

INSIDE THIS ISSUE:

Legislators consider REINing in bureaucrats/3



December 2013 Vol. 22 No. 12

CAROLINA JOURNAL

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

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STATEWIDE EDITION

AG Uses Personal Insurance For Legal Bills

Approach allows Cooper to keep hefty fee amount secret

BY DON CARRINGTON
Executive Editor

Attorney General Roy Cooper's use of a personal liability umbrella insurance policy to pay for his defense in a 13-year-old defamation lawsuit allows him to keep confidential how much he has paid lawyers for his defense, something he could not do if he were using a campaign account or legal defense fund.

Raleigh attorney Gene Boyce and three other attorneys filed the suit in November 2000, alleging that a Cooper campaign ad had defamed Boyce and his law firm. During the course of this litigation, at least nine attorneys from three separate law firms have been involved in representing Cooper and the other defendants — his campaign organization and campaign worker Julia White.

Cooper's current lead attorney, Allison Van Laningham, did not respond to questions about attorney fees



Attorneys Allison Van Laningham (left) and Alan Duncan (right) are representing Attorney General Roy Cooper in a defamation lawsuit. Here they were pictured in May 2012 with Abbe Lowell as they approached the federal courthouse in Greensboro, where all three were part of former U.S. Sen. John Edwards' legal defense team. (CJ photo by Don Carrington)

for the 13-year-old case, but a retired attorney familiar with the case says that Cooper's legal expenses to date should exceed \$400,000.

Boyce is seeking a jury trial, and both sides will be participating in a Dec. 6 pretrial conference in front of a Wake County judge.

The involvement of Cooper's insurance company surfaced publicly through a 2005 complaint to the State

Board of Elections filed by retired Raleigh attorney Bernard Harrell. He had noticed that Cooper's campaign committee was not reporting any legal expenses related to the Boyce lawsuit and believed that legal services associated with the lawsuit should be accounted for publicly.

After investigating the matter, the State Board of Elections ruled that, according to North Carolina law, legal

defense activities such as Cooper's did not have to be reported through the normal campaign reporting procedures.

But it was Harrell's complaint that forced Cooper's campaign attorney to reveal exactly how Cooper was paying attorneys for his defense against the Boyce lawsuit.

"Upon receipt of the complaint,

Mr. Cooper placed his personal insurance carrier on notice of the claim against him and his committee, and his carrier retained counsel to provide a defense to Mr. Cooper, which defense could best be effected by representation of both Mr. Cooper and



Attorney General Roy Cooper

the Committee. More specifically, legal counsel was retained by Mr. Cooper individually and his insurance carrier, not the Committee," wrote Cooper's political committee attorney, John Wallace, in March 2005 in response to the Elections Board inquiry.

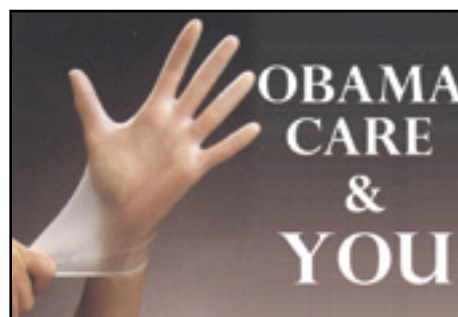
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Local Entities Confront Obamacare Mandates

Hit for government agencies will come with 2015 mandates

BY DAN WAY
Associate Editor

With a few notable exceptions, government agencies in North Carolina do not take a major hit from Obamacare mandates in the coming year. But that could change in 2015, when large employer requirements kick in for organizations such as the UNC system, where as many as 10,000 temporary employees could be affected.



Carolina Journal queried 100 municipalities, counties, community colleges, and public universities to determine the Affordable Care Act's anticipated effects on their budgets, operations, and staffing. Of the 21 agencies that responded, some said it is still too early to know; many said part-time workers are the most likely

to face consequences.

Because Obamacare lowered the definition of full-time employees to those working 30 hours or more, public agencies must decide whether to cut part-timers' hours below 30 to avoid a mandate to pay their insurance (creating a need to hire more part-time workers), or to absorb higher insurance costs by adding these employees to their coverage.

"We don't have firm data on the number of employees who might be impacted across the university," Joni Worthington, vice president for communications with the UNC System, said in a written response to a set of questions from CJ.

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The John Locke Foundation
200 W. Morgan St., #200
Raleigh, NC 27601

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analysis, and commentary on
state and local government
and public policy issues in
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Butterfield Staff Eschews Switch to Obamacare

Staffs of other N.C. delegation
members choose exchangesBy BARRY SMITH
Associate Editor

RALEIGH

Most of North Carolina's congressional staffers — the men and women who work for the state's two U.S. senators and 13 members of the U.S. House of Representatives — will be entering the District of Columbia's health care exchange once the Affordable Care Act takes effect in January.

One notable exception: the office of 1st District Rep. G.K. Butterfield.

"The consensus amongst my team was to keep the same employer-sponsored coverage every other employee receives," Butterfield said in a statement.

The Wilson County Democrat added that he instead had enrolled in the D.C. Health Link, the Obamacare exchange for the District of Columbia.

Members have some flexibility, however, in deciding if their staff members could continue receiving health insurance benefits under the Federal Employee Health Benefits Program or enroll on the D.C. exchange.

