



JOHN W. POPE
CIVITAS
INSTITUTE

ACTION AGENDA

The John W. Pope Civitas Institute is a non-profit, non-partisan organization dedicated to facilitating the implementation of conservative policy solutions to improve the lives of all North Carolinians.



JOHN W. POPE
CIVITAS
INSTITUTE

100 S Harrington Street
Raleigh, NC 27603
919.834.2099
NCCivitas.org

**Civitas Institute
Priorities for the
Short Session**

2012

The John W. Pope Civitas Institute (Civitas) is a non-profit, non-partisan organization dedicated to facilitating the implementation of conservative policy solutions to improve the lives of all North Carolinians.

Civitas is proud to present *Action Agenda: 2012* for the upcoming short session. Civitas chose action items in line with the basic principles of limited government and individual freedom. We believe in fiscal responsibility, integrity in elections, parental choice in education, limited taxation and empowering citizens rather than politicians. We also support the time-tested values that protect individuals and the family. These values and concepts are essential to a successful and prosperous society.

Through *Action Agenda: 2012*, Civitas seeks to inform legislators, as well as the layman, about essential policy options to address vital issues facing North Carolinians today. Some of these action items can be achieved during the short session. Others may act as a starting point towards positive change in our state. Each action item provides essential supporting facts in addition to potential legislation and critical Civitas polling whenever possible.

For additional information, please contact the Civitas Institute at 919-834-2099 or visit our website at www.nccivitas.org.

Table of Contents

Voter Photo ID	1
Absentee-by-Mail Voting Reform	5
Voter Approval Over All State and Local Debt	9
Eliminate NC Estate Tax	11
Cap the Gas Tax	13
Fairness in Education	15
Equal Access in Education	19
State Health Insurance Exchange	21
Legislative Term Limits	23

Voter Photo ID

Key Factors

- Presently North Carolina requires voters only to state their names and addresses to vote.
- More than 30 states now have some form of voter ID requirement.
- In-person voter fraud is virtually undetectable without the photo ID requirement.
- In 2008 the U.S. Supreme Court, in a 6 to 3 decision, upheld the constitutionality of Indiana's photo ID requirement.

Potential Legislation

HB 351, Restore Confidence in Government

This legislation would require voters to present valid photo identification in order to vote in person. The legislation provides voter identification cards to voters who do not have a valid form of ID. HB 351 was ratified June 16, 2011 but was vetoed by Governor Perdue on June 23, 2011. An override attempt of the Governor's veto by the state House failed in a party line vote of 68 to 51 on July 26, 2011.

Other Legislative Considerations

After a particularly heated and drawn-out battle in the 2011 legislative session, the outlook is not good for passage of HB 351 in its current form during the 2012 short session. A compromise involving voters not meeting the address verification requirement could possibly win over opponents of the original bill. In such a case, the reworked bill should require only the following two categories of voters to provide a valid form of ID.

1. Same-Day Registration Voters. People who register to vote during one-stop voting and vote at the same time are not required to go through the same address verification process as all other voters who register to vote before the deadline. As a result, in the days leading up to Election Day 2008, thousands of people registered to vote and voted on the same day. Their votes were counted, but only after the election was certified were their verification mailings returned to the Board of Elections as undeliverable. Because a same-day registrant's address cannot be verified before the election is certified, a valid, government-issued photo ID with a current address should be required at the time of voting.

2. Inactive Voters. At any given time approximately 500,000 voters' records have inactive status in North Carolina. These persons' voter cards were returned to the county board of elections office multiple times, indicating that the voters no longer live at the address they gave when

registering to vote. An inactive voter's record will stay in inactive status through two federal elections as long as the voter does not vote, make changes to their record or otherwise contact the Board of Elections, at which time the record will be removed. Because there is evidence that the inactive voter no longer resides at the address in the voting record and his or her new or reaffirmed address cannot be verified before the election is certified, these voters should be required to present a valid, government-issued photo ID with a current address when they vote.

What Do Voters Think?

77 percent of likely voters agree that a person who wishes to vote should be required to show photo identification before being allowed to cast a ballot. (Civitas Poll, September 2011)

59 percent of likely voters oppose allowing unregistered people to register and vote on the same day, while only 29 percent of voters support the idea. (Civitas Poll, January 2011)

For more information, please contact Susan Myrick at Susan.Myrick@nccivitas.org or by phone at 919-834-2099.

