is that two bills to raise the cap on self-distribution have been filed. House Bill 67, which was sponsored by Rep. Michael Speciale, R-Craven, would raise it to 100,000 barrels. House Bill 500, which was sponsored by Reps. Chuck McGrady, R-Henderson; William Brawley, R-Mecklenburg; Jon Hardister, R-Guilford; and Pricey Harrison, D-Guilford; would raise it to 200,000. The bad news is that, because the wholesale distributors constitute such a powerful lobby, there doesn't seem to be much chance that even this kind of limited reform will be approved.

The wholesalers and their friends in the legislature shouldn't be too complacent, however. In recent years, litigators in other states have successfully defended economic

freedom on the basis of those states' constitutions. Because it's such a blatant example of cronyism, the beer distribution cap is vulnerable to challenge based on several provisions in the North Carolina Constitution, including:

Article I, Section 1:

[A]ll persons... are endowed by their Creator with certain inalienable rights... [including] the enjoyment of the fruits of their own labor.

Arbitrary interference with private business and unnecessary restrictions on lawful occupations clearly violate the spirit of this clause. By forcing brewers to relinquish the right to distribute their own products as a condition for obtaining essential business licenses and permits, the distribution laws deny them the right to enjoy the fruits of their labor.

Article I, Section 19:

No person shall be ... deprived of his life, liberty, or property, but by the law of the land.

The North Carolina courts have consistently interpreted this clause to guarantee two kinds of rights. The first is the right to due process. The cap on self-distribution violates the right to due process because it is arbitrary and capricious, and because it is not rationally related to a legitimate government interest. Why permit a brewer who produces 24,000 barrels a year to self-distribute while forcing one who produces 26,000 barrels to distribute through a member of the

wholesale distributor oligopoly? The law's purported rationale is to "maintain ... healthy competition," but, in fact, it does the opposite. It protects the distributors from competition by forcing brewers to distribute exclusively with them, and it protects the big national and multinational brewers from competition by encouraging North Carolina's craft breweries to remain small. This kind of economic protectionism is not a legitimate government interest.

The second right guaranteed by the "law of the land" clause has two parts: the right not to have one's property taken unless it is required for a valid public use; and the right to receive just compensation when it is. The distribution laws violate both parts of this right. The state is not acquiring the craft brewers' distribution operations for a public use; instead, it is forcing them to turn those operations over to other private parties. Nor can it be argued that this transfer of property from one private party to another somehow achieves a public purpose, because, as noted above, protecting the interests of wholesale distributors and out-of-state beverage conglomerates is not a valid public purpose. All of this would be bad enough if the craft brewers received just compensation for the loss of their distribution operations, but they do not. They receive nothing.

Article I, Section 32:

No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

The distribution cap grants the members of the wholesale distribution oligopoly the exclusive privilege of distributing the beer produced by every brewer that exceeds the 25,000-barrel limit. Do they perform a public service in return for this consideration? They do not!

Article I, Section 34:

Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

The distribution laws grant distributors the exclusive right to distribute the breweries' beer in perpetuity. While perhaps not technically a monopoly, it is certainly an oligopoly. As such, it is contrary to the genius of a free state, and it is forbidden by the North Carolina Constitution.


Any one of these constitutional claims, if successful, could result in a declaratory judgment striking down the distribution laws, a permanent injunction blocking the enforcement of those laws, and an award of money damages and attorneys' fees to the claimant. I'm sure those possibilities are not lost on North Carolina's craft brewers. They have, after all, already proven themselves to be a particularly creative and determined group of entrepreneurs.

North Carolina should be encouraging such people rather than actively holding them back. If the General Assembly won't protect their economic rights, don't be surprised if they turn to the courts! CJ

Jon Guze is director of legal studies for the John Locke Foundation.



**JON
GUZE**



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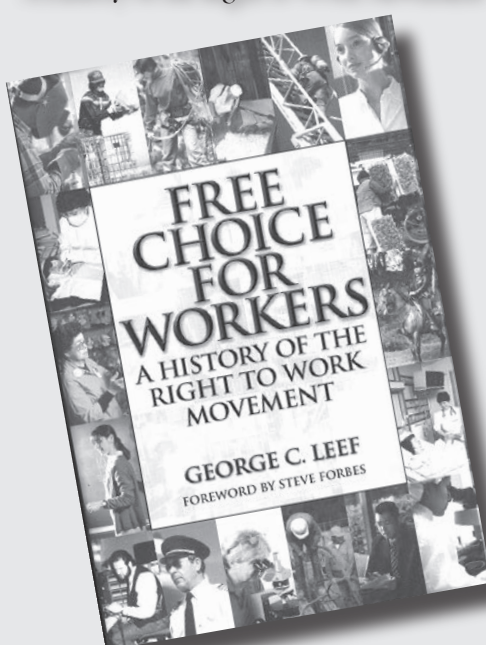
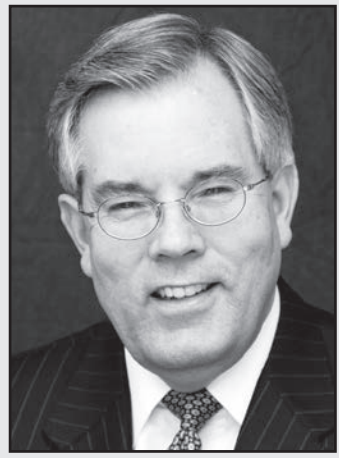
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Bill to award teaching scholarships limits choices for recipients

BY KARI TRAVIS
Associate Editor

RALEIGH

Lawmakers are trying to attract teachers to North Carolina in a couple of ways, each accompanied by a piece of legislation.

One, a move to award scholarships to aspiring teachers, would limit options for recipients.

Senate Bill 252, "North Carolina Teaching Fellows Program," would provide future science, technology, engineering, math, and special education teachers with forgivable college loans of up to \$8,250 annually for four years.

But there's a caveat. The program requires that students select among five teaching programs chosen by a state-appointed commission. The cap is meant to ensure students attend top education programs at either public or private institutions, says bill sponsor Sen. Chad Barefoot, R-Wake.

State lawmakers also are trying to give schools more options in hiring teachers.

With rural and low-performing schools struggling to keep teachers, legislators are inventing new ways to recruit them. House Bill 634, Private Alternative Teacher Preparation, would let professionals begin teaching while meeting certification requirements through private colleges.

The state has a similar program, but that route limits schools and teaching candidates, said Terry Stoops, vice president of research and education studies at the John Locke Foundation.

"Currently, lateral-entry teachers must complete their licensure requirements through an approved postsecondary teacher education program or a Regional Alternative Licensing Center. This much-needed bill would give lateral-entry teachers even more options for those undertaking the demanding process of meeting those requirements," he said.

Regarding S.B. 252, the limit may frustrate the program's purpose, which is to place teachers in low-performing schools, Stoops said.

Universities with top education programs don't exist in areas with the highest need for STEM and special education teachers, Stoops says, and that could be a problem because teaching fellows are likely to take jobs close to their universities.

"If the five institutions selected by the North Carolina Teaching Fellows Commission are located in North Carolina's most populous areas, then the Teaching Fellows Program would be absent from regions of the state that have the greatest difficulty recruiting and retaining high-quality STEM and special education teachers," he said.

"If the bill is passed as written, my hope is that the North Carolina Teaching Fellows Commission will ask the General Assembly to expand



North Carolina lawmakers also are trying to give schools more options in hiring qualified teachers. (CJ Photo By Kari Travis)

Currently, lateral-entry teachers must complete their licensure requirements through an approved postsecondary teacher education program or a Regional Alternative Licensing Center. This much-needed bill would give lateral-entry teachers even more options for those undertaking the demanding process of meeting those requirements.

- Terry Stoops, John Locke Foundation

the program into institutions not included in the original cohort."

Sen. Erica Smith-Ingram, D-Bertie, and Sen. Rick Horner, R-Johnston, raised concerns about the geographic impact of the scholarship plan.

Limiting the number of university programs to five would ensure quality of education, Barefoot said during a committee meeting.

The 160 teaching fellows selected annually would, he says, benefit from a tight-knit troop.

"Would I like to see the program grow? Absolutely, in the future," Barefoot said. "[But] rather than dispersing recipients around the state ... we are keeping them concentrated in a programmatic kind of way. It also keeps the programming side of the teaching fellows initiative.

"I think what we've attempted to do with this bill is to establish the most elite, distinguished program possible."

A potential issue with H.B. 634, said Rep. Jon Hardister, R-Guilford, the bill's primary sponsor, is that only a few areas of the state are approved to hire lateral-entry teachers, a problem for struggling schools outside those regions.

The bill removes regional limits, allowing any Local Education Authority in the state to decide whether to accept lateral-entry teachers, Hardister said.

People still would meet requirements laid out by the State Board of Community Colleges and the State Board of Education, but training could be completed at both public and private colleges.

State Superintendent Mark Johnson would recruit eligible private schools to participate in the program, and the North Carolina State Board of Education would approve five.

Johnson, who supports the program, met with bill sponsors during the draft process, Hardister said.

The state board wasn't consulted, but the proposal is met with good will, said Chairman Bill Cobey.

"Even if we were not in desperate need of attracting more highly qualified people to the teaching profession, I would personally support this type of innovation," Cobey told *Carolina Journal*.

H.B. 634 only adds options for schools that need more teachers, Hardister said.

"This would approve the lateral-entry organizations to operate statewide, but then it's up to the LEAs to decide if they want to participate, so they're not forced to do it. There are some LEAs that have shortages of teachers, some more so than others. ... That's the impetus of this bill, to provide the LEAs options." CJ

Hog waste bill stripped of provision helping Smithfield Foods

Rep. Jimmy Dixon, a retired Duplin County hog farmer, pleaded with fellow House members to remember the people who put food on the table.

A handful of his Republican colleagues (and several Democrats) said being faithful to the principles of common-law jurisprudence, separation of powers, and property rights outweigh the interests of any single industry, no matter how important.

House Bill 467 — a measure limiting court damages in some nuisance lawsuits to the actual value of the property involved — passed the House in mid-April, 68-47. But not before an amendment by Rep. John Blust, R-Guilford, was added, blocking the law from applying to current federal lawsuits involving hundreds of plaintiffs and one major defendant — Smithfield Foods, the world's largest pork producer.

The amendment passed by a 59-56 vote. The lower damage limits would apply to future cases, but not the massive litigation now before U.S. District Court Judge Earl Britt.

Blust and Rep. Hugh Blackwell, R-Burke, warned their colleagues against intervening in existing lawsuits. Blust said the bill would encourage more constituents to come forward and ask lawmakers to change damage amounts if they were likely to lose a lawsuit.

Rep. Joe John, D-Wake, a former member of the North Carolina Court of Appeals, argued that the bill would violate separation of powers, placing the legislative branch in the center of an ongoing judicial dispute.

At press time, the bill was in the Senate.



Adopting the bobcat as the official state cat, the bill says, "would help bring about awareness of this magnificent and beneficial animal."

Bobcat gets claws into legislative agenda

Many North Carolinians can relate to the roaring panther, a sound that reverberates throughout Charlotte's Bank of America Stadium on Sunday afternoons in the fall.

Seems like the obvious choice for the state cat, if we're going to have one of those. Lawmakers, though, have nominated the elusive bobcat, which also happened to be the nickname of an unsuccessful and now-defunct basketball team in the Queen City. That team is now the Hornets, of course.

House Bill 74, which passed the House on April 11 and was sent to the

Senate, aims to make the bobcat North Carolina's official state cat.

Adopting the bobcat as the official state cat, the bill says, "would help bring about awareness of this magnificent and beneficial animal."

Western lawmakers promoted the catamount, the mascot for Western Carolina University, to no avail.

So the bobcat is poised to join the cardinal, the plott hound, the Eastern box turtle, and the Virginia opossum (don't quite get that one), among others, on the list of official state animals.

The silk spider, looking to become the state's official arachnid, faces a much tougher battle, it appears.

Foxx asks feds to curb education mandates

U.S. Rep. Virginia Foxx, R-5th District, wants federal bureaucrats to quit swamping states with education mandates that are left over from the Obama administration.

In a recent interview, Foxx, the new chairwoman of the House Education and Workforce Committee, told McClatchy media that federal education policies should come only from lawmakers — not bureaucrats who make rules outside of Congress.

The Obama administration enacted many of those mandates, under the guise of "dear colleague" letters from the U.S. Department of Education and the department's Office of Civil Rights, which shoveled out rules that had no legislative authority.

Such rules aren't acceptable, Foxx spokeswoman Sheridan Watson told *Carolina Journal*.

As much as possible, decisions should be left to states and local school districts, Foxx said.

"The congresswoman wants to ensure no administration makes policy unilaterally, but instead works with Congress in changing law and implementing the law through the appropriate regulatory process," Watson said.

Foxx also told McClatchy that she would sack the U.S. Department of Education for good — if it were possible.

Reforms will be tough, notwithstanding Foxx's clout in Congress.

Funding for the Education Department is decided outside her committee's jurisdiction. House and Senate appropriations panels will choose how much money goes to the agency.

However, Foxx and other education reformers may use Congressional Review Acts to scrap some of the mandates that are cramping state-based education policies. Such action also would squelch those rules permanently.

A Congressional Review Act has been used once this year.

Cooper's Cabinet picks sail through

Gov. Roy Cooper and the General Assembly are still locked in a court battle over whether the legislature can subject the governor's Cabinet appointments to confirmation hearings.

And yet, all of those choices sailed through their Senate hearings — most of them by unanimous votes.