A controversial Office of Personnel Management rule let members determine if individual staff members are considered "official" or "non-official," said Bob Moffit, a senior fellow at the Heritage Foundation. Official members must enroll on the D.C. exchange, while nonofficial staff could continue under the federal benefits program.

"Staff in the leadership office and all congressional committee staff would be exempt and can stay on the federal employees program," Moffit said. Other exempted employees who could remain on the federal benefits program include nonpartisan staff, such as those working for the Congressional Budget Office and the Library of Congress.

Thomas Doheny, spokesman for 2nd District Rep. Renee Elmers, a Republican, noted the latitude that members had in determining their staffs' benefits.

Senate Majority Leader Harry Reid, D-Nev., "exempted his entire staff from the exchanges, saying they don't work for him," Doheny said. "My boss, she hates Obamacare. She's against it. [But] we're all on the exchanges, including the congresswoman."

"The only leader that we know that's doing it is Harry Reid," said Ed McDonald, chief of staff for Rep. Howard Coble, R-6th District, referring to members exempting staff from the Obamacare exchanges.

While members of Congress receive salaries that are too high to qualify for federal subsidies, some of their staff members do not.

Even so, President Obama ordered OPM to provide staffers with subsidies identical to the amount they had re-

ceived under the federal benefits program, Moffit said.

Moffit questions Obama's authority under the law to issue that order. "We argued that there was no legal foundation for the OPM to pay a subsidy to any nonemployer plan," Moffit said. Before the White House intervened, the OPM had concluded that it couldn't offer any subsidy to staffers, Moffit added.

Even with the subsidies, some older staff members will pay much more out of pocket than they did under the federal employees' program. CNN reported that monthly premiums for a 60-year-old on a plan offered by Blue Cross and Blue Shield would exceed \$840 a month. The OPM subsidy maxes out at \$426 monthly.

Chris Moyer, press secretary for Sen. Kay Hagan, D-N.C., noted that there was some controversy over the employer contribution coming from minority Republicans in the Senate.

"There's an effort by a small minority to exclude staffers and members from the employer contribution by [Sen.]

David Vitter from Louisiana," Moyer said.

Moyer said Hagan's staff would be going onto the D.C. exchange.

McDonald of Coble's office also noted that congressional staff members who work in district offices in North Carolina must enroll in the D.C. exchange. Those who live in North Carolina "can't even buy their insurance through Blue Cross Blue Shield in North Carolina," McDonald said.

"We'll be shifting over to the exchanges, assuming that the exchange actually works," said Jamie Bowers, a spokesman for 9th District GOP U.S. Rep. Robert Pit-

tenger. Bowers said staff members would be taking a financial hit by switching to the exchanges.

"People with families are taking a big hit, and older, experienced workers are taking a big hit," Bowers said. "This is blowing up all over the place."

Spokesmen for other members of the North Carolina delegation said that congressional staffs would enroll for coverage on the D.C. exchange, despite some concerns.

- "We'll all be going on the exchanges," said Rob Reed, press secretary for GOP Sen. Richard Burr. "I don't think any of us are happy about it a bit."

- Sara Howard, a spokeswoman for Rep. Walter Jones, R-3rd District, said everyone in the office would enroll in the D.C. exchange. "We're still trying to figure out exactly how it will work," she said.

- Jeff Butler, a spokesman for Rep. Patrick McHenry, R-10th, noted that some staffers whose spouses have employer-based insurance have said they would choose to get their coverage from their spouses rather than go into the D.C. exchange.

Spokesmen for Reps. David Price, D-4th, Virginia Foxx, R-5th, Mike McIntyre, D-7th, Richard Hudson, R-8th, Mel Watt, D-12th, and George Holding, R-13th, said all staff members would enroll on the D.C. exchange.

The office of 11th District Rep. Mark Meadows, a Republican, did not respond to requests for information about health coverage for Meadows' staff.

CJ



RedAlertPolitics.com photo

Lawmakers Consider Legislation REINing in Bureaucrat Regulators

By DAN WAY
Associate Editor

A legislative proposal limiting regulatory actions by executive branch agencies is gaining interest in the General Assembly and in state capitals around the country.

Supporters say a state-focused version of the federal Regulations from the Executive in Need of Scrutiny, or REINS, Act, could improve economic growth and business formation in North Carolina.

The REINS Act passed the U.S. House earlier this year but has not come before the Senate. The act would require Congress to approve every major rule proposal by the executive branch that has an annual economic impact of \$100 million or more.

"I'd love for us to do something like that," said state Rep. Mike Hager, R-Rutherford. "Any major impact you have on business we should be able to look at."

Tipping point

Hager, who is vice chairman of the House Environment Committee and chairman of the Joint Legislative Commission on Energy Policy, said he could imagine the tipping point to trigger state legislative review of agency regulations could range from those costing \$100,000 — "To small businesses, that's a lot of money," he said — to \$1 million.

Allowing cost-inducing regulations to go unchecked "makes us not competitive with South Carolina, or Georgia, or Tennessee, or Virginia," Hager said.

He said lawmakers have been writing legislation that excludes extensive administrative detail because they

fear opposition from advocacy groups that create legislative scorecards to use in campaigns. As a result, Hager said, executive branch agencies effectively write laws by filling in the gaps later.