Absentee-by-Mail Voting Reform

Key Factors

- In 2009, the North Carolina legislature amended NCGS 163-231(b) so that boards of elections could accept absentee ballots, cast by civilians, after the deadline if they are postmarked by the day of the statewide primary or general election or county bond election and are received by the county board of elections not later than three days after the election by 5:00 p.m.
- During the 2011 session, opponents of voter ID legislation repeatedly stated that "voter ID was a solution to a problem that did not exist" and that "the real fraud took place in absentee voting."
- Many North Carolina counties experienced a significant increase in absentee voting during the 2011 municipal elections. Along with an increase in voting came allegations of absentee ballot mishandling in several counties, including, Wake, Pasquotank and Lincoln.
- Reports of absentee voter fraud are widespread, with recent cases reported in Florida, Indiana, New York, Georgia and Mississippi.

Potential Legislation

The following steps are recommended:

1. In the 2008 General Election, Barack Obama won North Carolina by 14,177 votes and during the same election 227,799 voters cast their votes using absentee by mail. It is reasonable to assume that absentee voting will increase significantly in 2012. With the addition of the three-day post election extension for absentee ballots, it is likely that North Carolina will not know the results of its elections for more than a week after Election Day. Absentee-by-mail reform legislation should remove the 2009 provision (GS 163-231 (ii)) that allowed for civilian absentee ballots to be accepted if they were postmarked by Election Day. However, ballots issued under Article 21 of Chapter 163 of the General Statutes, NCGS163-231 (iii), should go unchanged. Article 21 pertains to absentee servicemen and certain civilians.

NCGS 163-231 (b) Transmitting Executed Absentee Ballots to County Board of Elections. The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the county board of elections who issued them as follows: All ballots issued under the provisions of Articles 20 and 21 of this Chapter shall be transmitted by mail or by commercial courier service, at the voter's expense, or

delivered in person, or by the voter's near relative or verifiable legal guardian not later than 5:00 p.m. on the day before the statewide primary or general election or county bond election. If ballots are received later than that hour, they shall not be accepted unless

(i) federal law so requires,

~~(ii) if ballots issued under Article 20 of this Chapter are postmarked by the day of the statewide primary or general election or county bond election and are received by the county board of elections not later than three days after the election by 5:00 p.m.~~

(iii) if ballots issued under Article 21 of this Chapter are received by the county board of elections not later than three days after the election by 5:00 p.m. **Ballots issued under Article 20 of this Chapter not postmarked by the day of the election shall not be accepted by the county board of elections.**

2. In 2002, the legislature enacted legislation NCGS 163-230.2, which made it unlawful to use any form other than one produced by the local board of elections to request absentee ballots by mail. Since that time the State Board of Elections has begun to approve the use of typed forms instead of only approving requests “written entirely by the requester personally,” clearly stretching the law’s

intent. In considering the repeal of NCGS 163-230.2, the legislature should introduce safeguards to prevent voter fraud in absentee balloting. Technology has advanced to a point that the county boards of elections are equipped to validate signatures on ballot requests and, more importantly, verify the voter's signature on the absentee ballot when it is returned to the elections office.

What Do Voters Think?

56 percent of likely voters support the elimination of same-day registration, while 35 percent of voters oppose the idea. (Civitas Poll, September 2011)

For more information, please contact Susan Myrick at Susan.Myrick@nccivitas.org or by phone at 919-834-2099.

Voter Approval Over All State and Local Debt

Key Factors

- North Carolina citizens have been denied a vote over new state debt since 2000.
- Since that time, state debt has skyrocketed.
 - Per capita state debt has more than doubled.
 - Annual debt service payments have tripled.
- The borrowing binge has maxed out the state's credit line. The 2010, 2011 and 2012 Debt Affordability Studies produced by the State Treasurer's office concluded that the state has "substantially exhausted" its capacity to issue new debt without threatening its credit rating.
- The exclusive reliance on non-voter approved debt (such as Certificates of Participation) also threatens the state's bond rating. The Debt Affordability Studies advise that the state once again use voter-approved debt (i.e. General Obligation Bonds) as the preferred method of financing, or risk losing its "triple A" credit rating.
- Similarly, local governments across North Carolina have relied heavily on non-voter approved debt over

the last decade, and have seen debt burdens skyrocket.

