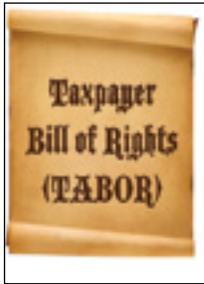


Legislators deal with dueling taxpayer bill of rights bills/3



CAROLINA JOURNAL

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

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STATEWIDE EDITION

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Durham Retiree Unearths Tax-Fraud Scheme

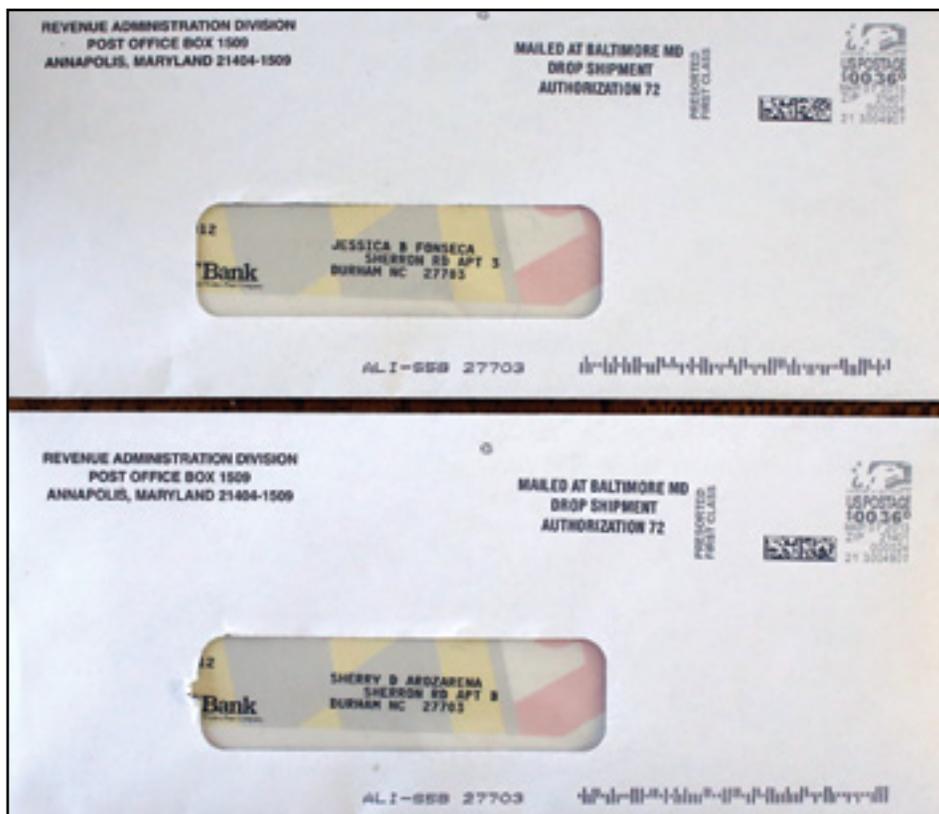
Phony tax refunds from Maryland sent to resident's address

By DON CARRINGTON
Executive Editor

After receiving several pieces of mail addressed to four different people at his home address on Sherron Road, and seeing strange people checking mailboxes on his street, a Durham retiree concluded someone was using his mailbox in a tax-fraud scheme.

The letters, which arrived over a period of several weeks, were sent from state revenue agencies in Maryland and South Carolina. All were addressed to persons with Hispanic-looking names, and each letter specified an apartment number at the address, which is a single-family dwelling with no apartments.

The resident, a retiree, also has seen someone he does not recognize opening his mailbox and those of several neighbors, possibly looking for particular items of correspondence.



Two Maryland tax-refund checks to his address and strangers checking his mailbox and others in his neighborhood was what aroused one Durham retiree's suspicions. (CJ photo by Don Carrington — house numbers removed digitally by CJ editors)

The scheme appears sophisticated, and might not have been detected had the resident not been home and wit-

nessed the mail being delivered and the strangers inspecting mailboxes.

Officials looking into the scheme

have provided little information about their investigations. The resident asked not to be identified.

The resident told *Carolina Journal* that on March 1 he found correspondence from the South Carolina Department of Revenue in the mailbox on the road at the end of his driveway. He said he marked the envelope "return to sender" and placed it back in the mailbox.

On March 7 he received at his address correspondence from the state of Maryland's Revenue Administration Division of the Comptroller's Office. He decided to open this one, and he found it contained a tax return and a note from a state official saying that the return could not be processed because it did not include a W-2 form.

That's when he became convinced that someone was using his address as part of a tax-fraud scheme, he said, and decided to shred those documents.

At approximately 3 p.m. March 8, while sitting in his house, he saw a woman he did not know open his mailbox and look inside. He had retrieved his day's mail before she arrived. He said the woman continued walking up

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Dream Teamers Looking to Work With GOP?

Deferred-action adults disappointed with Democrats

By BARRY SMITH
Associate Editor

The McCrory administration's decision to offer temporary driver's licenses to some young-adult illegal immigrants has led several of the more outspoken activists to reconsider their exclusive allegiance to self-described progressive groups in North Carolina that have been tied closely to the state's Democratic Party.

Frustrated by what they see as a



failure on the part of Democrats and President Obama to deliver on a promise, a couple of members of North Carolina's "Dream Team" are knocking on Republicans' doors, hoping to find common ground with members of that party.

"We want to send a message to

the leadership of our state — we know that that's the Republican Party," said Viridiana Martinez, who now calls Raleigh home. "We want to send a message that we want to sit down at a table and work together."

"There's been a lot of promises and inaction from the Democratic Party; they've dominated the debate," said Jose Torres-Don. "But it has been very lacking in concrete steps to move forward."

Martinez and Torres-Don recently were in North Carolina's legislative halls knocking on doors and presenting their case to members of the General Assembly. They said legislators listened to them and requested more

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Renewable Energy Job-Gain Claims Questioned

By DAN WAY
Associate Editor

RALEIGH

Economic researchers say a study claiming more than 20,000 job-years were created in North Carolina as a result of legislation mandating the purchase of renewable energy likely exaggerates that outcome and downplays job losses.

Paul Bachman, director of research at the Boston-based Beacon Hill Institute at Suffolk University, said the job-years measure is a somewhat deceptive way to tally employment. He adds that many of the jobs that proponents say have been created by the mandate are likely to be temporary positions in construction-related fields as new infrastructure (such as solar arrays and biofuel plants) are built to handle a different type of energy. He also notes that the study fails to account for job losses that occur inevitably when investment is shifted from productive uses the market supports to higher-cost alternatives such as renewable energy.

State Rep. Mike Hager, R-Rutherford, said that such criticism does not surprise him and that he is optimistic House Bill 298, which would freeze utilities' renewable energy mandate at its current level of 3 percent of total energy purchases, will pass in the House.

"I've got at least 63 members of my caucus lined up and some Democrats willing to vote on this, which gives us a clear majority," Hager said. There are 120 House members, so Hager would need 61 votes to send his measure to the Senate.

Gov. Pat McCrory has not weighed in on Hager's legislation. In late March, House Speaker Thom Tillis, R-Mecklenburg, told Wilmington talk-radio host (and *Carolina Journal* contributor) Chad Adams that Senate Bill 3, the 2007 legislation mandating renewable energy purchases, is "complex," and it will "take some time" before the General Assembly considers unraveling it.

The intent of H.B. 298 is to claw back the portion of S.B. 3 that requires regularly scheduled increases in the percentage of renewable energy purchases by utilities. Utilities pass on the higher costs to consumers.

While there has been growth in the heavily subsidized solar energy market, other mandated renewable sources such as swine and poultry waste and biomass have not caught on even as ratepayers' bills have risen.

The North Carolina Sustainable Energy Association is urging lawmakers to oppose Hager's bill. The Raleigh-based trade group recently released a study claiming 21,163 job-years have been created through S.B. 3, with \$1.7 billion in economic impact since 2007.

But one passage in the study, "The Economic, Utility Portfolio, and Rate Impact of Clean Energy Development in North Carolina," produced by RTI International in Research Triangle Park and Boston-based La Capra Associates, appears to contradict the claim of job growth. It reads:

"Although the economic output and fiscal impacts are estimated to be positive, we estimated that the substitution of renewable energy for conventional energy is a slight negative to employment over the study period, primarily because of reduced consumer spending from the REPS [Renewable Energy and Energy Efficiency Portfolio Standard] rider."

Betsy McCorkle, director of government affairs for the North Carolina Sustainable Energy Association, said that statement does not suggest overall employment went down

because of the renewable energy mandates.

"Clean energy development in the state led to the loss of 807 job-years. It has also led to the creation of 21,970 job-years for a net positive of 21,163 job-years," McCorkle said. The "slight negative to employment" occurred from consumer spending shifting from other sectors of the economy to renewable energy, she said.

The study does not break out where those losses have occurred, instead capturing them in a cumulative "secondary economic impact" category, she said.

Bachman questioned the study results and called them "typical of your standard Keynesian analysis."

In an August 2009 study for the John Locke Foundation, Beacon Hill Institute researchers concluded that S.B. 3 would lead to a net loss of 3,078 jobs by 2012 and 3,592 jobs by 2021.

Bachman called into question the RTI/La Capra study's explanation that the 807 job-years loss is attributable to a \$171 million renewable energy rider tax collected from ratepayers' bills.

"That's a million dollars per job. That seems a bit low if they're talking job years," Bachman said.

He said the use of job-years to measure employment is a bad tool because "a job year is however many years you're counting a job as existing."

If the job exists for five years, "you're five times double counting the job. It makes no sense," Bachman said.

Another sentence in the study mentions that "an average 4,233 jobs," not job-years, are associated with clean energy development over the six years since passage of S.B. 3.

"I believe job-years is a way of counting temporary

jobs to make them look permanent," Bachman said. For example, much of the employment generated as a result of S.B. 3 likely was construction jobs to build infrastructure for the new renewable market, he said. Those jobs pop up for a while and go away.

"And, of course, they have all of these secondary induced jobs, and that's standard Keynesian applications," he said.

"What they don't measure is the opportunity costs of that investment," Bachman said. Opportunity cost is a standard tool used by economists to compare how much benefit could have been gained if the money would have been placed in an alternative investment.

"This is forced investment. This would not have taken place unless it was otherwise mandated by the government," Bachman said of the state's renewable energy mandates.

"This money would have gone elsewhere. Some of that comes out of the consumer's budget in this rider, and it diverts investment from other more productive uses," he said. "If this was the most productive use of resources, the government wouldn't need to mandate it. It would have happened anyhow."

And that's one of the primary reasons Hager wants to do away with what he views as the use of tax subsidies to prop up an industry that cannot pay for itself.

People have to choose how to spend their incomes, Hager said. "The money that my constituents have is really scarce these days, so either they're spending it on their mortgage and groceries or they're spending it on renewable energy," Hager said.



Legislators To Deal With Dueling Taxpayer Bill of Rights Measures

By DAN WAY
Associate Editor

RALEIGH

North Carolina taxpayers would receive a tax relief refund when state revenues exceed 5 percent of budgeted amounts under a state constitutional amendment proposed by Rep. John Blust, R-Guilford.

If approved by 60 percent of the members of the General Assembly and then by voters in the 2014 general election, House Bill 274, a Taxpayer Bill Of Rights, also would restrict the size of annual budget increases.

Polling by the Civitas Institute shows TABOR is popular among voters — it was favored 67 to 18 percent in 2011 and 66-14 percent in 2010.

Rep. Paul “Skip” Stam, R-Wake, the House speaker pro tem, has introduced competing legislation that provides statutory but not constitutional changes.

Stam believes that a TABOR amendment is too restrictive and that his measure would provide necessary budgeting flexibility while controlling state spending growth.

Blust’s bill is designed to eliminate dramatic swings in state budgets by injecting a calculation formula with greater certainty. The goal is to end a 30-year trend of budgets with per capita costs that have far outpaced the cost of living.

That model would include a mechanism to constrain spending during years when budgets are unexpectedly flush. Extra revenues would be transferred into an Emergency Reserve Trust Fund.

Any reserve revenues above 5 percent of the General Fund budget at the end of the fiscal year would be refunded to citizens.

Budget writers would determine the three-year average of the sum of the state’s population change as determined by the Office of State Budget and Management and the inflation rate according to the Consumer Price Index.

That resulting number would be the maximum percentage the budget could rise over the previous year’s General Fund limit. Additional spending would require a two-thirds supermajority vote in both chambers of the General Assembly.

When introducing the same measure in 2011 as House Bill 188, Blust said, “When the General Assembly, or any political body has money available to it to spend, it’s gonna get spent. There is just not the discipline.” The bill died in committee that year.

Stam is offering an alternative in House Bill 329, the 2013 Budget Act.

“I greatly prefer the one I offered. It’s much more practical than ... TABOR,” Stam said.

One issue would be how to handle budget matters spawned by Washington.

For example, Stam said, if the federal government decided to shift additional funding responsibilities for programs such as Medicaid to the state level, TABOR states would not be able to comply if their legislatures failed

to get a supermajority vote to raise spending at the state level.

Another problem, he said, is that TABOR “assumes the wisest, smartest, most philosophically attuned people in the world” would use revenue estimates to guess the General Fund spending limits.

Stam said his bill would require the governor to budget from total state funds collected from the previous fiscal year. That would prevent the gov-

ernor and legislature from relying on revenue forecasts, which often have been incorrect.

Under Stam’s bill, any increases in the budget would have to be based on the Consumer Price Index or the Gross Domestic Price Deflator, whichever is the lower figure.

If revenues fell in the prior fiscal year, the General Fund would be determined by a consensus revenue estimate. The governor could prepare a recommended supplemental budget.

Wade Buchanan, president of the liberal Bell Policy Center in Colorado, where a TABOR has been in effect since 1993, said “it’s been a bad experience.” Unlike Blust’s bill, Colorado’s TABOR amendment covers all levels of government, from school boards, cities, and counties to the state legislature.

“Any time you try to put some

arbitrary number on what are fairly dynamic sorts of issues and expenditures, and you put that in the Constitution, you’re playing with problems,” he said. “You have a formula that essentially continually downsizes government.”

Colorado’s TABOR also requires a citizen vote to approve any increases either in taxes or the spending limit formula.

“Not having that voter safety valve is an interesting and disturbing part of this” for North Carolina lawmakers, Buchanan said. “Their hands are going to be tied. They will not be able to exceed that limit in any meaningful way, so you better have the growth rate right.”

Peter Blake, a political columnist for Complete Colorado, a news and media website in Denver, and a long-time legislative columnist at the *Rocky Mountain News*, said Colorado passed TABOR in large part because it grants voters constitutional authority to decide on tax increases. But it is under continual assault.

“The Democrats don’t like it,” Blake said of TABOR, and the Democrat-dominated Supreme Court consistently rules against TABOR advocates who sue over violations of the law.

For example, increases were slapped on hunting and fishing licenses and parks use. The state raided those cash funds to pay for higher operational costs by calling them fees, not taxes. The courts rejected a lawsuit challenging the runaround of TABOR.

“But the one thing [Democrats] really don’t want to deal with is the right to give people the vote for a tax increase,” Blake said. “That’s very popular. That’s probably the key surviving element of ours.” CJ



Carolina Journal/Connects the Dots

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State Briefs

Good Samaritan law

A proposed Good Samaritan law, giving anyone who calls 911 to get help for a person who had overdosed on drugs limited immunity from prosecution, appeared close to becoming law at press time.

The proposed law, which also provides criminal and civil liability immunity for medical practitioners prescribing an antidote for opiate-related overdoses — was approved in March by the Senate, 50-0.

"The only point of this piece of legislation is to save lives," said Sen. Austin Allran, R-Catawba. "Anyone can become addicted to prescription drugs."

The bill offers immunity from prosecution for people seeking medical assistance for themselves or another person experiencing a drug-related overdose. The immunity would cover misdemeanor possession of drugs, misdemeanor possession of drug paraphernalia, felony possession of less than 1 gram of cocaine, and felony possession of less than 1 gram of heroin.

It would not provide immunity from other crimes, such as drug trafficking. Supporters of the bill have said it is not a get-out-of-jail-free card.

The House made a slight modification in the bill, which would require concurrence from the Senate before going to Gov. Pat McCrory.

Dix lease

A Senate bill revoking a lease between the state and the city of Raleigh over the Dorothea Dix Hospital property was moving toward passage at press time. The 75-year lease, concluded during the final weeks of the administration of Gov. Bev Perdue, faced heavy criticism from GOP lawmakers, who called the deal a giveaway to the city.

The lease requires Raleigh to pay \$500,000 to the state with a 1.5 percent annual escalator clause. City officials want to establish a major park on the property, which includes offices on the Dix campus where 1,400 employees of the Department of Health and Human Services work. Under the terms of the lease, DHHS would have up to 15 years to relocate those workers.

Legislative leaders hoped to delay the lease until Gov. Pat McCrory was inaugurated. Senate Bill 334 would allow DHHS workers to remain on the campus and direct the state and city to negotiate a new lease at market value. CJ

Fracking Bill Would Allow Permits By 2015

By SARA BURROWS
Contributor

RALEIGH

North Carolina lawmakers are ready to capitalize on what some are calling the "natural gas boom." A bill lifting the state's moratorium on fracking — a method for releasing natural gas that environmentalists oppose — passed the state Senate by a landslide recently and is making its way through the House.

If Senate Bill 76 becomes law, the state could start issuing "fracking" permits to drilling companies as early as March 2015. The Department of Environment and Natural Resources is expected to finalize rules and regulations for the practice in October 2014.

Fracking — or hydraulic fracturing — involves drilling an L-shaped well thousands of feet beneath the earth's surface and blasting a mixture of water, sand, and chemicals into it to create fractures in shale rock formations to release the natural gas trapped inside. The method was invented in 1947, but it wasn't until 1998 that advancements in the technology made the extraction of shale gas economical.

Success in other states

Pointing to success stories in Texas and North Dakota, Republican lawmakers argue North Carolina can no longer afford to miss out on what they see as an opportunity to turn the state economy around. The bill sets severance taxes on the gas lower than any other state in order to attract the industry. "It's estimated there is 42 trillion cubic feet of natural gas in North Carolina," Sen. Buck Newton said in a floor debate Feb. 27.

Releasing the vast amounts of gas believed to be trapped thousands of feet below North Carolina's soil, the Republican from Wilson County said, could reignite the state's stagnant economy and put thousands of people back to work.

Newton said if legislators had welcomed fracking six or seven years ago, the state might not have felt the effects of the national recession so strongly — it might not have had a \$2.5 billion debt to the federal government for unemployment insurance or 9 percent unemployment last year.

He pointed to an article in the *Houston Chronicle* about how shale gas had turned the once-impooverished Karnes County into a gold mine. Landowners there raked in \$70 million in royalties in the month of November alone. Newton said he could imagine a similar outcome for Lee County, which, along with Moore and Chatham counties, has been targeted for gas exploration.