"You can't allow nonlegislative entities to make law, and that's what we're doing," he said.

Jon Sanders, director of regulatory studies at the John Locke Foundation, said a state-level REINS law would be a good idea.

"The present structure of regulation in North Carolina is heavily biased toward expanding regulation. Procedural hurdles make successfully blocking a proposed rule extremely rare," Sanders said.

A JLF study found that, of the 6,510 permanent rules introduced between 2004-05 and 2008-09, only 218 faced legislative review. Only 28 bills were introduced to repeal the regulations, and a mere seven of those bills passed.

"In other words, only about one-tenth of 1 percent of regulations were ultimately blocked," Sanders said.

Reversing bias

"A REINS Act for North Carolina would reverse this bias. Any proposed major rule would require approval by the General Assembly. Such a rule would have to be compelling enough to survive the deliberative process of

the legislature," he said.

"The legislature would not be obligated to draft approval legislation, and the vote would not constitute enactment but would merely be a grant of legislative authority to the agency to proceed with the proposed major rule under the regulatory process," Sanders said.

By requiring major rules to be approved by elected representatives directly accountable to the voters, REINS for North Carolina would offer two additional pre-emptive improvements, he said.

"It would incentivize legislators to write clearer, more narrowly focused bills, given that any excessive interpretation

by agencies would return to them for votes anyway," Sanders said. "It would also incentivize the agencies to write better rules clearly within their statutory authority."

War between the states

Gary Palmer, president and CEO of the Alabama Policy Institute, supports the state-level REINS Act concept. He said federal agencies are using an approach known as "sue and settle" to impose regulations on states using the courts rather than Congress to enforce executive branch goals. Palmer said sue and settle could enhance environmentalists demand to crack down on fossil fuel use, shutting out elected representatives from the process.

"I think we're about to engage in a new war between the states, only the battleground will be in the courtroom," he said.

New York and other states are pushing the U.S. Environmental Protection Agency to enforce regulations against states including Oklahoma, Alabama, and Pennsylvania that allow hydraulic fracturing to extract natural gas. The plaintiff states are "attempting to inflict economic harm against other states," Palmer said. North Carolina is expected to begin fracking by 2015.

"We've got to look at this in a broader perspective about how other states and these activist politicians are impacting our ability to govern our states, to build our economies, and to raise our families," Palmer said.

Matt Mayer, president of the free-market think tank Opportunity Ohio, agrees. He said coal-producing states such as Ohio and West Virginia also are falling into the EPA's cross hairs.

A 'big, big fight'

"Other states won't have to deal with coal plant shutdowns," he said. "It is a big, big fight."

Hager said the war on coal "is the most egregious" and could affect North Carolina. "Certainly there will be a war on natural gas, sooner or later. It's a war on anything but renewables, basically," with solar energy the trendy "clean" energy.

He estimated it would require 40,000 acres of solar farms to replace the amount of coal generation the state has remaining.

"Where are we going to get 40,000 acres? Cover all of eastern North Carolina?" Hager said.

He also is concerned about federal regulations on automobile emissions as part of the federal Clean Air Act's crackdown on regional haze. Congress passed a regional haze rule in 2005. It requires states to adopt a plan to reduce air pollution that impairs visibility, and to reach "natural visibility" in 156 national parks and key wildlife areas by 2064.

North Carolina has five areas affected by the rule: Great Smoky Mountains National Park; Joyce Kilmer-Slickrock, Linville Gorge, and Shining Rock wilderness areas; and Swanquarter Wildlife Refuge.

Oklahoma Attorney General Scott Pruitt is leading Oklahoma's lawsuit in federal court against the EPA's regional haze rule. The case is on appeal in the 10th U.S. Circuit Court of Appeals.

In 2010 Oklahoma adopted a plan to achieve the rule's mandate by 2026, Pruitt said.

EPA opposition

Then-EPA Administrator Lisa Jackson rejected the plan, and ordered it replaced with a federal plan that would have required a \$2 billion to \$2.5 billion investment by utility companies to install scrubbers on every coal-fired plant in Oklahoma. That would have increased utility rates almost 20 percent within three years and annually thereafter, Pruitt said.

"The key to this is the EPA doesn't have the authority to come in and offer their judgment in place of a law. Congress said ... the state has primacy as it relates to adopting a plan" under the Clean Air Act, he said. Pruitt expects the case, which affects a number of other states, to reach the U.S. Supreme Court.

North Carolina will not be involved in the lawsuit. "Oklahoma circulated a sign-on letter to EPA in support of its case. We were given a very short period of time to review the issue, and without sufficient time, declined to participate," said Noelle Talley, spokeswoman for state Attorney General Roy Cooper.

CJ



The federal REINS Act even has its own Facebook page.

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State Briefs

Audit: Sell property

A new report from state Auditor Beth Wood says the State Surplus Property office likely isn't getting all the revenue it could for taxpayers because of its bidding process, and suggests that the office move to an online bidding process similar to eBay.

"We found that vehicles sold on eBay received on average a 23 percent higher price than those sold through the division's online bidding process," the report says.

The report notes that when the office gets surplus property — items ranging from cars to file cabinets that state government agencies no longer can use — it estimates the item's value. Items valued at \$200 or greater are sold through an online bidding process. Items of lower value are sold at a west Raleigh store.