The members of Cooper's Cabinet confirmed by the Senate at press time are:

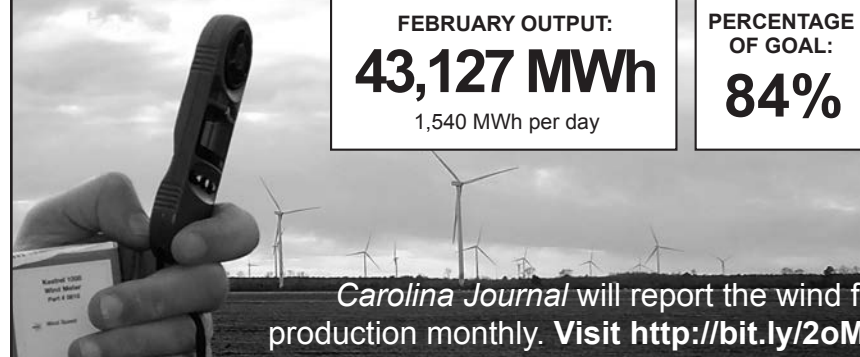
» **Secretary of Administration:** Machel Sanders

- » **Secretary of Commerce:** Tony Copeland
- » **Secretary of Environmental Quality:** Michael Regan
- » **Secretary of Health and Human Services:** Mandy Cohen
- » **Secretary of Military and Veterans Affairs:** Larry Hall
- » **Secretary of Natural and Cultural Resources:** Susi Hamilton
- » **Secretary of Public Safety:** Erik Hooks
- » **Secretary of Transportation:** Jim Trogdon

*Revenue chief Ron Penny and Chief Information Officer Danny Lineberry had not gone through the confirmation process at press time and were serving as temporary agency heads.

Amazon Wind Meter

The 208-megawatt Amazon Wind Farm near Elizabeth City has said it must generate 670,000 megawatt hours annually, about 1,836 MWh each day, to meet its goal. February was its first full month of operation.



House backs measure to study safety of outdated solar facilities

By DAN WAY
Associate Editor

RALEIGH

North Carolina has no plan for disposing of millions of tons of material from solar installations dotting the state. Rep. Jimmy Dixon, R-Duplin, has asked the legislature to study the environmental safety issues associated with closing the facilities.

After a contentious committee discussion of the measure, House Bill 319 passed the full body April 19 by a 70-45 vote. At press time, the bill was in the Senate.

As Dixon, a retired hog farmer, presented the bill to the House Environment Committee, he said the manner in which the state handles removing the steel, glass, wiring, lubricants, and other components of utility-scale solar projects must be “economically feasible, environmentally safe, cost-effective, and a benefit to the ratepayers of North Carolina.”

Dixon said H.B. 319 raises six issues for the state Environmental Review Commission because “taxpayers, citizens of North Carolina, local governments, and everybody concerned need comprehensive, accurate, data-based information.” A report would be delivered in 2018 to the General Assembly.

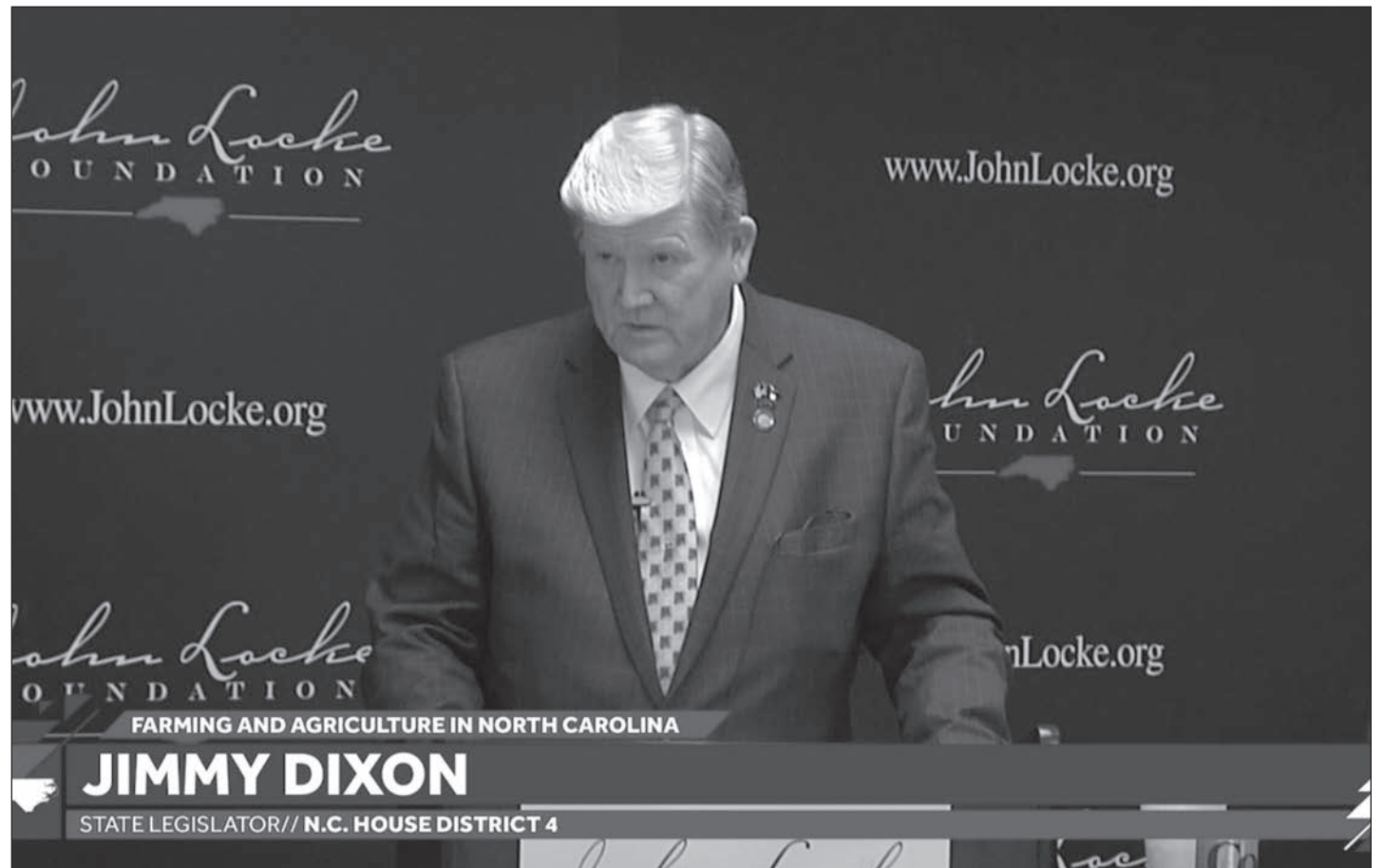
The six provisions to be studied in H.B. 319 are:

- Whether performance bonds should be required to ensure proper decommissioning and closing of solar facilities.
- If solar panels, fluids, and other related components could be classified as hazardous materials.
- Whether solar panels and materials in them can be disposed of safely in landfills.
- The economic feasibility and availability of recycling solar panels.
- Whether land housing solar projects could be placed back into use for agricultural crop production after a project ceases operation.
- The anticipated economically productive life cycle for various types of solar panels.

In exchange for his concerns over the regulatory void, and potential future effects on land and groundwater, Dixon was accused of being on a witch hunt by a solar-friendly Republican colleague.

Rep. Bob Steinburg, R-Chowan, an ardent renewable energy advocate, repeatedly complained that an Environmental Review Commission study would be redundant because solar representatives and industry-provided experts already told some House members there are no environmental safety concerns involving utility-scale solar projects.

Dixon said “the proper vehicle” for reporting critical environmental



Rep. Jimmy Dixon, R-Duplin, seen here making a presentation in April at the John Locke Foundation, sponsored House Bill 319 because the state lacks any rules to determine proper disposal of materials used when solar installations no longer work. (Courtesy John Locke Foundation)

Taxpayers, citizens of North Carolina, local governments, and everybody concerned need comprehensive, accurate, data-based information.

- Rep. Jimmy Dixon, R-Duplin

issues to the General Assembly was a full study by the Environmental Review Commission.

“I’m concerned about witch hunts as well when it comes to renewable energy,” Steinburg said, later asserting that Dixon probably is on one.

North Carolina hosts 60 percent of the nation’s utility-scale solar projects. *Carolina Journal* broke the story in 2015 that the state has no environmental rules for shutting down those solar sites safely at the end of their useful life.

Dixon then called a legislative hearing to bring the affected parties together to learn about the situation.

Alex Miller, who represents North Carolina’s three largest solar energy developers, urged committee members to reject H.B. 319. He seemed to imply even studying the

environmental implications was akin to slander.

“An accusation, even if your name is cleared down the line, is damaging to your reputation,” Miller said. “An indication that the General Assembly is considering onerous overregulation of a particular industry is damaging to the confidence of investors.”

“I think this committee and the General Assembly are interested in stability also, but it is not necessarily of out-of-state investors that we are concerned about the stability of. It’s the very citizens of North Carolina,” Dixon said.

“I’m really puzzled by some of the comments I’ve just heard. It was mentioned that we might dampen the enthusiasm by changing the rules in the middle of the game. We don’t have

any rules right now,” said Rep. Jeff Collins, R-Nash.

“I don’t understand how anybody could be opposed to making sure we leave property environmentally safe after any kind of business” closes shop, Collins said. “I think we’re being delinquent in our responsibilities if we don’t at least study it and see what we need to do.”

Apple has one of several large solar projects in his district, said Rep. Jay Adams, R-Catawba, and the company should be responsible for decommissioning them.

However, he said, some landowners entered into long-term leases of their property for solar facilities.

“They don’t know the answers to the questions that this bill poses, and they need to know those answers,” Adams said. CJ

MIT's green scheme

Three parties are claiming energy from the Summit Farms Solar project in Currituck County will offset a portion of their "carbon footprint:" the Massachusetts Institute of Technology, the Boston Medical Center, and the Post Office Square Redevelopment Corporation.

MIT says the solar power purchased from the Currituck facility will equal 40 percent of the institute's current electricity use. Boston Medical and the redevelopment group say the Summit Farm power will offset 100 percent of their electricity use.

But none of the electricity generated at Summit Solar Farms will supply energy to those Massachusetts facilities. It will not even be on the electrical grid they use. MIT will continue to power its campus with an on-campus natural gas generation system, supplemented by power from a local Massachusetts utility. The medical center and the redevelopment group will continue to power



The 60 MW Summit Farms Solar facility in Currituck County covers more than 650 acres. (CJ photo by Don Carrington)

their facilities with electricity from a local utility.

Power from Summit Solar Farms, when it's available, will go on the PJM power grid which serves the mid-Atlantic states.

The project, started in 2015 as a project of Duke Energy, is in Dominion's service territory. Duke sold it to SunEnergy, a North Carolina-based solar company owned by Australian race car driver Kenny Habul. In August 2016, SunEnergy transferred ownership of the project to Dominion Solar Projects LLC, a Dominion Power subsidiary, but retained ownership of the real estate.

MIT, Boston Medical, and the redevelopment group announced in October 2016 they had formed an alli-

ance to buy the electricity from Summit Farms, "adding carbon-free energy to the grid and demonstrating a partnership model for other organizations in climate-change mitigation efforts," according to a release from the MIT News Office. Dominion Power will own and manage the facility and "assume responsibility for the project's full cost — with financing made possible by the guaranteed power purchase."

"This agreement will enable the construction of a roughly 650-acre, 60-megawatt solar farm on farmland in North Carolina," according to MIT. MIT committed to buy 73 percent of the MWh, Boston Medical 26 percent, and the redevelopment corporation 1 percent.

The deal was arranged by CustomerFirst Renewables, a Maryland-based company launched in 2010, that allows businesses to "switch to renewable energy" without physically switching.

Responding to written questions, MIT Director of Sustainability Julie Newman said that Summit Farms is estimated to produce 146,000 MWh per year. She said that, due to contract terms, she was unable to disclose the price MIT and the other partners pay Dominion for electricity, how much they expect to sell it for, or the projected net loss on the arrangement.

"We believe our experience can help catalyze similar investments in clean energy, which will be vital to achieving a zero-carbon global energy system within this century," said Maria Zuber, MIT's vice president for research in an October news release. Zuber is leading the implementation of the MIT's Plan for Action on Climate Change.

How reliable is the generation from this solar facility? A 60 MW generation project running at full capacity for the full 8,760 hours in a year would produce 525,600 MWh, but solar projects generate only when the sun is shining. MIT's estimate of 146,000 MWh per year represents available usage, or capacity factor, of 27.7 percent. In other words, the project sometimes will produce a full 60 MW, sometimes 0 MW, but on balance it will produce about 27.7 percent of the full capacity.

According to MIT, the project generated 5,312 MWh in January, 7,729 MWh in February, and 12,509 MWh in March.

- Don Carrington

MerleFest reaches out to community in a variety of ways

MerleFest, the iconic festival each year in Wilkesboro, is all about the music, in one form or another.

Delivered in a variety of ways.

Held at Wilkes Community College the last weekend in April, MerleFest attracts scores of legendary and coming acts. Organizers also reach into and out to the community to fulfill some the event's core missions, namely education and enlightenment.

Much like Mountain Faith, artists including the Kruger Brothers, The Gravy Boys, and Steve and Ruth Smith will visit schools this year as part of the MerleFest Outreach Program, which began in 1991.

The Outreach Program started with a few performances at Wilkes County elementary schools and grew to as many as 30 performances over a two-day period, organizers say.

Among the artists who have taken part are Béla Fleck and the Flecktones, The Avett Brothers, The Waybacks, and Old Crow Medicine Show.



MerleFest offers music showcases for youth each year. (Photo courtesy of MerleFest)

Shows come at no cost to the students.

"The program has introduced tens of thousands of children to the rich musical heritage of this region," a festival news release says. "It has enriched their lives and exposed them to genres of music that many would never have the opportunity to experience."

MerleFest is the largest fundraiser for Wilkes Community College.

Another outreach effort, MerleFest School Day, gives area children a unique opportunity to visit the festival. Each year on the Friday of the festival, the release says, more than 3,300 students arrive on buses to spend the day.

"The experience, provided in partnership with area schools, allows

students to enter the festival and enjoy the music, activities, and local arts and crafts."

Joe Bullis is director of Federal Programs and Cultural Arts for Wilkes County Schools. The partnership with MerleFest, he said, can't be discounted.