The 'naysayers'

Republican lawmakers said energy production would put North Carolinians to work. They attributed North Dakota's 2.6 percent unemployment rate to increased fracking activity in the state.

"That's a laudable figure," said Democratic Sen. Mike Woodard of Durham. "But we didn't hear the other side of the coin. As people move in to North Dakota to accept those jobs, they're bringing families with them. A lot of the families are living in trailers, and the rural school districts are crowded. In Durham we're tired of trailers for our schoolchildren."

In addition to overcrowded schools, Woodard listed anticipated damage to rural roads, decreased farm production, decreased property values, and orphaned wells as downsides to the economic benefits of fracking.

Senate Minority Leader Martin Nesbitt, D-Buncombe, expressed concern about water pollution and property rights. He said North Carolina's unique geological formations could make the state's water tables more prone to leaching.

"If we pollute the aquifers, we'll have a desert in four or five counties in this state," he said.

Nesbitt also chided Republicans for accepting a plan to "pool" mineral rights, which places pressure on reluctant landowners to sell the rights to the gas under their property if their neighbors already have surrendered those rights.

"That certainly goes against what the other side of the aisle thinks about condemning people's property, but what I happen to think about it, too," he said. "It's kind of tough to tell people, 'We're pumping your gas out, and we'll let you know what you're going to get for it.'"

Sen. Floyd McKissick, D-Durham, said he didn't want wells becoming long-term storage facilities for the wastewater associated with fracking.

Newton responded that "the safest way to dispose of it is to put it back down deep in the earth, thousands of feet below the water table. Otherwise, it's got to go in wastewater treatment plants and streams and ponds and reservoirs."

"There are more than 170,000 such wells across the U.S. already with really no problems," he added.

Natural gas vs. 'renewables'

Sen. Ellie Kinnaird, D-Orange, doubted the supplies of natural gas available in North Carolina were as abundant as those estimated by fracking supporters. She said the state would do better to support "cleaner" sources of energy like solar, along with conservation and efficiency mandates.

"I've spoken with someone in the industry who's actually very close to this, who says there's very little gas in North Carolina and that because the price of gas is so low it's very unlikely that industry will come and try to drill and mine and produce the natural gas here," she said.

"If there were no gas under the ground, Sen. Kinnaird, they wouldn't come looking for it," argued Sen. Jerry Tillman, R-Randolph.

Kinnaird went on to say that energy-efficiency measures could reduce North Carolina's energy usage

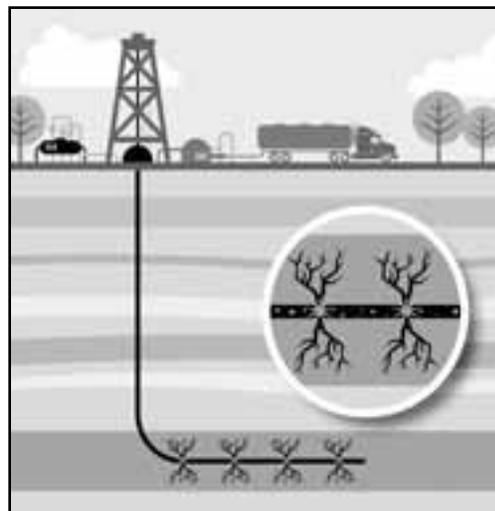
by 40 percent. "How much better to make all of our buildings energy-efficient than to drill and put all of this fracking fluid in the ground and have trucks tearing up everything?" she asked.

"The solar industry in North Carolina is growing very rapidly," Kinnaird said. "We have an industry we can support that doesn't cause the damage to the environment. We should be nurturing that."

She said the goal should be to "keep us from using energy in the first place. That's the best and cheapest energy you can buy."

Bill sponsor Sen. Andrew Brock, R-Davie, said Kinnaird's idea of controlling costs through conservation and efficiency only is an "unrealistic approach to the modern world. ... You can only set the temperature down so low and turn off so many lights."

Brock noted that drillers had a lot at stake if fracking proved uneconomical or unsafe. S.B. 76 requires them to post three types of bonds before drilling in the state — one ensuring they have sufficient funds to complete a project and not abandon it midway, one providing cleanup funds to the state in case of an accident, and one compensating the landowner in case drilling damages his property. CJ



Fracking (hydraulic fracturing) involves drilling L-shaped wells to fracture shale in order to release gas trapped inside. (University of Michigan graphic)

Obamacare Subsidies Could Squeeze Private Insurance Rolls

By DAN WAY
Associate Editor

RALEIGH

Tax subsidies in Obamacare could push at least half of privately insured, lower-income North Carolinians into the federal health exchange and off of private coverage, critics of the federal health reform law say.

The actual numbers are anybody's guess at this point. Myriad studies and health care expert opinions abound on how severe, or limited, the shift into the government system might be, with some contending it will be less than 10 percent.

"I don't think there's been any definitive, state-by-state study done anywhere" to demonstrate with certainty the magnitude of expected migration from private insurance to a government-run and subsidized health insurance exchange, said Michael Tanner, senior fellow at the Washington, D.C.-based Cato Institute.

The Robert Wood Johnson Foundation, the nation's largest private nonprofit devoted to public health, has done more than 20 studies attempting to show the size of the shift from private insurance to Medicaid, Tanner said.

"In all of them, [the foundation] found a sizeable crowding out [with] numbers all over the place," Tanner said.

Crowd-out, in this context, occurs when people abandon private insurance for a government-run program, or extend their stay in a government-run program rather than becoming ineligible and then exiting to private coverage.

Obamacare makes it mandatory to offer health insurance to the unin-

sured through a federally approved clearinghouse called an exchange. Since the penalty for not offering health insurance will be modest, many health experts believe some companies might discontinue providing employee insurance, multiplying the number of people cast into the federal exchange.

North Carolina chose not to create a state-run health insurance exchange, leaving the federal government in charge of the on-line marketplace that will offer a limited number of federally approved health plans to Tar Heel State residents.

Had North Carolina expanded its Medicaid rolls under Obamacare, people earning between 100 percent and 138 percent of the federal poverty level would have been eligible for Medicaid, the government insurance plan for the poor and disabled.

But the Republican-led General Assembly voted against expanding Medicaid. Some Republicans cited too many unanswered questions from Washington about regulations and costs. A scorching state audit showing the state's Medicaid system was in serious financial and operational disarray also prompted opponents of Medicaid expansion to say the program needs to be fixed before it's enlarged.

So North Carolinians earning between 100 percent and 138 percent of the federal poverty level will buy

insurance from the federal exchange, and will be eligible for subsidies to do so.

Pam Silberman, president and CEO of the North Carolina Institute of Medicine, which has done research on the implementation of Obamacare, believes the state would have been better served by expanding Medicaid rolls.

She said those in the 100-138 percent range of the federal poverty level

must pay 2 percent of their annual incomes as premiums to the federal exchange. Subsidies would cover the balance.

"Two percent, for people living in poverty, while it doesn't sound like a lot to us, it will be a lot to those families," Silberman said.

"Quite frankly, it's going to be pretty unaffordable to them."

North Carolina residents in higher income brackets — up to 400 percent of the federal poverty level — also can purchase subsidized insurance from the health exchange if their employer-provided insurance premiums equal more than 9.5 percent of their household income or the plan pays less than 60 percent of the cost of covered benefits. Subsidy amounts decrease as income levels rise.

Devon Herrick, senior fellow and health economist at the Dallas, Texas-based National Center for Policy Analysis, believes crowd-out will be significant.

"You have 367,000 people between 100 and 138 [percent of the federal poverty level] who already have [private] coverage" in North Carolina, Herrick said.

Crowd-out "could be as high as 50 to 75 percent," or between 183,500 and 275,250 people forgoing private coverage for the federal option, Herrick said. "Thirty [percent] would be the lower bound" — roughly 110,000 people.

Herrick bases those projections on research by Jonathan Gruber, a professor of economics at Massachusetts Institute of Technology and one of the architects of Obamacare, and Harvard economics professor David Cutler, former senior health care adviser to President Obama.

Gruber and Cutler have studied the crowd-out effects during past waves of national Medicaid expansions. Gruber recently released research showing some 60 percent of marginal enrollees in the government-operated State Children's Health Insurance Program were lured from pri-

vate coverage.

Michael Cannon, Cato Institute director of health policy studies, pointed to a growing body of evidence on the scope of crowding out.

"Medicaid expansions in Arizona, Delaware, Maine, and Oregon did not reduce those states' uninsured rates at all, but they were accompanied by declines in private coverage," Cannon said, drawing from a study of the Florida-based Foundation for Government Accountability.

Silberman does not foresee large crowd-out numbers.

"We have not done a separate analysis of it" at the North Carolina Institute of Medicine, Silberman said, adding, "I have not seen any data to suggest it's going to be a big problem."

Silberman said her skepticism is rooted, in part, in a study the Cecil G. Sheps Center for Health Services Research at the University of North Carolina at Chapel Hill conducted for the North Carolina Division of Medical Assistance. It identified crowd-out involving the state's CHIP program from Oct. 1, 1998, to Sept. 30, 1999.

The study found an upper bound of 8.3 percent of parents who pulled their children from private coverage to enroll them in the CHIP program.

Steve Pizer, an associate professor of health policy and management at Boston University, conducted a national study for the Veterans Administration that, in part, dealt with crowd-out implications of Obamacare.

While acknowledging his study had few specifics at the state level, Pizer is confident the "vast majority" of those getting insurance on the federal exchange in North Carolina "are going to be people who didn't have coverage before."

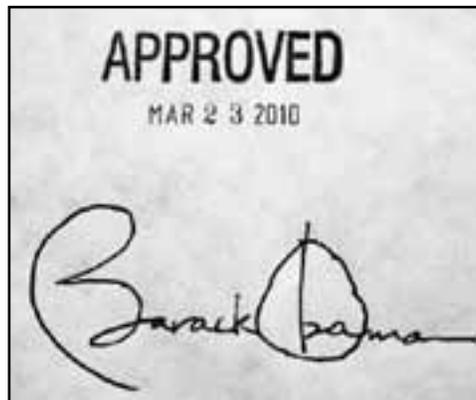
"They're not going to be coming from people who have insurance in the private sector," he said. "That's not the way it's going to work."

The Cato Institute's Tanner said the size of crowd-out caused by the health care exchanges is important because he believes the system will have an expensive, negative impact in the health insurance market.

"First of all, if these things drive up the cost of insurance, which they're likely to do, the subsidies aren't going to be sufficient to pay the costs anyway," Tanner said.

As it stands, insurers in North Carolina who want to sell policies on the federal exchange would pay a 3.5 percent premium surcharge to do so. Insurance companies are likely to raise rates on employer-provided coverage to offset those costs.

"That's money coming out of the workers' wages one way or another — in lost wages or lost jobs," Tanner said. "One way or another, employers will offset that cost. They don't eat it. They pass that cost on to employees." CJ



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Bills Would Restore Partisan Ballot Labels for Judicial Races

By BARRY SMITH
Associate Editor

RALEIGH

North Carolina could come full circle by 2014 in the way candidates for judicial posts are identified. Currently, judicial elections are nonpartisan. Republicans in the House and the Senate have filed bills that would restore party labels to North Carolina judicial elections — from the District Court to the Supreme Court — reversing a trend that started nearly two decades ago.

Supporters of the change say party affiliation provides information to voters who tend to have little knowledge of the philosophical leanings of judicial candidates. The measures also would end taxpayer financing of campaigns for appellate judges — a provision included in the initial budget proposal submitted by Gov. Pat McCrory. Backers of the current system say survivors of partisan primaries are likely to represent the ideological extremes of each party and may not be inclined to judge legal issues fairly.

North Carolina's judicial candidates were placed on the ballot by their political party affiliation until the late 1990s. In 1998, the state's voters began electing Superior Court judges on a nonpartisan basis. In 2002, District Court judicial elections shifted to a nonpartisan system.

In 2002, the General Assembly completed the transition from party labels to nonpartisan judicial selection by making elections for N.C. Supreme Court justices and N.C. Court of Appeals judges nonpartisan, beginning with the 2004 elections. Also in 2004, the state moved to a public (or taxpayer) financing system for appellate court judges' campaigns.

"Ninety-five percent of the peo-



Proponents of the bills say Democrats pushed for nonpartisan judicial elections only after Republicans began winning judicial elections. (CJ file photo)

ple going to vote know nothing about the judges unless they know them personally," said Rep. Frank Iler, R-Brunswick, a sponsor of the bill in the House. Iler said adding party labels would give voters more education than they'd have without the labels.

Rep. Deborah Ross, D-Wake, doesn't think the change is a good idea. "I don't think going back to partisan judicial elections is a good idea because I think it's good to have judges who don't identify with a party," Ross said. "What they identify with should be the rule of law and justice. We become even more politicized."

Sen. Jerry Tillman, R-Randolph, who filed the Senate bill, noted that he filed a similar bill in the Senate two years ago. It gained Senate approval, but stalled in the House. "I'm just doing it so you'll have more information," Tillman said.

Tillman noted that about 1 million fewer people cast ballots for the Supreme Court justice race in 2012 than cast ballots for president and governor.

"People want to know what par-

ty they are [with] where I come from," Tillman said.

Both Tillman and Iler said the move to take party labels off the judicial races was spurred by the success Republicans were having at the ballot box.

"When this was changed, the thinking was a certain party was losing judges," Iler said.

Former Supreme Court Justice Bob Orr, a Republican, said he did not support the legislation that changed the appellate judicial races to nonpartisan contests and instituted public financing.

"I thought the primary reason for the passage was not good government, but to reverse the trend of Republicans getting elected," Orr said.

But Orr said he doesn't think either the current nonpartisan contests or a return to partisan races is the best way to select appellate judges.

"We do need to reform the system," Orr said. He said he prefers giving the governor the authority to appoint judges when a vacancy occurs.

Then after the judge has served some period, allow for retention elections, where voters would have an up-or-down vote on the choice.

A change of that magnitude would require an amendment to the N.C. Constitution. Restoring partisan labels to judicial races can be accomplished by legislative action.

David Bohm, assistant executive director of the N.C. Bar Association, said the organization is not taking a position on the bills. However, he did say that the bar association traditionally has opposed both partisan elections and the \$50 surcharge on lawyers' licenses that helps finance the appellate judicial campaigns.

Ross said she has a couple of reasons for opposing the bills. One is she thinks the primary process for selecting party nominees will lead to more ideological nominees.

"I think the primary process will not give us people who have necessarily the most balanced background," Ross said. "We are a purple state. It would be bad, particularly in a judicial election, which isn't a policy sort of election, to create a situation that becomes more polarized."

Ross also said she thought the public financing of campaigns should be retained so that potential appellate judges won't be soliciting from lawyers who may represent clients before the higher courts.

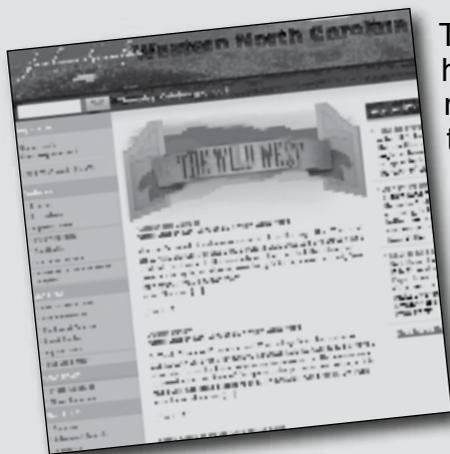
"It's unseemly for judges to ask for money from people who are going to appeal before them," Ross said.

Tillman said requiring candidates to raise enough money to campaign is one way to nudge them into making themselves better known to the voters.

"You need to get out and meet the people," Tillman said. CJ

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Berger Offers Second Round Of Education Reform Agenda

BY BARRY SMITH
Associate Editor

During the 2012 short session, N.C. Senate leader Phil Berger proposed a sweeping education reform package. While part of it was enacted into law, a significant portion was left for the 2013 General Assembly.

Now Berger, a Rockingham County Republican, has unveiled the second installment of his education reform agenda, Senate Bill 361: Excellent Public Schools Act of 2013. It calls for an end to teacher tenure, placing a greater emphasis on literacy, pushing for accountability in the classroom, and allowing state employees to volunteer in a public school literacy program for up to five hours per month.

"The days of accepting a broken education system in North Carolina are over," Berger said. "We must continue to demand better and positive change for our kids."

The state's teacher lobby is adamant in its opposition to the tenure reforms but has said little about other aspects of the legislation.

The proposal includes ending teacher tenure by the end of the 2013-14 school year and replacing it with contracts.

Teachers with fewer than three years experience would be given one-year

contracts by local school boards. Teachers with three or more years would be given contracts that would last one to four years.

Berger, in response to a reporter's question at a news conference, said the current teacher tenure system could be an impediment to teachers doing their job well.

"Teaching is a profession, but like a lot of other jobs, human nature will work its way into any dynamic," Berger said. "What we're concerned about is the incentives that are out there and trying to make sure that we have incentives for folks to excel as much as possible."

Berger said he's getting feedback from parents, school personnel, and volunteers regarding teachers who are not helping students.

"Is that a large number of teachers?" Berger questioned, rhetorically. "I don't think so. I think it's a very small number of the teachers that we have. But if it's one teacher, and it's a teacher that's teaching your child, then it's a huge problem."

North Carolina Association of

Educators President Rodney Ellis posted on the organization's Daily Political Briefing that he felt removing teacher tenure was unfair and punitive.

"Students need smaller class sizes, professional educators that are given the time and flexibility to teach, parents and communities that support educators and their schools," Ellis wrote. "This bill takes away fairness, eliminates due process for teachers, and will make it harder to recruit quality professionals to enter the profession. Educators deserve better than punitive labeling, or a bill that is designed to erode public confidence. We do not accept the premise that public schools are failing."

Berger's proposal also includes emphasizing literacy by strengthening teacher education programs and licensure requirements.

The proposal would allow state employees to volunteer in a public school literacy program for up to five hours per month.

It would restrict when end-of-grade and end-of-course testing could occur to the final 10 days of an academic year or the final five days of an academic semester, to free up the remaining days for instructional time.

The bill would expand on a method of grading schools that was enacted last year but has yet to take effect, using letter grades

rather than terms such as "schools of excellence" and "schools of progress." Berger said that "nobody really knows which was a good one and which was a bad one" when those phrases are used.

The change is aimed at greater transparency and giving parents more information about their children's schools, Berger said.

The bill also calls for the state Department of Public Instruction to review the quality and value of new "Common Core" exams. The Common Core standards, developed by the National Governors Association and the Council of Chief State School Officers, being pushed by the U.S. Department of Education.

After the review, DPI would have to get approval from the General Assembly before purchasing Common Core standardized tests.