The office uses a sealed-bid process. "Since bidders cannot see the bids of others, they cannot adjust their bids upwards in response to demand for an item," the report says. "Division managers must meet to review the highest bids and decide which ones to reject because they are too low."

Renewable energy costs

The ongoing debate over subsidies for traditional versus renewable energy sources offers an incomplete picture. A new John Locke Foundation Spotlight report urges advocates on both sides of the debate to fill in the gaps by factoring in penalties along with subsidies.

"Energy markets are riddled with government intrusions," said report author Roy Cordato, JLF vice president for research and resident scholar. "All energy sources are both subsidized and penalized. Too often, advocates for both traditional and renewable energy sources focus only on the subsidies."

In technical terms, analysis tends to focus on "gross" subsidies, Cordato said.

"What is economically more relevant is net subsidies, which include not only policies that subsidize the relevant industries but also the value of policies that penalize the industries. A proper analysis would subtract the monetary value of government interventions that decrease supply or demand for particular energy sources from the monetary value of interventions that artificially increase supply or demand," Cordato explained. "In other words, subtract penalties from subsidies." CJ

Analysts: Local Issues Dominated Nov. Elections

By BARRY SMITH
Associate Editor

RALEIGH

Local elections Nov. 5 in North Carolina appear to have been driven by local issues, with little evidence of any statewide trend, analysts say.

"I didn't see a lot of trends in North Carolina to make me feel like there's a huge wave going on one way or the other," said David McLennan, who chairs the political science department at William Peace University in Raleigh. "There are a lot of interesting results, but not a pattern, from a state perspective."

Ferrel Guillory, director of the UNC School of Journalism's Program on Public Life, agreed. "I don't think that there is a particular statewide pattern out of these local elections," Guillory said.

More than 1,100 candidates or ballot measures were decided by voters, according to the State Board of Elections. Nearly a half-million North Carolinians voted, a turnout rate of nearly 14.4 percent.

Harnett County approved a sales tax measure by a vote of 71 percent to 29 percent after voters had rejected sales tax hikes on four consecutive occasions. Meantime, voters in Yadkin County turned down a proposed sales tax increase by a 16-point margin. Several school and community college bond measures passed, but a proposed school bond in Onslow County failed, 36-64.

Guillory said he was not surprised that Democrat Patrick Cannon was elected mayor in Charlotte. "The fact that Cannon won re-emphasizes how much our cities — Charlotte in particular — have become the base of the Democratic Party in North Carolina," Guillory said.

"It will be fascinating to watch the new mayor in Charlotte, how that plays out," Guillory said, noting that former Mayor Anthony Foxx is now the U.S. secretary of transportation and that Foxx's predecessor, Pat McCrory, is North Carolina's governor.

McLennan noted an "interesting pattern" in Greensboro, where Nancy Vaughan defeated incumbent Mayor Robbie Perkins, marking the third straight election in which a first-term mayor has been defeated in the Gate City.

"You compare that to Raleigh or Charlotte, and once you're in, you're in," McLennan said, noting the relatively long tenures for mayors in the state's two largest cities.

Chalmers Brumbaugh, who chairs the Political Science Department at Elon University, said the Greensboro voters ousting their mayor could indicate "a modest anti-incumbent" feeling, adding, "I don't think it's a big trend."

Brumbaugh, who worked as a precinct official in Gibsonville, not-



ed the small turnout and said voters weren't all that excited.

"I didn't see any fire in the belly at all," Brumbaugh said. "People come in, and they didn't know why they were there. ... They just vote out of habit. It's voting day, and they go."

In Fayetteville, Republican Nat Robertson narrowly defeated Democrat Val Applewhite in an officially nonpartisan election. Robertson prevailed over Applewhite by 260 votes out of 22,956 votes cast.

B.J. Murphy easily won re-election as mayor of Winston in a three-way race, collecting 47 percent of the vote.

Morrisville Mayor Jackie Holcombe, a gun control advocate, lost to Morris Stohlman.

In Princeville, the subject of a recent critical audit from state Auditor Beth Wood's office, incumbent Mayor Priscilla Everette-Oates was ousted by Bobbie D. Jones.

Winston-Salem Democratic Mayor Allen Joiner coasted to re-election, as did Durham Mayor Bill Bell and Burlington Mayor Ronnie Wall.

Voters in Mecklenburg and Johnston counties approved bond referendums for both public schools and community colleges. Pitt County voters approved community college bonds.

More than two dozen alcohol referendums were on the ballot in various North Carolina localities. Nineteen of them passed.

Six alcohol measures were on the ballot in the western North Carolina town of Rhodhiss, and all failed by similar margins of 40 percent to 60 percent. In Tabor City, a mixed drink referendum failed by a single vote, 133-134.

In Broadway, an ABC store referendum failed by six votes of 192 cast. Even so, voters approved referendums allowing the sale of malt beverages, unfortified wine, and mixed beverages.

Harrisburg also defeated an ABC store referendum. CJ

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Democratic Lawmakers Spar With Auditor Over Medicaid Costs

BY DAN WAY
Associate Editor

Legislative Democrats took a few jabs at state Auditor Beth Wood, a fellow Democrat, at a Nov. 19 meeting of the Joint Legislative Oversight Committee on Health and Human Services. The lawmakers cited a new legislative report taking issue with a scathing audit issued earlier this year that showed mismanagement and excessive administrative costs in the state's Medicaid program.

