

**Testimony Before the
Governor's Commission on the Governance
of Public Universities in North Carolina
Raleigh, NC
By Ran Coble
6/1/23**

Thank you all for your public service on this important set of public policy issues. (1) I'm going to tell you about the N.C. Center for Public Policy Research's studies of higher education governance, and particularly our findings relevant to your work; (2) Second, I'll review specific issues and controversies that led to the creation of this Commission and which governing body was involved; and (3) Third, I'll give you my thoughts on what this Commission should consider in its recommendations to the Governor and the legislature.

I'll also be available afterward for any questions or comments you might have. So first, a word about the Center for Public Policy Research.

I. ABOUT THE N.C. CENTER FOR PUBLIC POLICY RESEARCH

I served for 33 years as director of the N.C. Center for Public Policy Research, a private nonprofit formed in 1977 to study public policy issues facing North Carolina and to evaluate the performance of state government programs. Some people called us a government watchdog, others called us a think-tank, and still others called us futurists. We are not a state agency but an independent, non-partisan group with goals of helping citizens understand how state government works and helping citizens evaluate whether state government programs work well.

When I was there, our 24-member statewide Board of Directors was proportioned exactly like the population of North Carolina. It was composed of males and females; blacks, whites, Hispanics, and Native Americans; Democrats, Republicans, and Independents; from the East, West, and Piedmont in the same proportions as the state's population. This gave the Center credibility as being nonpartisan and representing the full diversity of North Carolina's population.

In the area of higher education, the Center completed studies of: (1) how the public universities evaluated and rewarded good teaching published in **1993**; (2) a history of how the 16-campus system was put together in 1971 and 1972 (called **Reorganizing Higher Education in North Carolina: What History Tells Us About Our Future**, published in **1999**); (3) an examination of how public universities are governed in all 50 states (called **Governance & Coordination of Public Higher Education in All 50 States**, published in **2000**), not just in 25 states like one of your previous speakers discussed; (4) a study of governance of higher education in North Carolina (called **The Statewide UNC Board of Governors: Its Selection, Powers, and Relationship to the 16 Local Campus Boards Of Trustees**, published in **2006**); and (5) a study of financial aid policy in both community colleges and public universities (published online in **2015**).

The Center took no government money but received its funds from 5 sources – foundation grants, including the Z. Smith Reynolds Foundation when Tom was there; corporate contributions, including BlueCross BlueShield (thank you Brad), sales of publications; individual donors; and Center members.

II. The Center's Report on Governance of Public Universities

A. Our Process

That fourth study was titled, "**The Statewide UNC Board of Governors: Its Selection, Powers and Relationship to the 16 Local Campus Board of Trustees.**" To prepare this report, the Center conducted several hundred interviews – with legislators, university administrators, faculty, students, higher education leaders nationally and in North Carolina, and especially with current and former members of the University of North Carolina Board of Governors and with both winning and losing candidates for the Board. We visited almost all of the campuses in the UNC system. We also attended almost every Board of Governors meeting for five years and had six chancellors of UNC institutions speak at our Board of Directors meetings.

We reviewed all state statutes and Constitutional provisions pertaining to higher education, as well as the University *Code* and administrative manuals governing local campuses. Many of those statutes and Constitutional and code provisions are reprinted in our report.

The Center obtained data from the State Budget Office, the legislature's Fiscal Research Division, the National Center for Education statistics, State Higher Education Executive Officers, UNC-General Administration, and the 16 campuses themselves. We also conducted a comprehensive analysis of governance of higher education in other states, building on our previous reports.

Finally, we sent our draft report to more than 250 reviewers in North Carolina and across the country, inviting their comments and criticisms. Then, over eight months, we responded to their criticisms and comments with changes, additions, deletions, or clarifications. We believe this resulted in a report that is factual, fair, and a lasting contribution to the field of higher education policy analysis, and hopefully a big help to you who serve on this Commission.

B. Praise and Perspective for NC's System of Governance

Let's start first with some praise for the UNC system of governance.

1. First, the basic governance structure is good. We are one of only 24 states fortunate enough to have a statewide Board of Governors setting policy for all its public universities.
2. Second, the structure of North Carolina's university governance system reflects a delicate balance:
 - * Balance between the Governor, the legislature, the UNC System President, and the UNC Board of Governors, though we are losing balance between the legislature and the Governor;
 - * Balance between the UNC System President and Board of Governors and the chancellors and local campus board of trustees; and
 - * Balance among the 3 missions of the University of teaching, research, and public service.
3. Third, the powers given to the Board of Governors in state statutes are the right ones, especially:
 - * the power to prepare a unified budget; and
 - * the power to approve new academic programs and terminate old programs.
4. Fourth, the Board of Governors has stepped up since 1999 in meeting its statutory responsibilities to take a more active role in setting tuition system-wide. Though we have some serious concerns about the number and amounts of increases in tuition over the last 50 years that I'll get to in a minute – still, prior to 1999, the Board just defaulted this task to the legislature so the Board of Governors has made progress in accepting their legal responsibility for tuition policy, but it and the legislature have since raised tuition too often and too much. This puts the state in jeopardy of a lawsuit. I'll tell you why in a minute.

For perspective, you might be interested in knowing that:

1. First, North Carolina has the largest number of *public* four-year historically black colleges and universities, with five such institutions (Alabama has 13 HBUCs, but only two are public four-year institutions).
2. Second, North Carolina is one of only two states where the amount of power given to campus boards of trustees is not spelled out in the state statutes but left to the sole discretion of the UNC Board of Governors (Utah is the other state).
3. Third, North Carolina is one of only seven states that have no central board or agency charged with *planning* or *coordinating* higher education policy for *both* the two-year and four-year public institutions. By contrast, Georgia's Board of Regents governs all four-year and two-year institutions. In North Carolina, the University system is governed by the UNC Board of Governors, the community college system is governed by the State Board of Community Colleges, and the 36 private colleges and universities are each independently governed by campus-level boards of trustees.
4. Lastly, 43 states, including North Carolina, have higher education boards with authority to conduct **master planning** for all of higher education. The General Assembly mandated in **G.S. 116-11(1)** that the Board of Governors "plan and develop a coordinated system of higher education in North Carolina" and that, in consultation with representatives of the State Board of Community Colleges and of the private colleges and universities, the Board of Governors "shall prepare and from time to time revise a long-range plan for a

coordinated system of higher education....” No Board of Governors has ever completed such a master plan for both public and private colleges and universities.

Not for Oral Presentation

C. The N.C. Center for Public Policy Research’s Record in Achieving Changes in Policy as a Result of Our Studies

So, what was our record of getting policy changes in higher education as a result of our studies and recommendations? Here’s a quick summary:

1. Evaluation of and Rewards for Good Teaching – In **1993-95**, President Spangler, the Board of Governors, and the General Assembly implemented four of the recommendations from our study of evaluating and rewarding good teaching (**1993**).

- President Spangler and the Board of Governors increased evaluation of teaching performance, mandated teaching centers on every campus, established campus-level teaching awards, and established annual system-wide teaching awards for the whole 16-university system. The Board also required extensive training, evaluation, and monitoring of graduate students who teach undergraduates. The N.C. General Assembly appropriated \$250,000 a year in **1993-97** for teaching awards and endowed chairs for teaching.

- In 1995, at our urging, the legislature enacted the first-ever mission statement for the state’s 16 public universities which includes teaching [or instruction], research, and public service, with teaching as first priority. **G.S. 116-1(b)** states, “Teaching and learning constitute the primary service that the university renders to society. Teaching, or instruction, is the primary responsibility of each of the constituent institutions.”

- The law also directed the UNC Board of Governors to instruct the 16 campuses that teaching is primary in making faculty personnel decisions regarding tenure, teaching assignments, and promotions.

- Finally, the law required the Board of Governors to review the procedures used to screen and employ graduate teaching assistants and ensure that all teaching assistants have the ability to teach effectively.

2. Long-Range Planning by Public Universities – In **2006**, we recommended that the UNC Board of Governors become more involved in long-range planning, as state law [**G.S. 116-11**] requires. UNC Board Chairman Jim Phillips and UNC President Erskine Bowles responded with a UNC Tomorrow Task Force that held 11 public forums across the state to ask how the campuses could help solve public problems.

3. Increasing College-Going Rates – In that same **2006** study and in an earlier study of ways to reduce racial gaps in public policy outcomes, we recommended a new college scholarship program to increase North Carolina’s college-going rates, especially for African Americans and Latinos. Gov. Mike Easley responded, and the **2007** state budget included a new debt-free college scholarship program called EARN. Though this program was later repealed, the same goal is being pursued today by the MyFuture NC 2030 effort.

4. Addressing the Shortage of Teachers – In 2007, Erskine Bowles, then just named the new President of the UNC System, used our research on NC’s teacher shortage in his Inaugural Address, saying that improving public schools – including addressing the teacher shortage – was one of his top priorities. The University System then increased its output of teachers from 3,100 to 4,000.

5. Helping Community Colleges Address Key Challenges Facing North Carolina – In response to the Center’s 2008 study and recommendations on the future of community colleges, the 2008, 2009, and 2010 N.C. General Assemblies:

- Appropriated a total of \$26 million to address equipment shortages documented by the Center that had forced community colleges to cancel 98 job training programs in the Great Recession when job retraining was critical.

- Appropriated \$15 million for high-demand, high-cost health care programs to address work force shortages that we documented, such as the need for 9,000 more nurses.

- Appropriated \$60.5 million for growth in enrollment to address weaknesses in the funding formula described by the Center, and to help community colleges provide job training for citizens out of work or changing careers because of the Great Recession;

- Appropriated \$1.85 million for mentoring of minority males, a group needing special attention after their graduation numbers declined for 3 years in a row; and

- Charged the Joint Legislative Education Oversight Committee to study changes necessary to improve financial aid for community college students, in direct response to the Center's findings and recommendations.