Terry Stoops, director of research and education studies at the John Locke Foundation, said, "I am thrilled to see that someone in the legislature is finally beginning to ask questions about the Common Core State Standards." CJ

COMMENTARY

Ignoring The Rules

When we are children, our parents and relatives urge us to "play by the rules."

Typically, violating the rules triggers consequences that correspond to the severity of the violation. But that is how it works in the real world. In the world of state government, some agencies act as if the rules do not apply to them.

Aside from the laws and statutes themselves, the most important set of rules in state government is the Administrative Procedure Act.

The APA is a set of uniform procedures that state agencies must follow to adopt rules and policies. A small number of agencies, committees, and policy areas are exempt from these rules. Others, including the N.C. State Board of Education, are not.

Nevertheless, since 2005 the state board largely has ignored the APA. The board created, approved, and implemented numerous rules and policies that did not follow procedures mandated by law. This has enormous implications for education policy. Simply put, state education officials may not be able to enforce a slew of substantive policies that address issues including testing, curriculum, and charter school governance.

In 1985, the General Assembly established the Office of Administrative Hearings to carry out the APA. The OAH may sound like another superfluous regulatory entity. And there may be aspects of the APA process that are overly bureaucratic. But the process is essential for those of us who believe that government should be open and accountable to its citizens.

A rule or rule change proposed by a state agency must be published in the North Carolina Register, a bimonthly publication that is available online. At least two weeks after publication, the agency may begin conducting public hearings on the rule, and at least 60 days must elapse until the agency takes action on the rule. An approved rule goes before the Rules Review Commission within 30 days after adoption and will become effective the first day of the month following

approval, unless the commission receives at least 10 written objections to it.

Lawmakers designed a slow and deliberate APA process for a reason. It ensures that citizens have an opportunity to review and comment on rules and policies proposed by state agencies. In addition, the APA empowers citizens, who may petition an agency to adopt a rule or object to existing rules that they find burdensome or unnecessary.

In this way, the APA process is a reasonable way to maintain transparency and accountability within state government. It ensures that state agencies do not overstep their authority and/or trample on the rights and well-being of the citizens of North Carolina.

State education officials contend that the State Board of Education must bypass the APA process because they

make rules and policies in response to state and federal mandates. They claim that these mandates come with deadlines that necessitate an expedited review and approval of their policies.

Jeanette Doran, executive director and general counsel for the N.C. Institute for Constitutional Law, recently responded to the board's claim. In a legal analysis of the issue, she concluded, "Thus, attempts to label SBE/[Department of Public Instruction] rules as policies do not remove these measures from the requirements of the APA and any policies or procedures approved in contravention of the APA would be illegal." In other words, the State Board of Education has no legal basis to enforce rules and policies that did not go through the APA process.

It does not matter whether the numerous rules and policies adopted independently of the APA process were necessary, harmless, or detrimental. The State Board of Education is likely operating outside of the law. CJ

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

Proposals include eliminating teacher tenure, replacing it with contracts



TERRY STOOPS

Parents Chafe at inBloom National Student-Tracking Database

By KAREN McMAHAN
Contributor



The inBloom database was funded with \$100 million from the Bill and Melinda Gates Foundation, the Carnegie Corporation of New York, and Amplify Education.

A national database created to collect and track confidential personal information from public school students from kindergarten through high school is drawing fire from parents and privacy experts.

North Carolina is one of nine states that have agreed to participate and provide student data for the controversial system. Several states are considering legislation to prevent the sharing of student data without parental consent.

The Shared Learning Infrastructure, built over the past 18 months, stores millions of student records identified by name, address, race/ethnicity, economic status, guardian, primary language, grade, test scores, attendance, disciplinary history, standards and skills mastered, student hobbies, learning disabilities, homework completion, school and non-school activities, and much more. Even Social Security numbers sometimes are collected and stored.

This \$100 million data warehousing project, funded by the Bill and Melinda Gates Foundation, the Carnegie Corporation of New York, and Amplify Education, was initiated by the Council of Chief State School Officers and the National Governors Association as a key part of the federal Common Core State Standards. After the infrastructure was completed, inBloom Inc., a nonprofit, was created to run the system.

One of the benefits inBloom touts for this database is that it will take data from more than a dozen systems to allow the creation of content and tools to personalize education for every student.

inBloom in North Carolina

Guilford County Schools is the test case for the inBloom system in North Carolina.

While the service is free at present, Reuters reported in March that inBloom "will likely start to charge fees in 2015."

"Many parents have no idea this information is being collected nor have they given permission to do so," said Lindalyn Kakadelis, director of the North Carolina Education Alliance, "but as more parents find out, I believe there will be a lot more opposition."

A spokeswoman for Guilford County Schools confirmed to *Carolina Journal* that the district was part of the inBloom project, but offered no further comment.

The Federal Trade Commission sent out an alert in August 2012, warning parents about the growing threat of child identity theft and saying "when children are victims of identity theft, the crime may go undetected for

years."

Sheila Kaplan, an education and information policy expert and researcher who founded Education New York to call state and national attention to information policy and children's privacy rights, told *CJ* that amendments to the federal Family Educational Rights and Privacy Act in 2008 and 2011 granted third parties, including private companies, increased access to student data.

Kaplan said these amendments expanded the definitions of "school officials" who have access to student data to include "contractors, consultants, volunteers, and other parties to whom an educational agency or institution has outsourced institutional services or functions it would otherwise use employees to perform."

Federal officials say the database complies with FERPA privacy laws, but even inBloom's privacy and security policy states the company "cannot guarantee the security of the information stored in inBloom or that the information will not be intercepted when it is being transmitted."

Some data collected by these educational organizations and vendors appear to have little connection to schooling. A sample question in the 2013 demonstration booklet for Grade 4 Mathematics and Reading from the National Assessment of Educational Progress asked if a student has a clothes dryer, dishwasher, more than one bedroom, his own bedroom, or access to the Internet, in his home. Kakadelis wonders why an educator would need to know that.

Opposition growing

Gretchen Logue, a founder of Truth in American Education, a non-partisan group of parents concerned about federal interference with local schools, said about the database: "Local school districts had no choice in the requirements and no vote, but they'll bear the cost."

She said TAE has created an opt-out form for parents who want to protect their children's privacy rights regarding Common Core State Stan-

dards, their assessments, state longitudinal data systems, and related issues.

A growing number of states are eyeing legislation to prohibit the release of confidential student data without the written consent of a parent or guardian. Among them are Oklahoma, Missouri, and New York.

The American Civil Liberties Union, the Privacy Rights Clearinghouse, and the Center on Law and Information Policy at Fordham University

Law School also are calling attention to student privacy issues. The Electronic Privacy Information Center in 2012 filed a lawsuit against the U.S. Department of Education, saying it lacks the statutory authority to amend FERPA to make student data

more available and accessible to third parties. The case is pending in federal district court.

Education tech as a business

Kaplan said these data-mining efforts raise not only privacy concerns but also the likelihood that students will be exploited for profit. The Shared Learning Cooperative, run by

inBloom, stores student data and catalogs instructional content and materials aligned to the Common Core State Standards. SLC will recommend Web-based resources. Educational products and services that are tagged to this Common Core system will be "optimized" (more easily found) on Google, Bing, Yahoo, and other search engines. Companies offering products that are not tagged could lose sales and profits.

In March 6 testimony supporting Missouri Senate Bill 210, a bill prohibiting the Missouri State Board of Education and the Department of Elementary and Secondary Education from implementing the Common Core State Standards for public schools without the approval of the General Assembly, Kaplan said the education technology industry is a booming business.

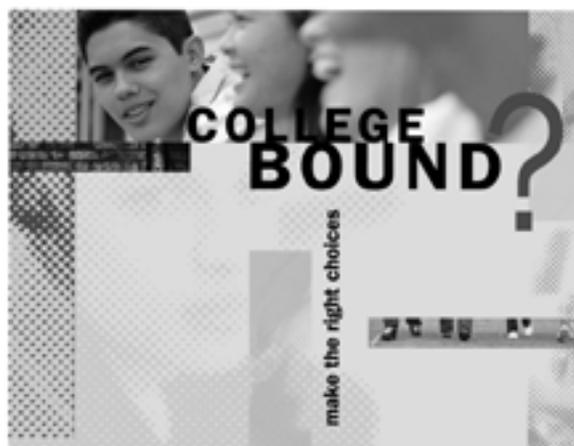
"The business of education," Kaplan said, was the phrase used by the CCSSO's Education Information Management Advisory Consortium when it argued in favor of FERPA amendments granting vendors greater access to confidential student data. The Software and Information Technology Industry Association, representing more than 500 high-tech companies, also supported the FERPA amendments.

"Technology startups aimed at K-12 schools attracted more than \$425 million in venture capital last year," Kaplan said in her testimony.

"Are we really to think that the Gates Foundation and Dell Foundation are pouring millions of dollars into these projects with no expectation that the companies founded by these tech giants will benefit financially?" Kaplan told *CJ*. "Common Core mandates that approved systems run under Windows 7 or higher, and Dell is creating the interoperability for these databases," she said. *CJ*

The ACLU and privacy-rights organizations have concerns about the database

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JLF: Vouchers a Good Option for N.C. School Choice

By CJ STAFF

RALEIGH

A voucher program is likely to offer North Carolina the most transparent, easy-to-understand school choice option the state could consider this year. A John Locke Foundation Spotlight report offers that assessment. Vouchers also require no tax code changes.

"Parents tend to have an easier time understanding vouchers than other types of choice programs," said report author Terry Stoops, JLF director of research and education studies. "Vouchers also tend to be more transparent for both taxpayers and regulators."

The tax implications should not be ignored, Stoops said. "The fact that vouchers require no major changes to the state's tax system is ideal for states, including North Carolina, that are considering major tax reforms."

Stoops' report highlights potential benefits and drawbacks linked to vouchers, but he would welcome any expansion of school choice in North Carolina. "Regardless of the type of school choice program selected by lawmakers, the goal should remain the same — allowing parents to choose the school that best meets the needs of their child," he said.

First proposed by economist Milton Friedman nearly 60 years ago, a total of 18 voucher programs now operate in 12 states and Washington, D.C. "Friedman concluded that a system shifting administration of schools from the government to private-sector entrepreneurs would enjoy numerous social, political, and economic benefits," Stoops said. "Among them are higher-

quality schools and more efficient use of taxpayer money."

No school district or state has attempted to implement the kind of universal voucher program Friedman proposed, but studies of existing programs have shown promising results, Stoops said.

"There is a general consensus in the education research community that school choice has a positive impact

on participating students," Stoops said. "Beyond that general finding, nine of 10 well-designed empirical studies concluded that voucher recipients had statistically significant increases in performance. More than 20 studies have identified ways that vouchers deliver spillover benefits to traditional public schools."

Two of the positive studies highlighted benefits tied to the Children's Scholarship Fund-Charlotte, a privately funded voucher program started in 1999. "Evaluations in 2000 and 2007 found significant reading and math score gains for low-income, predominantly African-American scholarship recipients," Stoops said. "In addition, qualitative studies conclude that parental satisfaction is high and most scholarship recipients graduated from high school."

As he spells out positive results linked to vouchers, Stoops also de-

tails potential problems. "The major drawback of using a direct government voucher is that it tends to invite excessive government regulation of participating families and schools," he said. "Those regulations can take the form of public school enrollment requirements, testing mandates, enrollment caps, and limits on eligibility and scholarship values. This means that a voucher program requires additional safeguards and protections."

North Carolina also could avoid one of the key challenges voucher programs have faced in other states, Stoops said. "Voucher programs are more likely to encounter legal setbacks in states with

constitutions that would prohibit distribution of public funds to religious schools," he said. "North Carolina is one of the few states with a constitution that does not include those limitations. Voucher opponents would have a difficult time mounting a successful legal challenge to a voucher program in North Carolina."

Stoops outlines a series of recommendations for policymakers considering a voucher program for North Carolina. Along with additional safeguards and protections for participating children, families, and schools, he suggests that eligibility ought to be tied to the poor performance of the stu-

dent's traditional public school, rather than the student's family income.

"Reasonable accountability and transparency regarding student achievement also should be included in any new program," Stoops said. "The bill should include clear and decisive language that grants maximum autonomy to participating schools."

The state's existing Division of Non-Public Education is a reasonable choice to supervise any new program, Stoops said. He also suggests that state officials make a special effort to ensure that low-income families are informed about their voucher options.

Program applications should be standardized, giving parents plenty of time to make their choices, Stoops said. The process for denying a student access to a school of choice should allow the school in question enough time to provide information and testimony to state education officials.

Vouchers should be as portable as possible, Stoops said. It also seems sensible to base the size of the voucher on a dollar amount equivalent to the per-pupil cost for schools in the student's traditional public school district, he said.

A well-designed voucher program could generate plenty of positive results for parents and students, Stoops said. "Giving more families the freedom to pursue alternatives to the one-size-fits-all traditional district-run public schools is a worthy goal," he said. "As long as policymakers recognize and address the trade-offs and challenges involved, a voucher program could lead to better outcomes for North Carolina children." CJ



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Town and County

Meck revenue shortfall

Mecklenburg County officials are trying to cover a projected revenue shortfall resulting from its flawed 2011 revaluation. Corrected property values may result in \$25 million less in property tax collections for the fiscal year that begins in July, reports *The Charlotte Observer*.

Work continues to determine how inaccurate the 2011 property values were. An outside firm is reviewing the valuations. To date, it has found 58 neighborhoods with major errors, with some properties overvalued by nearly 20 percent. The county currently values the property in these neighborhoods at \$16.1 billion. The errors could cost the county \$24.9 million a year in property tax revenue.

The county also may be on the hook for up to \$22 million in overpaid property taxes in 2011 and 2012. The county could pay for any refunds out of its reserve funds.

Forsyth tax revaluation

Forsyth County's current property revaluation has proved contentious, with some residents complaining that their property values have dropped too much, reports the *Winston-Salem Journal*.

The decline in housing prices during the Great Recession is expected to result in valuations that are about 10 percent lower than the average home prices in Forsyth's last valuation in 2009. However, the decline is not spread evenly. Some neighborhoods, particularly in heavily African-American East Winston, have seen property values fall by 50 percent or more.

The disparities have led to emotional confrontations among Forsyth County commissioners, with commissioners Walter Marshall and Everette Witherspoon criticizing the reappraisal as Commissioner Gloria Whisenhunt countered that Marshall and Witherspoon should have spoken up before the revaluation was complete.

"I would be completely satisfied if my values would go down the same as yours," said Marshall, whose district includes East Winston, to Whisenhunt. "People in East Winston did not know that their values would go down 70 percent and yours would go down 5 percent. Are you condoning this?"

Rep. Ed Hanes, D-Forsyth, has filled a bill allowing the county to delay the revaluation. CJ

CLT Airport Measure Faces Uncertain Fate

By DAN WAY
Associate Editor

RALEIGH

Calling it a "hostile takeover" that sets a dangerous precedent of allowing the state to seize municipal assets, Senate Democrats unsuccessfully attempted to block a bill transferring ownership and operation of Charlotte Douglas International Airport from the city of Charlotte to a regional authority. Senate Bill 81 passed that chamber in mid-March by a 32-18 margin. It was awaiting its initial hearing in the House Transportation Committee at press time.

Despite the measure's overwhelming support from Senate Republicans, GOP Gov. Pat McCrory urged a go-slow approach. McCrory cited, in part, a public lack of enthusiasm from Charlotte-area officials for the proposal. "I have not been approached by the leadership in the city on that issue or by business leaders in the city on that issue, but there's an obvious conflict, and I've recommended that they slow down that legislation," McCrory said at a news conference. "I think this is an issue that Charlotte needs to resolve among themselves."

A floor vote on S.B. 81 was delayed twice as its sponsor, Sen. Bob Rucho, R-Mecklenburg, attempted to get an outside bond counsel opinion from the state treasurer's office to appease Democratic opponents.

During two committee meetings, the critics cited an opinion from Charlotte's bond counsel that transfer of ownership would place at risk some \$700 million in airport revenue bonds.

In asking for the vote to be delayed, Graham said the city of Charlotte is willing to pay for a study to determine the best management structure for the airport. USAirways, which operates the airport hub, has agreed to take part.

And the state treasurer's office has not retained a bond counsel for an opinion on whether transfer of ownership will impair existing bonds. That worried Graham.

"Shouldn't we wait until we hear from the state treasurer, who ultimately has the management responsibility for this bond, before we move down this road?" Graham said.

Sen. Tom Apodaca, R-Henderson, attempted to blunt that point, noting that the treasurer's office is seeking an opinion.

"This has got a long course to run. The House can take it up if something comes back differently" from the treasurer, he said.

Rucho produced a letter written by an attorney for Jones Walker, a national firm that is lead bond counsel for the state of Louisiana, in bringing the measure forward for a vote.

The letter "says that for the reasons stated above it is our view that the creation of the authority as a successor [to city ownership], which is allowed under the bond documents of the city ... will not impair contractual obligations owed to the bondholders of the airport revenue bonds and therefore should not require even bondholder approval," Rucho said.

But Sen. Dan Blue, D-Wake, a lawyer who sometimes does bond work, was unimpressed.

"Opinion letters have to take a hard position," he said. "This thing from Jones Walker is like a first-year memorandum" from a law student. "We're playing with fire."

Blue also criticized classifying the bill as local legisla-

tion. The only thing local about it is the sponsor, he said. "Everything else you've done is statewide."

Rucho said transfer of airport ownership to a regional authority would ensure continuity of expertise in operations and foster regional buy-in.

A regional authority is needed to protect what is a city, regional, and state asset, and to be certain an intermodal park under construction to serve as an inland distribution port for the Eastern seaboard is able to bloom and prosper, creating "tens of thousands of jobs" and millions of dollars in economic impact, Rucho said.

Graham took umbrage over perceived state paternalism. He said previous mayors and city councils, Republicans and Democrats alike, including current Gov. Pat McCrory, "all took care in terms of nurturing, developing, sponsoring, and supporting the growth of Charlotte Douglas International Airport" for 77 years.

"This legislation ... was not submitted by the city of Charlotte," Graham said. "The citizens of Charlotte feel there is a lack of transparency. We don't know what the problem is, first of all. Second, we don't know who these business leaders are, these unnamed, faceless business leaders who propose changing the governing structure."

He said the city has invested more than \$1 billion in capital improvement bonds for airport development, "so

we are investing in the future, and runways, and concourses, and cargo bays. We're putting our money where our mouth is in terms of protecting and enhancing this regional asset."

Construction on the intermodal park "didn't just happen yesterday," Graham said. "It was years of planning, years of strategy in the making."

While Democrats probed for a justification for the legislation, Sen. Martin Nesbitt, D-Buncombe, pointed to Jerry Orr, longtime airport director who works in the city manager's department, as a possible catalyst.

"You've got a city employee up there who thinks he's a benevolent dictator and should be able to make all the calls and do everything by himself" without oversight, and gets angry when he is told what to do, Nesbitt said.