In its meeting, the committee received budget and spending updates, a progress report on the NCTRACKS

computer program, Medicaid program changes, and a discussion of the state's health information exchange for electronic medical records, among other items.

But one focal point was the conflict over Wood's January audit, and a report issued the day of the meeting by the legislative Fiscal Research Division showing North Carolina's administrative costs for Medicaid are lower in percentage terms than eight other states selected for comparison.

Wood and several committee Democrats sparred over the validity and meaning of the new report.

Democrats inferred the legislative staff report shows that states using Medicaid managed care organizations face higher costs compared with North

Carolina's fee-for-service model.

Wood said the new report used faulty data in an unorthodox manner, and her audit took no position on the policy debate over managed care.

Gov. Pat McCrory wants the Department of Health and Human Services to convert the present system, which has a single administrator, to a model using three or four for-profit, managed-care entities that would bid to cover patients. The state is designing criteria for the new system and preparing to seek candidates to administer portions of the program.

"Apparently, the state auditor doesn't feel comfortable computing what the administrative cost is for managed care, but our staff does, that's what they do, and they're very good at it," said Sen. Martin Nesbitt, D-Buncombe.

Once Fiscal Research staff completes its work, lawmakers will have a better and more accurate picture of administrative costs, he said.

"When you look at these numbers, it's almost an absolute that when you go to a managed care model with for-profit companies your costs of administration go up," and the percentage of money being spent on Medicaid patients would go down, Nesbitt said.

Sen. Floyd McKissick, D-Durham, said in reviewing the chart prepared by Fiscal Research, "It looks as if our costs are among the bottom three states" of the nine investigated.

Even though each state has its own criteria and offers different services, "How can we make a determination that our costs are high administratively when doing these apples-to-apples comparisons are quite difficult, and based upon the apples-to-apples we see in the chart before us we are signif-



State Auditor
Beth Wood

Summary Comparison of Administrative Costs

"Apples to Apples" Total Administrative Cost Comparison

State	Adj Service Costs	Adjusted Admin	Admin to Total
Tennessee	7,529,197,927	854,222,601	11.35%
Georgia	7,613,227,088	851,799,879	11.19%
Arizona	8,220,297,682	923,924,081	11.24%
New Jersey	10,169,858,739	902,631,784	8.88%
Michigan	11,613,198,848	965,079,026	8.31%
Massachusetts	12,726,998,133	836,207,207	6.57%
North Carolina	10,287,726,438	658,093,930	6.40%
Illinois	12,741,109,145	773,607,781	6.07%
Missouri	7,873,478,247	421,962,834	5.36%

- MCO administrative cost includes the traditional costs for provider enrollment, contracting, claims adjudication and appeals. Unlike a state's Medicaid program, the MCO must also provide for a profit in the administrative percentage.

This chart created by the legislative Fiscal Research Division showing North Carolina's administrative costs for Medicaid was a focal point of the Nov. 19 meeting.

icantly lower than these other states," McKissick said.

"There still seems to be a lot of controversial information about that," Wood said of her audit. "One thing I don't want the committee to lose sight of is that the audit that we did showed that the state of North Carolina is going to continue to be a fee-for-service state," not a managed care model. The audit was completed before McCrory announced plans to switch Medicaid to managed care.

"That was not the issue of our audit, but it has been made an issue by others, when in reality we were reporting back to the General Assembly why DHHS [has been] \$400 million to \$500 million over budget four consecutive years and why [shortfalls are] hitting in the last quarter when there's so little time to make up the money," Wood said.

"So we took a look at administrative costs. We saw that compared across the United States, North Carolina was higher than the average or higher than other states that get more money than we do," Wood said.

In 2012, four divisions of state government spent \$786 million in administrative costs for Medicaid, Wood said.

"The other piece that we noted in our finding is that the state of North Carolina spends in the Division of Medical Assistance \$120 million in contracted services for administration of the program, and that \$120 million is anywhere from \$25 million to \$50 million over budget for the last two or three years," she said.

Steve Owen of the Fiscal Research Division said legislative staff reviewed a number of sources to come up with its findings of how North Carolina compares to other states in percentage of administrative costs to all service costs.

Those included the Centers for Medicare and Medicaid Services website to pull down actual state spending

data, a report by the Milliman consulting firm on medical loss ratio, public information from a variety of state websites, and conversations with state program staff in several states.

Percentages ranged from 11.35 percent to 5.36 percent. North Carolina was ranked seventh of the nine states at 6.4 percent.

Owen noted that Arizona has total service expenditures of nearly \$9 billion, with MCO (managed care organization) costs of \$6.4 billion. That compares to North Carolina with \$10.3 billion in total service expenditures but \$128 million in administrative costs.

"All else being equal, you look at a traditional managed care for Medicaid and you would expect those expenses to be higher," Owen said. In part, he said the higher costs result from profits for MCO shareholders and state and federal regulations requiring MCOs to be sustainable.