6. Making Federal Loan Programs Available to More Students in NC's Community Colleges – In 2009, we were shocked to find that only 20 of North Carolina's 58 community colleges made federal loan programs available to their students. In 2010, we testified before the legislature's Joint Select Study Committee on State-Funded Student Financial Aid, and we recommended requiring all community colleges to participate. The 2010 legislature agreed and passed a law that required all 58 community colleges to make federal loan programs available to their students. As a result, 177,000 more North Carolinians would have been able to obtain a community college education.

But then in 2011, the legislature passed a bill that would have allowed all 58 community colleges to opt out of offering federal loans to their students. The Center then wrote Governor Beverly Perdue and asked her to veto that bill. We pointed out that federal loans are the cheapest and safest way for students to borrow money for college. Federal loans charge 4.5 percent interest compared to the 16 percent interest students were paying on their credit cards for tuition. The Governor vetoed the bill, citing the Center's research.

However, the legislature came back with a legally questionable tactic of dividing what had been a statewide bill into four local bills. A governor cannot veto local bills. Those four local bills allowed a total of 26 community colleges to opt out of offering federal student loans. Luckily, not all chose to opt out. By 2012, 32 community colleges (12 more than when we began) offered federal loans to their students, giving 50,238 more students access to the safest and cheapest way to borrow money for college. This is still unfair to the students in the other 26 schools.

7. Helping Parents and Students Save for College – Our research on financial aid policy also found that families were about to lose a tax deduction that helped them pay for college. Families who were saving for a child's college education in a Parental Savings Trust Fund or 529 College Savings Plan got a deduction on their state income tax, but this was scheduled to expire in January 2012. Our research prompted a successful bipartisan effort in the 2011 legislature to repeal the expiration date and make the 529 Plan more attractive to parents.

In 2006, mutual fund evaluator Morningstar Inc. had rated North Carolina's 529 Plan as one of the worst in the country, and our state then ranked only 44th in citizens' use of the savings plan. But, with changes advocated by the Center, Morningstar raised N.C.'s rating to "above average," and CNN's *Money Magazine* ranked the state's 529 Plan as one of the top 3 in the country. The number of N.C. 529 accounts increased by 16 percent, and the fund value grew by 20 percent. By 2011, N.C.'s Plan had 94,516 account owners with more than \$766 million invested.

8. Ending In-State Tuition for Out-of-State Athletes – In our testimony before a legislative study committee (the legislature's Joint Select Study Committee on State-Funded Student Financial Aid), the Center recommended repealing the statute that gave in-state tuition to out-of-state athletes. The 2010 legislature agreed and repealed the law, saving the state \$15.5 million annually. However, a bill to repeal this provision has been introduced this legislative session.

9. Dedicating 25% of the Proceeds from Tuition Increases to Financial Aid

Before that same legislative study committee, we testified that tuition had been increased at North Carolina's 16 public universities in 9 of the last 10 years, an increase of 144 percent. With another tuition increase authorized in 2010 and student debt rising, the Center recommended that the legislature require that a high percentage of the proceeds from tuition increases be earmarked for student financial aid. The 2010 legislature agreed and required that at least 25 percent of the proceeds from tuition increases be earmarked for need-based financial aid.

10. Consolidating Financial Aid and Loan Forgiveness Programs: Saving State Funds, Helping Parents and Students

In our research on financial aid policy, we found 14 different state programs that used financial aid to address work force shortages in such fields as teaching and nursing. Students receiving aid under those programs have their loan forgiven if they work in the needed occupations in North Carolina. However, parents

and students found it difficult and confusing to apply for 14 different programs, so the Center recommended consolidating them.

A **2010** legislative Working Group on the Consolidation and Simplification of State Student Financial Aid Programs recommended consolidation, so in another bipartisan effort, the **2011** legislature passed legislation combining 12 of the 14 into one program. This made it easier to administer and much simpler for parents and students that dream of a college degree. It also saved taxpayers' money.

Center Studies on Higher Education Won National Awards

From 2006 to 2011, the Center won three prestigious national awards for our research on public universities and community colleges from the national Governmental Research Association (GRA), a nonpartisan group of 33 public policy nonprofits in 22 states. GRA organizations promote transparency in state budgets and provide information to citizens about the performance of government programs.

In **2006**, the Center's study of **The Statewide UNC Board of Governors** won the award for **Most Distinguished Research**.

In **2010**, we won the award for **Outstanding Policy Achievement** for research that leads to "tangible improvements in public policy." This recognized the Center's results in getting the legislature to address key issues facing **NC's community colleges**.

And, in **2011**, the Center's study of **financial aid policy** won the top national award for **Outstanding Policy Achievement**. This recognized the Center's work for getting the legislature to improve students' ability to attend and pay for college."

For 10 consecutive years, the Center won national GRA awards for distinguished research, educating the public, and achieving changes in public policy.

III. Political Considerations: Are Your Goals Long-Term or Short-Term Change?

Now, we got a lot of good response and results from our studies in higher education but not from our study of governance of the UNC System. That's because of a decision we made before developing our recommendations, and you face this same decision now. The question before you is: Do you want to make recommendations for what you think is best for the state and higher education governance in the long term – which is what we did – OR do you temper your recommendations and aim for what might be more acceptable to the Governor and a majority in the General Assembly in the short run? I think either is okay, but it's best to be clear about your political goals before you decide on your recommendations.

My own political instincts are that 3 things argue in favor of adopting a long-term approach. First is sheer timing. You'll be finalizing your report in June and July, and the General Assembly is likely to adjourn in July because they're doing the budget earlier than usual this year. That leaves you only the possibilities of a special session on this topic called by the Governor, or the short session in 2024 when the legislature historically doesn't like taking up new controversial topics.

Second, Gov. Cooper will be in the final year-and-a-half of his tenure at that point, and he faces a Republican super-majority now.

Third, when this Commission was first announced last November, Speaker of the House Tim Moore said, "There is no interest in changing the structure of the UNC System, regardless of whatever report this politically-motivated commission produces." Senate President Pro Tem Phil Berger said the purpose of the Commission was "to enlarge his [the Governor's] power and expand executive control" and "obtain partisan appointments to university boards." That had to be discouraging for the people in this room, not having made a single recommendation yet, so I commend you all for seeing this through and doing such good research and thinking.

IV. Recent Issues and Controversies in Governance of Higher Education

So far, this Commission has not had a comprehensive discussion of the problems you see in higher education governance. You have focused mostly on solutions, but you've not really described the problems you're trying to solve. Nor have you been specific about identifying which governing body is the source of the

problem you're trying to solve. Is it the legislature and existing state statutes, or the UNC Board of Governors, or a particular campus board of trustees, or individual bad apple members of a board? So, **Attachment 1** is my attempt to quickly describe the problem behind some of the solutions you or the press have mentioned and match them to which governing body is responsible. What you owe the public and posterity in your report is a description of the problems and the solutions you propose to those problems.

The first 3 items (#1, 2, and 3) on pages 1 and 2 of the attached table (**See Attachment 1**) list violations of existing laws by the legislature. These are rooted in state statutes, the state Constitution, or legislative practice. First, **G.S. 116-7(a)** requires the legislature to elect members of the Board of Governors who reflect the "economic, geographic, political, racial, gender, and ethnic diversity" of the State. Both the Center's study and the Davidson College study show this statutory requirement has not been met.

The second failure to follow state law by the legislature is that **G.S. 116-6(c)** requires the House and Senate to select from a slate of candidates in each chamber that lists, and again I quote, "at least twice the number of candidates for the total seats open." However, this was not the legislature's practice this year or any year I know of.

The third is a Constitutional imperative. The state Constitution mandates that "The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, **as far as practicable**, be extended to the people of the State **free of expense**." Yet, tuition has been increased in about 35 of the last 50 years. That invites a lawsuit that could cost the state millions.

When state statutes or the Constitution are not being followed, the solution is for this Commission and the media to bring the situation to the attention of the public and for the Governor or Attorney General or a private citizen to sue to enforce the law.

The next set of problems (items #4, 5, and 6) also originate from legislative decisions – the decision to exclude the Governor from having the power to appoint any members of the Board of Governors, the decision to take away the Governor's power to appoint some members of the campus Boards of Trustees, and the legislature's decision to elect lobbyists and former legislators to the Board of Governors. I am skeptical the General Assembly will change who makes appointments to the Board of Governors, though I will point out that in 46 states, governors appoint all or some of the members of the statewide higher education boards, with 31 of those 46 states requiring state Senate approval of the gubernatorial appointments. The Center's study recommended involving the Governor in appointments to the Board of Governors.

I do think that if this Commission were to bring to the attention of the public the problems presented by having lobbyists and former legislators on the Board of Governors, with real examples of the conflicts of interest created, that you might be successful in eliciting some changes there.

The next set of problems or issues in the table (items # 7, 8, 9, and 10) originate at the Board of Governors decision-making level. Fairly high rates of turnover among campus Chancellors and system Presidents the last 8 years are a canary in the coal mine for problems in governance. Board of Governors' members seeking positions as campus Chancellors, getting individually involved in the hiring of Chancellors, and making decisions on academic programs at institutions are violations of norms of good governance.

Tom Ross spoke in March to a group of senior lawyers in Raleigh and broached the idea of creating a Center for Higher Education Governance to deal with these kinds of problems, and I think that is a very good idea.