By moving to a regional authority, "You end up with an appointed board that nobody elects to hold them accountable" when local disputes arise, Nesbitt said.

"Can you imagine that we're going to give the potential of somebody from another county who's appointed to a board the power to condemn in your county ... when they don't own property there, they don't vote there, they weren't appointed by anybody there," he said.

"They can control the vote and vote to condemn your property. Now if that's where the leadership is taking us, good luck to you on that voyage; I ain't going with you," Nesbitt said.

"This is not a new power," said Sen. Peter Brunstetter, R-Forsyth. He said Piedmont Triad Airport Authority had that power when he served on its board.

Nesbitt also raised the specter of legal action if the legislation is passed.

"Do you think you can go in and do a hostile takeover and take these people's airport and there isn't going to be a bondholder who will sue you? Of course they're going to," he said.

"Anybody can sue anytime they want," Rucho said. CJ



Inside the main atrium at Charlotte/Douglas International Airport. (WikiCommons photo by MaverickHunter40245)

Asheville Looks at Raising Fees Instead of Cutting City Services

By MICHAEL LOWREY
Associate Editor

RALEIGH
Asheville may offset a possible budget deficit in the coming fiscal year by raising some of its fees. The city also may offer an early retirement package to trim the number of employees, reports the *Asheville Citizen-Times*.

"In recent history ... our expenditures are growing at a rate that's faster than our revenues are growing," said Lauren Bradley, the city's director of finance and management services.

She notes that city expenses are expected to increase by \$3.3 million during the fiscal year that begins July 1, while revenues are expected to grow by only \$1.4 million. The city does not plan cuts in services.

Among the fee increases being considered are increasing parking-meter costs from \$1 per hour to \$1.25 and fees in most city-owned parking decks from \$0.75 to \$1. Garbage collection fees would increase by \$7 per month, and a \$3.50 per month recycling fee would be reinstated.

The city also would increase water rates for most customers. The average residential customer would pay about 1 percent more. Most commercial water users would see larger increases, by as much as 4 percent. The plan makes an exception for manufacturers, keeping rates the same for large manufacturing companies.

"Given the loss of manufacturing jobs in the economy ... [council] felt that that class of customer warranted special attention that other classes may not," Bradley said.

Wilmington tax increase?

The city of Wilmington is considering raising taxes in its central business district. It remains to be seen if the idea gains more traction now than when a tax hike was proposed in 2010, reports the *Wilmington Star-News*.

The new push comes in response to the increased costs of holding events downtown. As events get bigger or move from other venues to downtown, the costs to the city go up. An increased tax on the city's downtown commercial property owners is seen by Councilman Charlie Riverbank as a means to recoup those costs.

"I think council is sitting there

scratching their heads, 'How do we pay for all this stuff?'" said Wilmington Downtown Inc. President and CEO John Hinnant of the possible tax increase.

"I think we'll have a discussion about it," said Wilmington Mayor Bill Saffo of the possible tax increase. "Whether it goes anywhere, I don't know."

In 2010, Hinnant proposed raising the tax rate in the city's central business district by 10 cents for every \$100 of assessed property tax value. The

tax hike would have brought in \$385,000 per year. The idea died after some business owners in the district questioned whether the benefits they would receive were worth the extra

cost to them.

Raleigh's solar trash cans

Thanks in part to a \$150,000 federal grant it received last year, Raleigh purchased the latest technology in garbage cans for use in several popular areas of the city. A new report from the city highlights the savings associated with the solar-powered trash compactors, states the *Raleigh News & Observer*.

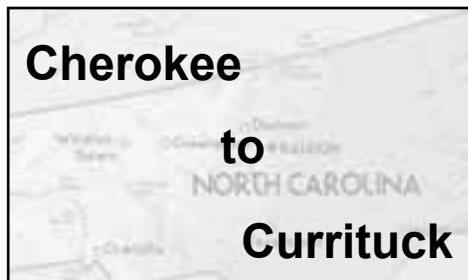
The "Big Belly" trash cans use the trash compactors to reduce the number of visits disposal crews need to make to empty the containers. A detector on the Big Bellies even sends an email to the Solid Waste Department when the cans need to be emptied. As an additional bonus, the cans include slots for recyclable materials.

City officials are extremely happy with the new trash cans, noting that emptying the 37 Big Bellies reduced the costs from \$53,000 annually to about \$1,700 a year. At \$6,000 per unit, the city estimates the Big Bellies will pay for themselves within four years.

The recycling slots also proved useful, with recyclables amounting to 73 percent of what went into the cans. Though the city had recycling bins in the areas, they were poorly marked. There's also less debris around the new cans.

"There's no more cleaning up around the Big Bellies," said Phillip White of the city's Solid Waste Department. "It's a much pleasanter sight."

Raleigh is looking to add more of the newfangled trash cans and is seeking private partners to help cover the cost. CJ



COMMENTARY

Dirty Politics At Dix

The mission statement of Dix306.org, a lobbying group pushing to preserve a lease struck in December between the Perdue administration and the city of Raleigh, reads, "Our goal is to save all 306 acres of the Dorothea Dix Campus for a World Class Destination Park for future generations."

What sounds like a noble, selfless, forward-looking vision is in fact a bunch of hooley.

A Senate bill that would renegotiate this sweetheart deal has drawn lots of attention, as Democrats accuse Republicans of trashing the state's ability to negotiate in good faith. At a March 21 committee hearing, Raleigh broadcaster, property developer, and liberal activist Jim Goodmon launched into a patronizing lecture, chastising Republicans for their alleged double-dealing. Senate Rules Committee Chairman Tom Apodaca, R-Henderson, then threw a tantrum and seemed ready to jump Goodmon.

Meantime, angry local liberals used a March 25 public hearing at the General Assembly to call plans to redo the lease "dirty politics."

If anyone has engaged in dirty politics, it's the crowd who rushed the 75-year lease through state government as Gov. Bev Perdue was heading out the door. Despite the spin from Democratic lawmakers, Raleigh officials, and local developers, the current deal is a gift of valuable state property to Raleigh that comes with a hefty price tag Raleigh residents largely will not bear.

Imagine the outrage among the political elite if an outgoing Republican governor leased a valuable state asset for pennies on the dollar to a city that planned to reuse it for high-end housing or commercial development. That scenario is no different than what's going on with Dix.

First things first. This is not a business contract. It's an agreement between two entities of government, and Perdue conceded in December that the General Assembly or the McCrory administration could scrap the lease. Senate Bill 334 would do that.

The state's interests were not well represented by the outgoing governor. Under the lease, the city would pay the state \$500,000 the first year with payments increasing by 1.5 percent annually, generating \$68 million over the 75-year term. Backers of S.B. 334 say that's below market value. But there's no way of determining "market value" because bidders will not be allowed to place offers on the land and determine its actual worth.

That \$68 million price tag does seem low, however. State taxpayers would have to relocate roughly 2,000 Department of Health and Human Services employees from the Dix campus to other offices. Those offices would have to be built or leased, at additional taxpayer expense.

Moreover, the agreement would violate the spirit if not the letter of the original 1850s deed establishing the Dix property "in trust for the use and the benefit of the North Carolina State Hospital for the Insane."

To be sure, state lawmakers have breached that trust before — most notably when former Govs. Jim Hunt and Jim Martin shifted control of 800 acres of the property to N.C. State University for its Centennial Campus. And the state closed Dix Hospital last year, moving its remaining patients to the Central Regional Hospital in Butner.

It also seems clear that Raleigh's movers and shakers envision much more than a "world-class destination park" for Dix Hill. Goodmon made boatloads of money developing the American Tobacco Campus in Durham, and the Dix crowd in Raleigh wants to redevelop buildings on the site to accommodate museums, offices, and cafés — generating money for city coffers and local developers.

S.B. 334 would restore a 2007 state plan for the parcel, leaving the DHHS workers in place, and leasing roughly 200 acres as a park, dedicating lease revenues for mental health services. If that's dirty politics, let's have more of it. CJ

Rick Henderson is managing editor of Carolina Journal.



RICK HENDERSON

Appeals Court: Property Tax Commission Must Follow Procedures

By MICHAEL LOWREY
Associate Editor

RALEIGH

How much is a property worth? And by what process is that determined? In February, those issues were again before the state's second-highest court, this time in a long-running dispute about the property value of two Triad textile plants.

The N.C. Court of Appeals ruled that the N.C. Property Tax Commission, which settles disputes between counties and landowners over property valuations, not only must follow the procedures spelled out in state law when it makes a decision, but also must provide consistent findings of fact and law to justify its rulings.

In 2007, Davidson County assessed the value of Parkdale America's Lexington textile mill at \$6,776,160. The company's plant in Thomasville, meanwhile, was valued \$3,620,080. The company thought both values were much too high — it thought the correct values should be \$906,000 and \$625,000, respectively — and challenged the assessments before the county's review board.

The review board agreed with Parkdale, but only to a degree, and cut the assessed value to \$5,040,429 for the Lexington plant and \$3,287,150 for the Thomasville plant.

Parkdale officials thought the reduced valuations still were well off the mark and challenged them before the N.C. Property Tax Commission.

The Property Tax Commission presumes that a county's property tax valuation is correct. The burden is on the taxpayer to show that the county

used an illegal or arbitrary valuation method and that the resulting assessment exceeds the actual market value of the property. If the taxpayer convinces the commission, the burden shifts to the county to show that its methods produce accurate valuations. The commission then considers all the evidence and decides whether the county was correct.

The commission issued a decision in November 2009, siding with the county.

Parkdale challenged the commission's ruling with the N.C. Court of Appeals. The court was unimpressed with the commission's determination. The commission did not explain to the court's satisfaction why it accepted the county's valuations. The court sent the case back to the commission, asking it to explain its actions based on additional findings of fact and conclusions of law, and to hold additional hearings if necessary.

The commission issued its second ruling in May 2012 without holding any further hearings on the matter. It ruled in favor of the county again. A second time Parkdale brought the matter before the appeals court, which again rejected the commission's findings.

"This court did not see then, and does not see now, how the commission's acceptance of the county's valuation without further appraisal of conflicting evidence is anything but ar-

bitrary or capricious; the commission's decision appears to be wholly discretionary and not based on the requisite determining principles," wrote Judge Robert N. Hunter Jr. for the appeals court.

While the commission included three rationales for its decision, the Court of Appeals found them wanting. First, the commission considered the appraisals of other plants that

Parkdale had presented to bolster its case not useful, saying the appraisals were not comparable. The court found this logic curious. By law, the reliability of such appraisals mattered only when the burden was on the company.

The commission also found the county's use of the sale price of comparable properties was more reliable than the appraisals Parkdale presented. The court said the commission did not, however, provide many details about these properties, or hold additional hearings to demonstrate that the county's comparable sales values were

more accurate than the original valuations the commission accepted from Parkdale.

"Thus, if such findings were not substantial enough to prevent Parkdale from carrying its burden, they should not be determinative now that the burden rests on the County," wrote Hunter.

Finally, the court found it odd that, after the court asked the commission to justify its decision, the commission accepted Davidson County valuations on the properties. In its initial decision, the commission called those valuations "arbitrary."

The appeals court gave the Property Tax Commission one final chance to address the shortcomings in its decision.

"If the county cannot carry its assigned burden, or if the commission again fails to rectify the inadequacies of its final decision, this court may exercise its prerogative to remand for yet a third time with specific instructions for the commission to adopt Parkdale's valuation of the property as, unlike the county's valuation, it has not been held to be 'arbitrary,'" the court said.

The case is *In re Appeal of Parkdale Mills*, (12-1078). CJ



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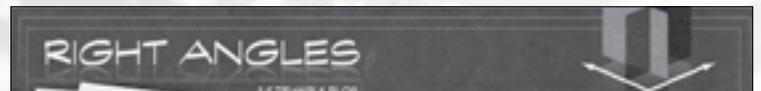
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NCICL Calls State ABC System an Illegal Monopoly

By BARRY SMITH
Associate Editor

RALEIGH

A legal think tank is calling for privatization of the state's ABC stores, even suggesting that the current government-controlled system might violate the N.C. Constitution's ban on monopolies.

"To tolerate a government-sanctioned monopoly by any entity, including the state itself, is 'contrary to the genius of a free state,' according to the common sense of our Constitution," writes Jeanette Doran, executive director of the nonprofit N.C. Institute for Constitutional Law, in a recent report.

Doran goes on to conclude in her report that if the state is allowed to monopolize liquor sales with the justification that it is protecting public health, then there would be little to keep it from monopolizing other products or services, such as health care, or commodities, including gasoline or food.

"Although North Carolina's liquor monopoly has existed for decades, it is as violative of the Constitution now as it was in its inception," Doran writes. "The legislature can fix the problem by relinquishing the state's monopoly."

Tyler Younts, a staff attorney at the institute, wrote a companion report arguing for modernization of the state's ABC system.

While modernization would end "an arguably unconstitutional monopoly," Younts wrote that changes could result in up to \$1 billion in government revenues.

While there was a push to make changes in the state's ABC system, which allows for bottled liquor to be sold only in government-operated



The N.C. Institute for Constitutional Law argues that if the state can create one monopoly using the justification of protecting public health, there is nothing to prevent it from creating many more using the same reasoning. (CJ file photo)

stores, a couple years ago as a response to scandals in some local systems, efforts to privatize the system have stalled.

No bills have been filed this year to privatize the ABC system.

Bill Brooks, president of the N.C. Family Policy Council, hopes it stays that way.

"We like the system because of the fact that we have one of the lowest per-capita consumption rates in the country," Brooks said. "It means that you probably have fewer alcoholics, you have fewer drunks, you have fewer auto accidents and things that go with abuse of alcohol."

Younts questions whether privatization would result in increased social ills. He cited a Commonwealth Foundation study that suggested that privatization did not necessarily result

in more alcohol-related problems.

Those findings include:

- Alcohol consumption decreased in Iowa and West Virginia, states that recently privatized alcohol sales.

- Consumer buying patterns in those states shifted away from hard liquor toward beverages with less alcohol content. The report suggests that since it was more convenient to buy liquor, customers didn't stock up on it at the government-controlled store.

- Underage binge drinking is unaffected by the level of alcohol control.

- Drunk-driving fatalities were found to be 25 percent higher in full-control states than in privatized states.

Brooks also questioned the constitutional claim that Doran made.

"I think the constitutional argument doesn't hold much water,"

Brooks said, adding that the state has a monopoly on the lottery, too.

"Most of what I read classifies alcohol as a drug, a subject that can be abused," Brooks said. "It is legal, but it can be regulated by the state to the extent of it being a monopoly."

Doran said the ABC issue should be looked at individually.

"We take them as they come," Doran said. "The issue that is in most controversy is that the state's liquor monopoly... It's never a good defense to say, other people do it."

Younts cited an ABC modernization study commissioned by former Gov. Bev Perdue in saying that the state could bring in as much as \$1 billion from a full-scale ABC modernization or privatization.

"In addition to this infusion of cash, modernization would alleviate the corruption and inefficiencies that accompany operating a proprietary business according to political considerations rather than economic realities," Younts wrote.

Among the improprieties cited by Younts include a federal investigation into the ABC system in New Hanover County, the resignation of the ABC chair in Mecklenburg County after allegations of improper gifts from liquor companies, and missing money from a Pembroke ABC store.

The John Locke Foundation has advocated the privatization of the ABC system for more than a decade. JLF's biennial Agenda policy recommendations have called for the General Assembly to deregulate liquor sales in North Carolina; sell the state warehouse and local ABC stores; and set flexible sales and excise tax rates to keep revenues on liquor sales neutral. CJ

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Durham Retiree Unearths Tax-Fraud Scheme By Checking His Mail

Continued from Page 1

the street, looking into the mailboxes of three neighboring homes. She then stepped into a van that was waiting for her on a side street, and she and the driver left.

The next day, he received two more mailings from the Maryland revenue division that appeared to be tax refund checks. One was addressed to Sherry D. Arozarena at his house number, but with "Apt B" added to the address. The other was addressed to Jessica B. Fonseca at his house number with "Apt 3" added to the address. There are no apartments in the resident's home. He did not open the letters.

The resident discussed the situation with a friend, who then contacted *Carolina Journal*. A *CJ* reporter met the resident at his home on March 11 and witnessed him open the letters. One was a state income tax refund check for \$1,651 for 2012, made payable to Sherry D. Arozarena. The other was a \$1,746 refund check payable to Jessica B. Fonseca. Neither woman lives at the man's address. *CJ* was unable to locate anyone living in North Carolina using either of those names.

The resident contacted the local office of the postal inspector, and a representative picked up the checks at the house on March 12.

Postal Inspection Service team leader Mike

Carroll told *CJ* that his office works with the IRS and other agencies to combat this type of problem. In this case, he said, the primary enforcement responsibility would fall with the state revenue agency incurring the loss. "We need their assistance to work this backward to obtain documents that were filed to obtain these checks," he said.

Former North Carolina State Auditor Les Merritt, a certified public accountant, told *CJ*, "It is a safe assumption that false documents were created to pull off something like that."

Mike Snell, a California-based tax accountant with clients in Maryland, North Carolina, and several other states, said pulling off such a scam would have been difficult. "It is not easy to do," he said. "It has to be planned out ahead of time. This sounds like a sophisticated operation."

He suggested it might require the perpetrators to reverse-engineer a tax return in order to make it appear a taxpayer living in one state was due a tax refund from a different state.

Snell speculated the scam could work something like this:

Using a phony Social Security number and a phony name, "Sherry"



The suspicious resident said he saw strangers in a van checking mailboxes along Sherron Road in Durham. (CJ photo by Jon Ham)

creates a phony W-2 statement for the 2012 tax year from a company (real or fictitious) in Maryland. She files a state tax return in February indicating \$4,000 was withheld from her wages and she was due a \$1,651 refund. Maryland's tax return processing system recognizes that it has never received any withholding payments from the company for Sherry, but it assumes the money actually was withheld from her paychecks.

Sherry claims to have moved to North Carolina and uses someone else's mailing address to make the scheme

harder to trace. Maryland processes Sherry's return and sends her a check. Sherry checks the status of her refund by logging on to the Maryland tax return website by entering her phony Social Security number and the exact amount of the refund. The website lets her know when the check has been mailed. She then checks the mailbox at that address daily, hoping to retrieve her check before the homeowner notices.

Maryland officials try to track down the company to collect the money that supposedly was withheld. If the company was fictitious, the state will find no record of any business at the address on the W-2. If the company was real, the state will find no record that Sherry was employed there.

And since Sherry did not live at the address where the check was mailed, Maryland officials may have no way to find her.

In either case, it may be weeks before the state searches for Sherry or the company — most likely after the tax filing and processing season has ended in April — so Sherry would have cashed the check and disappeared long before the scam was detected.

released," she added.

Andrew Friedson, director of media services for the Maryland comptroller, told *CJ* that tax fraud schemes "get more sophisticated and unscrupulous with each passing year," and they continue to be a serious national issue for the IRS and states throughout the country.