"The MerleFest Outreach program is a unique opportunity for our students to personally experience the culturally rich tradition of Merlefest. Yes, Merlefest is an integral part of Wilkes County's history, and many of our students grow up hearing the announcements and seeing the banners throughout town during this time of the year. However, for some, this would be their only exposure to this awesome event if not for MerleFest Outreach and MerleFest Student Day. We greatly appreciate the hard work of Merlefest Artist Relations and the performers who put forth the extra effort to make sure that all our students have the opportunity to be a part of this Wilkes County event."

- John Trump

Currituck County fed up with solar

County imposes moratorium after giant MIT farm goes live

BY DON CARRINGTON
Executive Editor

RALEIGH

Large solar projects haven't been a good deal for Currituck County residents, says Bobby Hanig, the county commission's chairman. The developers "have consistently tried to go back on what has been agreed upon in open meetings and brought on extra work for county staff to ensure they are doing what is asked of them," he said.

Concerns about the recently completed 60-megawatt Summit Farms Solar energy facility, made possible by a contract with the Massachusetts Institute of Technology, was the final straw. In February, the county banned new solar projects. The 650-acre project, containing 255,000 individual solar panels, is five miles south of the Virginia border, two miles south of Moyock, N.C., and adjacent to three residential neighborhoods.

The project is owned and managed by Richmond, Virginia-based Dominion Power. MIT and two other Massachusetts businesses signed a 25-year contract with Dominion to buy all the power, estimated to be 146,000 MWh per year, which will then be resold and added to the regional electrical grid. MIT's investment in solar is part of the school's effort to address climate change.

The resolution declaring a ban on new solar projects stated the commission wanted to prevent "incompatible solar array projects from being established that could adversely impact the quality of life for county residents" and promote the "conservation of farmland."

"We as a board felt the need to better protect the county in any future solar array projects by reviewing our current standards and getting input from our citizens as to where and how we approve future sites and what they will look like," Hanig told *Carolina Journal*.

Like the nearby Amazon Wind Farm, Summit Farms Solar is not participating in the North Carolina Renewable Energy Certificate program, so the energy will not count toward the state's goal to produce 12.5 percent of electricity by 2021 from renewable sources such as wind and solar.

Overwhelmed by solar projects

Currituck County officials have dealt with three other large solar proj-



Currituck County residents (from left) James Decker, Mary Harper, and Gail Romich live across the road from the massive Summit Farms Solar facility, seen at rear. They say the solar plant is a nuisance and have concerns about possible water contamination and the plant's effect on their property values. (CJ photo by Don Carrington)

ects. Fresh Air Energy X, a Duke Energy subsidiary, owns a 20 MW solar facility in the Shawboro community. It started generating electricity in 2015. Across the road from an elementary school, there is no plant screening or earth berm blocking the view from the street.

Ecoplexus, a San Francisco-based solar developer, has been trying to build a 20 MW project named Sunshine Farms on a former golf course in the Grandy community. Based on concerns from neighbors of the project, Currituck County denied Ecoplexus a permit. The company filed a lawsuit and, in March, a Superior Court judge sided with the county's decision to turn down the project.

SunEnergy, based in Mooresville, wants to build an additional 60 MW facility on a site adjacent to Summit Farms. County Planning Director Ben Woody told *CJ* the project already has been approved by the county so it's not subject to the recent ban.

County Commissioner Paul Beaumont told *CJ* that dealing with renewable energy facilities is a challenge for Currituck. "It is all new, and there are a lot of lessons to be learned. They hit the region before we understood the ins and outs of solar and wind," he said, referring to the Amazon Wind Farm west of Elizabeth City and 13 miles from Currituck County.

Beaumont said landfills might not be equipped to handle discarded solar panels. He believes converting the land back to agriculture is not practical because farm implements might run into buried conduit or wires that weren't removed.

Beaumont and the other commissioners heard from residents living

near Summit Farms Solar. Neighbors John Decker, Mary Harper, and Gail Romich live across the street. They are concerned about soil and groundwater contamination, as well as their property values. Since construction started, they have had to deal with dust clouds leaving dirt covering their homes and decks. Decker said they had little advance notice about the project. "We only had a few weeks to get ready for the first public meeting," he said.

"It is a health hazard, and it is ugly," Romich told *CJ*. She questioned why it was built next to three residential neighborhoods. She is happy the commissioners put a moratorium on solar projects but wishes they had done so before Summit Farms was built.

REPS, tax abatements

Even though the Summit Farms Solar project is in North Carolina, the electricity it generates doesn't count toward the state's renewable energy goals.

The North Carolina legislature in 2007 passed Senate Bill 3. It established a Renewable Energy Portfolio Standard requiring electric utilities to meet renewable energy purchase targets. Renewables, including wind and solar, must comprise 6 percent of the previous year's retail sales in 2015, 10 percent in 2018, and 12.5 percent in 2021.

For Summit Farms Solar to count toward a utility's REPS requirement, the environmental attributes — or "greenness" — of the energy produced at the site would have to be bought by a North Carolina power company. The attributes are measured in Renewable Energy Certificates, or RECs. One MWh equals one REC. The actual power and the RECs can be sold to different parties.

James McLawhorn, director of the Electrical Division of the Public Staff of the N.C. Utilities Commission, monitors utility company compliance with REPS. McLawhorn confirmed to *CJ* that electricity from the Summit Farms Solar project doesn't help North Carolina meet its renewable energy goals.

Nor do counties collect the full amount of property taxes from commercial solar energy systems, as they do from other commercial or industrial users. In 2008, North Carolina enacted legislation exempting from local property taxes 80 percent of the appraised value of nonresidential solar energy electric systems. Summit Farms Solar and similar projects are taxed at 20 percent of their actual value.

There's no requirement that the facility participate in the North Carolina REC program to receive the tax reduction. Currituck County Tax Administrator Tracy Sample told *CJ* the preliminary assessed (taxable) value of Summit Farms is \$30,079,090. That value is after depreciation and the 80 percent exclusion in assessed value allowed under state law.

"Based on our current tax rate of [48 cents per \$100 valuation], the [latest year] amount of tax due the county will be approximately \$144,379," he said. Total property tax levies for Currituck County were about \$30 million for fiscal year 2015-16. *CJ*



"We as a board felt the need to better protect the county in any future solar array projects by reviewing our current standards and getting input from our citizens as to where and how we approve future sites and what they will look like."

- Bobby Hanig
Currituck County Commission Chairman

UNC campuses no longer free-speech zones?

Continued from Page 1

ual Rights in Education, a nonpartisan research and litigation organization.

The study showed that 15 out of 16 UNC schools violated speech rights in some form.

In 2016, FIRE rated 449 public and private higher-ed institutions nationwide in three categories: red light, yellow light, and green light. Red- and yellow-light schools enforce unconstitutional policies that violate or abuse open speech. Green-light schools uphold First Amendment rights.

The report scrutinizes a university's harassment, bullying, protest, and tolerance policies, among others.

When H.B. 527 passed, only one UNC campus, Chapel Hill, ranked as a green-light school. Eleven others were ranked yellow, and the remaining four were designated red.

During an April meeting of the House Committee on Education-Universities, Democrats challenged the validity of FIRE's report. They asked why, if campus speech policies are indeed so constrictive, more people haven't complained.

Speech violations, while not widely publicized, are very real, said Anna Beavon Gravely, state director for Generation Opportunity, a nonpartisan Millennial group.

For one, students fear the consequences of speaking out.

Gravely, who works extensively with UNC campuses across the state, told *CJ* students often accept speech suppression and fail to defend themselves because they don't want to jeopardize their academic standing.

For another, universities so entrenched in social norms fail to inform students of their rights to speech.

"People feel like this is a solution in search of a problem. ... In reality this is a problem that has been glossed over for so long it's to the point that students are not in touch with what free speech actually is," Gravely said. "Like going to campus and thinking that you can't speak about issues you care about unless you're in a specific space [on campus]."

A speech violation isn't always as conspicuous as the Grace Christian Life lawsuit. Sometimes a First Amendment violation can be as small as a professor dissuading students from voicing their opinions in class. University professors and guest speakers face intimidation and harassment during public appearances, as well.

UNC leaders aren't exactly opposed to H.B. 527, but they, too, see the legislature's plan as unnecessary and complicated.

Free speech is valued and protected on each of the state's 16 University of North Carolina campuses, said Tom Shanahan, general counsel for the

This is a problem that has been glossed over for so long it's to the point that students are not in touch with what free speech actually is.

- Anna Beavon Gravely
State director for Generation Opportunity

UNC Board of Governors and President Margaret Spellings.

The school doesn't need to bulk up on its speech protections, Shanahan told the House committee.

Lawmakers worked closely with UNC officials to reach a compromise on portions of the bill that would have lawsuits against the university, Shanahan later told *CJ*. While that part of the bill was removed, the legislation isn't perfect, he said.

Some of the legislation's language is too broad, and the bill appears not to protect dissenting speech, said Susanna Birdsong, a spokeswoman for the American Civil Liberties Union.

"We think [the bill] simply leads to more litigation and ultimately less clarity around what is and is not permissible," she told *CJ*.

The ACLU values the right to speech, but universities don't need First

Amendment policing from the bureaucratic Board of Governors, she said.

"We do believe that the UNC system and North Carolina colleges in general are effectively protecting speech on their campuses today and that there are existing remedies that are working well when they don't do that."

But, said Alrutz, some university speech policies, however well intentioned, often carry unintended consequences.

N.C. State's speech policy was a nonissue until it was aimed at Grace Christian Life.

"Everyone could be affected depending at the time on who is using the policy. ... We all have viewpoints, and we all have opinions, so if there's an arbitrary policy, it's going to be used unjustly."

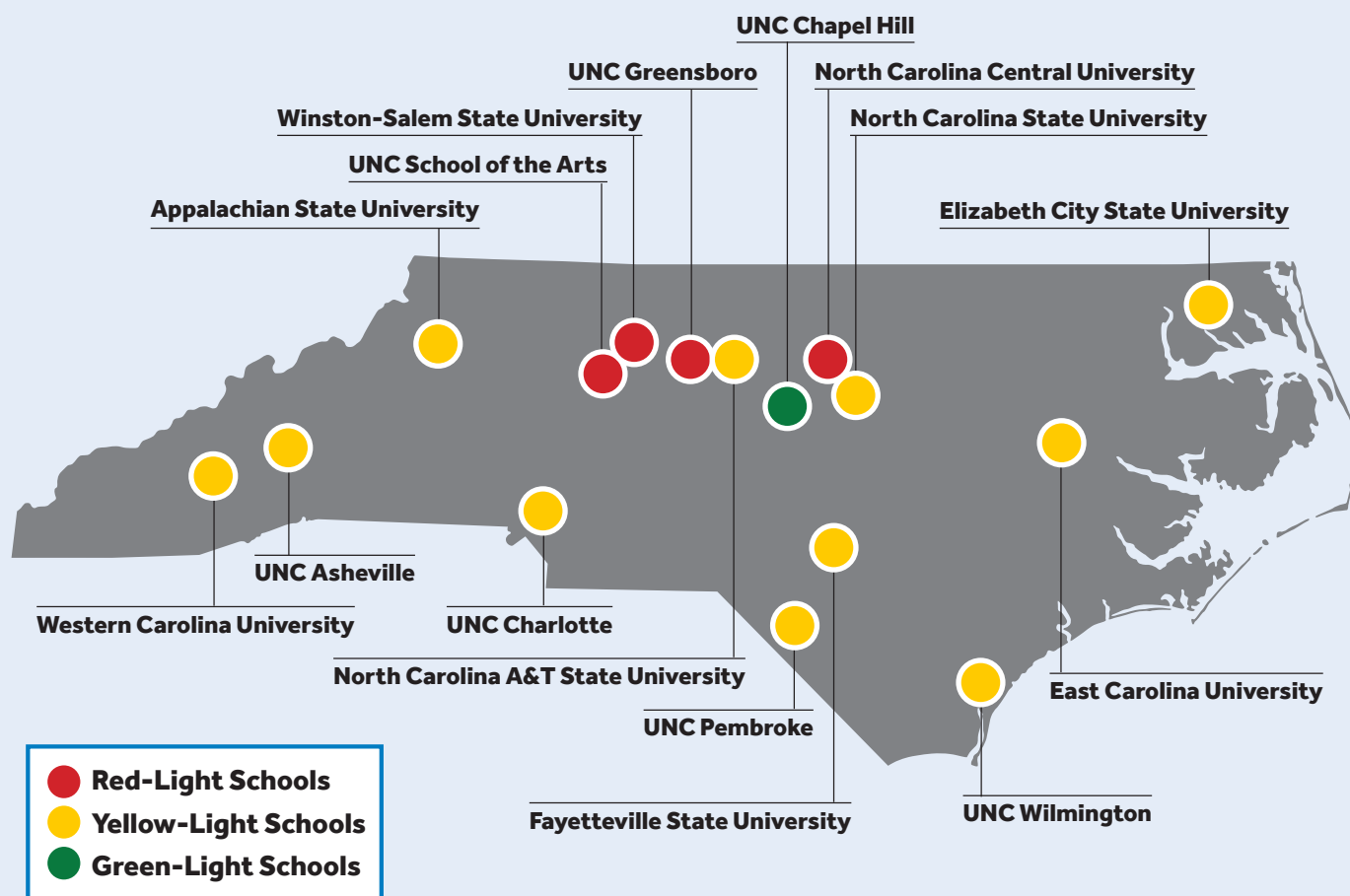
Grace Christian Life just happened to be the group that brought that policy to the surface, proving that no one can anticipate when or how free speech may be threatened on a public campus.

Which, she says, is why free-speech protections are vital.

"There's always a need. Always a need for more." *CJ*

UNC System Free Speech Rankings by Campus

The **Foundation for Individual Rights in Education**, a nonpartisan research and litigation organization, in 2016 rated 449 public and private higher-ed institutions nationwide in three categories: red light, yellow light, and green light. Red- and yellow-light schools enforce unconstitutional policies that violate or abuse open speech. Green-light schools uphold First Amendment rights.



Case studies in 'free speech'

What follows are examples of efforts to quell commentary at both public and private university campuses throughout North Carolina.

2009: The speaker

Shattered glass and pepper spray polluted the scene of a UNC-Chapel Hill protest that shut down a 2009 speech from former U.S. Rep Tom Tancredo, R-Colo., who opposes illegal immigration.