Potential Legislation

The ultimate goal of state lawmakers should be to enact legislation ending the use of all non-voter approved debt by the state and local governments.

HB 491, Repeal State Capital Facilities Finance Act

This bill would repeal the statutory authority enabling the state to issue Certificates of Participation (COPs) as a form of debt financing. COPs have been the preferred method of non-voter approved debt for the state for the last decade. The bill passed the House last session and was sent to the Senate Finance Committee, where it awaits further debate in the 2012 session.

What Do Voters Think?

83 percent of likely North Carolina voters believe the North Carolina General Assembly should not be allowed to borrow money without voter approval (Civitas Poll, March 2012).

For more information, please contact Brian Balfour at brian.balfour@nccivitas.org or by phone at 919-834-2099.

Eliminate NC Estate Tax

Key Factors

- Repealing the estate tax will create jobs. Because taxing estates reduces the return on investment to entrepreneurs, the estate tax discourages investment. Less investment means fewer jobs. Eliminating the disincentive of the estate tax will encourage more investment and jobs.
- Several studies from other states indicate that any lost tax revenue is more than made up for in increased tax revenue due to economic growth.
- The full federal credit applied to state estate taxes paid, scheduled for 2013, will likely not materialize. There is little appetite in Washington D.C. to allow the federal estate tax to revert to 55 percent and drop the exemption from \$5 million to \$1 million. If those changes aren't allowed to happen, the state credit will not apply either. Thus, repealing the state estate tax would not simply involve Raleigh handing over this revenue to Washington.
- Repealing the estate tax will **not** negatively impact charitable giving. Tax considerations rank very low on surveys of people's motives for giving to charity. Furthermore, in 2010 when the estate tax lapsed for

- a year, charitable bequests increased by 18 percent. There was no decline in charitable giving due to the lapse of the estate tax as some would have you believe.
- The state estate tax generates less than 1 percent of state revenue.

Potential Legislation

Drafted legislation was introduced in the Revenue Laws Study Committee to eliminate the state estate tax.

What Do Voters Think?

66 percent of likely voters said they oppose the North Carolina estate tax. Opponents of the tax outnumbered those saying they support it by more than a 2.5-to-1 margin, as just 25 percent said they support the tax. (Civitas Poll, October 2011)

**For more information, please contact
Brian Balfour at
brian.balfour@nccivitas.org or by phone
at 919-834-2099.**

Cap the Gas Tax

At Minimum, Remove the Floor

Key Factors

- As of January 2012, the state gas tax is 38.9 cents per gallon. That rate is the highest in the southeast and sixth highest nationally, according to the American Petroleum Institute.
- Fiscal Research suggests that each additional penny added to the gas tax costs North Carolina motorists roughly \$50 million annually.
- For many years the gas tax was capped at 29.9 cents per gallon. Thus, a tax of 38.9 cents represents a whopping 30 percent increase in the state gas tax since 2009.
- At 9 cents above the previous cap, the higher tax rate is costing North Carolinians \$450 million on an annualized basis. At a time when families and businesses continue to struggle, North Carolina's economy can hardly afford this sizeable burden.
- In 2009, state legislators changed the state gas tax cap of 29.9 cents into a floor, meaning the tax cannot fall below that level.
- This one-sided policy is unjustified. If motorists are going to be punished with a higher tax as gas prices rise, it is only fair that they

are offered further relief via lower taxes when gas prices fall.

Potential Legislation

HB 399, Cap Motor Fuels Excise Tax Rate

This bill would have once again imposed a cap on the gas tax – this time at 32.5 cents per gallon. The bill was referred to the House Finance Committee last March, where it stalled.

HB 645, Motor Fuels Excise Tax Adjustment and Studies

This legislation passed the House in late November, but was not taken up by the Senate. The bill would have temporarily capped the gas tax at 35 cents per gallon through June 30, 2012.

What Do Voters Think?