The next set of issues and controversies in the table originate at the campus level (items # 11, 12, 13, and 14) where Boards of Trustees as a whole or individual bad apple board members have violated norms of good governance. The most public of these controversies have involved the UNC-Chapel Hill Board of Trustees and its decisions regarding the Silent Sam Confederate Soldier statue, the failed hiring of Nikole Hannah-Jones at the School of Journalism, and the most recent decision to accelerate the development of a new School of Civic Life and Leadership without the normal months-long approval process and a vote by the faculty to create a new degree program.

Lastly in the table (item #14) is the terrible instance of two East Carolina University campus Trustees and bad apples who tried to influence student government elections at ECU. I think the solution used there of

“naming and shaming” solved that problem, though an explicit Code of Ethics might make justice in such situations quicker and surer.

V. Suggestions for Possible Recommendations by This Commission

Now, because you’re operating in a tight time frame, I thought I could help by giving you suggestions for recommendations you could make to the Governor and the General Assembly.

1. Comply with the State Statute Requiring Diversity of Various Types on the Board of Governors and Campus Boards of Trustees

I think you need a recommendation to increase diversity on all higher education boards. This is important for two reasons. First, the state statute requiring this is not being followed, and second, diversity on the boards was a key part of the Governor’s charge to you in creating this commission.

As I mentioned earlier, **G.S. 116-7(a)** requires the legislature to elect members of the Board of Governors who reflect the “economic, geographic, political, racial, gender, and ethnic diversity of the State.”

The complicating factor in correcting this is the settlement of the lawsuit by the University system with Walter Davis in 2001 on ending quotas on the Board of Governors by setting aside 4 seats each for women, minorities, and the minority political party.

But, having quotas is very different from having a Board that is proportionately representative of the population of North Carolina, and that is what I suggest that you recommend. And, the Davis suit did not cover geographic or economic diversity or the situation now where the largest number of voters are registered Unaffiliated.

Some of the best statutory language on Board composition found by the Center is Kentucky’s. Kentucky’s statute outlines goals for appointments by their Governor to the Kentucky Council on Postsecondary Education. The law expressly directs the Governor to “assure broad geographical and political representation; assure equal representation of the two sexes, inasmuch as possible; assure no less than proportional representation of the two leading political parties of the Commonwealth based on the state’s voter registration; and assure that appointments reflect the minority racial composition of the Commonwealth....”

The Center examined the North Carolina legislature’s record over a 32-year period (1972-2004) and found that the General Assembly consistently failed to elect women and minorities to the Board of Governors in proportion to their numbers in the state’s population. In those 32 years, the legislature filled 1,024 positions on the UNC Board, and only 19 percent were women, while women are 51 percent of the state’s population. The legislature also elected only 21 percent minority Board members in a state that has several minority populations that then totaled 29 percent of the population and now totals 38 percent of the state’s population.

The Center’s research also showed that those elected to the Board of Governors by the legislature were disproportionately Democrats when the Democrats held a majority of seats in the legislature and a majority of registered voters. The Board also came disproportionately from the Piedmont, slighting the Eastern and Western regions of North Carolina.

You also have data on the current Board showing that the Board of Governors is:

- 24% female and 76% male, while the state’s population is 51% female and 49% male. Recent appointments to the Board by the legislature in March and May this year resulted in a Board with 6 women among its 24 members (25%).
- The Board of Governors is 76% white, 16% African-American, and 0% Hispanic, Asian, and Native American, while the state’s population is 62% white, 23% African-American, 10% Hispanic, 3% Asian, 1% Native American, and 2% other for a total minority population of 38%. Recent 2023 appointments leave the Board with four African Americans, (Pearl Burris-Floyd, Joel Ford, Reggie Holley, and Sonja Phillips Nichols) and 1 Asian American (Swadesh Chatterjee).
- The Board of Governors is 64% Republicans, 4% Democrats, and 32% Unaffiliateds, while the state’s population is 30% registered Republicans, 34% registered Democrats, and 36% Unaffiliateds. Recent 2023 appointments leave the Board with only 2 registered Democrats (Joel Ford and Gene Davis).

I suggest you publicize this and then consider recommending that the Governor sue in his individual capacity or that he consider asking the Attorney General to sue for enforcement of the statute.

One thing that Tom did in his talk to the group of Raleigh lawyers that was very helpful to that audience was to list the various kinds of diversity. Here are the types he mentioned and how to perhaps tease them out in your recommendation on diversity.

- **Racial and Ethnic Diversity:** Race is a protected class in discrimination lawsuits. This is the type of diversity that has to deal with the settlement of Walter Davis' lawsuit. That means it is the most difficult area in which to craft a solution, but it's worth a shot as long as you don't recommend quotas. But, that Walter Davis settlement is out of step with the times and does not fit how most North Carolinians think this public governing board should look. You are on the high political ground here.

- **Gender Diversity:** Gender probably is less a legally protected class in NC without a State Equal Rights Amendment so you can get more accomplished here, and it would be a big political payoff for both political parties to do something that gets better representation for more than 50% of the population.

- **Geographical Diversity:** In guaranteeing geographical diversity, the Center Board used Gade and Stillwell's geography textbook called North Carolina: People and Environment. In it, East is east of Raleigh (I-95), west is equivalent to west of Charlotte and Winston-Salem, and Piedmont is east of Charlotte and Winston, and west of Raleigh (**See Attachment 2**). This is the most stable way of adding geographical diversity and the most feasible over time.

In my experience, lack of geographical diversity on the Board of Governors is a big problem, in that too high a proportion of Board of Governors members come from the Triangle, and too many have strong allegiances to UNC-Chapel Hill and NC State and skew both the budget and program priorities to NC State and Carolina.

I would strongly advise against using the 16 Council of Governments regions or the 14 Congressional districts or the 8 Prosperity Zones in defining geographical diversity. The Councils of Governments are regrettably not respected by elected officials. Diversity by Congressional districts would add an additional element of politics infiltrating the process. As was pointed out in a previous Commission meeting, because we redistrict so often, there would be an additional element of turnover and politics added in defining the Congressional districts. And, using the 8 Prosperity Zones is still just too complicated. Keep it simple: use East, West, and Piedmont because that's the way people in North Carolina think in terms of geographical diversity.

- **Political Affiliations Diversity:** On this recommendation in particular, you have to decide whether you want the Commission to go for what it thinks best in the long run, or whether to go for something that the General Assembly might accept. In all candor, the General Assembly isn't likely to go for any statutory inclusion of appointment of Unaffiliateds to the Board of Governors, even though they are now the largest number of registered voters.

The system the Center for Public Policy Research used for political diversity was to base our Board on the percentages of registered voters among Democrats, Republicans, and Unaffiliateds. So when I began in the 1980s, our board had a large majority of Democrats; then in the 1990s, the Democrats and Republicans had about equal numbers, and in the 2000s, it was about even-thirds among Democrats, Republicans, and Unaffiliateds. There also was less controversy over time about what the standard was. The board also got better.

I think that standard is the best for the long term, but I can't imagine a Republican majority or a Democratic majority giving up UNC Board seats to Unaffiliateds – in effect to a “party” that's not really represented in the General Assembly. I guess you could tie Board seats to the percentage of legislators by political party in the House/Senate, and that would increase the number from the minority party, but I still think this is an intractable problem right now, as long as the legislature has sole appointment power.

2. Comply with the State Statute on the Number of Candidates for the Board of Governors To Be Considered by the Legislature

Again, as I mentioned earlier, the General Assembly is not following the state statute in its process for nominating and electing members to the Board of Governors. **G.S. 116-6(c)** requires the House and the Senate to select from a slate of candidates in each chamber that lists “at least twice the number of candidates for the total seats open” on the Board. However, the legislature’s usual practice is to vote up or down on a slate of candidates that has the same number of candidates as there are seats available (**See Attachment 3**).

Our additional finding was that the legislature’s Nominating Committees were and still are not doing their homework to determine the qualifications of the candidates for the Board of Governors or to find out candidates’ views on higher education policy. For example, one candidate for the Board of Governors told me that he spoke with more than 70 legislators in running for a seat, and that only one legislator asked any questions about his qualifications or positions on higher education issues. And, the legislative committees that handle these elections usually meet once for only 10-15 minutes to make their selections. There’s no debate at all.

This could prompt a lawsuit because the legislature again is not following its own law. You have the same policy choice here. You could publicize this in a news release and then consider recommending that the Governor sue in his individual capacity or that he consider asking the Attorney General to sue for enforcement of the statute. However, this one is perhaps harder to explain to the public, but it looks bad for the legislature not to be following its own laws.

3. Comply with the State Constitutional Imperative That the Benefits of Public Universities Be, As Far as Practicable, Free of Expense

Article IX, Section 9 of the State Constitution mandates that “the General Assembly shall provide that the benefits of the University of North Carolina and other public institutions of higher education, *as far as practicable*, be extended to the people of the State *free of expense*.”

Tuition and fees are the most important university policy for most families in North Carolina. For the first 27 years of its existence – from 1972 until 1999 – the UNC Board of Governors *never* recommended a tuition increase to the N.C. General Assembly, with the sole exception of its very first budget request in 1973 when the Board equalized tuition among institutions with comparable missions. The UNC Board of Governors then initiated tuition increases in 1973, 1999, 2000, 2001, and 2002. The legislature approved these increases and added another on its own initiative in 2003. As a result of these cumulative actions, undergraduate tuition for North Carolina residents rose by 71 percent in five years from 1999 to 2004.

The legislature itself then enacted 17 tuition increases from 1974 to 2003 (in 1974, 1975, 1977, 1981, 1983, 1985, from 1989-1998, and 2003).

In 2004 and 2006, the UNC Board approved and the General Assembly agreed to additional tuition increases that were initiated by individual campuses (**See Attachment 4**).