Wood scoffed at the findings, particularly the inclusion of Arizona because of its spotty records. She noted that the Milliman report — one of the pillars of the Fiscal Research study — "indicates that the state of Arizona was not included in their numbers because of their inconsistency in their reporting and their differences in their Medicaid services that they offer," Wood said. "Arizona, like California, doesn't even bother to issue the financial statements [required by] other states."

Milliman's report offers "no standing declaration of what they call administrative expenses," Wood said. Without such standardization, each state can use different criteria and skew what are labeled as administrative costs, she said.

"The Milliman report also puts qualifications in their report and basically says that their medical loss ratios that Mr. Owen is using, they are not audited and should not be relied upon," Wood said. "Those numbers are not audited, and the report they were pulled from are basically saying they are unreliable."

CJ

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JLF: State Spending Continues on Path of 'Significant' Growth

BY CJ STAFF

RALEIGH

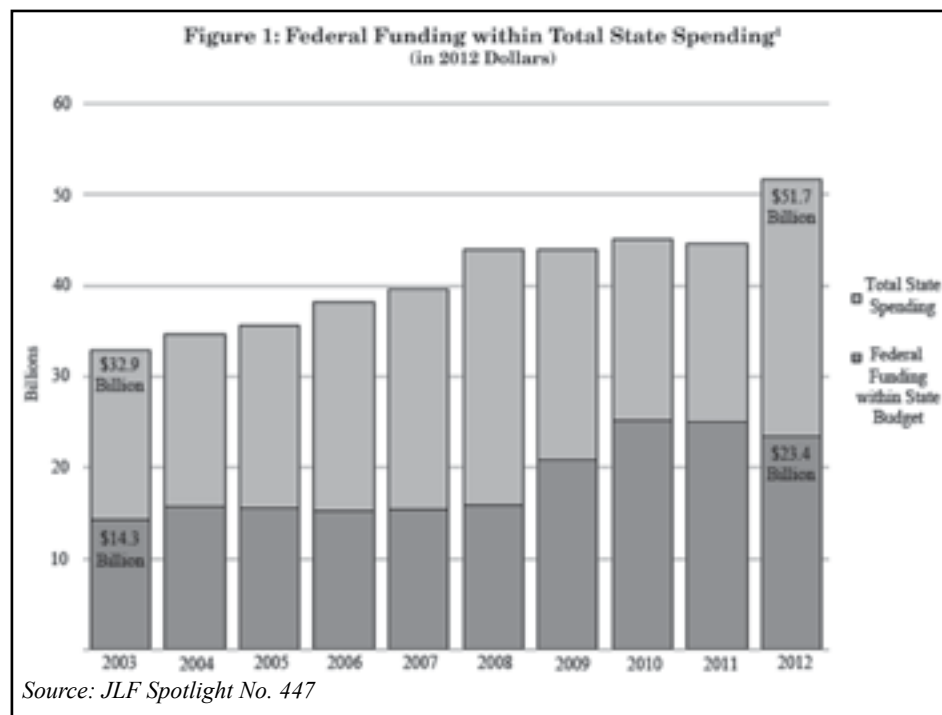
North Carolina state government spending has grown "significantly" in recent decades, though much of that growth has been hidden beneath headlines that focus on the state's General Fund. That's a key finding from a new John Locke Foundation Spotlight report.

The report urges policymakers to focus on total state spending, which reached more than \$51 billion, an average of \$5,348 per person, in 2012. Since 1980, inflation-adjusted state spending has grown by more than 150 percent.

"Regardless of competing political platforms and campaign speeches about the state budget, one thing is clear: North Carolina's inflation-adjusted per-person budget expenditures increased significantly over the last 30 years," said report author Sarah Curry, JLF director of fiscal policy studies. "In particular, there have been rapid increases in state spending across all categories in the last 10 years. That's a dangerous precedent when one considers that the financial stability of state and federal governments is not at its strongest."

State government reached its highest General Fund appropriation in 2009, with an inflation-adjusted amount of \$22.5 billion, Curry reports. "Since that time, General Fund spending has been slowly decreasing, but total state expenditures have increased, as more and more state spending moves outside the General Fund."

The shift away from the highly publicized General Fund has created a lack of transparency in North Carolina's budget process, Curry said. "Government budgets have a reputation for being difficult for the typical citizen to understand, and North Carolina is no



exception," she said. "For many, the persistent growth in state spending is not easily visible because of the undue focus on the General Fund, particularly within the media."

Media reports often label North Carolina's General Fund as "the state budget." Curry's report explains that state spending also includes federal dollars, along with spending on non-General Fund items such as transportation and debt service.

"North Carolina has received about 45 percent of its total budget from the federal government over the past 10 years," Curry said. "The number was even higher in 2010 and 2011, when the so-called federal stimulus package boosted federal funding to a historic high of 56 percent of North Carolina's total budget."

State government officials should be "wary" of allowing such a large part

of the state's expenditures to be dependent on federal funding, Curry said. "In reality, the federal government borrows all of this money before sending it to North Carolina state government," she said. "This funding source suffers from the same uncertainty that plagues all of Washington's deficit spending."

Because of the lack of transparency in state government spending, many people might not realize that the state spends more on health and human services than on education, Curry said. "Since 2005, during former Gov. Mike Easley's administration, the total HHS budget has been consistently higher than the total amount of funds spent on public education."