But his office has stepped up efforts to crack down on them, he said. So far this tax season, he said, his office has discovered more than \$4 million in fraud.

"Thanks in large part to a substantial increase in dedicated human and capital resources, we've seen an exponential increase in fraud detection in recent years. The Comptroller's Office uncovered 262 returns valued at \$488,657 in fiscal year 2007, compared to 13,480 returns valued in excess of \$28 million in fiscal year 2012," he said.

"While we can't comment on any particular case due to confidentiality requirements, we continue to work closely with the appropriate state and federal authorities including the IRS, the postal inspector, and in-state and out-of-state attorneys general to thoroughly investigate returns deemed suspicious through our sophisticated fraud detection efforts and from citizen tips," he said.

The Durham resident said the mail he received on March 18 included letters from the Maryland comptroller addressed to each of the presumably fictitious tax filers. He said the envelope addressed to Sherry D. Arozarena was not sealed and he opened it. The letter asked Sherry to return \$500 of the \$1,651 she was refunded. The resident notified the postal inspector's office, and a representative came to his house and picked up the letters. *CJ*

S.C. Maryland respond

CJ sent Maryland and South Carolina officials copies of the checks, but both commented only generally about tax-fraud enforcement, saying state law prevented them from making comments about these specific cases.

"I have passed along your inquiry and provided details to the DOR Audit division for further investigation into the matter. Due to S.C. Code of Law Section 12-54-240, we are unable to disclose any information as related to the address," said Samantha Cheek, public information director for the South Carolina Department of Revenue.

"We have audit practices and procedures in place to prevent the issuance of fraudulent refunds, and new this year have put into place an additional safeguard measure that requires selected taxpayers to complete an 'ID Verification Quiz' before their refund is

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Dream Teamers, Disappointed With Democrats, Turning to the GOP?

Continued from Page 1

information.

The N.C. Dream Team takes its name from the acronym for the proposed federal Development, Relief, and Education of Alien Minors Act, which would provide a pathway to permanent residency and citizenship to those unauthorized immigrants. The organization, made up primarily of children and young adults who were brought to the United States illegally with their parents, seeks, among other things, passage of the DREAM Act.

Also, they're trying to convince state lawmakers to refrain from any new legislation that would target young adults who were given temporary legal status last year under President Obama's Deferred Action for Childhood Arrivals program.

"The reality is, more people have been deported under his presidency than any other," Martinez said. "We were just not happy with the Democrats."

While the Dream Team members have found some sympathy in the General Assembly, some conservatives remain opposed to the driver's license provision, or any state measure that would grant favorable status to illegal immigrants.

Ron Woodard, director of N.C. Listen, which advocates for stricter enforcement of immigration laws, suggested that some Republicans are pandering to illegal immigrants. The large number of illegal immigrants in the country, he feels, exacerbates an already dire unemployment problem.

"Where is the concern about unemployed Americans?" Woodard asked. "I don't see any concern coming out of the legislature right now."



N.C. Dream Team members Viridiana Martinez and Jose Torres-Don at the N.C. General Assembly building recently, where they spoke with legislators about immigration laws targeting young adults who were brought to the country when they were young by illegal immigrant parents. (CJ photo by Don Carrington)

Woodard said the immigrants who came with their parents are in a tough spot. "The parents put them in that position," he said, but noted that those qualifying for DACA deferrals who have reached the age of 18 are no longer children.

"These individuals, as adults, can choose to go back to their home country after high school," Woodard said.

DREAM Act and DACA

The DREAM Act has been introduced in Congress since 2001 in various forms, and in 2010 narrowly passed the U.S. House of Representatives, but it never has become law.

The DACA program, the result of an executive memo signed by Obama, covers immigrants between the ages of 15 and 31 (as of June 15, 2012) who arrived in the United States before age 16, entered illegally or overstayed a visa, and have lived here continuously for at least five years. They also must have what amounts to clean criminal

records — no felony or severe misdemeanor convictions.

Under DACA, immigrants satisfying those requirements can receive work permits for up to two years.

In January, N.C. Secretary of Transportation Tony Tata said he would authorize temporary driver's licenses for beneficiaries of DACA if they also satisfied residency and identification requirements. Initially, Tata said the licenses would feature a pink stripe indicating that the holder was in the DACA program and not a U.S. citizen.

After objections from some immigration activists who said the pink stripe was like a "scarlet letter" that branded them unfairly, the stripe was removed. The licenses state in red lettering, however, "LEGAL PRESENCE NO LAWFUL STATUS."

Torres-Don said the pink identifying stripe was not a concern for him. "Many folks are up in arms about what a driver's license will look [like]," he said. "For me, I have to look at it as an option that I didn't have before. ... I'm going to get a driver's license, and I'm not going to be stuck on the issue of what it looks like."

Some Republicans in the General Assembly say they're willing to speak with anyone about the immigration issue, including Martinez and Torres-Don.

"I'll be glad to sit down with almost anybody," said Rep. Frank Iler, R-Brunswick, who co-chaired an interim committee looking into the state's response to the immigration issue. He noted that his fellow co-chairman, Rep. Harry Warren, R-Rowan, has "sat down with every group that you can imagine in the spectrum" as he prepares to introduce in the coming weeks a bill dealing with some of the problems posed by some illegal immigrants.

"I feel like the federal government has hogtied the states and thrown them off a bridge," Warren said.

Warren said that his bill seeks to deal with immigrants who have bro-

ken serious laws, rather than young immigrants covered by DACA.

"There's no reason to be concerned about the 15- to 30-year-olds under the DACA program," Warren said. "I'm not concerned, and this legislation I'm working on is not a punitive piece of legislation geared toward everyone who's here illegally."

Nearly three years ago, Martinez was one of three women participating in a hunger strike in support of the DREAM Act. They pitched tents in a Raleigh downtown park for about two weeks.

Martinez and Torres-Don both were brought to the United States from Mexico by their parents when they were young.

Martinez was 7 when she came across the border with her family. "My family came with tourist visas, and we overstayed," Martinez said. They settled in Sanford.

They also brought her younger sister, Cynthia. "My brother, who's the youngest, he was born here," Martinez said. "He is a United States citizen who wants to join the military."

She graduated from high school in Sanford and attended Central Carolina Community College.

Torres-Don said his family lived in a "dirt-poor" area of Mexico before coming to the United States when he was 4. Torres-Don meant "dirt-poor" literally. The floors in his family's house were made of dirt, he said, and his father concluded there was little opportunity there for his children.

His older sister, who was 16 at the time, had been living in the United States and had a job cleaning houses. She would call home and encourage the family to move to the United States, Torres-Don said.

"My father and mother made a decision based on their conscience and their heart," Torres-Don said. He said he was carried in his mother's arms across the desert into the United States.

Angeline Echeverria, executive director of El Pueblo, which advocates for Hispanics in North Carolina, said she understands the frustration that the Dream Team members have felt regarding immigration progress.

"Many of the community members that we talk with have been disappointed by the high levels of deportation," Echeverria said.

Marge Howell, a spokeswoman for the Division of Motor Vehicles, said people qualifying for a driver's license under the DACA program need to bring in the federal document showing that their application to DACA has been accepted.

Also, they'll have to bring in other documents such as proof of age, identity, Social Security enrollment, residency, and possession of liability insurance that all others seeking a driver's license must have.

CJ

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Gohmann: Mandates Cause Health Care to Get More Expensive

By CJ STAFF

RALEIGH

Much of the debate about the 2010 federal health care reform law involved the so-called “individual mandate,” the notion that the government could force everyone to buy health insurance. But that’s not the only troubling mandate tied to health insurance. Stephan Gohmann, BB&T professor of free enterprise at the University of Louisville, discussed health care mandates during a 2012 speech at Campbell University. Gohmann shared themes from that speech with Mitch Kokai for Carolina Journal Radio. (Head to <http://www.carolinajournal.com/cjradio/> to find a station near you or to learn about the weekly CJ Radio podcast.)

Kokai: First of all, why do we have health insurance mandates?

Gohmann: Well, now, there [are] two types of mandates, so there’s the mandate everybody must have insurance, and then there are health care mandates that require insurance companies to cover various illnesses or various types of physicians or treatments. And the reason those physicians or those treatments are covered by mandates is somebody has lobbied for it, and there’s always somebody who’s going to benefit from having a mandate.

And so, it sounds pretty good, like, well, if somebody is disabled and needs a wheelchair, insurance should cover people with wheelchairs. And that sounds pretty convincing. It’s like, well, we wouldn’t want somebody not to be able to have a wheelchair if they need it. And so the state will come in and mandate, well, all insurance companies have to cover people who need wheelchairs and give them wheelchairs. And so the argument sounds very sentimental, but what it does is it raises the cost of the insurance to the regular consumers who don’t need wheelchairs.

Kokai: What types of things are mandated?

Gohmann: In the new law, ... there are nine areas of health care that they call “essential health benefits,” and these nine areas have to have some coverage in every state. And a lot of these the states have already mandated, such as certain things for women’s health and heart disease monitoring, things like that. So certain things have been mandated. Other states have mandated that you need a natural therapy, which is some holistic type of therapy. Well, that’s a little out there, I think. But somebody has pushed for that to happen.

“[If insurance companies] want to get my business, they’re going to have to find a way of providing this service at the lowest possible cost. But when it’s mandated, there’s not a lot of incentive to be a low-cost provider because people will have to use the service. And so the consequence is the price of all these mandates goes up.”

*Stephan Gohmann
BB&T Professor of Free Enterprise
University of Louisville*



Kokai: You argue that when government mandates coverage, there’s likely to be some negative effect?

Gohmann: The negative effect of any of these mandates is that somebody has to pay for them, and the consequence is premiums for everybody go up, and when premiums go up, people who are at the margin decide not to buy health insurance. And so the healthier people will probably opt out. But if it’s an employer paying for it, employers might decide not to give their employees health benefits, or they might reduce employment because health insurance premiums have gone up.

From an employer’s perspective, any time they hire a worker, if they’re willing to pay \$50,000 for that worker, they’re not too worried about where that \$50,000 goes. If \$10,000 has to go to health insurance, then the worker gets to take home \$40,000, assuming there [are] no taxes. And so, if health insurance premiums go up to \$15,000, then the worker only takes home \$35,000. If that’s the case, then some workers might quit, and the companies might lose their better workers because the better workers might have options to go somewhere else.

And so there are these negative consequences that people — the politicians and policymakers — don’t think about when they put in these mandates.

Kokai: Let’s talk about how these mandates affect particular groups of people. First, employees who get their health insurance coverage from their employer. You say that if mandates push up the cost of health care premiums, then this plays an important role in determining how much money these employees get to use themselves?

Gohmann: Absolutely. And, actually, employees have been told, “You’re going to be able to keep your health care.” But with these new mandated essential health benefits, if your plan doesn’t have those benefits in there, your plan will be required to have them. So now your premiums will go up, which means your wages may go down. So you’re not keeping the same plan.

[President] Obama said that he would reduce health care premiums by \$2,500 by this time, since he became president, and actually they’ve gone up by \$3,000 in the last three or four years. So government can’t keep the price of health care from rising. In fact, many of the things they do are probably causing it to rise, because they’re not allowing the market to work.

Kokai: How about a person who doesn’t have health insurance connected to her job? How do the mandates affect her?

Gohmann: Well, these plans will be mandated soon, so everybody will presumably be covered, but what employers will do, if they’re 50 employees or more, they’ll opt out and probably pay the penalty, which I think is \$2,000 per employee, and then the employee will go to the health exchanges and get whatever benefits they have there. And they’ll be mandated to purchase those benefits. Now, we’ve been told that based on your income you’ll get subsidies from the government, but somebody has to pay for that, which will be taxpayers. And if premiums are higher, that means we’ll just be covering people’s health care premiums through tax dollars.

Kokai: So if we didn’t have these mandates, how would this situation be

better for consumers?

Gohmann: You think about your homeowner’s policy, and so, we’ve got the option to have earthquake insurance and flood insurance. I live on a hill; we live by the New Madrid fault, so we could have an earthquake. It’s pretty far away, but we can opt in or opt out of that. Now, we can’t buy the insurance after the fact. But actually with the health care plan, you can wait and get insured after you get the condition, and so the rest of society will pay for that. It would be like people paying for my house being knocked down with an earthquake.

But this is an option, and so the market works, and what happens is the insurance companies, if they want to get my business, they’re going to have to find a way of providing this service at the lowest possible cost. But when it’s mandated, there’s not a lot of incentive to be a low-cost provider because people will have to use the service. And so the consequence is the price of all these mandates goes up.

If we look at areas that aren’t covered by insurance — cosmetic surgery and LASIK — it’s expensive, but relatively inexpensive compared to health care. The increase in prices of LASIK surgery, I think it’s actually dropped in price in the last 10 or 15 years, whereas [the] increase in heart surgery [has] been going up dramatically. What’s the difference? The LASIK surgeons have an incentive, and the companies that produce the equipment for LASIK surgery have an incentive to find a low-cost way to improve quality but also to keep cost down. It attracts more patients. They make more money.

But when it’s covered by insurance, that incentive is no longer there because I get paid no matter what, so I don’t have to worry about quality, and I don’t have to worry about cost. CJ

Taxpayers Lose Estimated \$1.2 Billion to Pell Fraud

By DUKE CHESTON
Contributor

At a North Carolina community college some time ago, there always seemed to be fewer cars in the parking lot the week after Pell grant checks were sent out. One instructor noticed that some students weren't taking the final exam in her class. Why? They hadn't studied and knew they were going to fail — but they had received their checks.

Such “students” are called Pell runners. They have figured out how to profit from federal student aid meant to make higher education more affordable, and their fraud actually drives up tuition for honest students.

The Federal Pell Grant Program, begun in 1972 to help poorer students pay for college, distributed about \$33.5 billion in aid over the last academic year. One expert, Mark Kantrowitz of FinAid.org, believes that Pell

grant fraud runs at about 3.6 percent — more than \$1.2 billion a year — based on the number of students who take classes but never receive degrees.

There are two primary ways in which federal student aid is abused. One is the Pell runner described above. Students obtain grants — up to \$5,500, receiving directly whatever money is left over after tuition and fees are paid. Then they drop out of school without finishing any courses.

Federal law makes this scam possible. Grantees are allowed to attend school for 12 semesters (six years) in total before they lose eligibility. There are no academic requirements to obtain a Pell grant; the only criteria are meeting income standards and enrolling in school.

The other form of student aid abuse is more complex. It tends to be aimed at online education and is designed to pilfer both Pell grants and federal student loans. Criminals form rings, in which the leader recruits multiple “straw students” who apply for the grants and loans, then share the haul with the ringleaders.

Such fraud has risen as online education has gained popularity. In 2011, the U.S. Education Department reported a “dramatic” increase in financial

aid scams involving online education. It opened 100 investigations in the first eight months of 2011, compared to just 16 investigations in 2005.

The Apollo Group, the for-profit company that owns the University of Phoenix (the largest private school in the country), has found more than 21,500 fraudulent students since 2008. (Most of the University of Phoenix's students take online classes.) James Berg, Apollo's vice president for ethics and compliance, told the Pope Center that about 0.4 percent of students were caught trying to commit fraud in the fourth quarter of 2012.

Outside of criminal rings, Pell grant running tends to occur at community colleges and technical colleges, because tuition is low. For example, taking 30 credit hours in a year at Wake Technical Community College, costs \$2,240. The maximum Pell grant is \$5,500. Thus a

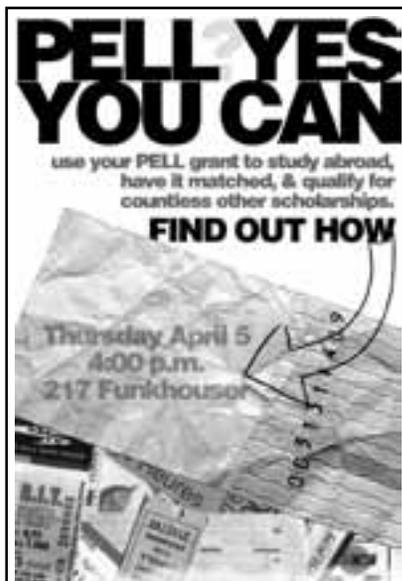
Pell grant — the excess over tuition the student collects — can provide a lot of spending money.

Some colleges seem to have found effective ways to fight Pell grant abuse. Central Piedmont Community College in Charlotte distributed nearly \$16 million in Pell grants to more than 8,000 students for the academic year 2012-13. Jeff Lowrance, the college's public information officer, said the school has had no federal investigations as a result of Pell grant fraud.

Some of the measures CPCC takes to avoid fraud include not providing grant money until after 10 percent of the semester has been completed; disbursing money in two parts over the semester to make sure that students stay around; and instituting a system that tracks academic progress and puts students on probation or suspension. Of course, this does require instructors to take attendance and adds other bureaucratic costs.

“I think we all have a responsibility to drive fraud out of the system,” said Apollo's Berg. *CJ*

Duke Cheston is a writer for the John W. Pope Center for Higher Education Policy.



Pell Grants are heavily promoted on college campuses.

COMMENTARY

The Cruelty of Duke's Hookup Culture

In recent years, Duke University has developed a reputation for debauchery, and not without cause. A recent study found over half of Duke students had participated in a “hookup” in the previous six months. That means that they had had “sexual activity with someone outside of an exclusive romantic relationship.”

But beneath the revelry is a heartbreaking tragedy, according to a Duke psychologist who spoke at the conclusion of Duke's 2013 “One Sexy Week.”

To hear Gary Glass, assistant director of Duke's Counseling and Psychological Service, you had to wait until the end of a series of university-sponsored lectures in early February called “One Sexy Week.” Like Sex Weeks at other colleges, it featured numerous activities celebrating unrestrained sex. There was a seminar on female sexual pleasure; a screening of “The Purity Myth,” by Jessica Valenti, in which Valenti mocks the idea of chastity; and distribution of free condoms before a basketball game.

Glass gave one of just two lectures in the weeklong program that did not reject sexual morality and prudence. (One involved students sharing religious doctrines on sex.) Glass' lecture was titled “Enriching Relationships: Thinking About Considering a Sexual Relationship.”

Glass is no Moral Majoritarian bent on restoring traditional values. But as a counselor for undergraduates at Duke, he has direct contact with the psychological fallout of the hookup culture and does his best to help those hurt by it to find healing. “I love the students. I love people in general,” he said in an interview. “And when I see them suffer, to me there's a sense of duty to ... find the things that are leading to their suffering.”

Students come to Glass because they are depressed, anxious, or feel they are having trouble fitting in at the university. Glass said in the talk that he often hears students (mostly women) say: “I agreed it was just sex. Why don't I feel good about this?” Says Glass: “That is really the scenario that

motivated my doing this talk.”

Although the lecture was sparsely attended, Glass shared some valuable insights into the thinking process behind the hookup culture. One is the fairly recent change in students' perception of sex.