In addition to tuition increases, families and students have seen fee increases, so that athletics fees alone are up to \$279 at Chapel Hill but more than \$900 at Western Carolina and UNC-Asheville. Total fees are almost \$2,800 (\$2,776) at UNC-Asheville.

The good news in this area is that the University System has not increased tuition for in-state students for the last seven years. My sincere compliments to UNC System Presidents Margaret Spellings, William Roper, and Peter Hans on this achievement. This policy decision works in combination with 2 other achievements – the Fixed Tuition Program that I believe was first proposed by Brad Wilson when he was Chair of the Board of Governors, and the NC Promise Tuition Plan, both enacted by the 2016 General Assembly during President Spellings’ tenure. The **Fixed Tuition Program** guarantees in-state students fixed tuition if they are continuously enrolled for 8 consecutive semesters. Mandatory student fee increases are also capped at 3% per year. The **NC Promise Tuition Plan** benefits students at 4 universities (Western Carolina, UNC Pembroke, Fayetteville State, and Elizabeth City State) by charging them \$500 per semester tuition rates.

But overall, there still have been at least 35 tuition increases in the last 50 years, inviting a lawsuit under the state Constitution's provision that higher education should be "free of expense... as far as practicable." Such a lawsuit could cost the state millions of dollars.

The Center's record on these kinds of warnings is good. For example, back in 1990, the Center warned of a possible lawsuit by property tax-poor schools under the State Constitution's guarantee of equal educational opportunities, and in 1994, the *Leandro* decision on exactly this issue came down from the state Supreme Court. A current judicial order requires that the legislature appropriate \$677 million to meet that mandate.

4. Create a New Center for Higher Education Governance Within the UNC System Offices

As I mentioned before, in his speech to the group of Raleigh lawyers, Tom Ross brought up the idea of creating a Center for Higher Education Governance, and I think this is a very good idea. It would help create a diverse pool of qualified candidates for the Board of Governors and campus Boards of Trustees and a database for this. It also could offer an initial orientation program for new Board members. Tom also mentioned developing a Code of Ethics for the boards. To tease it out a bit further, the four functions of such a center would be:

(a) to develop a pool of qualified candidates, with special attention to creating a diverse pool of candidates, who are well-qualified and interested in serving on the UNC System Board of Governors and on Boards of Trustees at the campus level;

(b) to offer an orientation program for new members of the Board of Governors and campus Boards of Trustees;

(c) to offer training and continuing education for existing members of the Board of Governors and campus Boards of Trustees on specific duties and responsibilities of board members in public university governance and, as John Townsend and Ann Goodnight described it, a forum for developing and describing best practices; and

(d) to develop a Code of Ethics that would supply norms and standards for university board members in NC. These norms and standards should be included in all orientations and training activities, along with practical examples of situations that could arise; and

(e) to help clarify the division of responsibilities between the Board of Governors and UNC System President and the campus Boards of Trustees and Chancellors, and the Board of Governors' delegations of responsibilities to the campus Trustees.

I think such a center should be housed in the UNC System offices, not on a particular campus. This will be easier to do once the new education building for the System is built in Raleigh where the Administration Building now stands.

5. Add the Superintendent of Public Instruction and President of the Community College System as Ex-Officio Non-Voting Members of the Board of Governors

I think it's a good idea to add the Superintendent of Public Instruction and the President of the Community College System to the UNC Board of Governors as ex-officio non-voting members. This would increase coordination on such policy questions as the effort to increase college-going rates and graduation rates in the MyFutureNC 2030 goals, and I commend John Fraley and Ann Goodnight for serving on the Board for MyFutureNC. Adding the Superintendent and Community College President as ex-officio non-voting members of the Board of Governors also would aid in joint system efforts like the Articulation Agreement between the university system and the community college system. That latter effort wouldn't have taken so long to implement perhaps if the Community College President had been ex-officio on the UNC Board. Including these two leaders on the UNC Board will be even more relevant after all 3 system leaders are in that same new education building to be built in Raleigh.

The next recommendation may be particularly meaningful to Commission members Isaiah Green and Karen Popp as former student body presidents.

6. Change the Status of the Student Member of the Board of Governors from Non-Voting to a Voting Seat on the Board

The Center's findings and the reasons for this recommendation are:

- 30 central higher education boards in 27 states have a statutory requirement for student members, and on 25 of these boards, the student(s) has the right to vote. Thus, North Carolina's Board of Governors is one of only five boards with student members but without voting privileges.
- It is an inconsistent principle of governance in higher education in North Carolina to grant students a voting seat on the 16 local campus boards of trustees, but not on the statewide Board of Governors.
- Voting rights for the student have been endorsed in the past by the Board of Governors itself and by the boards of trustees of N.C. State University, N.C. Central University, and Winston-Salem State University.
- The N.C. House of Representatives passed legislation by large margins in three separate legislature sessions that would have granted voting rights to the student on the Board of Governors.
- Granting a voting seat to the student representative on the Board of Governors is one way to assure a connection between the Board and its chief customers or consumers – the 242,446 students in the 17-campus system. The student representative is invaluable in gauging the effect of various policies on students and in communicating Board of Governors decisions back to the campuses.
- The student members of the Board have often been especially valuable members. The student representative plays a key role (a) in developing state policy on such issues as tuition and (b) in advocating for the University system with the public and the legislature, such as in previous student participation on public TV special programs on University finances and costs. Student participation in governance also has been very important in building support for the Board's "strategic directions" and in publicly disseminating information about the rationale behind the Board's decisions back to the students. Students have proved they merit voting rights with their history of contributions in governance.

7. Ban Current Registered Lobbyists from Serving on the Board of Governors and the Campus Boards of Trustees, and Enact a Cooling-Off Period of 3 Years After a Lobbyist Is No Longer Registered as a Lobbyist Before Being Appointed to a Board

Increasingly, registered lobbyists have been appointed to the Board of Governors – for example, Darrell Allison, Pearl Burris-Floyd, Tom Fetzer, Thom Goolsby, Reggie Holley, and David Powers. Lou Bissette on this Commission has advocated for a ban on current lobbyists being on the Board of Governors, and I think that is a good idea. Having members of the Board of Governors or campus Boards of Trustees who are currently lobbyists is rife with problems of lobbyists with multiple masters. This can result in conflicts of interest between their clients and the legislative leaders who appointed them vs. the university system's best interests.

If they stop lobbying and are no longer registered, a cooling-off period of a specified length (I recommend 3 years) might reduce the possibility of conflicts and turn their political experience into an asset for the Board of Governors or the campus Boards of Trustees.

In addition, the governance process is being tainted by Board of Governors candidates making campaign contributions to legislators. This is especially tempting for the lobbyists on the Board. Lobbyists on the Board contributed almost \$426,000 (\$425,720) in the five-year period we examined, and it's probably much more than that now.

8. Require a Cooling-Off Period of 3 Years Before Former Legislators Could Serve on the Board of Governors or Campus Boards of Trustees

Increasingly, former legislators also have been appointed to the Board of Governors – for example, Sen. Harry Brown, Rep. Rob Bryan, Rep. Leo Daughtry, Rep. C.R. Edwards, Sen. Joel Ford, Rep. John Fraley, Sen. Thom Goolsby, Sen. Teena Little, Sen. Helen Marvin, Rep. Art Pope, Sen. Bob Rucho, and Sen. Woody White. This unnecessarily politicizes the Board. Former legislators have divided loyalties to higher education's mission and goals vs. allegiance to the legislative leaders who appointed them.

I'd recommend making the cooling-off period at least 3 years. This would increase the likelihood that maybe 2 election cycles will have gone by after the legislator has left office. The former legislators then are a little less likely to have close relationships with people that are still in power/office in the legislature.

9. Return to Balance in the Separation of Powers Between Branches of Government by Giving the Legislature Half and the Governor Half of the Appointments to the UNC Board of Governors and the Campus Boards of Trustees

The reasons for this recommendation are as follows:

- In only two states – North Carolina and New York – does the legislature elect all voting members of their statewide university governing boards. The NC Center for Public Policy Research study found that in 46 states, governors appoint all or some of the members of statewide public higher education boards. 31 of those 46 states require state Senate approval of the gubernatorial appointments.

The 2022 AAUP report said that there were 17 statewide higher education governing boards in their sample overseeing all or almost all of the baccalaureate institutions in their states and that North Carolina's UNC Board of Governors is "the only statewide governing board solely appointed by the legislature without input from the governor."

In addition, in 2016, the legislature removed the Governor's power to appoint 4 of the 13 members of each local campus's Board of Trustees. Previously, the Governor had appointed 4, the Senate 4, and the House 4, with the elected student body president serving as the 13th voting member.

- The legislature is not doing its job in generating a large pool of applicants for positions on the Board, and the legislature is not doing its job in screening applicants to select the best Board members because it pays little attention to asking applicants about their qualifications for the Board, their demonstrated interest in higher education, their views on higher education policy questions, or their ideas for improving the system. Even if the legislative nominating committees ask for such information, they do not discuss it or seem to use it in their decisionmaking.

- Historically, Governors are more likely than the legislature to appoint a diverse slate of candidates that more accurately reflect the state's demographic make-up by race and ethnicity, gender, geographic region, and political party affiliation.

- This year, the N.C. General Assembly has moved to remove other appointment powers from the Governor and vest appointment power in the legislature. In the 2023 legislative session, there are 3 bills (SB 512, SB 692, and HB 17) to shift some or all of the appointments from the Governor to the legislature on the State Board of Education, Board of Transportation, Utilities Commission, Environmental Management Commission, Coastal Resources Commission, Wildlife Resources Commission, Economic Investment Committee, State Board of Community Colleges, and all local community college boards. All five past living Governors wrote in opposition to these three bills, saying they are unconstitutional (**See Attachment 5**).