Within non-General Fund spending categories, North Carolina spent about \$4.5 billion on transportation-related items in the most recent fiscal year, Curry said. "That expense has

grown by 123 percent since 1980," she said. "In addition, the state's debt service spending was relatively stable until surges in 1997 and 2003. Debt service spending increased by 193 percent during this period."

Curry's report also calculates state government spending as a share of North Carolinians' personal income. "As recently as the mid-1980s, state government spending amounted to not much more than 9 percent of personal income," she said. "But that number has grown. Since the economy emerged from the Great Recession, state spending as a share of personal income has climbed sharply to an all-time high of 14 percent in 2012."

A focus on total state spending would help policymakers who are interested in improving North Carolina's economy, Curry said. "Total state spending is a more complete measure of the extent to which state government diverts real resources — land, labor, and capital — away from the private sector, where all economic growth is generated," she said. "This diversion, also known as 'crowding out,' leads to less economic growth and job creation. This is why our elected officials must begin the process of reducing the size of state government."

Curry's report also urges legislators and taxpayers to consider budget approaches designed to address spending growth, such as a Taxpayer Bill of Rights and a budget process that would detail non-General Fund spending.

"The specific course of action will not be agreed to overnight, but there are ample opportunities, particularly during the break between legislative sessions, to begin reforming the budget process in a way that looks at the whole picture," Curry said. CJ

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State High Court Tosses Suit Against Pre-K Changes

By BARRY SMITH
Associate Editor

RALEIGH

The N.C. Supreme Court has thrown out a lawsuit challenging changes the General Assembly made to the state's pre-kindergarten program in 2011, ruling that subsequent modifications made that lawsuit "moot."

The lawsuit, *Hoke County Board of Education v. State of North Carolina*, is the latest iteration of what became known as the landmark 1997 *Leandro* case, in which several school systems from poorer counties filed a lawsuit claiming the children in their counties weren't receiving adequate and equal educational opportunities.

Leandro produced an N.C. Supreme Court opinion saying that every child should have the opportunity to get a "sound, basic education." It lifted

Wake County Superior Court Judge Howard Manning to fame, as he was the trial judge assigned to handle the case and subsequent legal procedures.

The new GOP majority in the 2011 General Assembly altered funding to the state's Pre-K program, formerly known as More at Four. Those changes resulted in a 2012 ruling from Manning that the state was not fulfilling its obligation to ensure that children from poorer families — referred to as "at-risk" children — were prepared to enter school.

The N.C. Court of Appeals upheld Manning's decision. The Supreme Court, however, said that changes made by the General Assembly in 2012 modifying the 2011 legislative action made the lawsuit moot.

Senate President Pro Tem Phil Berger, R-Rockingham, responded favorably to the Supreme Court's opinion.

"Today's Supreme Court decision is a clear affirmation of the General Assembly's central role in shaping education policy — and the size and scope of North Carolina's pre-K program," Berger said in a statement. "The court's ruling ensures the pre-K program will move forward as the legislature intended — with eight out of 10 pre-K slots serving children who are financially 'at risk.'"

House Speaker Thom Tillis, R-Mecklenburg, said in a statement, "In a unanimous order, the Supreme Court today acknowledged the General As-

sembly's role in determining the size and scope of the state's Pre-Kindergarten program. The order reinforces my own belief that we have taken seriously our constitutional duty to meticulously manage the resources of this state so that every child in North Carolina has an opportunity to obtain a sound basic education."

Bob Orr, a former N.C. Supreme Court justice who wrote a friend-of-the-court brief for the N.C. School Boards Association supporting the plaintiffs in the current lawsuit, said the decision solved nothing and only delayed a resolution of the controversy. "They obviously didn't answer any

questions," Orr said. Sometime in the future, either the plaintiffs in the lawsuit or the State Board of Education, one of the defendants, will be back in court arguing the same issues, he said.

"It means that you're looking at another two- or three-year time frame before those issues could arguably be back before the Supreme Court looking for a final decision," Orr said.

Orr wrote the ruling in the 2004 Supreme Court case, which said the state had to create a remedy for children from poorer families who were unprepared for kindergarten.

Terry Stoops, director of research and education studies at the John Locke Foundation, agreed with the ruling, but also thought there would be additional challenges.

"This is the issue that never ends," Stoops said. "Those who brought the lawsuit are already looking for ways to bring it back to the court."

Stoops noted that the Supreme Court ruled that the 2012 session of the General Assembly got rid of a participation cap in the pre-K program and a co-payment requirement for parents, thus satisfying the complaints in the lawsuit. "They met the baseline for changes," Stoops said.

Stoops said those alterations wouldn't satisfy the lawsuit's plaintiffs, who want more money spent on pre-kindergarten education. "They still have the same goal in mind, which is to have the courts force the General Assembly to spend more money on public education," Stoops said. "To them, that's more important, now more than ever, because they don't have the governor's mansion or either chamber of the legislature."

CJ

COMMENTARY

Are N.C. Teachers Fleeing to Other States?

Some left-wing commentators have speculated that a sizable number of public school teachers are leaving North Carolina to teach in states that are, presumably, more hospitable to the profession. They want the public to believe that policies instituted by Republican lawmakers are to blame. It is the kind of baseless cause-and-effect claim that too often passes for fact in the mainstream media.