In a wild altercation with police, protesters yelled profanities, chanted over Tancredo, and even blocked him from view with a large banner held across the stage.

Demonstrators outside the lecture hall pushed to breach the overflowing room. Police cleared the crowd using pepper spray and taser threats. One protester shattered a window, forcing Tancredo from the room.

The speaker was invited back in 2010, and he made a 90-minute speech without violent disruption. But nearly 100 students staged a silent walkout a few minutes into the talk.

2015: The professor

In 2015, Altha Cravey, geography professor at N.C. State University with a history of liberal activism, was told by campus police to remove a controversial protest sign from her office window.

Law enforcers defended the action based on a university policy that mandates what can and can't be posted around campus. However, officials later conceded that the policy was taken too far and shouldn't have been applied to Cravey's case.

2016: The Ben Shapiro incident

Another UNC-Chapel Hill incident in 2016 saw conservative author and editor Ben Shapiro face protest from Black Lives Matter and LGBT student groups during his speech. Protesters stood up and silently walked out of the meeting just five minutes into Shapiro's talk on "the Left's obsession with race." Conservative audience members jeered as the other students left the room.

Chapel Hill's Young Republicans group, who sponsored the event, later argued that heckling the other side was justifiable due to the Left's lack of tolerance.

"If [protesters] want to talk with us in a respectful tone, we're open to that. If they don't want to do that, we're just going to yell right back," Frank Pray, a Republican group leader, told *CJ*.

2016: The Board of Governors and President Spellings

Disruptive protests spiraled out of control in 2016 after the UNC Board



Political commentator and author Ben Shapiro addresses a group of students at UNC-Chapel Hill on March 30, 2016. (Photo by Kari Travis)



Student protesters rallied against the selection of Margaret Spellings to lead the UNC system. (Photo by Kari Travis)

of Governors elected former U.S. Secretary of Education Margaret Spellings president of the UNC system.

After firing UNC President Tom Ross, a Democrat, the board hired Spellings, a Republican, to replace him. Critics said the Board of Governors trampled normal procedures when it removed Ross. Then-board Chairman John Fennebresque, who orchestrated Ross' firing without the input of the full board, resigned his post immediately after Spellings' election.

The months following were filled with strife, which emanated from students and faculty members.

During one meeting in early 2016, a protest turned violent when students erupted during board proceedings. Pro-

testers swarmed the board's conference room table, chanting, shouting, and banging the gavel until they were removed forcibly by police. Four students were arrested. One was charged with assault against a law enforcer.

The altercation followed a Dec. 2015 faculty protest during which a group of professors began shouting demands during a board meeting. Those protesters were escorted from the room peacefully by law enforcers.

Students and faculty members claimed the board violated their right to protest, but the state's Open Meetings Laws stipulate that — while individuals have the right to demonstrate in silence during public meetings — disrupting proceedings is prohibited.

2017: Private universities and the Shannon Gilreath incident

The First Amendment doesn't govern private colleges and universities, making it tough for professors and students to tout unpopular views.

Shannon Gilreath, a professor of law and of Women's, Gender, and Sexuality Studies at Wake Forest University, came under fire in January 2017 for penning a highly controversial op-ed published by the *Washington Blade*, a national LGBT news source.

"Europe's Islam problem and U.S. immigration policy" called Islam a threat to LGBT rights and stated that the gay community "must not risk an open door to an ideology that imperils our most cherished values — and our lives."

Outrage followed.

Gilreath, who is a self-professed radical liberal, received hundreds of letters from members of the public, some of which contained death threats.

On campus, the pushback was less extreme.

On-campus protesters called Gilreath racist. Two faculty members from the women's studies department wrote an op-ed dubbing him an Islamophobe.

University administrators made no attempt to shut him up or stifle his views.

Anti-intellectualism reigned, Gilreath told *Carolina Journal*, stating that protests were a bandwagon faculty effort to enrage students without giving them context for his philosophies.

"I am well known as a leftist. ... In my case in particular, I thought it was extraordinarily unintelligent that faculty members would take a few hundred words of a newspaper op-ed as the universe of my work."

Gilreath has written many controversial articles, including one that called the Roman Catholic church a terrorist organization. No one has ever ripped into him about that, he said.

"There is such a demand for orthodoxy, it seems, on the Left," he said. "Even though I'm predictably progressive on most issues, when I dared to step out of bounds, from their perspective I was immediately a pariah."

Tenure provides security for professors at private colleges, but students have far fewer speech protections. Additionally, most students who are educated from a polarized viewpoint don't understand the importance of respectful debate, he said.

"When you put that sort of lid on discourse, you create a dangerous environment where the most extreme elements of both Left and Right are the only elements in the discussion. And that's not good for anybody. It's certainly not good for democracy." *CJ*

No representation without affiliation

Before too long, unaffiliated voters are likely to surpass Republicans as the second-largest voting bloc in North Carolina. But unaffiliated voters will not be represented on the newly created State Board of Elections and Ethics Enforcement (if it eventually survives inevitable challenges from Gov. Roy Cooper). And that's OK.



RICK HENDERSON

Senate Bill 68 passed both the House and the Senate. It merges the state boards of elections and ethics into that new body. Cooper vetoed the bill. The General Assembly voted within days to override that veto. Cooper has said he'll sue to get it overturned as an unconstitutional violation of the separation-of-powers doctrine.

I'm not going to get into the details about the merits of Cooper's arguments. They're serious.

Instead, what was silly was the consternation expressed, primarily by Democrats during debate over the bill, about the absence of unaffiliated voters on the new state board. Several noted that — of roughly 6.7 million registered voters in North Carolina — there are only 30,000 more Republicans than unaffiliateds, 0.4 percent of total registration.

And yet Republicans and Democrats have equal representation on the new eight-member state board, four members nominated from each party.

If the GOP effectively became a third party in North Carolina, critics asked, why should Republicans hold equal sway with Democrats on a panel charged with supervising elections while unaffiliated voters held none?



Voters choose not to join a political party for a host of reasons. Some, perhaps many, for example, think the two major parties are too rigid ideologically. (CJ photo by Kari Travis)

The simple (and correct) answer is that there is not an Unaffiliated Party in North Carolina. It has no chairman, executive committee, staff, or headquarters. The governor could not request a list of nominees from nonexistent party officials. There's no one to take a call, receive an email, or open a letter.

You may think this is fundamentally unfair. But guess what? That's the way the current State Board of Elections operates. Unaffiliated voters aren't guaranteed representation on the state board or on county boards. The new law would not change that situation.

Also, unlike a myth that swirls around the growing number of party-less voters, the unaffiliateds aren't necessarily moderates or centrists who can't find an ideological home. They tend to vote Republican — for now.

You see that in election results. While Democrats outnumber Republicans by nearly 10 points in total

registration (39.2 percent to 30.4 percent), last year Republicans won more partisan statewide races than Democrats. The GOP won races involving U.S. Sen. Richard Burr, six of the 10 seats on the Council of State, and all five open seats on the state Court of Appeals.

If unaffiliated voters were divided evenly, Democrats would have won many more of those contests.

That said, there are unaffiliated voters who think the Democrats aren't left-wing enough, and the Green Party's not on our ballot, so those voters don't have a home. Other unaffiliateds think the GOP isn't far enough to the right, and they won't register as Libertarians because they disagree with that party's stance on, say, social or national defense issues.

Still others aren't "joiners," at least not yet. The Carolina Population Center's survey of voter registration patterns by age showed 36 percent

of Millennial voters were unaffiliated, the largest percentage of any age group. Moreover, 52 percent of unaffiliated voters first registered in North Carolina in 2010 or later, compared to 33 percent of first-time registrants who chose the Democratic, Libertarian, or Republican parties.

But to steal from an old American Express commercial, "Membership has its privileges." If you register as a Democrat or a Republican, you have some capacity to influence the direction of your party's agenda and priorities. You also have the prospect of serving as a representative of your party on any number of oversight boards, including your county or state elections/ethics board.

If you're unaffiliated, you're out of luck.

And that's OK, too.

Voters choose not to join a political party for a host of reasons. Some, perhaps many, think the two major parties are too rigid ideologically. Others want the freedom to choose one party over the other during primary elections, when they're allowed to request a Republican or Democratic (or Libertarian) ballot without joining one of the parties. Others may not want to be bombarded by political mailings from groups affiliated with the major parties and those issue-advocacy outfits that rent party mailing lists.

But here's a thought. If you want to participate in electoral politics, and are turned off by the ideological rigidity of the political parties, you're more likely to modify a party's thinking by working inside it rather than shunning it. The adage applies about it being better when you're inside the tent rather than outside it.

Rick Henderson is editor-in-chief of Carolina Journal.

CJ

JONES STREET GEMS

You want wacky? I'll show you wacky

House Democratic Leader Darren Jackson, D-Wake, was no fan of Senate Bill 68. During House floor debate he strenuously objected to a provision requiring state political party chairmen to present a list of candidates from which to nominate members to the new North Carolina Bipartisan State Board of Elections and Ethics Enforcement.

How could a governor ensure the people being recommended to him are competent, and would not be possessed of wacky ideas to interfere with elections, if the governor does not have the authority to devel-

op his own list of trusted nominees, Jackson asked, apparently hoping to demonstrate the foolhardy nature of the bill.

"I don't believe the parties would have an interest in sabotaging the election process," said Rep. David Lewis, R-Harnett, chairman of the Elections and Ethics Law Committee, noting that a similar process already is used. Then he turned the tables on his opposition party antagonist.

"The only person I've heard advocate for doing away with elections was former Gov. [Bev] Perdue," Lewis said.

In 2011, with the country mired in economic doldrums, and Congress at an impasse to work together on jobs bills, Perdue made this eyebrow-

raising comment that drew national ridicule:

"I think we ought to suspend, perhaps, elections for Congress for two years, and just tell them we won't hold it against them, whatever decisions they make, to just let them help this country recover."

Casting spells and aspersions

Rep. Bob Steinburg, R-Chowan, makes no bones about it. He is beguiled by the solar energy industry.

And he was in high dudgeon during a House Committee on Environment meeting at which state Rep. Jimmy Dixon, R-Duplin, presented House Bill 319. The measure would authorize the state Environmental Re-

view Commission to study whether environmental regulations are needed for the solar energy industry's utility-scale facilities to prevent ground and water damage.

"I'm concerned about witch hunts," Steinburg said, at one point accusing Dixon of such tactics. The solar industry already provided its own hand-picked experts to assuage doubts about operation safety and de-commissioning, he said.

Dixon should remember because he was a member of an interim committee at which the reports were given, Steinburg said. "You don't recall?"

No, the slow-talking, sharp-tongued Dixon responded, he was not at that meeting. "I was on a witch hunt."

CJ

Rainy-day rules attract near-unanimous support

Lost beneath headlines highlighting the rancorous repeal of House Bill 2, N.C. lawmakers took another vote on the same day that could produce major long-term positive benefits for state government finances.

With no fanfare, the N.C. House voted 111-2 to accept the Senate's version of House Bill 7. It establishes new rules regarding North Carolina's savings reserve. The Senate had approved the measure, 49-0.

This means members of both major parties in both legislative chambers agree that North Carolina should establish significant restraints on spending.

The timing is commendable. Recent legislative history explains why.

Since Republicans took control of the General Assembly after the 2010 elections, they have focused special attention on building the reserve, also known as the "rainy-day fund."

That focus proved fruitful when lawmakers had resources available to use in December. The savings reserve covered roughly half of the first round of disaster relief related to Hurricane Matthew and western wildfires.

Even with a change in administration from Republican Pat McCrory to Democratic Gov. Roy Cooper in January, an emphasis on building the savings reserve remained. Cooper's budget plan would add another \$300



MITCH KOKAI

Members of both major parties in both legislative chambers agree that North Carolina should establish significant restraints on spending.

million to the reserve. He included that provision even as he called on lawmakers to ramp up spending in other areas.

Lawmakers have exercised more frugality in recent years. The new governor sees the benefits of boosting reserves. So one might be forgiven for concluding that there is no compelling need for House Bill 7.

But now is exactly the right time to make the change. Lawmakers face no significant pressure to sacrifice long-term fiscal health for short-term political benefits. Establish the restraints now, and they will help North Carolina weather the next fiscal storm. (Yes, the pun is intended.)

The legislation builds several safeguards into the rainy-day reserve. First, the governor and legislative budget writers must consider the reserve any time state government expects to benefit from year-over-year tax revenue growth. At least 15 percent of that growth must go into the reserve.

Lawmakers would be free to set aside more. They also would face no requirement to build the reserve if an economic downturn leads to a decline in year-over-year revenue growth. But the 15 percent "default setting" would ensure that policymakers avoid the temptation to spend all of the money flowing into the state treasury during good times.

As H.B. 7 sets rules for adding to the reserve, it also limits the uses for

which lawmakers can tap the fund. North Carolina had been one of the few states across the nation with no limits on spending from savings reserves. Taxpayers have been forced to rely on legislators' fiscal discipline.

Now that discipline has an outside enforcement mechanism. Under the new law, a simple majority of lawmakers in both chambers would be able to extract in a single year as much as 7.5 percent of the prior year's General Fund budget (roughly equivalent to \$1.6 billion now) to address one of four pressing needs.

The money could cover a decline in General Fund revenue from one year to the next. It could cover a gap between General Fund spending and revenue in a given year. It could pay costs linked to a court or administrative order. Or it could pay for disaster or emergency relief, such as the literal "rainy day" created by a hurricane.

If lawmakers want to spend more than the 7.5 percent annual limit, or if they want to spend money for issues other than those listed in H.B. 7, they would need to secure votes from two-thirds of the members of both the House and Senate. That's an even larger supermajority requirement than the one tied to gubernatorial vetoes.

Fiscal hawks are likely to ask: How do we ensure the savings reserve doesn't grow too large? What about

giving some of that money back to the taxpayers?

H.B. 7 covers that issue, albeit in a somewhat complicated way. The governor's Office of State Budget and Management and the legislature's Fiscal Research Division will huddle together and produce an annual evaluation "of the adequacy of the Savings Reserve." It will be based on the volatility of the state's tax structure.