In 2016, the state Supreme Court ruled in the *McCrorry v. Berger* lawsuit that a similar limit on a Governor's appointment power was an unconstitutional violation of the separation of powers principle. The court held that... "the legislative branch has exerted too much control over commissions that have final executive authority. By doing so, it has prevented the Governor from performing his express constitutional duty to take care that the laws are faithfully executed."

10. Require the UNC Board of Governors To Adopt a Policy That All Decisions on Creation of New Academic Programs, Schools, or Centers or Abolition of Existing Academic Programs, Schools, or Centers Should Not Originate at the Board of Governors or Campus Board of Trustees Level

Such proposals should instead be reviewed by the faculty, administration, and chancellors at the campus level, with the recommendation and accompanying budgetary information then to be forwarded to the campus Board of Trustees, and finally to the Board of Governors. Decisions on curriculum properly reside first at the campus level.

11. Provide Accessible, Actively-Monitored, Institutional Email Addresses for All Members of the Board of Governors and Campus Boards of Trustees

This will increase access to decision-makers and transparency for the public and make it easier for members of the public, especially parents and students, to contact Board members. It may also create a little counterweight to input that the Board members receive from legislators or from contributors to political campaigns who already weigh in on issues. The email addresses should be publicly available on university campus and System websites.

12. Live-Stream and Record All Campus Boards of Trustees Meetings

This is already done at the Board of Governors level. Adding it at the campus level would augment the recommendation above in increasing access to the decision-making process and providing more transparency in higher education governance.

13. Give the Chairs of the Faculty and Staff Assemblies a Standing Place on the Agendas of Every Meeting of the Campus Boards of Trustees

I think this is an excellent idea, if it is confined to the campus Boards of Trustees and not the system Board of Governors.

I hope these suggested recommendations are helpful for your deliberations and help you develop your recommendations to the Governor and legislature.

VI. A Few Recommendations To Reject for Your Report

Now lastly, here are a few ideas for other possible recommendations that I've heard mentioned but that I would advise against.

1. Do Not Recommend Including the Chairs of the Faculty Assembly and the Staff Assembly as Voting or Ex-Officio Non-Voting Members on the Board of Governors or Campus Boards of Trustees

N.C.G.S. 116-7(b) says that "No member of the General Assembly or officer or employee of the State, the University of North Carolina, or any constituent institution may be a member of the Board of Governors." The next sentence also says no spouses either. This ban is to prevent conflicts of interest that might occur in having employees who might be voting on budgets, curricula, academic programs, salaries and benefits, etc. on these boards. Note that the statute says no employee can be a member of the Board, and that would include as voting or non-voting members. I think this principle applies to both the Board of Governors and the campus Boards of Trustees.

2. Do Not Recommend Increasing the Size of the Board of Governors

I do not see any connection to the issues and controversies in my table to solutions that would lead you to increase the number of members on the Board of Governors, unless you feel that is necessary in order to increase diversity on the Board. You have discussed increasing the size to 36 or some number larger than the current 24.

Remember that the Board of Governors had 100 members at the start, then was reduced to 32 members, and now to 24. I have had personal experience with varying sizes for the Board of the Center for Public Policy Research that helped me think about this.

First, we looked for research on the ideal board size but could find no consensus or magic number in the research. I inherited a board of 49 members and no diversity requirement. We gradually decreased the size of the board because it was too large to keep everyone informed and involved. Then we added the requirement that the board must reflect the population of North Carolina in terms of race and ethnicity, gender, geographical regions (East, West, and Piedmont), and political party affiliations, including independents or unaffiliateds. All percentages were based on the percentage in the NC population. When we got to the number of 24 board members, I felt we got it right, and 24 is where the Board of Governors is now. I think the Board of Governors

would be too large for the system President to manage effectively at 36. A number between 24 and your discussed size of 36 – maybe 30, might serve your purpose, but only if increasing the size is tied to a strong recommendation to increase diversity. Personally, I would not recommend changes to the Board size.

3. Do Not Recommend Changes to the Number of Terms or Length of Terms for the Board of Governors

Currently, **G.S. 116-6(e)** says Board of Governors members can serve no more than three full four-year terms, or a total of 12 years. This Commission has discussed changing this to a limit of one eight-year term. I don't think one eight-year term will encourage more people to serve or lead to better governance.

Also, having a bad board member on for 8 years is torture for the President or the Chancellors. With a four-year term, there is a chance that a bad board member will get tired or frustrated and leave, and there would be a chance to defeat him/her if they chose to run for reelection. I also think it's good that the people voting for a second term for board members get a chance to review performance. In my experience with the Center, I once had a Board member indicted before we had term limits, and he didn't want to resign. Shorter terms help avoid that situation. Shorter terms can avoid a public fight over reappointment because it's easier to just thank a Board member for their service as they rotate off at the end of their term.

I do think that 12 years total is too long to ask someone to serve on a Board that meets almost every month plus committee meetings. I think the best practice would be having members of the Board of Governors and campus Boards of Trustees to serve two four-year terms or a total of eight years. But, overall, I'd ask what problem this change would solve, and again, I'd suggest making no recommendation here.

4. Do Not Recommend That North Carolina Adopt a Tiered System of Higher Education Governance Like California

In an earlier presentation, this Commission heard mention of California's three-tiered system of higher education governance. In the first tier, the nine extensive research institutions are governed by the Board of Regents of the 10-campus University of California. In the second tier, the 23 other four-year colleges and universities are governed by the Board of Trustees of the California State University. In the third tier, all 109 community colleges are governed by the Board of Governors of the California Community Colleges.

California's tiered education governance system may be more appropriate for that state, with its 33 four-year public universities and 109 two-year institutions, but the differences in demographics between the two states suggest that such a system would not work better in North Carolina than our current system. California has the largest public higher education enrollment in the nation – three times the enrollment of the UNC System, and it has more than twice the number of public four-year institutions, 33 to North Carolina's 16.

Also, California officials acknowledged its shortcomings to us. The Legislative Coordinator for the California Postsecondary Education Commission told us, "The major advantage here ... is also the major disadvantage – namely, the distinction between the systems.... That division has allowed admissions, funding, and other policies to be carefully shaped to fit each school's mission. But this arrangement also has prevented collaboration between universities in the two systems.... The disadvantage is that they are territorial." And, with such divisions of governance, duplication of programs also has occurred. "For example, most of our teacher education programs are in the California State University system, but the community colleges also offer transfer curricula" in teacher education, she said. "We've urged them to try and avoid duplication and to collaborate, but I'm afraid they do duplicate," she said. Few states other than California have such a tiered system, so I'd recommend that you not fall for the voices at UNC-Chapel Hill or N.C. State that often ask for special governance treatment as "flagship universities."

I want to close with a passage from one of my favorite novels, Norman MacLean's "A River Runs Through It." It is a reminder that the work you do here is important and that the words of your report will have a life long into the future. It says, "Eventually, all things merge into one, and a river runs through it. The river was cut by the world's great flood and runs over rocks from the basement of time. On some of the rocks are timeless raindrops. Under the rocks are the words, and some of the words are [yours]."

**Summary of Suggested Recommendations for the Governor's Commission on the
Governance of Public Universities in North Carolina**

by Ran Coble

May 2023

1. Comply with the state statute requiring diversity of various types on the Board of Governors and campus Boards of Trustees.
2. Comply with the state statute on the number of candidates for the Board of Governors to be considered by the legislature.
3. Comply with the State Constitutional imperative that the benefits of public universities be, as far as practicable, free of expense.
4. Create a new Center for Higher Education Governance and house it within the UNC System offices, not on a particular campus.
5. Add the Superintendent of Public Instruction and President of the Community College System as ex-officio non-voting members of the Board of Governors.
6. Change the status of the student member of the Board of Governors from non-voting to a voting seat on the Board.
7. Ban current registered lobbyists from serving on the Board of Governors and the campus Boards of Trustees, and enact a cooling-off period of 3 years after a lobbyist is no longer registered as a lobbyist before being appointed to the Board.
8. Require a cooling-off period of 3 years before former legislators could serve on the Board of Governors or campus Boards of Trustees.
9. Return to balance in the separation of powers between branches of government by giving the legislature half and the Governor half of the appointments to the UNC Board of Governors and the campus Boards of Trustees.
10. Require the UNC Board of Governors to adopt a policy that all decisions on creation of new academic programs, schools, or centers or abolition of existing academic programs, schools, or centers should not originate at the Board of Governors or campus Board of Trustees level.
11. Provide accessible, actively-monitored, institutional email addresses for all members of the Board of Governors and campus Boards of Trustees.
12. Live-stream and record all campus Boards of Trustees meetings.
13. Give the chairs of the Faculty and Staff Assemblies a standing place on the agendas of every meeting of the campus Boards of Trustees.

A Few Recommendations To Reject for Your Report
by Ran Coble
May 2023

1. Do not recommend including the Chairs of the Faculty Assembly and the Staff Assembly as voting or ex-officio non-voting members on the Board of Governors or campus Boards of Trustees.
2. Do not recommend increasing the size of the Board of Governors.
3. Do not recommend changes to the number of terms or length of terms for the Board of Governors.
4. Do not recommend that North Carolina adopt a tiered system of higher education governance like California.