73 percent of likely voters said the state legislature should place a cap on the state gas tax, even if it meant new roads are built at a slower pace. Only 18 percent opposed the cap. (Civitas Poll, January 2012)

For more information, please contact Brian Balfour at brian.balfour@nccivitas.org or by phone at 919-834-2099.

Fairness in Education

Key Factors

- For too many, the quality of a child's education is determined by economic status or residence.
- Low-income children are often trapped in low-performing traditional public schools. With limited economic resources, these families have no options.
- We can improve public education if we ensure that families have the freedom and opportunity to choose a child's school from a diverse market of providers.
- Because all schools – public, private or religious -- help to educate children and perform tasks that would otherwise be charged to the public schools, our policies should reflect those realities.
- There clearly is a sizeable demand among North Carolina families for alternatives to traditional public schools. Close to 20,000 students remain on charter school waiting lists. The number of private schools in North Carolina has increased 47 percent since 1991. During the same time period the number of students educated in home schools has increased from 4,127 (1990-91) to 83,609 (2010-2011).

Potential Legislation

One of the most effective tools for expanding educational opportunity for parents and children is the education tax credit.

Effective tax credit legislation should include:

- **Eligibility.** Students at or below 225 percent of federal poverty line are eligible. For a family consisting of one parent and one child, that would mean income of less than \$33,100.
- **Award.** Students can receive up to a \$4,000 scholarship to a qualifying school. Scholarships are distributed by scholarship-granting organizations.
- **Tax Credits.** Businesses that make contributions to scholarship-granting organizations are eligible to receive a dollar-for-dollar credit.
- **Limit.** Credits are limited to \$25 million in 2012-13 and granted on a first come, first served basis.
- **Escalator.** If total value of credits awarded is 90 percent of current-year cap, the cap automatically increases by 35 percent the following year.

The benefits of tax credits include:

- **Expanding educational opportunity.** Provides students access to quality schools.
- **Saving taxpayer dollars.** As tuition at many private or religious schools is less than the cost of public schools, in many cases tax credits can save money.
- **Strengthening schools.** Helps to strengthen all schools by providing competition among education providers.
- **Raising few constitutional concerns.** Courts do not consider tax credits to be government money. Tax credits avoid entanglement issues raised by public vouchers.

What Do Voters Think?

Civitas has no recent poll results specific to education tax credits for low income students. In 2009 however, Civitas polled registered voters on a proposal to provide education tax credits for the parents of special needs students. A similar bill became law last year. The poll found 69 percent of registered voters support giving tax credits to parents of special needs children to allow them to attend private school (October, 2009). Such strong support for educational tax credits for special needs children suggests voters would likewise support credits for low income families.

For more information, please contact Bob Luebke at Bob.Luebke@nccivitas.org or by phone at 919-834-2099

Equal Access in Education

Key Factors

- The law, rulemaking process, or everyday practice of state government must strive to never favor or provide material benefits to one individual or group at the exclusion of another.
- The playing field for all education employee associations in North Carolina is not level.
 - Not all education employee associations can access education employees' physical or electronic mailboxes.
 - Not all teacher associations enjoy the same opportunity to publicize meetings at school.
 - Employees of the North Carolina Association of Educators (NCAE) are allowed to attend orientation sessions or to recruit members on school time. However, members of other education employee associations do not enjoy the same privileges.

Potential Legislation

SB 755 Education Employees Association/Equal Access Act

Sponsored by Senator Tommy Tucker (R-Union), this legislation passed the Senate in June 2011, but stalled in the House. The bill was introduced to ensure that all education

associations enjoy equal access to government personnel and are treated equally under the law. Specifically, SB 755:

- Grants access to employees' physical or electronic mailboxes to all educational employee associations operating in the same school or local administrative unit.
- Permits all education employee association members to attend orientation sessions or events to recruit members.
- Prohibits government entities from using policies and procedures to give preference to one education employee association over another.
- Prohibits government entities from endorsing one education employee association over another.
- Forbids schools and Local Education Agencies from referring to days or breaks in school calendar by the name of an education employee association event.

SB 755 ensures all education employee associations have free access to information, can make informed decisions and are treated equitably by the government. For these important reasons, lawmakers should work to ensure its passage.