The goal will be to stockpile a reserve that would "cover two years of need for nine out of 10 scenarios involving decline in General Fund revenue" from one budget year to the next. Advocates want to ensure North Carolina has the funds to cover a worst-case fiscal scenario.

Legislators developed that language based on a model employed in Minnesota. Supporters suggest that the formula would likely lead to a savings reserve totaling roughly 13 percent of the General Fund budget. That percentage could change from year to year.

Once North Carolina reaches its goal, no more money would be added to the savings reserve. Not even the 15 percent of year-over-year revenue growth. Lawmakers would be free to spend the additional money or return it to taxpayers through tax cuts.

It's not surprising that this complex mix of numbers failed to generate the same buzz as the political fight over H.B. 2. But it's good to know that lawmakers set aside time on their calendar to address this issue.

Taxpayers should reap the rewards in the years ahead. *CJ*

Mitch Kokai is senior political analyst for the John Locke Foundation.

JONES STREET GEMS

What's in a number?

What do Rep. Becky Carney, D-Mecklenburg, and apparel hanging from the rafters at sports arenas have in common? Read on.

House Bill 2, a measure to approve state funding to help offset local property tax abatements for disabled veterans, and widows and orphans of first responders, was being debated in the House Finance Committee. Carney queried bill sponsor Nelson Dollar, R-Wake, about the pejorative nature of the bill number that has taken on a toxic connotation in many circles.

"Did you give this any serious consideration of taking the number H.B. 2?" she asked deadpan, with the implication clearly being a reference to the so-called bathroom bill from 2016 that rocked the state.

"I wanted to get this bill in early," Dollar said in a matter-of-fact tone. "But just to answer that question, in the short session, back in December,

the relief bill for Hurricane Matthew was H.B. 2. I don't ascribe meanings to numbers."

"Well, Mr. Chairman," Carney said wryly, "maybe we ought to consider, as they retire jerseys in sports, maybe we ought to retire H.B. 2 from bill filing."

Floyd and Jerry, Fred and Ginger

As a retired school administrator, it is understandable that Sen. Jerry Tillman, R-Randolph, is a vocabulary watchdog. While conducting a Senate Finance Committee meeting on Senate Bill 325, the Republicans' \$1 billion tax cut package, Tillman and his frequent Democratic foil, Sen. Floyd McKissick, D-Durham, engaged in some friendly word play in the midst of tense debate.

McKissick wanted to know the financial impact of the tax cut on the state budget. In the process, he com-

mitted what seems to be a frequent mispronunciation among lawmakers of the word "fiscal."

"Sen. McKissick has been here a long time, and he's had a good idea now and then. Could you tell me, is that a physical impact, or a fiscal impact? How do you spell that?" Tillman turned and asked Fiscal Research Division staff member Rodney Bizzell.

"I believe it's f-i-c," Bizzell began to say, at which point laughter erupted from the amused meeting room.

That prompted McKissick to retort with a line from a George Gershwin cinematic tune made famous by Fred Astaire and Ginger Rogers: "You say tomato, I say to-mah-toh, let's call the whole thing off."

On second thought

Rep. Grier Martin, D-Wake, was in a huff that Republicans stripped language out of Senate Bill 68 to cre-

ate a recognition program honoring school attendance and replaced it with a bill to merge the State Board of Elections and State Ethics Commission, a renewed effort to fix a previously passed law struck down in court.

"No senator has, as far as I'm aware, passed this language," even though it is a Senate bill, Martin said. Under legislative rules "the Senate will not have a chance to amend it. They'll have a chance to vote up or down on concurrence," he said.

"Now, generally, I don't really care for the Senate's input on anything. But unfortunately our constitution does contemplate that they do have a voice, whether they deserve it or not," Martin said.

Upon quick reflection, he said with a sheepish smile, "I don't think I have any chance of getting any bills through the Senate now." The bill didn't have any chance of getting past Gov. Roy Cooper, either. He vetoed it. *CJ*

Commentary

Concerns raised over dual enrollment program, possible misconduct

Each year, roughly 1.4 million high school students take college courses. This is made possible by dual enrollment programs, which give those students opportunities to earn credits and work toward a college degree or technical vocation. More than 70 percent of courses are offered by community colleges.

Such programs were praised recently by the Department of Education for expanding higher education “access” and helping students in terms of “credit accumulation.” But others have suggested college administrators exploit dual enrollment programs to increase tuition revenue, and some argue the courses often are dumbed down.

A report by City University of New York noted dual enrollment programs’ “limited oversight of academic rigor” and “low or uncertain academic quality.”

Additionally, it seems many community college administrators view these programs mainly as revenue generators. According to a 2016 study by the American Association of Collegiate Registrars and Admissions Officers, 59 percent of surveyed institutions said they use dual enrollment programs to meet their enrollment goals.

Recently, concerns over dual enrollment have been raised at Cleveland Community College in Shelby. The

school’s problems, however, may go beyond dual enrollment; they appear to extend to issues involving improper college governance, lack of oversight, and lack of transparency.

First, let’s look at the dual enrollment program. All 58 of North Carolina’s community colleges participate in a program called Career and College Promise. In the 2013-14 academic year, state funding for the program totaled nearly \$57 million.

The program’s “Career and Technical Education” pathway stipulates, to be eligible, a prospective student must have a 3.0 high school grade point average or have permission from his or her principal. Additionally, students must take an assessment test (called PLAN) to demonstrate college readiness in English, math, and reading.

Now-former Cleveland Community College instructor Ginger Bullock, in an interview, argued that many ill-prepared high school students are allowed to take college courses, and that leaders at her institution ignore the problem because of an obsessive focus on increasing enrollment.

Last summer, Bullock was assigned to teach at a local high school. After looking into the program, Bullock learned that, in one dual enrollment course, nine out of 14 high school students had GPAs below 3.0; one GPA was a 1.7.

Bullock says she told several administrators that she could not participate in something she believes harms students. She claims that they brushed aside her concerns.

Shortly after, Bullock was terminated. The stated cause was “refusal to accept one’s work assignment.” She appealed her termination twice and

In one dual enrollment course, nine out of 14 high school students had GPAs below 3.0; one GPA was a 1.7.

was denied both times. She is waiting for CCC trustees to hear her case.

As mentioned earlier, CCC’s issues may not be limited to those involving the dual enrollment program. For example, a former IT employee, Mike Falls, wrote a letter to CCC trustees in December listing allegations of fraud, employee intimidation, data security risks, and even illicit behavior by the administration.

It seems that trustees were mostly dismissive of Falls. The board never interviewed him during its review of his allegations. Ultimately, board members concluded Falls’ other allegations were “resolved” or not true, but it appears that they heard only one side of the story—the administration’s.

Another case of possible misconduct involves a \$13.2 million Department of Labor grant, awarded to CCC in 2013. In a Martin Center interview, the grant’s former project manager, Mitch Sepaugh, alleged that he was terminated after criticizing Executive Vice President Shannon Kennedy for misusing the grant.

Although it’s possible some of these allegations may be unfounded, it’s troubling trustees seem to regard them merely as the complaints of a few

“disgruntled employees.” Such accusations should be taken seriously, and the individuals making them should be protected as potential whistleblowers and given a fair hearing.

In the case of the state’s dual enrollment program, such wrongdoing could impact more than school employees such as Ginger Bullock. High school students may be lulled into a false sense of academic accomplishment, only to learn later they really aren’t prepared for more rigorous college coursework or career training. Those underprepared students are most likely to drop out and struggle with college loan debt.

If trustees aren’t willing to investigate potential whistleblower claims fully, which seems to be the case now, the onus is on North Carolina’s State Board of Community Colleges and other higher-level policymakers to do so. If that doesn’t happen, innocent college instructors may be mistreated, students may end up shortchanged, and taxpayer funds may be wasted on questionable or poorly managed programs. CJ

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

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COMMENTARY

How the academy is failing feminism

Christina Hoff Sommers, also known as YouTube's "Factual Feminist," recently spoke at UNC-Chapel Hill. The former philosophy professor and author of *Who Stole Feminism: How Women Have Betrayed Women*, lamented how, in her view, the academy is radicalizing feminism and robbing women of their intellectual freedom.

Sommers, now a resident scholar at the American Enterprise Institute, believes in what she calls "equity feminism," which "stands for the moral, legal, [and] social equality of the sexes."

But Sommers argues the current feminism taught in most universities is a radical distortion of equity feminism known as "intersectional" feminism.

This new brand of feminism focuses on the intersection of race, class, and gender. Its overarching message is that certain groups (here, women) are

systematically oppressed by a more powerful group (here, white men).

Intersectional feminism, according to Sommers, does not educate college women about their human dignity. Instead, its narrow focus on systematic oppression encourages them to feel victimized and resentful toward men.

It wasn't until the early 1990s that Sommers became aware of the dubious turn feminism had taken. Around that time, she was asked to teach a feminist theory class at Clark University. After reading the assigned textbooks, she said she realized they were one-sided and propagandistic.

Sommers argues that today things have gotten worse. Only a "fanatical" form of feminism is being taught, and anyone who disagrees is demonized. Instead of encouraging students to think for themselves, the university is telling them what to think.

It is evident universities are heavily promoting intersectional feminism. The National Women's Studies Association, for example, says it is committed to intersectional scholarship and fighting "systems of privilege or structures that oppress."

In North Carolina, Chapel Hill's

women's and gender studies students recently attended a conference that promoted "intersectional approaches" to oppose "interlocking systems of oppression." And UNC-Greensboro's WGS department hosted an event on April 22 "dedicated to ... engaging in meaningful conversation around systemic oppressions."

Nationally, this focus on how women are "systematically oppressed" may be causing students and academics to react with hostility toward opposing views.

As a guest speaker at Oberlin College, Sommers was provided with a security escort due to student hostility. Such closed-mindedness is not limited to students, however; Sommers said that when she presented a paper at an American Philosophical Association meeting, audience members stomped their feet and hissed at her.

Intersectional feminism's oppression mania may be influencing other aspects of higher education. Today, for example, universities urge women to enter fields in which they allegedly are "underrepresented," such as science, technology, engineering, and math.

But according to the Ameri-

can Physical Society, women make up about 60 percent of biology majors. Additionally, women made up between 45 to 50 percent of medical school graduates between 2012 and 2016. Clearly, women are not so oppressed that they can't enter difficult fields of scientific study.

Although men greatly outnumber women in physics and engineering, perhaps women tend to be interested in different areas of study. But to even suggest this as a possibility provokes accusations of being "anti-woman" or even "nonwoman," as Sommers says she is sometimes labeled.

It appears modern feminism desperately needs greater intellectual freedom. It is now dominated by academics who aggressively promote theories of oppression, giving short shrift to other concepts, such as equity feminism, which Sommers says is now "a relic of the past." Until this climate changes, those who question intersectional feminism will either be silenced or forced to look elsewhere for a more open intellectual environment. *CJ*

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



SHANNON
WATKINS

COMMENTARY

Are smartphones making teens dumb and dumber?

Smartphones are teenagers' constant companions. The last thing teens check at night before drifting off to sleep, phones occupy pride of place in the morning routine, too. Even pillow talk — the digital kind — is common:

Many teens sleep with their phones, maintaining 24/7 accessibility for Snapchats, texts, and status updates. Electronic blue light is the 21st-century night-light.

Media multitasking has thus become a near-universal part of adolescence. There's much to be said for encouraging technological savvy and agility. Teens face a lifetime of digital skills acquisition. Workers know: It pays to be nimble. Literally.

Yet mounting evidence shows constant connection comes with a high cognitive cost. It isn't making teens smarter, and it's crowding out things that could.

A reality check on time costs

alone: Teens now average nine hours daily with recreational media, according to Common Sense Media survey data. Most aren't coding or blogging; "content creation" consumes just 3 percent of teens' digital media time. The primary focus? Entertainment and connection.

Many teens don't even disconnect for schoolwork. Half use social media and 60 percent text while doing homework, found Common Sense Media. A majority believe multitasking doesn't compromise their work quality.

Oh, but they're wrong. A 2016 study led by cognitive neuroscientist Matthew Cain, published in *Psychonomic Bulletin & Review*, linked heavy media multitasking in adolescents with lower standardized test scores. Frequent multitaskers also demonstrated greater impulsivity and poorer working memory — showing less capacity to retrieve recently-viewed information.

A 2015 University of Connecticut study, published in *Computers in Human Behavior*, found in-class college multitaskers had lower grade point averages; multitasking also increased homework time. Another study from Kent State University researchers found that college students with higher

daily smartphone use had significantly lower GPAs — even compared to students of similar academic ability.

Such studies extend earlier findings from psychologist Larry Rosen of middle, high school, and college students. Texting was the top homework distractor; checking social media while studying was linked with a lower GPA, Rosen found.

"Multitasking is a cognitive impossibility," says Melanie Hempe, nurse, mother of four, and founder of the Charlotte-based organization Families Managing Media. Hempe, who conducts workshops for schools featuring brain research on screens and learning, adds, "When a child has a phone on their desk, it puts them in a different mind set. It puts them one foot in and one foot out."

Rote work, such as folding laundry, is ideal for multitasking. But complex tasks, such as learning the quadratic formula, require sustained attention. Attempting two complex tasks simultaneously results in "task-switching," not "multitasking," research affirms.

This is a critical cognitive reality for informing learning, especially since classrooms often team with

distractions. Some school districts have implemented "bring-your-own-device programs," but scant evidence supports using personal devices such as smartphones in classroom learning. A recent London School of Economics study found test performance in British schools actually rose following a ban on phones. Overall, evidence supports technology integration in classrooms — but with an emphasis on quality, not quantity.

At home, parents can create time and space for real learning. One simple strategy: Separate teens from their phones for homework. Younger teens completing homework on tablets and laptops may need regular monitoring to ensure they're on task. Parents can also encourage timeless, brain-boosting pursuits such as recreational reading. And at bedtime? Phones and teens recharge best apart.