Attachments

Attachment 1 – Recent Issues and Controversies in Governance of Higher Education in North Carolina

Attachment 2 – Map Showing the Division of North Carolina Counties into East, West, and Piedmont Regions for Purposes of Increasing Geographical Diversity on the Board of Governors

Attachment 3 – 2023 NC Senate and House Ballots for Elections to the UNC Board of Governors, Showing Violation of the Law Requiring Twice the Number of Candidates for the Seats Available on the Board

Attachment 4 – Record of Tuition Increases in the University of North Carolina Since 1970 and 2023-24 Undergraduate Tuition and Fees by Campus in the 16-Campus System

Attachment 5 – April 19, 2023 Letter from the 5 Living Governors to the Senate President Pro-Tempore and Speaker of the House Saying Removal of the Appointment Powers to Various Executive Boards and Commissions by the Legislature from the Office of the Governor Is Unconstitutional

Recent Issues and Controversies in Governance of Higher Education in North Carolina

by Ran Coble
June 2023

The Issue	The Responsible Governing Body
<p>1. Not Following the State Statute Requiring Diversity in the Election of Members of the Board of Governors by the Legislature –</p> <p>G.S. 116-7(a) requires the legislature to elect members of the Board of Governors who reflect the “economic, geographic, political, racial, gender, and ethnic diversity” of the State. Both the Center’s study and the Davidson College study show this statutory requirement was not and still is not being met. This is complicated by the settlement of a lawsuit in 2001 between Walter Davis and the University on not requiring quotas by race, gender, and minority political party. Still, the UNC Board of Governors (BoG) is not representative of the population in NC in its proportions of members by gender, race, political affiliation, and geographic region of NC.</p> <p>The BoG is 24% female and 76% male, while the state’s population is 51% female and 49% male.</p> <p>The BoG is 76% white, 16% African-American, and 0% Hispanic, Asian, and Native American, while the state’s population is 62% white, 23% African American, 10% Hispanic, 3% Asian, 1% Native American, and 2% other.</p> <p>The BoG is 64% Republicans, 4% Democrats, and 32% Unaffiliateds, while the state’s population is 30% registered Republicans, 34% registered Democrats, and 36% Unaffiliateds.</p> <p>This could prompt a lawsuit because the legislature is not following the law.</p>	<p>N.C. General Assembly</p>
<p>2. Not Following the State Statute on the Number of Candidates for the Board of Governors To Be Considered by the Legislature –</p> <p>The General Assembly is not following the state statute in its process for nominating and electing members to the Board of Governors. G.S. 116-6(c) requires the House and Senate to select from a slate of candidates in each chamber that lists “at least twice the number of candidates for the total seats open” on the Board. However, the legislature’s usual practice is to vote up or down on a slate of candidates that has the same number of candidates as there are seats. There also have been no questions by Nominating Committee members about the candidates’ qualifications or their views on higher education policy. This could prompt a lawsuit because the legislature is not following the law.</p>	<p>N.C. General Assembly</p>

<p>3. The Number of Tuition Increases over Decades Invites a Lawsuit Under the NC Constitution – Article IX, Section 9 of the State Constitution mandates that “the General Assembly shall provide that the benefits of the University of North Carolina and other public institutions of higher education, <i>as far as practicable</i>, be extended to the people of the State <i>free of expense</i>.” For the first 27 years of its existence – from 1972 until 1999 – the UNC Board of Governors <i>never</i> recommended a tuition increase to the N.C. General Assembly, with the sole exception of its very first budget request in 1973 when the Board equalized tuition among institutions with comparable missions. The Board of Governors then initiated tuition increases in 1999, 2000, 2001, and 2002. And, the legislature itself also enacted tuition 17 increases from 1971 to 2003 (in 1974, 1975, 1977, 1981, 1983, 1985, from 1989-1998, and 2003). Overall, there have been about 35 tuition increases in the last 50 years, inviting a lawsuit under the state Constitution’s provision that higher education should be “free of expense... as far as practicable.”</p>	<p>N.C. General Assembly, UNC Board of Governors, UNC System Presidents, and sometimes Chancellors of individual institutions</p>
<p>4. Exclusion of the Governor from Making Appointments to the Board of Governors and Campus Boards of Trustees – The NC Center for Public Policy Research study found that in 46 states, governors appoint all or some of the members of statewide public higher education boards, with 31 of those 46 states requiring state Senate approval of the gubernatorial appointments. The 2022 AAUP report said that 17 statewide governing boards oversee all or almost all of the baccalaureate institutions in their states and that North Carolina’s UNC Board of Governors is “the only statewide governing board solely appointed by the legislature without input from the governor.” In addition, in 2016, the legislature removed the Governor’s power to appoint 4 of the 13 members of each local campus’s Board of Trustees. Previously, the Governor had appointed 4, the Senate 4, and the House 4, with the elected student body president serving as the 13th voting member.</p>	<p>N.C. General Assembly</p>
<p>5. Lobbyists on the Board of Governors – Increasingly, registered lobbyists have been appointed to the Board of Governors – for example, Darrell Allison, Pearl Burris-Floyd, Tom Fetzer, Thom Goolsby, Reggie Holley, and David Powers. Lobbyists have potential conflicts of interest between their clients’ private interests and the interests of the public UNC System.</p>	<p>N.C. General Assembly</p>
<p>6. Former Legislators on the Board of Governors – Increasingly, former legislators have been appointed to the Board of Governors – for example, Sen. Harry Brown, Rep. Rob Bryan, Rep. Leo Daughtry, Rep. C.R. Edwards, Sen. Joel Ford, Rep. John Fraley, Sen. Thom Goolsby, Sen. Teena Little, Sen. Helen Marvin, Rep. Art Pope, Sen. Bob Rucho, and Sen. Woody White. This unnecessarily politicizes the Board. Former legislators have divided loyalties between higher education’s mission and goals and their allegiance to the legislative leaders who appointed them.</p>	<p>N.C. General Assembly</p>

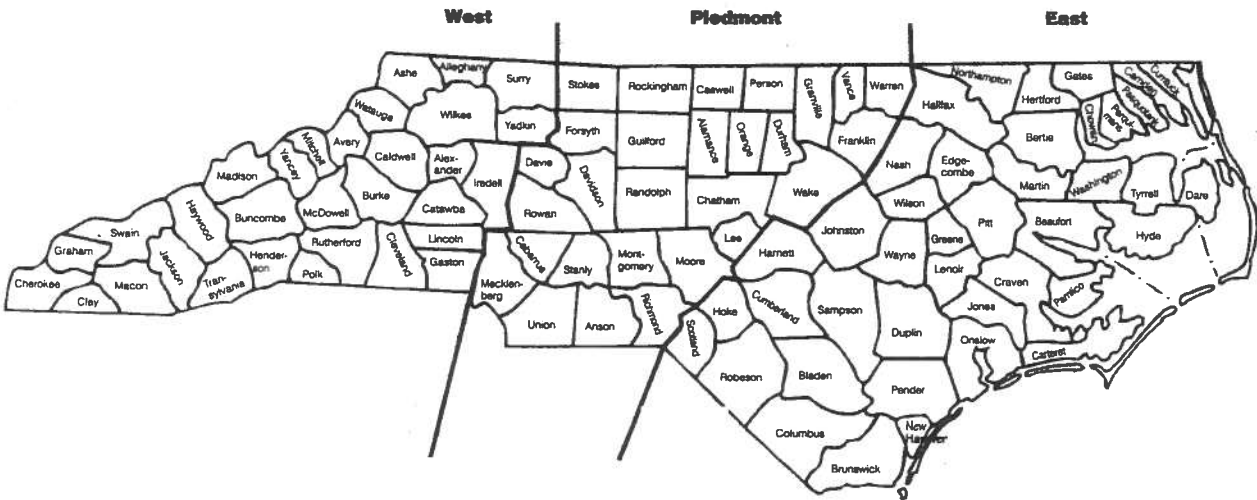
<p>7. Turnover Among Campus Chancellors and System Presidents – There has been a higher rate of turnover among leaders in the UNC System with</p> <ul style="list-style-type: none"> • four UNC System Presidents in the last 7 years • two chancellors at UNC-CH in the last 4 years • five chancellors at UNC-A in the last 8 years • four chancellors at ECU in the last 4 years • new chancellors at FSU, UNC-A, UNC-C, UNC-W, and WSSU • eight Community College System Presidents in the last 8 years. 	UNC Board of Governors and UNC System President
<p>8. Board of Governors Members Seeking Chancellor Positions – Some UNC System Board members have been accused of using their position on the Board to seek appointment as chancellors, and one, Darrell Allison, resigned from the Board of Governors, and then was appointed as Chancellor of Fayetteville State University.</p>	UNC Board of Governors
<p>9. Board of Governors' Closure of Academic Policy Centers – At the legislature's request, the UNC Board of Governors conducted a study of academic centers and institutes in the system, ostensibly to find cost savings, though the centers' funding largely came from private sources. The Board of Governors then closed three policy centers, two of which were headed by faculty members who had been vocal critics of state leaders. The Center for Work, Poverty, and Opportunity at UNC-Chapel Hill Law School, the Institute for Civic Engagement and Social Change at N.C. Central University, and the Center for Biodiversity at East Carolina University were closed. Additionally, the Board of Governors barred campus centers from engaging in litigation. Though this policy technically applied to all centers in the UNC System, its clear target was the Center for Civil Rights at UNC-CH Law School.</p>	N.C. General Assembly and the UNC Board of Governors
<p>10. Change in Chancellor Search Policy – The UNC Board of Governors changed the policy on searches for and appointments of new Chancellors in 2020 when it allowed the System President to submit two candidates for consideration by the campus-based boards, and the boards must return at least one as a finalist. The President will then recommend one of those finalists to the Board of Governors for approval. In the past, the President would select a Chancellor from finalists put forward by each individual university's Board of Trustees. The new policy overrides or at least intrudes on local campus Search and Screening Committees.</p>	UNC Board of Governors and UNC System President