Through cultural media — movies, TV shows, the Internet, and language such as the euphemism “hooking up” — the idea is transmitted that casual sex is normal and healthy. Having sex outside of marriage has become the

norm.

And (although Glass didn't say so explicitly) the expectation is fueled partly by the university.

The university's Women's Center hosted the “One Sexy Week” program, in addition to hosting speakers like “sex educator” Jay Friedman, who came to campus in 2010. “If sex out of marriage equals ‘selfish

hedonism,’ then sign me up,” he said during his 2010 lecture. By sanctioning these activities, the university has given its stamp of approval to the idea that casual sex is normal and good.

On the positive side, Glass has a prescription for improving the way students handle sex on campus. He asks students to consider whether or not they plan to have sex out of a feeling of entitlement (believing they or their partners “deserve” sex) or a desire for conformity (going along with the crowd). If students just thought about the issue in those terms, he argues, students would correct their flawed thinking and make wiser decisions.

But in order to get the message out, Glass would need institutional support, and he probably won't get it. Instead, the university is likely to continue sponsoring speakers advocating promiscuity, and more young people will continue to pour into psychological counseling offices, crying out, “If only I had known I would feel this way!”

And that's just cruel. *CJ*

Duke Cheston is a writer for the John W. Pope Center for Higher Education Policy.



DUKE CHESTON

Opinion

Students With Real-Life Experience Get More Out of College

To celebrate the 100th issue of its journal, *Academic Questions*, the National Association of Scholars recently posted an article on its website recommending "One Hundred Great Ideas for Higher Education."

I would like to suggest one more: Don't let anyone under age 25 attend college.

Admittedly, it sounds negative to prohibit people in the age cohort of 18 to 24 from pursuing higher education. Nor does the idea seem feasible since few colleges and universities can afford to turn away students.

But when it comes to in-class success, nontraditional students (that is, older ones) tend to outperform their younger counterparts, mainly because of their greater maturity and drive to learn.

My own experience bears this out.

This semester, I am teaching two sections of Western Civilization (I and II), and I have just finished teaching a course on historical leadership in a program designed for working adults. Western Civ II, which meets twice a week during the day, is composed entirely of traditional (that is, younger) students. The other section, which meets once a week at night, is mixed. The course on historical leadership also met once a week at night and was composed of nontraditional students.

In all of those classes, I use

Machiavelli's *The Prince*. Without question, the nontraditionals in the leadership class have proven to be the better students. Not only did they do the required reading, but also they were fully engaged in each class, which lasted four hours. They asked questions, gave their opinions, challenged me and each other, sought further clarification about passages in the text, or fuller explanations of Machiavelli's historical context.

Some of them even did additional reading and research on their own, and brought their findings to class. All were enthralled by *The Prince* and intrigued by the subtleties of Machiavelli's thinking.

Not so in my Western Civ II class, where the traditional students largely were unmotivated and apparently uninterested in the subject matter. It's not that they are unintelligent or disrespectful or rude. They don't chat or text or look at Facebook during class.

But, with the exception of four or five students, they didn't read the assignments, didn't ask questions, and didn't participate in classroom discussions. Not a single student was



shocked by *The Prince* or dismayed by Machiavelli's conclusions.

I asked several students if they thought I was doing a bad job in the class, and they said no. But when I asked what I could

do differently to encourage them to speak up, they offered no suggestions.

In contrast, the nontraditional students in the historical leadership class told me again and again that my class was their favorite in the program thus far, that they were learning a great deal — not only about Machiavelli and the Italian Renaissance, but about reading, writing, and thinking.

What accounts for this difference between these students and my students in Western Civ II?

It boils down to experience. The nontraditionals have experience in the world and can readily relate it to the subject matter, which has made them more motivated and interested in learning.

Jean-Jacques Rousseau understood this, having observed in *Emile* that relations "of effects to causes whose connection we do not perceive, goods and ills of which we have no idea, needs we have never experienced — these are nothing to us. It is

impossible by means of them to interest us in doing anything which relates to them."

So did Alfred North Whitehead, who pointed out that the "true practice of education must start from the particular fact, concrete and definite for individual apprehension, and must gradually evolve towards the general. The devil to be avoided is the cramming of general statements which have no reference to individual personal experiences."

And so do modern cognitive scientists. In *The Art of the Changing Brain*, James Zull informs us that people learn by adding new experiences to their old ones. Why? Because when learning something we "blend the old and the new, and in blending we create whole new networks. We construct our understanding using part of what we already know and part of what is new."

Many students would be better served if parents, high school counselors, or even President Obama encouraged them instead to get some real-world experience before thinking about college.

They might actually discover that being successful and finding satisfying work doesn't always require a college degree. And if they do choose college, they will be more likely to value the experience, not only for the economic advantages it can bring, but also for the intellectual benefits it will confer. CJ

J.M. Anderson is dean of Humanities, Fine Arts, and Social Sciences at Illinois Valley Community College in Oglesby, Ill.



J.M. ANDERSON

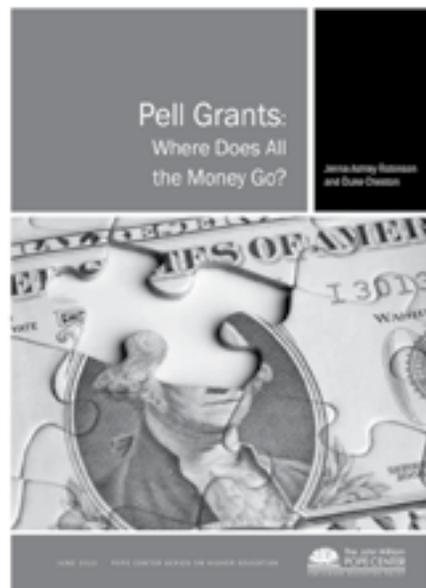
Nontraditionals have experience in the world and can relate to the subject matter

Are Pell grants going to those who need them?

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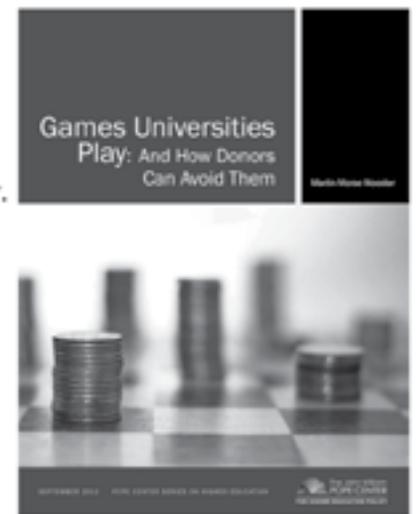


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From the Liberty Library

• From Cicero to Snooki, the cultural influences on our American presidents are powerful and plentiful. Thomas Jefferson's library became the backbone of the new Library of Congress. Jimmy Carter watched hundreds of movies in his White House, while Ronald Reagan starred in a few. Lincoln was a theatergoer, while Obama kicked back to episodes of HBO's "The Wire." Our presidents have been influenced by the books, movies, TV shows, viral videos, and social media sensations of their day. In *What Jefferson Read, Ike Watched, and Obama Tweeted: 200 Years of Popular Culture in the White House*, presidential scholar and former White House aide Tevi Troy combines research with witty observation to tell the story of how presidents have been shaped by popular culture. Learn more at www.regnery.com.

• *Blood of Tyrants* reveals the surprising details of our Founding Fathers' approach to government and this history's impact on today. Delving into the forgotten — and often lurid — facts of the Revolutionary War, Logan Beirne focuses on the nation's first commander in chief, George Washington, as he shaped the very meaning of the U.S. Constitution in the heat of battle. Vivid stories from the Revolution frame Washington's pivotal role in the drafting of the Constitution. The Founders saw the first American commander in chief as the template for all future presidents: a leader who would fiercely defend Americans' rights and liberties against all forms of aggression. For more information, visit www.encounterbooks.com.

• *Stalin's Curse* is a chilling, riveting account based on newly released Russian documents revealing Joseph Stalin's true motives — and the extent of his enduring commitment to expanding the Soviet empire — during the years in which he seemingly collaborated with Franklin D. Roosevelt, Winston Churchill, and the capitalist West. Robert Gellately makes clear that the dictator was an unwavering revolutionary merely biding his time, determined to establish Communist regimes across Europe and beyond, and that his actions during World War II (and the poorly calculated Western responses) set in motion what eventually would become the Cold War. *Stalin's Curse* is an unprecedented revelation of the sinister machinations of the Soviet dictator. More at knopfdoubleday.com. CJ

Book review

Novel Explores N.C.'s Crucial Role In Nation's Founding

• Will Ferrell, *The Secrets of Sterling Shearin: The Noblest Cause*, CreateSpace, 2012, 308 pages, \$15.99.

BY JOHN HOOD
Contributor

Over the years, I've increasingly become convinced that future gains in freedom and prosperity for North Carolina only will follow gains in appreciation of the past — of the people, events, and ideas that form our constitutional heritage.

Naturally, to advance the cause, one must make pragmatic arguments, based on empirical evidence and sound reasoning, to convince policymakers and the general public of the wisdom of specific policies based on individual liberty and free enterprise. But whatever marginal improvements might be achieved that way — lower marginal tax rates, let's say, or regulatory reform — cannot be sustained over time unless our movement weaves specific policies into a coherent philosophy for governing the Tar Heel State.

The starting point for such a philosophy must be grounded in our state and federal constitutions. These documents, while far from perfect, reflect the governing philosophy of a founding generation of leaders committed to the revolutionary idea that individuals should not just have an occasional role in selecting others to govern them but should actually be allowed to govern themselves as much as possible: to decide for themselves how to think, work, worship, form families, and pursue happiness.

Those leaders, of course, were far from perfect themselves. Many fell short of the very ideals they so eloquently described and defended in their speeches, letters, and founding documents. Once in office, some engaged in political cronyism and self-dealing. Others, having achieved freedom for themselves, denied it to others, most obviously by permitting the sin of slavery to persist and expand.

Still, if it comes down to a choice between hypocrisy and no standards at all, I'll take hypocrisy. A government with clear constitutional limits, even if enforced only some of the time, is far superior to a government limited only by the ambitions of politicians or the fleeting whims of whoever happens to be in the majority at the time.

Our strong belief in context and constitutional heritage as building blocks for a 21st-century freedom movement has led the John Locke Foundation to invest significant time and resources to enhancing public knowledge of North Carolina history. You can see the results in our popular online encyclopedia and Troy Kickler's frequent articles and lectures. That belief also motivates me to recommend a new self-published novel by Will Ferrell titled *The Secrets of Sterling Shearin: The Noblest Cause*.

Ferrell, a High Point dentist and teacher at Guilford Technical Community College, tells his rollicking story of life in North Carolina during the last two decades of the 18th century using the narrative device of diary entries by

Sterling Shearin, a veteran of the Revolutionary War battle of Guilford Court House, who farms, dreams, loves, and argues politics.

Shearin was a real person. In fact, the author is descended from Shearin's brother, also a Guilford Court House veteran. But the diary entries, and much of the story they relate, are fictional. Sterling Shearin falls in love with a slave, marries once for companionship, marries again for love, and is suspected of murder. In keeping with the notion of reading a young man's personal diary, there are some very adult situations. (This is not a book for children.)

Still, the framing device allows Ferrell to convey some important historical information about North Carolina's role in the framing of the U.S. Constitution. The novel's hero is a close confidante of Nathaniel Macon and a friend of Wil-

lie Jones, both key figures in North Carolina's Anti-Federalist movement. Shearin also has several encounters with leading Federalists such as William Richardson Davie (a war hero and UNC co-founder) and James Iredell (a future U.S. Supreme Court justice). Between tales of Shearin's farming travails and family tragedies — which are effective on their own terms by imparting the realities of life in early America — there are lengthy accounts of debates and correspondence among these political luminaries that students of North Carolina history will savor.

One of my favorites is this 1792 letter to Shearin from Nathaniel Macon, then serving in Philadelphia as a member of North Carolina's congressional delegation. (Macon would later go to Washington, becoming speaker of the House and a U.S. senator.) An excerpt:

It isn't for naught that I am here. [Alexander] Hamilton's latest scheme is to pay bounties to his favorite Eastern industries. He would have us, the farmers, sub-

dize his Yankee manufacturers and ship owners yet further.

James Madison of Virginia emerges as a leading voice of reason against Hamilton. Hamilton tries to get around the strictness of the functions enumerated for the federal government in the body of the Constitution by pointing to "promote the general welfare" in the Preamble. Madison has the proper reply: If Congress can apply money indiscriminately for the purpose of promoting the general welfare, then it can take religion, education, road building, literally everything under its control. Why not reduce the Constitution to one phrase: The Federal government can do anything! ...

In any case, it is utterly unjust to protect one set of industries at the expense of everyone else. When Hamilton and his corps in Congress say "for the good of the nation," what they generally mean is themselves.

If you aspire to learn more about North Carolina's role in the early debates about federal power, I'd urge you to read this book. If not, well, then you and I are just very different people. CJ

John Hood is president of the John Locke Foundation.



The Antifederalists Would Be Proud of Rand Paul's Filibuster

When U.S. Sen. Rand Paul, R-Ky., filibustered in March, the old-fashioned way, talking for approximately 13 hours and questioning whether the president had the constitutional authority to use unmanned drones to kill American noncombatants on U.S. soil, he unnerved many politicians and talking heads.

It seemed more than a few on the left and in the Republican Party deemed Paul's reasoning foolish and possibly un-American. Sen. John McCain, R-Ariz., for one, considered Paul's filibuster a "disservice." Many on the tube and in the blogosphere wondered why the senator from Kentucky was so concerned. After all, they said, no American has been killed on American soil by a drone attack, so Paul's filibuster was about something that was speculative, at best.

Imagine if every American, from 1787 to 1789, had refused to ask hypotheticals. Well, we would not have the first 10 amendments to the U.S.



**TROY
KICKLER**

Constitution, aka the Bill of Rights. It includes the Sixth Amendment — a recognition that American citizens, accused of criminal activity, have the right to a trial by a jury of their peers.

Rand Paul feared that drones may be used one day to bypass the protections in that amendment and overlook limitations on governmental authority. He questioned the commander in chief, and, in the end, Paul got an answer. Attorney General Eric Holder replied to the senator in a terse memo: "It has come to my attention that you have asked an additional question. 'Does the President have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?' The answer to that question is no."

Paul's filibuster reminds me of those Antifederalists who wanted a written guarantee that acknowledged limited government, individual rights, and respected individual liberties. During the ratification debates (1787-89), Antifederalists, in particular,

wanted a Bill of Rights added to the Constitution. They, like Paul, were criticized for asking hypotheticals, and many proponents of the Constitution declared that a Bill of Rights was unnecessary.

In the end, the Antifederalists won. For their efforts we have the first 10 amendments to the Constitution. These amendments, to list four examples, guarantee freedom of speech and religion, ownership of guns, and the right to a trial by a jury of our peers.

Compare Paul's filibuster and question with the concerns of some Antifederalists.

"The Federal Farmer," more than likely Richard Henry Lee, argued in his sixth essay: "There appears to me to be not only a premature deposit of some important powers in general government — but many of those deposited there are undefined, and may be used to good or bad purposes as honest or designing men shall prevail."

In essay nine, he claimed that a trial by jury in criminal cases was

a common right of Americans that had "been recognized by the state constitutions." He wanted the proposed national constitution to limit national government authority and to acknowledge an individual's right to a trial by jury.

Paul's demands for a more specific answer to his question while referring to the Sixth Amendment reminded me in particular of the writings of DeWitt Clinton, who used the pseudonym A Countryman: "I would rather trust my life, liberty, and property to a verdict of 12 of my honest neighbors, than to the opinion of a great man in the world, for great men are not always honest men."

Have Americans reached a point at which it is more acceptable to be sheeplike than to ask for limitations on governmental authority? I hope not. As the Antifederalists persuaded Federalists to add the Bill of Rights to the Constitution and specify limitations on the national government, Rand Paul's reliance on the Sixth Amendment influenced the Obama administration to declare publicly the boundaries on its power. *CJ*

Dr. Troy Kickler is director of the North Carolina History Project (northcarolinahistory.org).

Have Americans
become too
sheeplike to ask
for limitations
on government?

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Book review

What to Expect Examines Effects of America's Falling Fertility Rate

• *What To Expect When No One's Expecting*, by Jonathan V. Last, Encounter Books, 2013, 240 pages, \$23.99.

BY DAVID N. BASS
Contributor

Conservatives hate China's one-child policy. Is there any more odious example of anti-liberty, anti-family statism in the world? Yet according to *Weekly Standard* senior writer Jonathan Last, America has a one-child policy of its own — an informal one.

For most Americans, the development of this policy hasn't been intentional: It's simply a reflection of the stark realities of life. It's expensive (no, make that darn expensive) to raise a child in 2013.

Disincentives for having children abound: everything from Social Security and Medicare (which substitutes the government, rather than adult children, as caretaker in old age) to the mushrooming costs of higher education, day care, and real estate. Besides those practical factors, the spirit of the age is decidedly self-focused and anti-child.

Yet the fact that Americans are having fewer and fewer babies should be cause for great alarm.

In *What to Expect When No One's Expecting*, Last outlines the coming demo-

graphic disaster. America's birth rate hovers around 1.93 births per woman, shy of the 2.1 births needed to achieve replacement (that is, keeping our population at a stable level, not factoring in immigration).

In European nations, the statistics are far worse. Three examples: Ukraine (1.29), Greece (1.39), and Italy (1.40). Last warns that America's future looks more like Europe with each passing day.

Why should we care? For one, a graying population has significant fiscal implications. That scenario is playing out in Japan, where the old vastly outnumber the young, putting an incredible strain on entitlement programs. Consider that in 2011, for the first time, the Japanese bought more adult diapers than infant diapers.

Another problem: A nation's population will begin to shrink as the old die off. Nowhere in history is there an example of a nation prospering with a declining population.

The "fertility gap" in the United States typically coincides with political, geographic, and religious markers:

Red states have a higher birth rate than blue states, urban areas have lower birth rates than rural areas, and those who attend church regularly bear more children than those who do not.

Last struggles to come up with a meaningful solution to the dearth of births, and it's little wonder. We're concerned here with seismic cultural forces that are difficult to track, let alone control. But he points to several factors that could help to curb our sub-fertility replacement rate.

For starters, he suggests restructuring Social Security to let parents keep more of their own money, and to let parents keep even more with each new child born to them. This, Last argues, would reverse the dampening effect that retirement entitlements have on the birth rate.

Another recommendation: Eliminate the need for college by allowing employers to use IQ-tests once again. The U.S. Supreme Court has outlawed such tests on racial grounds, but allowing employers to use simple tests would eliminate the need for a costly four-year degree for many young peo-

ple, Last argues.