The mother of two teenagers, I can attest to the efficacy of these strategies for improving rest and learning. Outraged teens might claim you're ruining their lives. Mine did. But their bodies and brains will tell you otherwise. *CJ*

Kristen Blair is a Chapel Hill-based education writer.



KRISTEN
BLAIR

N.C. tax reforms offer national example for other states to follow

RALEIGH

North Carolina has seen significant tax reform at the state level in recent years. Policy experts and politicians outside the state are taking note. Joseph Henchman, vice president of legal and state projects at the Tax Foundation, touted N.C. reforms during a recent speech for the John Locke Foundation. Henchman also discussed state tax burdens with Mitch Kokai for Carolina Journal Radio. (Head to www.carolinajournal.com/radio/ to find recent CJ Radio episodes.)

First of all, remind us what is it about North Carolina's tax reforms in recent years that really is noteworthy.

Sure. Well, if I could put it one word, it would be "structure." Lots of other states cut taxes. Lots of other states raise taxes. But what made North Carolina's reform so special and so important is that it was a structural reform. The state really hadn't updated its tax code for decades. And, of course, the economy has changed. The people have changed. The direction the state was going had changed, but the tax code had just not kept up. The reform tackled all areas of taxes in an attempt to reorient the tax system toward what makes a state competitive in today's economy.

And why is such a structural change more important than just cutting taxes?

They're both important, but I think structure is important because it makes sure that you're geared up for the economy of the future and, really, the economy of the present, in fact. So North Carolina's tax system, before the change, was very much oriented around a textile manufacturing economy, which worked for the state when the economy actually looked that way.

Those still remain important sectors of the economy, but today there's also the service sector. There's the health care sector. There's the financial services sector. And all of those were just kind of left out of the tax code.

Why that matters is because if your tax code is geared toward an economy that doesn't exist anymore, then there's a danger that you're harming additional investment and additional job creation in those new sectors.

The worst example of that was and is Michigan, which essentially designed a tax code around the automobile industry. So it was very punitive to all other types of business and all other types of economic activity, in order to benefit that industry and ensure that it stayed in Michigan — at least from a tax perspective. But when other economic factors led to that industry's decline and collapse, Michigan was really left with nothing. And we wanted to make sure North Carolina wasn't in that type of situation.



Joseph Henchman, vice president of the Tax Foundation, praises North Carolina's recent tax reforms during an April 17 speech at the John Locke Foundation.

Now, the Tax Foundation looks at the state tax systems across the country, ranks them, and North Carolina has actually seen some tangible benefits from these changes, hasn't it?

Yeah. And it's a ranking we do annually in our State Business Tax Climate Index. It's not perfect, but it's an attempt to gauge how competitive a state's tax system is. We look at over 100 different variables, in all the different types of taxes, and compare them against each other.

Before the reforms, North Carolina was in the bottom 10 of states. And that just represents a historical, punitive tax system on investment, on wealth, that just went along with a lot of North Carolina's neighbors back in the day.

After the reforms, North Carolina has jumped significantly on our index and this year is in 11th place. So from 44th [place] up to 11th, which is the biggest jump we've actually seen in the history of our report in the 15 years we've been doing it.

We, of course, in North Carolina have been talking about this quite a bit in recent years. Are other states talking at all about what's happening in North Carolina?

They are, and I think it goes in two major tacks. One is the pressure for competitiveness. North Carolina, of course, is not the only state that's worried about its competitive environment. We may or may not have a big debate at the national level about how competitive our tax code is, later this year, when proposals for reforming the federal tax code come up.

... I think everybody is all worried about Texas, and people moving to Texas, and businesses going to Texas. That certainly was a motivating factor in North Carolina. So we see a lot of states

around Texas talking about what they can do now. It's tough to match Texas on abolishing your income tax. Usually, income taxes raise a lot of money for essential services, so you can't get rid of that completely — not without a lot of hard work. But [there are] other ways to make sure that, "Well, if you can't match Texas on income tax, what can you be competitive on? What can you do to build on a strength in the state, or at least overcome a weakness to make sure that people aren't fleeing the state for tax purposes?"

So, for instance, Tennessee is tackling an old tax on dividends and investment they have called the Hall tax. They're going to phase that out over time. Mississippi is looking at repealing franchise taxes, which are literal taxes on investment. So if you think there's not a lot of investment and capital formation going on in Mississippi, it's because they tax it pretty heavily. Louisiana is looking at structural reform. We'll see what direction they go in. They're right now at a path, and they can go for the better or for the worse. And we'll see what they do. And even Georgia, which is a state that's been pretty happy with a tax code that hasn't changed for several decades, is looking at some significant changes. So we are seeing a lot of activity all over the country.

And to some extent, are some of these people saying, "Well, look at the success North Carolina has had. Let's try to emulate that, or find our own way to get there?"

I think so. So the two big increases on our report — which, again, is an attempt to try to look at how states have improved their tax systems, or worsened their tax systems over time — have been North Carolina and Indiana. North Carolina and Indiana are different from other states in that they have all of the major taxes. You have proper-

ty taxes, income taxes, sales taxes, corporate income taxes. It's not like Wyoming, which just doesn't have taxes.

So you have them all in North Carolina, but they're all broad-based and low. The goal being to try to get them to apply to as many people as possible, so everybody's pitching in, but at as low a rate as possible so that you're not picking winners and losers through the tax code. Instead, people are just paying what they owe. And Indiana follows the same construct. So I think a lot of states are looking at that type of structural change in order to improve their system.

And what's also important about North Carolina is how broad-based the reform was for different types of people. Of course, taxes matter for individuals a lot, too. Not only because individuals, what they buy and sell is subject to tax, but also a lot of businesses pay under the individual code. In fact, the vast majority of businesses don't pay corporate income tax. They pay through the individual code. So the reforms on the individual side, which North Carolina and Indiana have done quite a bit of, have meant a lot for small businesses.

How do taxpayers, not only in North Carolina but across the country, benefit when these various states are looking at ways to make their tax codes better?

Let's look at the record on North Carolina, just as one example. So the overall tax change was a net revenue reduction. It was good that the state was in a position to be able to do that because it meant everybody ended up better off. Now, some people, like a middle-income family, maybe [were] only better off by a couple of dollars, but everybody ended up being better off, from the low-income to the high-income scale.

The benefit for that is that it's a little bit easier to pass it. Some states, they're just not in a revenue situation like that, and they have to make theirs to be revenue-neutral or revenue-positive. In which case, you do have to make some hard choices. There's an old saying that even a poker game is revenue-neutral, but that doesn't mean there aren't winners and losers at the table. So some interests that get a particular tax credit, or particular tax benefit, they'll lose a lot in that type of reform. So it's a lot harder to do.

Is there one particular thing you see in North Carolina's tax code that you would say, "This is what you should tackle next?"

North Carolina still has a franchise tax, similar to the one I mentioned about Mississippi, which is a literal tax on investment. Now, it's not as big as it is in Mississippi. It's a relatively light tax. I think maybe tackling that might be a good thing. North Carolina is one of only about a dozen states that still have that tax.

CJ

Obamacare repeal, replacement should preserve best of U.S. health care

RALEIGH

It's hard to read a newspaper, watch a television newscast, or listen to talk radio without hearing something about the future of American health care. As policymakers debate the merits of replacing the Affordable Care Act, or Obamacare, Tevi Troy is watching closely. Troy is CEO of the American Health Policy Institute, former deputy secretary in the U.S. Department of Health and Human Services, and an aide in George W. Bush's White House. After a recent speech for the John Locke Foundation, Troy discussed health care reform with Mitch Kokai for Carolina Journal Radio. (Head to www.carolinajournal.com/radio/ to find recent CJ Radio episodes.)

Kokai: This, obviously, is one of the big news items that we've been dealing with, really, ever since the election, when we knew that Donald Trump would be the new president. What's going to happen in the future of government involvement in American health care? As you're watching this debate, what are you focusing on?

Troy: I'm focusing on making sure that we maintain the key building blocks of the American health policy system. So, for example, 177 million people get their health care through their employers. You want to make sure that that continues. A lot of people get health care through Medicare and Medicaid. You want to make sure, to the extent that we're committing resources to meet our promises to the elderly and to the impoverished, that we have systems in place that are maintaining those systems, but in a responsible way, obviously.

I think there is too much spending and too much fraud in some of those programs, and I think they can be reined in. But you put those together, and those are the basic building blocks where the vast majority of Americans get their coverage. And then you have to worry about where are the people who've been falling through the cracks.

And that was the whole reason for the ACA, the Obamacare debate, is that too many people have been falling through the cracks: people who aren't employed, or people who don't have an employer that provides health insurance. You have to think about those people and how to fit them in, but that doesn't necessarily have to govern how the entire rest of the system operates.

I think it's shortsighted to say there's a group of people who fall through the cracks, and we're going to remake the entire system for that group. We need to focus a program, or a series of programs, or policy approaches that help those specific people without necessarily upending the entire apple cart.

Kokai: A lot of the debate these days has been about repealing and/or replacing the Affordable Care Act, or Obamacare. And some people have said, "Why not just repeal the law that was passed in 2010 and go back to what we had before 2010?" Is that even possible?

'I don't want to go back to the old system. I don't want to use the ACA. I think we need a third way going forward.'

- Tevi Troy

TEVI TROY
CEO of the American Health
Policy Institute ▶



Troy: It really isn't possible. The Affordable Care Act has a lot of problems with it: huge premium increases; I think a lot of incursions on liberty, including the individual mandate and the employer mandate; limited choices in its networks in terms of insurers falling out. So there are a lot of problems with the ACA, but there were a lot of problems with our system beforehand, including way too many people who were uninsured.

So I think there are ways to get to a more value-driven system, a system that uses our heavy spending on health care. You know, we spend about 18 percent of our [gross domestic product] on health care, which is twice what our European allies spend. And so we can use those resources more effectively to get more care to more people. So I don't want to go back to the old system. I don't want to use the ACA. I think we need a third way going forward.

Kokai: As we've heard the various debates about how to move forward, are you mainly encouraged, discouraged, [or] a mix [of the two] about what people are talking about? Are they focusing on the right things?

Troy: I'm always discouraged when things are too focused on the politics, and does this party win or does that party win. I think it was unfortunate that the ACA went forward with only Democratic votes, and that meant that this unipartisan approach didn't include Republicans.

And that's a problem because throughout our history, we've had controversies over social welfare legislation, but all previous pieces of social welfare legislation have passed with bipartisan support, which meant that the American people swallowed it afterwards and moved on and said, "OK, this is something that they agreed on in Washington, and now we're going forward."

Given the unipartisan approach of the ACA, there's now a sense that the Republicans are going to do it with no

Democratic votes. In large part because the Democrats say, "We absolutely refuse to cooperate." I would think that in President Trump, you'd have someone who Democrats might look at and say, "This guy's not a traditional Republican. Perhaps we can make deals with him." But there's been no interest thus far from the Democrats.

So I would like to see a sensible but also bipartisan approach, going forward, that really allowed the American people to say, "OK, both parties have had their say. They've worked together on this. This is the way we're going to work with our health system going forward." I'm not seeing evidence of that right now.

Kokai: One of the things that has struck me in talking to people who are experts in your field, the field of health care, is some people saying, "The Affordable Care Act spent a lot of time, a lot of political resources, a lot of money, and really dealt with health insurance, but didn't necessarily address some of the key problems in health care itself." Are we missing the boat if we're focusing only on the insurance aspect and not on things like access to care and improving the care that we have?

Troy: Yeah. The ACA said it was going to be about bending the cost curve down, but it was really based on coverage. And the ACA's proponents say correctly that more people are covered as a result of the ACA. But when you subsidize something, and you make it illegal not to do that something, then you're going to have more of it. It is just a basic fact of life.

And so by doing this focus on coverage only, I think the ACA did a disservice and didn't really look at ways to improve the system. Now, when Republicans are looking for their own approach, they obviously have to deal with what they've been handed in the form of the ACA, and that shapes their approach as well. So I think the problems, the original sin, if you will, of the

ACA continues to cause problems going forward.

Kokai: As the legislation moves forward that would change, repeal, replace Obamacare, does that mean there's still going to need to be some work done outside of that whole context to deal with American health care and government's proper role?

Troy: Absolutely. But I think that some of the key things that have to happen could be led by the private sector. I think we need to move to a more value-based health care system.

What does that mean? It means where people take cost and quality issues into account when they are making their own decisions. Right now, with a heavily third-party-based payment system, people don't think about where they're going to get their care, or where the doctors have the best prices, or where the doctors provide the best value.

If you had a more value-based system, then you would potentially be able to drive down cost and drive quality up. We've seen this in every other form of our economy. If you look at the iPhones, or if you look at TV cameras, or even radio equipment, all these things, the quality keeps going up, and the cost keeps going down because of the power of consumerism. We have not unleashed the power of consumerism in our health care system largely because of third-party payments.

Kokai: How confident are you that once this debate on Capitol Hill is concluded, we're going to end up with something better than what we have now under the Affordable Care Act?

Troy: Once you have the political process at work, I lose a lot of confidence in the ability to get better things. I think the Affordable Care Act has been extremely problematic. So I am somewhat optimistic that we'll have something better than it, but I don't think we're going to solve all the problems in American health care with government action. CJ

COMMENTARY

Sort through the numbers to learn the facts

There's a lot of rhetoric out there, but numbers keep policy discussions honest. We've heard complaints about teacher salaries, which have left us with a shortage. Not true. Between 2010 and 2016, 11,936 out-of-state teachers came here while 4,050 left for another state. North Carolina had a *net gain* of nearly 8,000 teachers. Efforts since 2013 have resulted in bringing the annual average pay in the \$50,000 range, with promises to increase that to about \$55,000.

Opponents of opportunity scholarships and charter schools say school choice hurts education. But more than 1,200 low-income students attended a private school the first year opportunity scholarships were available. This year, 6,200 students are being served, and nearly 23,000 students have submitted applications since 2014. Applications to the 420 registered private schools far outweigh available slots. Last year, the General Assembly committed funding for 2,500 additional scholarships per year for the next 10 years. Parents offer the ultimate accountability.