<p>11. Removal of the Silent Sam Confederate Soldier Statue at UNC-CH –</p> <p>After protestors pulled down the Silent Sam Statue from its pedestal in August 2018, the Board of Governors directed the Chancellor to come up with a plan for the statue's future. UNC-CH Chancellor Carol Folt proposed a plan for relocating the statue, which the Board of Governors rejected. In January 2019, Folt simultaneously announced her resignation and the removal of the remaining parts of the statue. In November 2019, the Board of Governors announced an agreement whereby the UNC System would pay the Sons of Confederate Veterans \$2.5 million to build an off-campus site for the statue. The announcement reportedly came two minutes after the Sons of Confederate Veterans filed suit against the system and the Board of Governors. Later, it was discovered that UNC-CH's Vice Chancellor for Public Affairs Clayton Somers and others had negotiated the deal days before a lawsuit was even filed. Chancellor Kevin Guskiewicz said he had not been consulted nor had he participated in the settlement discussions. But, in February 2020, after the statue and money had been handed over to the Sons of Confederate Veterans, the judge who had originally approved the settlement in a lawsuit, then overturned it, finding that the deal had been reached before the lawsuit by the Confederate Veterans even had been filed and that the Confederate Veterans group lacked standing to file suit anyway. The statue and most of the money were returned.</p>	<p>UNC Board of Governors, UNC-CH Campus Board of Trustees, and 2 UNC-CH Chancellors</p>
<p>12. Failed Hiring of Nikole Hannah-Jones at UNC-CH School of Journalism –</p> <p>The UNC-CH School of Journalism and Media's review committee, the School's faculty, the University Tenure and Promotion Committee, the Dean of the School of Journalism, the University Provost, and the Chancellor all recommended to the UNC-CH Board of Trustees that Nikole Hannah-Jones be offered tenure as an endowed chair at the Journalism School. Hannah-Jones is a graduate of UNC-CH, a 2017 MacArthur "genius award" winner, and a 2020 Pulitzer Prize winner for her work on the 1619 Project. That project was controversial because it said that the purpose of the American Revolution was not independence from England, but rather to perpetuate slavery. Walter Hussman, Publisher of the <i>Arkansas Democrat-Gazette</i> who had donated \$25 million to the Journalism School, objected to the appointment in a series of emails to Chancellor Kevin Guskiewicz. Journalism School Dean Susan King, and Vice Chancellor for Development David Routh. The decision on Hannah-Jones' job offer and tenure was scheduled for action in November 2020 and January 2021 by the Board of Trustees' University Affairs Committee, but it was pulled from consideration. Dean King then offered Hannah-Jones an untenured term appointment with an opportunity for tenure review after five years. However, in May 2021, the University's Faculty Personnel Committee resubmitted Hannah-Jones' tenure application to the Board of Trustees, and in June 2021, the Trustees voted to offer Hannah-Jones tenure. She declined the offer and accepted an endowed chair position with tenure at Howard University instead.</p>	<p>UNC-CH Campus Board of Trustees</p>
<p>13. Creation of a New School of Civil Life and Leadership at UNC-CH –</p> <p>In January 2023, the UNC-CH Board of Trustees voted to accelerate the development of a new School of Civic Life and Leadership in order to "create the space for free speech [and] a culture of civil and open inquiry," said Trustee Chair David Boliek. Neither the faculty nor the university's chief academic officer knew that the Board of Trustees was going to consider this resolution. The UNC Policy Manual says the faculty has the authority to "prescribe the requirements for admissions, programs of study, and the award of academic degrees. The manual also outlines a months-long proposal and approval process to create new degree programs. The N.C. House of Representatives' and N.C. Senate's versions of this year's state budget each included \$2 million a year in both FY 2023-24 and FY 2024-2025 in funding for this new School.</p>	<p>UNC-CH Board of Trustees</p>

<p>14. Interference by Members of the Campus Board of Trustees in Student Elections at ECU – Two members of East Carolina University’s Board of Trustees offered campaign contributions to a former student government president if she would run again and would agree to later support these Trustees in changing the Board’s leadership. In February 2020, the Board of Governors voted to censure Trustee Robert Moore, and Trustee Phil Lewis resigned.</p>	<p>ECU Board of Trustees</p>
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UNC Board of Governors Voting Membership by Geographic Region, 1997-2004

	Population %	Geographic Ideal Membership	Members of the UNC Board of Governors by Region			
			1997-98*	1999-2000	2001-02	2003-04
West	22%	7	5 (16%)	4 (13%)	2 (6%)	5 (16%)
Piedmont	48%	15	19 (59%)	17 (53%)	21 (66%)	21 (66%)
East	30%	10	7 (22%)	11 (34%)	9 (28%)	6 (19%)



* Because there was a vacancy on the Board in 1997-98 and a total of 31 members instead of the full 32, percentages will not add to 100%.

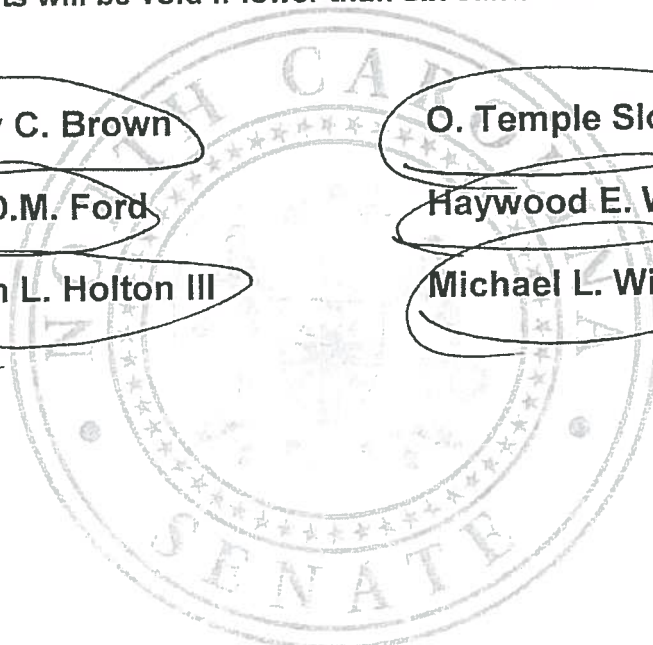
NORTH CAROLINA GENERAL ASSEMBLY
SENATE
2023 SESSION

BOARD OF GOVERNORS
THE UNIVERSITY OF NORTH CAROLINA

The following ballot lists candidates for the Board of Governors of The University of North Carolina as nominated by the Senate Select Committee on Nominations in compliance with N.C. Gen. Stat. § 116-6, as outlined in Senate Resolution 138.

OFFICIAL BALLOT

Circle the six candidates of your choice.
Ballots will be void if fewer than six candidates are selected.



Harry C. Brown

Joel D.M. Ford

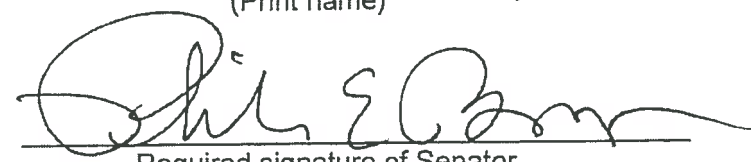
Martin L. Holton III

O. Temple Sloan III

Haywood E. White III

Michael L. Williford

Philip E. BERGEN
(Print name)


Required signature of Senator
(If there is no signature, ballot will be void)

March 15, 2023

2023 UNC BOARD OF GOVERNORS WINNERS

Nominee	Sponsor(s)
Harry C. Brown	Senator Bill Rabon
Joel D.M. Ford	Senator Carl Ford
Martin L. Holton III	Senator Joyce Krawiec
O. Temple Sloan III	Senator Brent Jackson
Haywood E. White III	Senator Michael Lee
Michael L. Williford	Senator Jim Perry

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

Simple
Resolution
Adopted

HOUSE RESOLUTION 895
Adopted 5/3/23

Sponsors: Committee on Rules, Calendar, and Operations of the House.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Calendar 5/3/2023

May 3, 2023

1 A HOUSE RESOLUTION ELECTING DR. PEARL BURRIS-FLOYD, C. PHILIP BYERS,
2 SWADESH CHATTERJEE, R. GENE DAVIS, JR., H. TERRY HUTCHENS, AND J.
3 ALEX MITCHELL TO THE BOARD OF GOVERNORS OF THE UNIVERSITY OF
4 NORTH CAROLINA.

5 Whereas, G.S. 116-6(a) directs the House of Representatives to elect six members to
6 the Board of Governors of The University of North Carolina this year; and

7 Whereas, the House of Representatives may determine its own procedure; Now,
8 therefore,

9 Be it resolved by the House of Representatives:

10 **SECTION 1.** The following persons are elected to the Board of Governors of The
11 University of North Carolina for terms commencing July 1, 2023, and ending June 30, 2027:

12 (1) Dr. Pearl Burris-Floyd of Gaston County.

13 (2) C. Philip Byers of Rutherford County.

14 (3) Swadesh Chatterjee of Wake County.

15 (4) R. Gene Davis, Jr., of Wake County.

16 (5) H. Terry Hutchens of Cumberland County.

17 (6) J. Alex Mitchell of Chatham County.

18 **SECTION 2.** This resolution is effective upon adoption.