For more information, please contact Bob Luebke at Bob.Luebke@nccivitas.org or by phone at 919-834-2099

State Health Insurance Exchange

Wait and See Approach is Best

Key Factors

- The stakes for waiting are low. The constitutionality of the Affordable Care Act (Obamacare) will be determined by summer 2012. An exchange need not be set up until 2013 at the earliest (only “measurable progress” is necessary).
- By setting up an exchange, North Carolina would be voluntarily subjecting itself and its citizens to federal control, further undermining the Obamacare legal challenges.
- Implementation creates a tax-funded lobbying and agency corps with a vested interest in continuing an exchange and Obamacare. Once a government program begins, it is difficult to end. Therefore, the “kill” provision in HB 115 is not enough.
- Initial federal start-up funds will end by the close of 2014, leaving the states to be burdened with the costs.
- States will be burdened with all of the regulatory and administrative rules imposed by federal law with very little opportunity to respond to

- changes in competition and market costs.
- “State-run” exchange is a myth. Excessive regulatory requirements will ensure state exchanges are nearly uniform and subservient to federal control. All exchanges are subject to federal approval.

Potential Legislation

HB 115, NC Health Benefit Exchange

This legislation seeks to implement a state health benefit exchange. This bill passed the House 83-34 and now awaits decision by the Senate. HB 115 should not be passed by the Senate. Legislators should uphold their commitments in HB 2 (Protect Health Care Freedom) and their Florida lawsuit amicus brief. The legislature should take the “wait and see” approach to Obamacare and stall in implementing a state exchange until absolutely necessary, if it all.

What Do Voters Think?

63 percent of likely voters favor waiting until the constitutionality of the federal health law has been determined before creating and spending money on a state level health benefit exchange (Civitas Poll, March 2012)

For more information, please contact Karen Duquette at Karen.Duquette@nccivitas.org or by phone at 919-834-2099.

Legislative Term Limits

Key Factors

- Senator Marc Basnight served as President Pro Tempore of the Senate for 17 years (1993-2010), longer than anyone in NC's history. Such a lengthy tenure illuminates the likelihood of enduring political regimes in the absence of term limits.
- Term limits hinder corruption and break up powerful, unchecked relationships between lobbyists and legislators.
- The creation of term limits would still allow legislative leaders to serve in our communities through other levels of government and within charitable organizations.
- In North Carolina, the Governor and Lieutenant Governor are restricted to serving no more than two consecutive terms.
- Term limits would insure rotation in office and come closer to the founders' concept of citizen/legislator.
- 15 states currently have some form of legislative term limits on the books, including Florida, Arkansas, and Louisiana. (Source: National Conference of State Legislatures)

Potential Legislation

While term limits for all legislators would be ideal, only legislation referring to legislative leadership has been offered and is available for this session. The current bills could be amended to expand coverage.

Any term limits adopted should be written into the state constitution so they cannot be repealed by a simple majority vote of a future legislature.

HB 61, Speaker/Pro Tem Term Limits

This constitutional amendment legislation would limit the Speaker of the House and Senate President Pro Tem to serving a maximum of two regular sessions of the General Assembly in those positions. The intent is to reduce the amount of power controlled by a select few legislators. While HB 61 passed the House 72-46, it remains in the Senate for consideration. A Democratic attempt to convert the legislation to a statute instead of an amendment failed. The move would have made it easier to change the provision in the future.

HB 823, Speaker/Pro Tem Term Limits

This legislation would limit the Speaker of the House and Senate President Pro Tem to serving a maximum of four two-year terms consecutively in those offices. While HB 61 provides a better outcome in reining in excessive and concentrated political power, HB 823 would ensure leadership turnover at least every decade.

What Do Voters Think?

77 percent of likely voters favor term limits for members of the North Carolina General Assembly. (Civitas Poll, September 2011)

67 percent of unaffiliated voters favor limiting legislators to serving no more than two terms in a position of legislative leadership in the General Assembly. (Civitas Poll, August 2011)

76 percent of likely voters favor limiting legislative leadership to no more than three two-year terms. (Civitas Poll, March 2011)

For more information, please contact Karen Duquette at Karen.Duquette@nccivitas.org or by phone at 919-834-2099.