New legislation reduces the seats on the state Court of Appeals from 15 to 12. This would not be the first time for changes. The court had six members in 1967. That increased to nine in 1969, and to 12 in 1977. In 2000, it increased to 15. The court's workload has decreased 22 percent between 2006 and 2016.

Here's another example. Tax cuts implemented since 2011 have benefited millionaires and corporations at the expense of everyone else. False.

In 2011, the sales tax was rolled back, giving everyone a break — \$1 billion of relief, benefiting low-income earners the most.

Since 2013, North Carolina's personal income tax has gone from three progressively higher rates to a flat tax rate of 5.499 percent. In addition, the standard deduction, or zero tax bracket, has expanded. While all categories of taxpayers get

a break, the amount of income completely exempt from taxes has gone from \$3,000 to \$8,750 for a single taxpayer. Under current law, that single taxpayer making \$25,000 a year pays an effective tax rate of 3.6 percent; a single taxpayer earning \$120,000 a year pays an effective tax rate of 5.1 percent. So, the notion tax

breaks are only for the wealthy is nonsense.

The corporate income tax rate has been reduced from 6.9 percent to 3 percent, the lowest of any state that imposes a corporate tax.

Further tax relief under consideration this session would lower the personal income rate to 5.35 percent, increase the standard

deduction for married taxpayers filing jointly from \$17,500 to \$20,000, and reduce the corporate rate to 2.75 percent in 2017 and 2.5 percent in 2018.

The Senate tax plan proposes \$1 billion in tax relief over the biennium. A report by the General Assembly fiscal research staff predicted a budget crisis with large revenue shortfalls — \$600 million in three of the five years — but the assumptions were flawed.

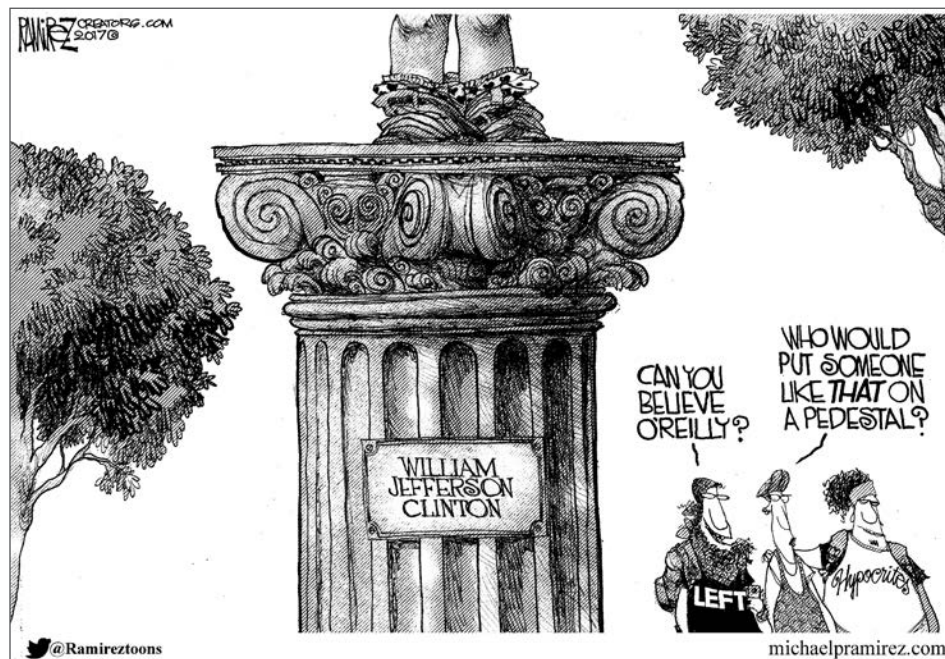
It assumed that state government would continue providing the same services the same way to more people at higher cost over the next five years, leading to 4.8 percent higher spending each year. Due to fiscally responsible measures from 2013, the budget growth is now based on available money, not assumed continuation of programs. In addition, the annual growth for the two years ending June 30 is 2.6 percent. If we assume leadership keeps growth to 2.6 percent, the projections change considerably.

Using the revised growth percentage, the projection under the Senate tax plan would result in a \$145 million revenue shortfall in 2018-19, easily covered by unreserved cash from the previous year, and then revenue surpluses of \$800 million by 2021-22. *CJ*

Becki Gray is senior vice president of the John Locke Foundation.



BECKI GRAY



EDITORIAL

Border Adjustment Tax a bill of goods

That \$10 pair of pants you find now at your local discount store? Prepare to see the price jump to \$12.

That's if Congress follows through on a proposal to institute a new national Border Adjustment Tax, also known to friend and foe alike as the BAT. It's a tax that boosts exports at the expense of imports.

The extra \$2 for the pants might not sound like a huge change. But consider the family of four that wants a new pair for each person in the household. That's \$8. What if each person really needs to replace a couple of pairs? \$16.

Repeat the process for a range of regular household products affected by the BAT, and the numbers grow substantially. Critics estimate the tax would increase costs by \$1,700 per family per year.

The pants example helps explain the BAT's impact. "On a \$10 sale, the cost of goods sold may be \$6," explained Art Pope, CEO of Variety Wholesalers, during a recent news conference. Pope is also the founding chairman of the John Locke Foundation. "And then you have your operating costs ... sales and general administration expenses ... which is about \$3. So you have a total cost of \$9, and you have \$1 in profit."

Current federal law calls for taxation only of that profit. Applying the existing 35 percent corporate tax rate to the dollar, the retailer ends up with 65 cents from the \$10 pair of pants, Pope said.

"Under the Border Adjustment Tax, though, the cost of those

goods sold — that \$6 — is going to be added back in to your taxable income," he explained. "So instead of \$1 of real profit being taxed, your net income being taxed, they're going to tax you at \$7."

Even with a lower proposed corporate tax rate of 20 percent, the actual tax would climb from 35 cents per pair of pants to \$1.40 per pair. Meanwhile, the changing tax calculation doesn't change the fact that the real profit from the sale is still \$1.

"You have \$1.40 of taxes on \$1 of income, so you're losing money on every pair of pants you sell," Pope added. "That's what's going to force retailers to pass on a huge price increase to their customers, which amounts to a huge sales tax increase."

Supporters counter that BAT, in combination with other tax changes under consideration on Capitol Hill, would have net positive economic impacts. They also argue the change merely fixes a broken system, which "encourages the import of foreign-made goods while penalizing products made in and exported from America," in the words of the American Made Coalition.

Critics consider these arguments a bill of goods. For one thing, many "American-made" goods feature imported raw materials or component parts. Few of the products we make and use today depend entirely on American resources.

Sound tax analysis argues that all costs of production should be deductible. For taxation purposes, it shouldn't matter whether those costs cover domestic or imported inputs. *CJ*

EDITORIALS

Impact fee policy needs clarity

If anything useful can be said to have come out of the House Bill 2 controversy, it would be a broader understanding of how limited the powers of local governments are in our state.

The state has a constitutional obligation to protect the fundamental rights of North Carolinians, and to balance local preferences with a legitimate interest in statewide coherence and predictability.

For example, it's time for lawmakers to intervene in the longstanding dispute about impact fees — an alternative way of paying for water and sewer service, schools, and other local services. Rather than taxing or charging everyone, the locality levies a fee on the construction of new homes. It's argued that such a fee makes growth "pay for itself," because new construction creates new demands for services.

It is also argued that impact fees make "developers" rather than the public shoulder the cost, but this is mainly a rhetorical device for bam-

boozling voters rather than a serious claim. Most of the time, impact fees are passed along to the buyers of new homes, rather than eaten by developers as lower profits.

Is it reasonable to impose a surcharge on buyers of new homes? In many cases, the answer is no. It would be more rational, though unpopular and unwise, to charge residents school impact fees according to the number of children they have, rather than according to the age of their residences.

Two groups of state lawmakers are acting. House Speaker Pro Tem Sarah Stevens has filed House Bill 436, which would essentially get rid of impact fees, including those legally authorized for specific municipalities by past local acts of the General Assembly. A group led by freshman Sen. Paul Newton is working on legislation to standardize but not prohibit the use of impact fees across the state.

Ambiguity can sometimes be helpful, but when it comes to charging North Carolinians for government services, we need clarity. *CJ*

Don't fear a robot invasion

A common theme unifying recent debates about tax reform in North Carolina and in Washington, D.C., is the idea that punitive tax treatment of business investment is a bad idea — it discourages the purchase of plants and equipment, and, thus, job creation and income growth.

The usual response from the Left is that taxes don't affect business decisions as much as conservatives claim, so tax reform won't boost capital investment. There's a radically different objection now making the rounds, and not just among the Democrats currently out of power. Some Republican populists raise the same objection.

Here it is: Tax reform is a bad idea precisely because it would increase business investment in new technologies, plants, and machinery. These critics argue the increasing automation across various industries is destroying the American Dream. Tasks once done by hand, or by the application of the human brain, are now performed by machines or even robots.

Claims that machines will supplant labor and lead to stagnation, poverty, and social unrest have been made for centuries. Many find such claims plausible or even persuasive, despite the fact that they always turn out to be wrong.

For most of human history, total production per person stayed within a narrow band — sometimes rising because of expanding trade or stable government, sometimes dropping because of wars or other disruptions of commerce. Until the 18th century, then, economies got bigger mostly by adding more people, which didn't necessarily leave the average person in those societies much better off.

The Industrial Revolution changed all that.

But what actually came first was an Agricultural Revolution that vastly increased the production of food and fiber per unit of investment. Vastly fewer people were needed to farm. They flooded into cities, helping to facilitate industrialization. Then, as new technologies and practices increased the productivity of factories, workers were again displaced from their original jobs and had to find others.

Workers and activists railed against machinery, often trying to ban or sabotage it. Fortunately for the human race, they failed.

The problem of dislocated workers is very real, of course. They need education, training, and better mechanisms for saving money for future emergencies. But on the whole, in the long run, innovation and automation are good for us. *CJ*

COMMENTARY

Left doubles down on double standard

Dr. James Otteson, a business school professor at Wake Forest University, had an intriguing idea. What if he brought together a group of faculty, students, and outside scholars to explore how societies can best promote human welfare and happiness?

As befitting a seeker after classical wisdom, Otteson called the project the Eudaimonia Institute, after a Greek term that translates as "human flourishing." He gained the assistance of supportive Wake Forest colleagues from such disciplines as medicine, economics, religion, philosophy, languages, and communication. He secured the support of his administration at the business school, and he secured funding for the project from private donations that included \$3.69 million from the Charles Koch Foundation.



JOHN HOOD

Shortly after the Eudaimonia Institute launched last year, left-wing activists at Wake Forest tried to kill it.

By now, this has become a familiar story. So before I continue the tale of the Eudaimonia Institute, consider what it says about modern progressivism that its adherents now so often refuse simply to engage in scholarly discourse and the normal tussle of campus debate. Instead, they resort to censorship.

I don't use that term lightly. After an "investigation" that consisted largely of recycling conspiracy theories, members of Wake Forest's Faculty Senate recommended not only that the university refuse the Koch Foundation grant for the Eudaimonia Institute but also that Otteson be required to get specific permission from campus regulators before engaging in his daily work as a university professor. In other words, if "academic freedom" were a village, these faculty activists concluded that in order to save it, they must destroy it.

Should faculty members be allowed to do whatever they want on a college campus, as long as they can get a private donor to pay for it? Your answer to this question needs to be coherent, not merely a reflection of what "side" you are on in any particular controversy.

Consider what's going on at

the University of North Carolina at Chapel Hill. Its law school has housed the Center for Civil Rights since 2001. According to its own institutional history, the center has "pursued an aggressive social justice agenda combining litigation, scholarly research, and grass-roots activism." Among other projects, the center has sued other divisions of state government to compel changes in policy and even represented Moral Monday demonstrators who were arrested for violating the rules of the Legislative Building during their protests against Republican policies.

Steve Long, a conservative lawyer and member of the UNC system's Board of Governors, argues the Center for Civil Rights isn't just a scholarly enterprise with a particular point of view. It's using the law school as a platform from which to engage in clearly political activity, much as the same law school was used as a platform for former U.S. Sen. John Edwards to run for higher office.

Regardless of your party or political philosophy, it ought not to concern you if willing members of a campus community, including willing donors, produce academic work with which you have disagreements. That academic work might include research, books, conferences, graduate seminars, or other scholarly products.

But a line is crossed when the academic work becomes political action. As a conservative, I have no objection to someone using private dollars to create a Center for Marxist Studies. But I would have an objection if the Center was used as a vehicle for organizing labor protests, lobbying the legislature, or suing the state.

Otteson's Eudaimonia Institute is unambiguously a scholarly project. It has not and will not engage in anything remotely like political activism. At UNC-Chapel Hill, the Center for Civil Rights mixes scholarship and politics, again beyond any serious dispute. Faculty progressives may cling to their double standard. But it won't save them from ridicule. *CJ*

John Hood is chairman of the John Locke Foundation.

MEDIA MANGLE

Are North Carolina distillers simply ahead of the curve?

North Carolina craft spirits are gaining a loyal following among North Carolinians who understand the distilling process and appreciate quality spirits.

And our distillers are trying to make inroads throughout the U.S., and internationally, with varying degrees of success.

But, as Peter Thornton points out, it's a crowded marketplace, and the brown, aged liquors are currently riding high on the export wave.

Thornton is assistant director of International Marketing at the N.C. Department of Agriculture and Consumer Services.

He's keenly aware of the challenges of selling state spirits globally, and even at home, where arcane rules and regulations inhibit growth and experimentation. No industry that's expanding so rapidly is held back so much, he says.

"We have these great products, and we should be able to export them."

He remains confident that big break will come. In time.

But even now, North Carolina connoisseurs of great craft spirits, those who really *get* great craft spirits, are invariably leaning toward liquor made in North Carolina, as opposed to Russian vodkas or English gins or moonshines made anywhere other than the Tar Heel State.

Whiskey is a different matter, mostly because of factors deeply embedded in American history and the 75-year or so head start Kentucky got on North Carolina in regard to producing aged spirits.

But, again, our time will come. Barrel-aged whiskeys are just starting to trickle out of North Carolina distilleries.