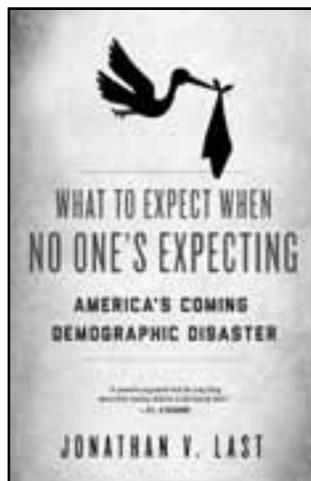
Last also suggests more telecommuting. This has the dual benefit of allowing more people to afford single-family homes (which correlates to having more babies) and concentrating work once more around the home rather than a distant office.

He also recommends a hearty return to religious life in America. His reasoning is simple: "There are many perfectly good reasons to have a baby. (Curiosity, vanity, and naiveté all come to mind.) But at the end of the day, there's only one good reason to go through the trouble a second time: Because you believe, in some sense, that God wants you to."

On the religious point, Last describes Georgia — the former Soviet-occupied country, not the U.S. state — as an outlier in the dearth of births in Europe. Unlike countries such as Russia, Japan, and Singapore, Georgia's birth rate has been increasing. The reason? Its population — including the young — is almost universally religious.

How practical these suggestions are is up for debate, and Last acknowledges that. The United States could be set on a course for demographic self-destruction. But we can't say that we haven't been warned.

Last's effort is well-written, entertaining, and packed with facts. Pick up a copy. *CJ*

Book review

Beating Obamacare Provides Essential Information for Consumers

• Betsy McCaughey, *Beating Obamacare: Your Handbook for Surviving the New Health Care Law*, Regency Press, 2013, 168 Pages, \$14.95.

BY MELISSA MITCHELL
Contributor

Then-Speaker of the House Nancy Pelosi said we would have to pass the 2,572-page Patient Protection and Affordable Care Act to find out what was in it. Anyone who has tried to read this massive bill quickly can get bogged down in convoluted language that makes statements like, "pursuant to this regulation" or "this law."

In order to understand the bill fully, a reader first must read thousands of additional pages of previous regulations and laws. It's also the case that anyone who voted for this bill had not read it and had no idea what was in it.

Enter Betsy McCaughey, who is a constitutional scholar, patient advocate, and former lieutenant governor of New York. McCaughey has read the

bill and has become an expert on its convoluted and ambiguous language and the ramifications as the law is fully implemented. Her book, *Beating Obamacare: Your Handbook for Surviving the New Health Care Law*, provides an in-depth analysis of the requirements of Obamacare — its taxes, fees, and fines, and its impact on health care in the United States.

In addition to all of the regulations contained within Obamacare, "thousands of new regulations have already been written to control what you and your doctor, and your employer can do," writes McCaughey.

She provides a multitude of examples that show how seniors on Medicare will take the biggest hit. The Obama health law awards bonus points to hospitals that spend less on seniors.

Hospitals will be whacked with demerits for prescribing care that seniors consume after leaving the hospital, including physical therapy. And doctors will be paid less to treat seniors than any other patients, even less than patients under Medicaid.

Nor will younger workers and families find they can keep the health care they now receive. Those who now purchase individual coverage may not be able to afford it once Obamacare takes effect; many may have to move to Medicaid — where care often is inferior to private medicine. "Expanding Medicaid is the key component of Obamacare," states McCaughey.

There are 20 new taxes or tax hikes in the law, says McCaughey. Over time, younger workers will pay the majority of these taxes.

Some homeowners will have to pay a 3.8 percent tax when they sell their home. Has your doctor recently switched to electronic technology? This is because there is a penalty for not having electronic records. These are examples of the fees and taxes hidden within the bill.

Obamacare has added an entire new list of terms and regulations. McCaughey provides a wonderful glossary that lists these terms with extensive definitions.

The book paints a bleak picture of a poorly written bill that will erode the quality of health care for every American when fully implemented.

The only remedy for Obamacare that McCaughey seems to consider would come from the Supreme Court rejecting it. The book also is repetitious, which may cause a reader to gloss over some sections and miss important information.

Even with these negatives, it is a guidebook well worth having for future reference as implementation of this terrible federal law proceeds. *CJ*



Book review

Oliver Stone, Peter Kuznick Book Recycles Stalinist Talking Points

• Oliver Stone and Peter Kuznick, *The Untold History of the United States*, Gallery Books, 2012, 750 pages, \$30.

BY LLOYD BILLINGSLEY
Contributor

RALEIGH
Oliver Stone and co-author Peter Kuznick explain their approach to *The Untold History of the United States* in this way: "We don't focus on many of the things the United States has done right. We are more concerned with focusing a spotlight on what the United States has done wrong."

The movie director and history professor say they want to illuminate the "darker side of U.S. history."

From the outset the authors reject American exceptionalism and, as in Stone's movies, the United States is always the villain. From the Spanish-American War through World Wars I and II, the Cold War, Central America, and the Middle East, the authors show the United States in the worst possible light.

None of it us "untold," and from start to finish one can hear the barrel being scraped. The prose style runs a heavy fever. For example, "Venezuelan dictator General Juan Vicente Gomez's brutal and rapacious regime made his country a favorite of American and British oil companies."

The authors profess to find nuclear weapons troubling, but only in context. By setting off atomic bombs in Hiroshima and Nagasaki, the United States, "once again, proved itself unready to provide the kind of leadership a desperate world cried out for."

Jimmy Carter gets some points as a "marvelous ex-president," but

catches heat for naming as his national security adviser Zbigniew Brzezinski, "an obsessed anti-Communist."

The chapter on the Reagan years is subtly subtitled "Death Squads for Democracy." George H.W. Bush is "among the very worst presidents in U.S. history, if not the absolute worst," and his son no better. Even Barack Obama does not emerge unscathed. You get the idea.

Overall, the United States emerges as the fly-wheel of fascist imperialism, headed by warmongering racist buffoons eager to back murderous regimes by any means necessary. The authors never ask a key question: Compared to what is the United States an evil empire? Consider the authors' treatment of the Soviet Union, Stalin, and Communism, America's major rivals in the past century. Here, in particular, does *Untold History* stand in need of stool softener and a poly-graph test.

The Nazi-Soviet Pact of 1939, which effectively started World War II, was an "unsavory deal" Stalin struck with Hitler because he feared a "German-Polish alliance" to attack the USSR. As noted in the *Black Book of Communism* and Timothy Snyder's *Bloodlands*, Stalin's USSR was a death squad, ruling by terror and murdering countless millions. For all its bulk, *Untold History* lists only two atrocities for Stalin, the massacre of Polish officers in the Katyn Forest and "having the Red Army stop on the banks of the Vistula while the Germans put down

the Warsaw uprising." This is the moral equivalent of Holocaust denial. The authors even include a photo of Russians mourning Stalin, whose death in 1953, some 50 years too late, was a cause for celebration.

Here the Soviet Union gets full credit for winning World War II and afterward was benign, having "no blueprint for postwar Sovietization of Eastern Europe and hop[ing] to maintain friendly and collaborative relations with its wartime allies." Further, the Soviets "had gone out of their way to guarantee West Berliners' access to food and coal from the eastern zone or from direct Soviet provisions." So with the USSR essentially a peaceful regime, the heroic Berlin Airlift touted in American schools was unnecessary.

Despite the occupation of half of Europe, the crushing of reform in Hungary and Czechoslovakia, and the invasion of Afghanistan, the "picture of a hostile, expansionist USSR" from CIA director William Casey "didn't accord with the facts." The 1983 KAL 007 shootdown even gets a pass: The Soviets "mistakenly took a Korean Air Lines passenger jet for a spy plane." In the lexicon of neo-communism, the peaceful Soviets make "mistakes" and are evaluated by their aspirations. The militant United States commits crimes and is evaluated on the worst of its record.

In *Untold History*, American Stalinists get off easy. Julius and Ethel Rosenberg, for example, are responsible for giving nuclear weapons to

Stalin, the worst mass murderer in history. Here they are only "accused atomic spies." For the real story see *The Rosenberg File*, by Ronald Radosh and Joyce Milton.

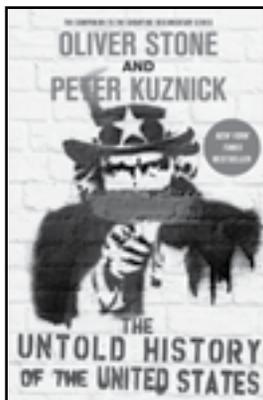
Stone and Kuznick predictably tout "3,000 brave American volunteers" who "went to Spain to battle the Fascists ... the legendary Communist-backed Abraham Lincoln Brigade." For the real story of this sorry Stalinist militia, see Cecil Eby's *Comrades and Commissars* and *Between the Bullet and the Lie*.

The star of *Untold History* is former Vice President Henry Wallace, the Progressive Party candidate in 1948, portrayed here as a kind of American Mikhail Gorbachev, an endorser of the book along with Daniel Ellsberg and Bill Maher.

The book mentions the Hollywood Ten but does not chart how the Communist Party USA set the tone for politics in the American movie industry. After revelations of Stalin's crimes, the Soviet Union ceased to be a model for emulation, but the anti-American demonology remained, mindless and sulfuric as ever.

As Richard Grenier observed, Hollywood leftists charge that America is bad and capitalism is evil — except for their three-picture deal with MGM, their fat bank accounts, their Malibu mansions, their Mercedes-Benzes and Ferraris. Despite everything in *Untold History*, even Oliver Stone believes in some form of American exceptionalism. CJ

Lloyd Billingsley is author of *Hollywood Party: How Communism Seduced the American Film Industry in the 1930s and 1940s (Prima)*.



BOOKS AUTHORED BY JLF STAFFERS



By John Hood
President of the
John Locke Foundation

Selling the Dream Why Advertising is Good Business



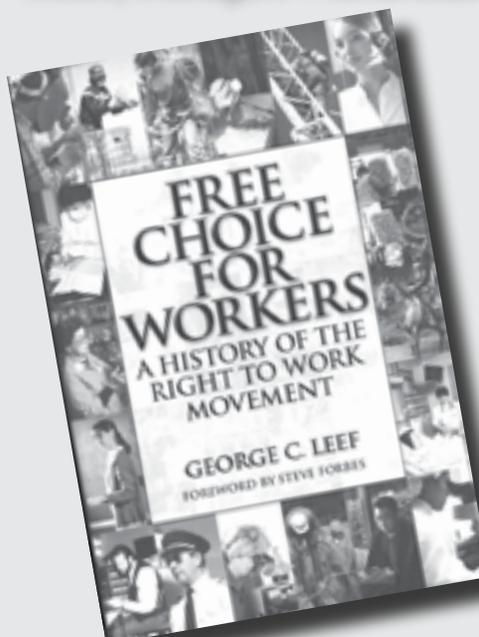
"[Selling the Dream] provides a fascinating look into the world of advertising and beyond ... Highly recommended."

Choice
April 2006

www.praeger.com

Free Choice for Workers:

A History of the Right to Work Movement



By George C. Leef
Vice President for Research at the
John William Pope Center for Higher
Education Policy

"He writes like a buccaneer... recording episodes of bravery, treachery, commitment and vacillation."

Robert Huberty
Capital Research Center

(Call Jameson Books, 1-800-426-1357, to order)

COMMENTARY

Payday Lending Would Help the Poor

Your car breaks down, and it'll cost \$300 to fix. What do you do?

Perhaps you rearrange your budget and cut back on other spending for a few weeks. Maybe you have room left on a credit card. Perhaps you can hold off paying a bill. Or you have family who could tide you over. You generally manage your finances well and have good credit, so you know if need be, you could take out a small loan.

But what if you were a single mother, trying to make ends meet but barely scraping by from week to week? What if you had made your share of mistakes with credit? What if all you wanted was a small amount to cover your bills until you got paid? What if you could have that, but it would be costly?

You'd have that option with payday lending, which is illegal in North Carolina. Basically, a payday borrower would obtain the \$300 in cash by presenting a check for the \$300 plus a transaction fee, say \$45, to be cashed by the lender in two to four weeks' time. Payday lending was legal in North Carolina from 1997 to 2001.

Opponents of payday loans say the loans' high cost — typically \$15 per every \$100 borrowed (small loans, \$500 or less) over two weeks — takes advantage of poor people in need. Projected beyond two weeks to a full year, the cost amounts to about a 400 percent annual percentage rate. The loans often cause borrowers to need to take out successive loans until they can finally pay them off, critics say. Payday lenders make people in need worse off and profit from them.

Except that removing that option leaves consumers worse off. Researchers at the Federal Reserve Bank of New York studying the end of payday lending in Georgia and North Carolina found that people in those states "bounced more checks, complained more about lenders and debt collectors, and have filed for Chapter 7 ('no asset') bankruptcy at

a higher rate" than they would have if the lenders were still legal.

"Forcing households to replace costly credit with even costlier credit," they wrote, "is bound to make them worse off."

And that gets to the heart of the matter. The state ban on payday lending is typical government paternalism, taking away options from people to prevent them from making harmful choices, imposing a net greater harm through unintended consequences. The ban cannot

change the fact that people will continue to face unexpected shortfalls, and that the poor and least creditworthy have the fewest legal solutions available to help them.

Senate Bill 89, now before the General Assembly, would legalize payday lending again. My study on payday lending offers several findings pertinent to the debate, among them:

- Payday customers understand the loans' high cost, though they don't like it.

- Payday customers appreciate several nonmonetary aspects of the loans, including convenient hours and locations, ease, discretion, friendliness, lack of credit risk, and ability to avoid unpleasant personal interactions with friends, families, employers, bankers, and creditors.

- About 95 percent of payday loans are repaid.

- Absent payday loans, other options carry fees that equate with high effective APRs: bounced-check fees (3,520 percent without overdraft protection and 704 percent with protection); utility disconnect or reconnect fees (240-420 percent); credit card late payments (965 percent); and borrowing from an online payday lender (650-780 percent) or loan shark (indeterminate).

On balance, taking away choices from the poor for their own good has left them worse off. CJ

Jon Sanders (@jonpsanders) is director of regulatory studies for the John Locke Foundation.



JON SANDERS

Removing the payday lending option leaves the consumer worse off



EDITORIAL

A (Mostly) Wise And Frugal Budget

Gov. Pat McCrory's initial budget may not be a visionary document, if by "visionary" you mean maintaining North Carolina's path of reckless spending and regulatory overreach.

Fortunately, the new governor appears to believe Tar Heel State residents would be served better by competent and frugal management than highfalutin schemes. In large part, his budget delivers.

After years of weak or negative growth, the state's General Fund revenues are projected to grow about 4 percent in each of the next two years. That's enough to keep up with basic needs, offer modest pay raises for teachers and state employees, and fill some gaping fiscal holes, particularly in the areas of Medicaid and infrastructure repair. But it's not enough to fund major new spending initiatives — and McCrory didn't propose any.

The idea that a new governor might be willing to make his reputation on cleaning up the messes left by his predecessors, rather than create new signature messes of his own, may seem novel in political terms. In practical terms, in benefits extended to North Carolina taxpayers, it is a welcome idea.

McCrory's proposed budget is about \$50 billion for the 2013-14 fiscal year, including \$20.6 billion in General Fund programs (funded by the state's income and sales taxes, for the most part) plus highway funds, federal funds, and other accounts. While the General Fund budget would rise modestly over the previous year, the overall budget would shrink a bit.

Over the next two years, the governor's plan would shore up the state's fiscal position by more than

\$1.4 billion through a combination of enhancing the state's formal cash reserves (\$600 million), repairing the state's physical assets (\$367 million), and leaving some General Fund money unspent in case of emergencies (\$463 million). If past governors and legislatures had budgeted in a similarly conservative fashion, North Carolina governments wouldn't have experienced as much fiscal turmoil during the recent deep recession and weak recovery.

The two biggest signs that there's a new sheriff in Raleigh may be McCrory's decisions to a) steer \$65 million away from Golden LEAF to the General Fund, and b) cut \$10 million from the Rural Economic Development Center. Golden LEAF has used money from a national tobacco settlement for targeted economic development grants. The Rural Center has done the same using money from the General Fund. Both remain outside the oversight of the taxpayers' elected representatives.

Golden LEAF and the Rural Center have strong support among economic developers and local elected officials across the state. But any projects these groups underwrite that are worthy of taxpayer help — and there aren't many — should be vetted by the public through elected officials in the normal process of appropriating state money.

Unfortunately, the governor's budget continues far too many other corporate welfare programs, including the One North Carolina Fund. But his budget team wisely considers the long-term fiscal health of the state a priority. And that is a bold shift indeed. CJ

EDITORIALS

Many Happy Returns

Time for a properly structured tax system

The tax reform debate inevitably will come down to one Big Question: Are you willing to trade current tax preferences for lower tax rates?

Most economists think yes is the obvious answer. But to some taxpayers, revenue-neutral tax reform that trades lower rates for fewer preferences may lack appeal. If you work in a sector that benefits from special treatment, such as high-end real estate or wind energy, those breaks may well be more valuable to you than lower rates or compliance costs.

Still, the system desperately needs reform. Our effective tax rates on corporate income and capital formation are among the highest in the world. They reduce the competitiveness of our economy and reward current consumption over long-term, productivity-enhancing investment.

The key to unlocking the tax-reform door is to recognize that it isn't really all about marginal tax rates. And income isn't just transferring cash from one pocket to the other. It is best understood as a monetary return on some prior investment — a return on financial or physical capital, in the case of dividends and capital gains, or a return on human capital, in the case of wages. If government taxes the resources taxpayers spend to accumu-

late and deploy that capital in the first place, such as deposits into investment accounts or the rearing and education of future workers, then it shouldn't also tax the return on those investments. Otherwise, its tax code discourages long-term investment in favor of short-term consumption. The results are complexity, unfairness, and weaker economic growth.

So a properly structured tax system would retain tools such as generous personal exemptions (especially for children) and savings deductions. These tools shield capital formation from tax at the front end, since the returns on that capital are taxed later. Reformers shouldn't try to persuade or compel taxpayers to give up these safe harbors in the tax code.

On the other hand, narrow tax preferences for housing debt, municipal bonds, eco-friendly projects, or nonwage benefits favor some forms of capital formation and maintenance over others. Any sensible tax reform ought to reduce or eliminate them, in exchange for lower rates.

In reality, most households and small businesses take standard deductions and forgo complex tax filings. They do prefer simplicity to preferences and form a large constituency for tax reform. They deserve to get what they want. *CJ*

O.D.-ing on Government

Budget increases reaching diminishing returns

There really can be too much of a good thing. In public policy, the distinction between what is valuable on average and what is valuable at the margin often mirrors the distinction between progressives and conservatives.

When conservatives argue that adding new government programs is unlikely to generate sufficient benefits to offset the cost, they are not denying the value of government as a whole. The past two decades have produced an explosion of new research on the effects of government taxes and spending on economic growth. A key insight from these studies is that the question can't be answered by a simple yes or no. The right answer often is "it depends."