* H 8 9 5 - V - 2 *

University of North Carolina Tuition Increases, 1970–2004*

	In-State Undergraduate		Out-of-State Undergraduate		In-State Graduate		Out-of-State Graduate	
	Average Tuition	Percent Increase	Average Tuition	Percent Increase	Average Tuition	Percent Increase	Average Tuition	Percent Increase
1970-71	\$255		\$939		\$271		\$939	
1971-72	\$256	1%	\$1,305	39%	\$272	1%	\$1,305	39%
1972-73	\$256	0%	\$1,780	36%	\$272	0%	\$1,780	36%
1973-74	\$266	4%	\$1,780	0%	\$283	4%	\$1,780	0%
1974-75	\$273	3%	\$1,780	0%	\$290	3%	\$1,780	0%
1975-76	\$275	1%	\$1,876	5%	\$292	1%	\$1,876	5%
1976-77	\$275	0%	\$1,876	0%	\$292	0%	\$1,876	0%
1977-78	\$302	10%	\$1,976	5%	\$321	10%	\$1,976	5%
1978-79	\$302	0%	\$1,976	0%	\$321	0%	\$1,976	0%
1979-80	\$302	0%	\$1,976	0%	\$321	0%	\$1,976	0%
1980-81	\$302	0%	\$1,976	0%	\$321	0%	\$1,976	0%
1981-82	\$360	19%	\$2,083	5%	\$382	19%	\$2,083	5%
1982-83	\$360	0%	\$2,083	0%	\$382	0%	\$2,083	0%
1983-84	\$396	10%	\$2,620	26%	\$421	10%	\$2,620	26%
1984-85	\$396	0%	\$2,857	9%	\$421	0%	\$2,857	9%
1985-86	\$403	2%	\$3,184	11%	\$428	2%	\$3,184	11%
1986-87	\$403	0%	\$3,577	12%	\$428	0%	\$3,577	12%
1987-88	\$424	5%	\$3,891	9%	\$451	5%	\$3,891	9%
1988-89	\$424	0%	\$4,225	9%	\$451	0%	\$4,225	9%
1989-90	\$510	20%	\$4,841	15%	\$542	20%	\$4,841	15%
1990-91	\$549	8%	\$5,041	4%	\$583	8%	\$5,041	4%
1991-92	\$654	19%	\$5,844	16%	\$695	19%	\$5,844	16%
1992-93	\$690	6%	\$6,462	11%	\$733	6%	\$6,649	14%
1993-94	\$711	3%	\$6,882	7%	\$755	3%	\$6,882	4%
1994-95	\$734	3%	\$7,329	6%	\$780	3%	\$7,329	6%
1995-96	\$809	10%	\$7,818	7%	\$859	10%	\$7,818	7%
1996-97	\$893	10%	\$8,256	6%	\$948	10%	\$8,256	6%
1997-98	\$919	3%	\$8,336	1%	\$977	3%	\$8,336	1%
1998-99	\$938	2%	\$8,503	2%	\$996	2%	\$8,503	2%
1999-00	\$985	5%	\$8,584	1%	\$1,070	7%	\$8,606	1%
2000-01	\$1,067	8%	\$8,696	1%	\$1,183	11%	\$8,756	2%
2001-02	\$1,286	21%	\$9,646	11%	\$1,452	23%	\$9,898	13%
2002-03	\$1,603	25%	\$10,960	14%	\$1,795	24%	\$11,332	14%
2003-04	\$1,683	5%	\$11,602	6%	\$1,885	5%	\$11,827	4%

* The average tuition figures reported here are the unweighted mean tuition rates for each student category at the 16 campuses of the University of North Carolina.

Source: Fiscal Research Division, N.C. General Assembly

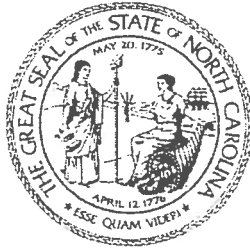
**The University of North Carolina
Tuition and Fees Applicable to All Regular Full-Time Undergraduate Students
2023-24**

	Tuition		General Fees					Debt		Total		
	Resident	Nonresident	Athletics	Health Services	Student Activities	Educational and Tech.	Campus Security	Total General Fees	Service Fee	Total Fees*	Resident Tuition & Fees	Nonresident Tuition & Fees
NC State University	6,535.00	29,407.00	232.00	445.00	707.97	439.28	60.00	1,884.25	476.00	2,360.25	8,895.25	31,767.25
UNC-Chapel Hill	7,019.00	37,360.00	279.00	410.15	394.16	442.30	60.00	1,585.61	146.85	1,732.46	8,751.46	39,092.46
East Carolina University	4,452.00	20,729.00	773.00	319.00	718.00	403.00	60.00	2,273.00	445.00	2,718.00	7,170.00	23,447.00
NC A & T State University	3,540.00	17,200.00	870.00	370.00	714.25	483.06	60.00	2,497.31	588.00	3,085.31	6,625.31	20,285.31
UNC Charlotte	3,812.00	18,474.00	824.00	335.00	650.00	622.00	60.00	2,491.00	720.00	3,211.00	7,023.00	21,685.00
UNC Greensboro	4,422.00	20,168.00	811.00	387.00	600.00	480.00	60.00	2,338.00	707.00	3,045.00	7,467.00	23,213.00
UNC Wilmington	4,443.00	20,111.00	819.55	270.00	709.45	534.94	60.00	2,393.94	376.00	2,769.94	7,212.94	22,880.94
Appalachian State University	4,242.00	21,238.00	801.00	345.00	705.00	593.00	60.00	2,504.00	634.00	3,138.00	7,380.00	24,376.00
Fayetteville State University	1,000.00	5,000.00	858.00	296.00	582.00	393.00	60.00	2,189.00	335.00	2,524.00	3,524.00	7,524.00
NC Central University	3,728.00	16,764.00	862.00	337.66	536.40	448.15	60.00	2,244.21	570.00	2,814.21	6,542.21	19,578.21
UNC Pembroke	1,000.00	5,000.00	801.52	215.49	677.84	533.91	60.00	2,288.76	280.84	2,569.60	3,569.60	7,569.60
Western Carolina University	1,000.00	5,000.00	903.00	365.00	657.00	544.00	60.00	2,529.00	523.00	3,052.00	4,052.00	8,052.00
Winston-Salem State University	3,401.00	14,057.44	780.00	375.00	567.68	436.46	60.00	2,219.14	423.00	2,642.14	6,043.14	16,699.58
UNC Asheville	4,122.00	21,470.00	906.00	415.00	839.00	556.00	60.00	2,776.00	394.00	3,170.00	7,292.00	24,640.00
Elizabeth City State University	1,000.00	5,000.00	899.00	395.00	711.00	326.00	60.00	2,391.00	-	2,391.00	3,391.00	7,391.00
UNC School of the Arts (1)	6,497.00	24,231.00	N/A	908.00	770.00	771.00	60.00	2,509.00	-	2,509.00	9,006.00	26,740.00

(1) Does not include High School

* In addition to the fees above, the Board also authorized a \$1 ASG fee which is not included in the total fees amount.

Approved 2/23/23



April 19, 2023

Dear President Pro Tempore Berger and Speaker Moore:

We write to you as five previous governors of the State of North Carolina to oppose pending legislation to remove executive appointment authority from the Office of the Governor. We respectfully request that you assist us by having this distributed to your members.

We fear that it would inflict real chaos and harm upon the people of our state. The Governor is charged under the state Constitution with carrying out the laws you pass and it is much more difficult to do this effectively with boards that have less than a clear majority of appointees from the Governor. The Governor's appointees direct the very real decisions that affect the lives of North Carolinians every day. They determine where their roads are built, the quality of education their children get, whether their water is clean, how much they pay for electricity and water.

The legislature already has enormous influence over the creation, makeup, and authority of executive-branch boards and commissions with its own share of their appointments. The legislature has also added confirmation of executive branch appointments, in addition to controlling their budgets and writing the laws they carry out. Reassigning more of the selection of all these board members to legislators rather than the state's Chief Executive Officer threatens the constitutional separation of powers.

It now appears that most of this legislation is clearly unconstitutional under the NC Supreme Court's decision in *McCrorry v. Berger* and other cases.

These executive Boards and Commissions have enormous responsibility to carry out the laws, and with staggered terms they often serve beyond the term of the governor who appointed them. This continuity plus the statewide impacts of their decisions provide stability, both for everyday people and for the industries that want to make North Carolina home.

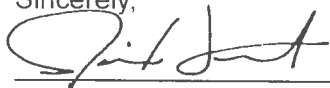
For example, the governor is the state's top economic development recruiter. Attracting businesses frequently involves provision of access roads and timely partnerships with community colleges to provide targeted workforce training. These partnerships occur early in the recruitment process, and the stripping of gubernatorial appointees to the D.O.T. Board or state and local community college boards puts our state at an unmanageable disadvantage.

For background, the bills we reference are S512, S692, and H17. Among the gubernatorial appointments reduced or eliminated are the Utilities Commission, the Environmental Management Commission, the State Board of Education, the Economic Investment Committee, the Public Health Commission, the Board of Transportation, the Coastal Resources Commission, the Wildlife Resources Commission, the Railroad Commission, the state Board of Community Colleges, and all local community college boards. Each of these has direct authority for the operational policies and standards of important executive branch departments and agencies in accordance with the laws.

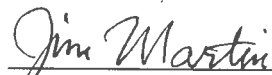
As the governors who served as the state's chief executives for four decades, we care deeply about North Carolina and its future. Our state has thrived and prospered with the work these gubernatorial appointees have carried out over the years. A dramatic shift in who chooses the people who carry out the laws threatens progress, and people's livelihood.

Thank you for considering our concerns. We ask that you preserve the continuity of our state and its constitutional standard for separation of powers, and turn away from this legislation.

Sincerely,



James B. Hunt, Jr.
1977 - 1985; 1993 - 2001



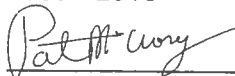
James G. Martin
1985 - 1993



Michael F. Easley
2001 - 2009



Beverly E. Perdue
2009 - 2013



Patrick L. McCrory
2013 - 2017