The spirits movement in North Carolina is certainly a type of renaissance, despite the regulatory and legal handcuffs, and our spirits are getting awards in international and U.S. competitions.

Gentry Lassiter, who runs a distillery with his wife, Rebecca, says North Carolina spirits have earned their rightful place among some of the best in the world.

Distillers here aren't making it on the top of a worn-out flatbed or, as one distiller told me, are no longer forced to stop the process to remove a possum from the mash tank.

"I think this latest round of awards shows that we're not bootleggers making hooch out of the back of a pickup," says Gentry Lassiter, "but rather we're producing some award-winning, refined products that North Carolina has the opportunity to support and even embrace as part of our heritage."

To distillers around the U.S., North Carolina rules governing distilled spirits are, well, unbelievable. They say just that.

As Thornton said, distilling in North Carolina is growing exponentially, and the potential for tourism is tremendous.

"Are we just ahead of our time?" he asks. Could be.

CJ

Managing Editor John Trump is the author of *Still and Barrel: Craft Spirits in the Old North State* (Blair, 2017).



JOHN TRUMP

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What is your local economy?

North Carolina has a lot of local governments. To be exact, the state has 100 counties and 552 municipalities. North Carolina is one of only seven states with triple-digits in the number of counties, with Texas taking the prize at 254. We're 18th among states in the number of municipalities but far below the record holder of Illinois, with 2,729.

Many of us identify with our nearest local government, particularly when it comes to the economy. For example, an out-of-state friend may ask you how the economy is doing in Greensboro. Or a traveler eating at a diner in Richmond County could inquire if local businesses are hiring.

Politics and statistics also cause us to focus on county and city boundaries. Both entities have elected officials who are concerned about economic development in their jurisdictions. Also, many numbers and statistics — such as new business starts — are regularly released describing economic conditions in counties and cities.

But do local economies start and stop at county and municipal lines? Aren't there many people who live in one city or county but work in another? And what about buying? Even if you're a fan of "buying local," does this mean you won't hop over to the next county to visit a mall, shopping center, or restaurant?

Economists observe all kinds of cross-county and cross-city transactions. This is why most economists don't think a county or city is the best description of a local economy.

But then what is? While there are many possibilities, a system developed several decades ago by the U.S. Census Bureau seems — at least to me — to make considerable sense.

The census has three categories of a local economy. The first is a *metropolitan area*. A metropolitan area has a core city of 50,000 or more people together with surrounding counties having a high degree of social and economic interaction with that city, such as commuting for jobs and buying.

The second local economy category is a *micropolitan area*. This is a region having a core city of between 10,000 and 50,000 people and nearby counties with strong employment and purchasing ties.

The third category is termed *rural* because it has no core cities of 10,000 population or more. With

no significant central place serving as a magnet, economic interactions are more dispersed in rural areas than in the metropolitan and micropolitan regions.

Based on these definitions, North Carolina has 15 metropolitan areas and twenty-four micropolitan areas. There are also three counties associated with metropolitan areas outside the state. Brunswick County in the southeast is part of the Myrtle Beach metropolitan area, and Gates and Currituck Counties in the northeast are components of the Virginia Beach/Norfolk metropolitan region.

A total of 26 counties in North Carolina are not part of a metropolitan or a micropolitan area and so are considered to be rural according to this classification scheme.

These classifications can change over time as residential and business patterns evolve. For example, after the 2020 census I would expect to see Lee and Harnett counties become part of the Raleigh metropolitan region, partly due to the extension of Interstate 540. Similarly, with the increased cargo activity occurring in Norfolk as a result of the expanded Panama Canal, more

northeastern North Carolina counties could become linked to that metropolitan area.

There are numerous private and public implications of thinking about local economies in this way. Advertisers and transportation planners can use them to understand how and where people shop. Business recruiters — who are often county-based — can utilize the categories to estimate how a new business in one county or city can impact nearby counties and cities.

I don't think many of us will give up emotional allegiances to our home county or city. I know I haven't. But economic linkages change over time. The geographic region best describing current local economies can be quite different from those existing decades ago.

Still, is anyone going to say they're from the Hickory-Lenoir-Morganton Metropolitan Statistical Area, instead of simply Catawba County? Probably not.

CJ

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



MICHAEL WALDEN

Companies will flourish under free markets, not protectionism

Although it has not received as much attention as health care or the travel ban, one of the biggest issues being discussed in Washington, D.C., during the first few months of the Trump presidency is a “border adjustment” tax. Supporters, like key members of the House Republican leadership, view the policy as a tax on the country’s huge trade deficit — about \$500 billion in 2016. Essentially, they propose preventing companies that import goods from deducting those costs from their taxable income. When Boeing imports titanium from Russia to make aircraft fuselages, the value of the titanium is to be taxed and considered profit rather than an expense. The cost to extract resources or produce goods in the U.S. would be exempt. Not only is this policy intended to reduce the trade deficit, it will provide the revenue for a simultaneous comprehensive reform of the tax code. Administration officials, for example, want to reduce the corporate tax rate from its current 35 percent to about 20 percent.

On the surface, a border adjustment tax sounds appealing. It will increase revenue and create an incentive for



ANDY
TAYLOR

corporations — including those owned by foreigners — to make things in America if they want to sell things to Americans. But, upon consideration, it’s bad policy and will cause both economic and political harm.

Proponents believe the policy can bring back the manufacturing jobs that began leaving our industrial heartland in earnest during the 1980s. Jobs making steel, consumer electronic equipment, appliances and cars can be generated if we “level the playing field” with our international competitors by making the things they send here more expensive. Yet the plants that produced this stuff 35 years ago are gone, bulldozed, full of weeds and broken glass, or converted into parks or condos. The border adjustment tax makes American production marginally more appealing by reducing differences in labor costs. But with wage inflation, unionization, and political unrest raising the cost of the developing world’s sub-standard workforce, this was happening anyway. Besides, companies locate plants based upon their position in the global supply chain and proximity to markets, transportation, and a quality labor force. The wholesale relocation of production is incredibly expensive. A border adjustment tax will affect these decisions only at the margins.

The tax would hurt consumers greatly. The cost of imports would rise markedly. Supporters argue that goods

made domestically would become more competitive as a result, but it’s hard to imagine the American shopper benefitting when competition is constrained.

Political effects should be considered, too. Advocates say the border adjustment tax actually provides an indirect subsidy to American exports (because they are not taxed) that will make them competitive. But it’s entirely plausible that, in response to the new tax, other countries will retaliate with tariffs on American goods. This could precipitate a trade war that no one can win and, what’s more, threaten security arrangements cemented by commercial interaction. Reacting to the anti-trade rhetoric of the Trump administration, many of our closest partners are already considering a “pivot” to the European Union or, worse, China. America’s political strength and competitive advantage in the world economy — leading international organizations like the IMF and World Bank, minting the world’s reserve currency — are contingent upon its place at the center of global trade.

This doesn’t mean that nothing should be done. The corporate component of the American tax code is a mess and undermines our competitiveness. Rates should be simplified and lowered — just as the current administration and even its predecessor have proposed. We can further encourage U.S. corporations to repatriate the \$2.5 tril-

lion in cash they are keeping offshore and away from the IRS by providing a “tax holiday” or short-term reduction in the rate at which these funds are assessed. Rather than wishing back production that has long gone, we should nurture the conditions that have given rise to the recent revolution in American manufacturing. Today, U.S. companies and their workers produce the most sophisticated industrial equipment, medical devices, intellectual property, chemical products, and computer technology the world has ever seen. Free markets, not protectionism, will help them flourish.

There are positive effects of all this negative talk about trade. Supporters have shed the complacency they had during the many legislative victories of the 1990s and 2000s — such as on NAFTA, WTO, and important trade agreements with Asian and Latin American countries. Led by an unpopular Trump and a discredited far-left, the protectionists are falling out of favor. Indeed, Americans currently see foreign trade as an “opportunity” rather than a “threat” — by a margin of 58 percent to 34 percent in a recent Gallup poll. This is the biggest difference since the survey was first taken in 1992.

CJ

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Burr working quietly to keep North Carolina safe

I recently had the opportunity to interview U.S. Sen. Richard Burr for my public affairs program “Front Row” on UNC-TV.

In full disclosure, I have known Richard since 1992 when a mutual friend introduced us and asked me to help with paid media in the waning days of his campaign. The race was close, but incumbent Democratic Rep. Steve Neal prevailed. Undeterred, Burr got up off the mat and was elected to Congress in the Gingrich wave of 1994. The rest, as they say, is history.

As one who has observed and worked with many politicians over the last 35 years, Sen. Burr stands out for numerous reasons.

Unlike many, Burr does not seek the limelight. In fact, he shuns it. He rarely if ever does the Sunday morn-



MARC
ROTTERMAN

ing talk shows, and when he does he is precise and measured in his words.

In his role as the chairman of the Senate Intelligence Committee, Burr receives a daily intelligence briefing — similar to the one prepared for the president. And in this day and time, there is very little good news in those reports. One can only surmise how sobering they are on a daily basis.

During my interview with the senator, he imparted that on every continent in the world today there is a terrorist hot spot.

He outlined the situation in North Korea, America’s options, and the very real threat that the North Korean regime poses for our allies in the region and to the homeland.

We discussed Russia and Syria at some length. When I asked him if we’re in a new cold war with Russia, he was unequivocal in saying, “Yes.”

And when I asked Burr if Vladimir Putin and Russia were 100 percent behind the dictator of Syria, Bashar al-Assad, he again gave an unqualified answer: “100 percent.”

We also discussed Russia’s expanding footprint in the Middle East,



You can watch the interview with Richard Burr at www.bit.ly/2pN5B1L

the Syrian refugee problem, and our ability to properly “vet” or do background checks on those people who have no paper trail.

Burr made clear that as Senate Intelligence Committee chairman, he was determined to leave no stone unturned in the investigation of Russian interference in our last election and any possible ties to the Trump campaign.

Also during the interview, we discussed ISIS and al-Qaida, the wars in Afghanistan and Iraq, and the threats to the American homeland.

On domestic policy, we discussed

a wide range of issues — including health care, tax reform, and the Trump agenda.

We concluded by talking about his decision not to seek a fourth term in the U.S. Senate. Burr is 28th in seniority in the Senate and now one of the longest-serving senators in North Carolina’s history.

At the end of his term, Burr will be 67. He believes it’s time for generational change. He also wants to spend more time with his family. He proudly told us he and wife Brooke now have grandchildren. Many politicians use the family as a crutch, but in Burr’s case I believe it’s genuine. And finally, although he didn’t say it, I believe he’s tired of the daily grind of Washington and all that entails.

But for now, North Carolina is fortunate to have Richard Burr at the helm of our nation’s Senate Intelligence Committee, quietly working to keep America safe.

CJ

Marc Rotterman is a senior fellow at the John Locke Foundation and the host of “Front Row with Marc Rotterman” on UNC-TV.

Jordan, NBA lead fight against state feline (a CJ parody)

By HOT ROD HUNDLEY
Sports Correspondent

CHARLOTTE

A proposal to name North Carolina's state cat was purring toward passage. But the measure designating the bobcat as the state feline became entwined in controversy after basketball legend and Charlotte Hornets owner Michael Jordan began a dogged campaign to stop it, with the help of the NBA, *Carolina Journal* has learned.

House Bill 74, Adopt Bobcat As State Cat, passed in early April with little notice by a 107-5 margin. Then the Wilmington native, UNC-Chapel Hill legend, NBA all-time great, and basketball Hall of Famer found out about the bill.

"When I first heard they were thinking about using that name, it brought back some bad memories, sad memories," Jordan told *CJ*, shaking his head. "I mean, when I got here, those [clowns] were so sorry I thought old No. 23 might have to unretire and show those [incompetents] how to play."

Jordan was 47 in 2010 — six years after he retired from playing — when he bought the team from Black Entertainment Television founder Robert Johnson.

Jordan's frustration with the young organization's history was so pronounced that he pushed to get its name changed to the Hornets, the NBA club that played in Charlotte from 1988-



NBA Commissioner Adam Silver and Charlotte Hornets owner Michael Jordan on the hunt for bobcats.

2002 and was adored by the city for much of its tenure. The Hornet franchise name returned to Charlotte in 2014, when the New Orleans Hornets changed their name to the Pelicans.

Charlotte never fully embraced the Bobcats, the expansion franchise that began playing in 2004. The club was plagued by incompetent management and personnel decisions, winning a mere 36 percent of its games and making the playoffs only twice during its decade as the Bobcats — one of those times after Jordan took over.

A source close to Jordan told *CJ* the Hornets owner, whose fiercely competitive nature and great talent have led many to consider him the greatest hoopster of all time, had to be "talked down off the ledge" when he heard about the state bobcat bill.

"Mike was livid," the source said. "We called [NBA Commissioner Adam] Silver and asked what we could do. Then Silver reminded us about the whole House Bill 2 mess, and a plan fell into place."

The league moved the 2017 NBA

All-Star Game from Charlotte to New Orleans not long after the General Assembly passed H.B. 2, a controversial 2016 law preventing local governments from enacting nondiscrimination ordinances that are stronger than state laws.

It effectively nixed a Charlotte ordinance that allowed people to use bathrooms, changing rooms, and other public facilities based on their gender identity rather than their biological sex. LGBT activists claimed H.B. 2 discriminated against transgender people. The NBA, NCAA, Atlantic Coast Conference, and various private and public organizations moved events out of North Carolina while the law was on the books.

Legislation passed in March repealed H.B. 2, and the boycotts began to end. The NBA had discussed holding the 2019 All-Star Game in the Queen City. But when Silver and the owners learned of H.B. 74, they put those discussions on hold, the source said.

"The league wants nothing to do with Bobcats, ever," he said. "If the legislature picks that cat, the All-Star Game is as good as gone. Forever."

Jordan suggested the state choose a domestic feline breed for the state cat. "I don't care what they pick — Persian, Siamese, Abyssinian, Devin Rex, Russian Blue, Scottish Fold — it doesn't matter to me," he said. "Even the panther would work. Just no bobcats. No. None." *CJ*

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