If a given economy has no infrastructure to speak of, for example, then building roads, bridges, and water systems can have huge effects on productivity and thus on income

growth, even after subtracting taxes or fees. But once you get to a certain level of infrastructure, additional projects often generate too little benefit to justify their cost.

The same can be said for other services traditionally monopolized or dominated by state and local government, such as public safety and public education. General increases in public budgets reach a point of diminishing returns.

Are we at the point of diminishing returns? Total government spending is now at a post-World War II high as a share of GDP. Moreover, a higher share of that spending is devoted to transfers — Social Security, Medicare, Medicaid, and other consumption subsidies rather than public investment — than ever before in the history of the country.

Time to push away from the table. We've gorged ourselves on government. *CJ*

COMMENTARY

A Modest Proposal For Renewable Energy

Sometimes, despite good intentions, we just get things wrong. That's what happened in 2007, when the North Carolina legislature enacted a bill forcing electric utilities to buy "renewable" power from wind, solar, and other expensive and unreliable sources.

When I say "we" got it wrong, I mean it in the broadest possible sense. The legislature and then-Gov. Mike Easley got it wrong by ignoring the effects of higher electric rates on North Carolina's economy. At the time, they stated the primary goal was to combat global warming.

But I must also admit that my John Locke Foundation colleagues and I also got it wrong back in 2007. Arguing against the bill, we pointed out that even if North Carolina's carbon-dioxide emissions suddenly dropped to zero — which would require, among other things, the mass extinction of North Carolinians — the effects on climate change would be too small to measure.

We also commissioned a study of the economic impact from economists at Suffolk University's Beacon Hill Institute in Boston. They found the extra electricity costs would slash the state's GDP by \$140 million and cost thousands of jobs.

That's where things started to go wrong for us. You see, we put our faith in smarty-pants Ph.D.s from Massachusetts. Their fancy econometric models assumed that if you force consumers to pay more for power, and artificially induce investors to finance the construction of those expensive power facilities rather than other capital assets, that would reduce jobs and incomes elsewhere in the economy — while the higher rates could deter some electricity-dependent companies from locating in North Carolina.

It turns out, however, that when it comes to electrical power, households and businesses don't pay their bills in the normal way. According to a recent report commissioned for the N.C. Sustainable Energy Association, which represents the companies subsidized by North Carolina's renewable-portfolio standard, the legislation has created more than 21,000 jobs since

its passage in 2007. That's because installing solar panels and the like requires spending money on employees and contractors.

Actually, I should be more specific: The Sustainable Energy Association says the mandate to buy expensive electricity has created or retained 21,000 job years. If someone has the same job for four years, that is considered four "job years."

In reality, the study estimated an average of 4,233 jobs since 2007. Still, what an impressive way to exaggeratedly describe economic impacts! In JLF's defense, we were unable to foresee such statistical wizardry in 2007, since the "job years" and "jobs retained" tricks came to prominence in 2009 when employed by the Obama administration to sell their fabulously successful

stimulus program.

Anyway, the point is that when it comes to electricity, it is apparently safe to assume that higher costs are really higher benefits. Only in highfalutin economics departments is it necessary to account for where the money would otherwise have been spent.

Having made this discovery, however, supporters of North Carolina's 2007 renewable-portfolio mandate — that is, opponents of Rep. Mike Hager's 2013 bill to revisit it — failed to see the logical conclusion. Even windmills and solar panels fail to maximize the potential creation of job years from high-cost electricity.

So JLF is proposing a new approach. Let's amend the 2007 law to require that at least 25 percent of North Carolina's electricity come from human generation. Approved technologies would include stationary bicycles, hand cranks, even new devices to produce current from activities such as human breathing. We conservatively estimate this would create at least a million job years through 2016. In fact, all unemployed North Carolinians could find work producing electricity.

Remember, human beings run on food, which is a renewable resource — as is the resulting waste product. *CJ*

John Hood is president of the John Locke Foundation.



JOHN HOOD

EDITORIAL BRIEFS

Memories
Of Peak Oil

In recent years, much has been made of the fear that oil production has reached a maximum and that a sharp, sudden decline is inevitable. Such “peak oil” fears are misplaced, writes Vaclav Smil for *The American*.

Global crude oil production was up by 1 percent in the first three quarters of 2012 compared with the same period in 2011, putting it on a record pace. This continued a decade-long trend, as global crude oil extraction had increased by 10.8 percent from 2001 to 2011.



Crude oil extraction also is rebounding dramatically in the United States. Domestic oil production peaked in 1970 at 533.5 million metric tons and was in slow decline through 2008, when output sank to 304.9 million metric tons. It has bounced back to 352 million metric tons in 2011, as the industry has made increased use of horizontal drilling and fracking. The Department of Energy projects that by 2025, U.S. extraction could grow by an additional 140 million metric tons.

“Obviously, there will come a time when global oil extraction will reach its peak,” Smil said, but “there are no signs that the beginning of this new oil era is imminent, and forecasting its onset remains an exercise in futility.”

Young adult debt

In the years before the Great Recession, young adults continually were increasing their debt exposure. From 2008 on, those younger than 35 have reduced their debt at a much higher rate than older Americans, reports the Pew Research Center, based on data from the Federal Reserve Board and other government sources.

In 2007, the median total debt of households headed by someone 34 or younger was \$21,912. In 2010, the median amount of debt had fallen 29 percent to \$15,473. By comparison, the median amount of debt of households headed by someone 35 or older fell only 8 percent, from \$32,543 to \$30,070.



More younger Americans have no debt at all. In 2007, 84 percent of households headed by someone under 35 had debt; by 2010 that had fallen to 78 percent, the lowest level since the government started tracking the measure in 1983. Among those 35 and up, the percentage with any debt barely changed, going from 75 percent in 2007 to 74 percent in 2010.

Young adults also saw sharp reductions in home and car ownership and the debt that these often bring. In 2007, 40 percent of young adults owned the home they lived in; by 2011 only 34 percent did. Vehicle debt fell even more dramatically; in 2007 44 percent of young adults had vehicle debt, while in 2010 only 32 percent did.

CJ



garyvarvel.com

Why Nations Fail

I have always been fascinated by geography. As a youngster, I used to draw maps for fun. I considered a career as a geographer or cartographer before turning to economics. But even as an economist, I've tried to work geography into my research and writings. For example, I've investigated how certain prices and salaries vary across states, and I've studied the regional economies within North Carolina.

For economists who are also interested in geography — like me — one of the longstanding perplexing questions has been why nations around the world don't improve — economically speaking — at the same rate. That is, as we look at nations over long periods of time, it's clear that all don't boost their standards of living at the same rate. Some — like those countries in North America and Western Europe — have achieved living standards much higher than nations in other regions.

MICHAEL
WALDEN

A logical explanation for differing economic results would be natural resources. We might expect countries with abundant oil, gas, and precious metals to have successful economies for two reasons. First, the countries can use the resources to propel their own growth. And second, the resources can easily be sold to other nations lacking them for big bucks!

Yet there are many countries around the world — in the Middle East, Asia, and even South America — that have huge supplies of natural resources and relatively low living standards. Similarly, there are countries with few natural resources — Japan and Singapore are good examples — that have achieved very high incomes.

Maybe education is the key. Could it be the case that countries with higher levels of education will achieve better employment and incomes for their workers than countries with less education?

Again, there doesn't appear to be a 1:1 correlation. Sure, there are plenty of countries with low literacy rates that are poor and many with high literacy rates that are rich. But there are also countries that have struggled economically with a highly

educated population. So what's the answer for long-run economic prosperity?

This simple, yet extremely important, question was the central topic of a book published last year that I just finished reading. I rank it as one of the best and most influential books published in years. It has the simple title *Why Nations Fail*, and it was written by MIT economist Daron Acemoglu and Harvard political scientist James Robinson.

The authors agree that plentiful natural resources and an educated work force can lead to fast economic growth. But these aren't enough, especially for sustained growth over time when the natural resources eventually run out.

Instead, the authors argue two political and legal institutions are crucial in dividing nations between the “winners” and the “losers” in the economic race. Politically, nations must be inclusive and also open to competition and change. Individuals must know they can participate in both the political and economic systems and go as far as their abilities and interests will take them. Knowing this will motivate people to develop their skills and aptitudes and — in the process — propel the economy forward.

Successful countries embrace competition and change. Being supportive of the latest technologies, innovations, and products allows societies to adapt and improve over time. But — the authors caution — doing so isn't always easy or without conflict. “Out with the old and in with the new” means those attached to the “old” will lose, at least temporarily. Managing economic change can be one of the tallest challenges facing a country.

Last, successful countries have legal institutions protecting ownership and enforcing contracts. While some may call such protections “selfish,” others say the legal frameworks guarantee that those doing the work reap the benefits — and this motivates striving, commitment, and accomplishment.

Acemoglu and Robinson make their case using the sweep of both time and geography. Whether or not you agree with all their conclusions, *Why Nations Fail* is a masterful book that will stimulate your thinking about one of the key questions of all time. I highly recommend the book. Enjoy!

CJ

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

Getting North Carolina Back to Work

If there is one issue Republicans and Democrats in Raleigh can agree on, it is that state government should be doing all it can to get North Carolinians back to work. At 9.5 percent, our unemployment rate is 46th in the country and has been among the very worst since the financial crisis and subsequent recession began back in the fall of 2008. Where the two parties diverge, of course, is on how to do this. Their approaches are almost diametrically opposed to one another.

The GOP has offered two main remedies. The first is to deregulate. Measuring the scope and impact of regulation on economic performance is notoriously difficult, but most impartial observers have found that, in a relative sense at least, North Carolina does not burden its businesses heavily. For example, in 2012 *Forbes* put us third for our “regulatory environment” — which included metrics like “right-to-work” status, labor regulations, and tort law. George Mason University’s Mercatus Center ranks us a less enviable 17th in regulatory “freedom,” but this is higher than peer states like Tennessee, Florida, and Texas. North Carolina may regulate too much in an absolute



**ANDY
TAYLOR**

sense, but since states with greater burdens have lower unemployment rates, deregulation seems unlikely to increase the number of jobs dramatically.

The second is tax reform. Republicans in the General Assembly may do away with corporate and personal income taxes and replace them with something like an 8.5 percent state consumption tax. Again, the data on the current recession and unemployment rates across the states do not suggest this is a good idea. States with higher individual and corporate tax rates, like Vermont and Iowa, are doing well. One of the five states without either kind of tax, Nevada, has the nation’s second-highest unemployment rate.

The Democrats’ proposals are even more flawed. Although North Carolina is at the low end of per capita government outlays, there is no inverse correlation between government spending and the state unemployment rate. Among Southern states, bigger spenders like Mississippi and South Carolina have the worst job records. The same can be said for education expenditures. States like the Dakotas, Utah, New Hampshire, and Iowa spend relatively little per student compared to others in their regions, but their unemployment rates are quite low.

Income equality also has little to do with joblessness. Some states with low unemployment, like Utah and South Dakota, are quite equal,

to be sure. But states like Oklahoma and Texas are very unequal and have much higher levels of employment than we do. Interestingly, true blue states like New York, Connecticut, Massachusetts, and California have the greatest inequality.

In reality, states’ current unemployment rates are a function of luck as well as policy. For reasons that are not entirely clear, for example, the small states tend to have higher rates of employment — some have argued their disproportionate representation in the Senate allows them to snatch a lot more per capita federal spending. Geography also matters. North Dakota, Oklahoma, and Texas have benefited tremendously from the current energy revolution. Virginia’s proximity to Washington, D.C., means it is full of federal government contractors who have done spectacularly since the mid-1990s — although they are likely to suffer because of sequestration.

With considerable reliance on agriculture and small-scale manufacturing, North Carolina’s economy was particularly vulnerable during the downturn. This was exaggerated in North Carolina’s small towns and rural areas, where nearly 20 percent of all jobs were in manufacturing. Nor was the state helped from the hit taken by Charlotte’s financial services sector.

So what should we do? I would take a little from the current Republican approach and emphasize traditional North Carolina policies. If

cutting the corporate income tax helps create employment, it makes sense to reduce it to the 2 percent to 3 percent range. The state currently gets only about 7 percent of its annual revenue from this source. Greatly decreasing or eliminating the individual income tax also has its merits. But its effect on employment, at least in the short term, is at best ambiguous.

Broadened and heightened sales levies would dampen consumer demand and offset greatly the appeal of low income tax rates to small business owners. And though some wealthy entrepreneurs may be deterred from residing in North Carolina because of our personal income tax rates, investment creates jobs, and today capital is tremendously mobile. The big job creators don’t travel with their money.

Lower personal tax rates do attract talented workers, though. In the competitive, global, and sophisticated economy we live in today, these people will be filling the high-paying jobs we want. But they and their prospective employers will come only if North Carolina retains several of the important policies of its past: keeping labor costs low by maintaining the “right to work,” and making strategic but meaningful investments in infrastructure and public education. *CJ*

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Repeal the Higher Electric Bill Mandate

In 2007, with Bev Perdue as president of the Senate, Joe Hackney as speaker of the House and Mike Easley as governor, a very liberal, Democratic-run state government imposed a mandate requiring that, by 2021, the state’s investor-owned utilities must provide 12.5 percent of their energy from renewable sources or conservation measures. The legislation, Senate Bill 3, defined renewable sources as solar, wind, and biomass. According to the N.C. Utilities Commission, this amounted to a \$310 million cost increase (i.e., tax hike) on North Carolinians.

The law has been in effect for five years. It has not prevented global warming, as was originally claimed, and it is not creating jobs, as is now claimed. It is time to repeal this mandate for high electricity costs. House Bill 298 (and its companion, Senate



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Bill 365), now moving through the General Assembly, would do just that. This may be the most important piece of legislation this session.

Solar, wind, and biomass offer unreliable and expensive energy. The sun doesn’t always shine, the wind doesn’t always blow, and none of these volatile sources can meet a consistent or peak demand for electricity. Even so, state law mandates that we use renewables and pay higher rates. Solar power costs twice as much as wind power, three-and-a-half times as much as nuclear, four times the cost of coal, and almost five times the price of natural gas.

North Carolina is the only state in the Southeast that mandates higher electricity costs. Economic studies show that these mandates have a negative impact on our economy — almost \$2 billion in net costs, 3,592 jobs lost, \$46 million in lost disposable income, and \$61 million in lost investments. A John Locke Foundation study of the mandate found that, when fully implemented in 2021, it would increase North Carolina’s electricity rates by \$1.8 billion. In other

states with similar mandates, electricity costs increased by an average of 19 percent per household and annual household electricity costs went up by an average of \$243 a year. Speaking of other states, 10 have legislation pending to modify or repeal their renewable mandates.

When electricity costs go up, we pay those extra costs three times. We pay as taxpayers. When state government’s electricity bill goes up, taxpayers are left footing the bill. And think of all the government offices, schools, and buildings across the state being heated, cooled, and lighted. Add the stoplights and streetlights as well — that’s a big electric bill! We pay again as a homeowner or renter in our monthly power bills. And we pay a third time as a consumer of goods and services as businesses pass higher electricity costs along to their customers.

Despite claims from the solar energy industry of job creation, mandated higher energy costs are eliminating North Carolina jobs and harming our economy. The solar industry is heavily subsidized courtesy

of North Carolina taxpayers, taking money out of the economy and out of our pockets, money that could have been used to expand businesses, hire new workers, or invest in new ideas. Instead, between 2007 and 2012, more than \$72 million in taxpayer money has been spent on subsidies to the solar industry in tax credits and direct appropriations. A state tax credit of as much as \$2.5 million is available per solar project, and alternative-energy tax credits from both the state and federal government reduce the cost of solar farm construction by more than half.

The role of government is to ensure that utility companies provide the lowest-cost, most efficient, and most reliable sources of electricity to consumers. It is not to mandate any specific type of electricity source, no matter what it might be. If these renewable sources are such a great deal, they should stand on their own — without big subsidies or government mandates. *CJ*

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

Incentives Switcheroo Benefits Carolina Panthers (a CJ Parody)

BY TUTTS DOWNS
Incentives Editor

RALEIGH

Rebuffed in his efforts to get the state to kick in \$62.5 million in state tax dollars for upgrades to his team's Charlotte home, Carolina Panthers owner Jerry Richardson has found out there's more than one way to skin a cat.

While Gov. Pat McCrory and other state officials were telling him his request for millions was no-go, they were almost simultaneously telling MetLife that its request for \$94 million in incentives to move 2,600 jobs from the Northeast to North Carolina had been approved.

Richardson told Carolina Journal he initially was miffed that the state "feels it's OK to give money to insurance agents but not to football players," until he hit upon an idea. He approached MetLife and offered to sell naming rights to the stadium in Charlotte for \$94 million.

MetLife already owns the naming rights to the New Jersey Stadium, where the NFL's Jets and Giants play, so it would be no stranger to such a proposal, Richardson thought, and might be receptive. He was right. MetLife agreed, only the new name for what is now Bank of America Stadium in Charlotte will be MetLife Stadium South.



An artist's rendering of what the Carolina Panthers stadium will look like when signage is changed to reflect the new naming sponsor. (CJ spoof photo graphic)

"We are pleased with this partnership with MetLife," said Richardson. "Not only does it give MetLife some added visibility and yet another place to fly its Snoopy blimp, but the revenue from the naming rights is more than 50 percent more than we were asking from the state for renovations."

McCrory earlier had said the state could not afford to give the Panthers \$62.5 million in tax money, but a Commerce Department official convinced him this arrangement was OK because all the money comes from pri-

ivate funds.

Asked by *CJ* if he didn't feel that the \$94 million in incentives that the state granted to MetLife wasn't the same money that MetLife was now giving to the stadium, the Commerce official responded tersely, "Well, that just shows that you don't understand the complicated nature of the state's incentives program."

A spokesman for MetLife told *CJ* that the the media and North Carolina taxpayers should not get "hung up" on the coincidence of the incentive and the naming rights amounting to the

same number of dollars.

"All money is fungible," the spokesman said. "When Mr. Richardson named the price for the naming rights, it never occurred to us that this was the exact same amount of money the state had given us in incentives for moving jobs to North Carolina. One thing has nothing to do with the other."

He went on to say that incentives money is given with no strings attached, so, even if MetLife simply passed the same money from the state treasury into the hands of Richardson, that would be entirely appropriate.

"The \$94 million was given to MetLife for the good things it was going to do in North Carolina," he said. "That includes bringing jobs and business to the Tar Heel State. Having our name prominently displayed on a professional sports stadium in the state's largest city can only enhance our ability to help the people of this state."

Bank of America officials would not comment about losing their name on the renovated stadium only nine years into a 20-year deal, but one insider said the refund they would receive for the 10 lost years would be helpful to the company.

"Their stock has been taking a hit due to fallout from bad mortgages, so the money the Panthers are refunding to them will really come in handy," one analyst said. *CJ*

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