The truth is that relatively few North Carolina teachers leave the profession to teach in other states. Moreover, this trend has been consistent for years, no matter who was in charge of our political institutions.

According to the annual teacher turnover report from the N.C. Department of Public Instruction, every year between 300 and 500 of the state's approximately 96,000 teachers said they left the state to seek greener pastures.

I suspect the reasons teachers leave the state, as well as the destination states themselves, vary considerably. Unfortunately, DPI's turnover report offers little detail. That fact, however, has not stopped some advocacy groups from highlighting a handful of dissatisfied teachers who attribute their exit to budgets and legislation passed by Republican majorities in the General Assembly since 2011.

For example, one left-wing advocacy organization recently peddled a story of a North Carolina teacher who is packing up to seek a teaching job in Ohio. After all, nominal teacher pay in Ohio is considerably higher than in North Carolina, mostly because Northern and Midwestern states have entrenched unions, higher costs of living, and/or alternative models of public school funding and governance.

If teacher compensation is so attractive in these states, why are hundreds or thousands more North Carolina teachers not taking their talents elsewhere? Compensation may be an incentive for a North Carolina teacher to find a job in another state, but the ultra-competitive job market in many of them is a powerful disincentive. Demographic and economic trends

in these regions will continue to constrain the supply of teaching positions. Their population is declining and aging, shrinking the tax base and often necessitating reductions in staffing levels. Additionally, turnover is relatively low in all but a few urban school districts.

Just how hard is it to be hired as a public school teacher in states like New York, Pennsylvania, and Ohio? Research organizations and media outlets agree that the teacher job markets in these and nearby states is brutal, mostly because

local colleges and universities continue to supply more than enough teachers to fill vacant positions in the region. The National Council on Teacher Quality estimated that New York produces nearly three times as many teachers as the state needs to fill vacant positions. According to a 2012 *Pittsburgh Tribune Review* article, demand is so strong, and supply so

low, that some prospective teachers must spend years as a substitute before they are hired full-time. StateLine recently reported that Ohio colleges alone produce about 1,000 more new teachers a year than is needed to meet the demand for teachers in the state.

As long as supply continues to outstrip demand, growing school districts in North Carolina will continue to recruit teachers from these states, not the other way around.

In 2012, New York's state education agency reported to the federal government that none of its newly licensed teachers were trained in another state. In Pennsylvania and Ohio, around 11 percent of their newly licensed teachers were trained out of state. By comparison, a third of North Carolina's newly licensed teachers were trained elsewhere.

I wish the best of luck to those who seek opportunities in other states. But those who believe that North Carolina teachers simply can march into higher-paying jobs in other states either purposefully ignore the facts or simply do not care about them. CJ

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



TERRY STOOPS

Supreme Court ruled that later changes made by the legislature made issues moot

NCAE Urging Members to Continue Protests of NCGA Reforms

Group helped organize 'walk-in' protest for teachers Nov. 4

BY BARRY SMITH
Associate Editor

RALEIGH

The North Carolina Association of Educators — the state's largest teachers group — maintains it had no connection to a proposed Nov. 4 walkout by teachers in public schools across the state. It is illegal in North Carolina for public employees to sign contracts with government units or strike.

Yet the organization, backed by several prominent liberal advocacy groups, did help organize a "walk-in" that day and continues to urge teachers statewide to "wear red" every Wednesday to protest education reforms in Raleigh. Moreover, Winston-Salem Forsyth County Schools opened its campuses to the public for two hours Nov. 21 as part of the walk-in movement. And teachers at Leesville Road High School in Raleigh have launched a website, Red4EdNC.com, where "professional protesters" hope to lead demonstrations around the state.

The initial Nov. 4 walk-in, intended to show disapproval of education policies enacted by the Republican-led General Assembly and GOP Gov. Pat McCrory, drew ire from some parents and state officials.

A parent at Lacy Elementary School in Wake County said she received an email in late October from the local PTA chapter asking for volunteers in the classroom so that teachers could participate in the walk-in.

"It sounded a little sketchy to me, so I just Googled 'teacher walk in,'" said Michelle Douglas, whose two children go to the school. She said she found out that the walk-in was an effort sponsored by the NCAE.

Douglas has two children at Lacy. She said she is a "room mom. My job is to support the teachers and coordinate when we need volunteers."

"I let the PTA know that this was inappropriate," Douglas said. She said it was clear to her that the walk-in was an NCAE event.

"They are not hiding the fact that this is a very political event," Douglas said. "They make it clear that the purpose of this event is to smack down Gov. McCrory and the legislature."

Douglas said she also found it troubling that the event would be transmitted to television sets inside the classrooms.

Robert Grant, principal at Lacy,



Teachers and parents, wearing red, protest education reforms in front of the State Capitol in Raleigh in November. (CJ photo by Barry Smith)

did not return a phone call seeking comment. Nor did the NCAE.

Also Nov. 4, Public Schools First NC, a project of the liberal advocacy organization Wake Up Wake County, joined other liberal activists at a rally on the state Capitol grounds criticizing the legislative action.

Yvonne Brannon of Public Schools First NC chided lawmakers for taking away teacher career status and replacing it with a "poorly crafted merit pay plan."

"It's no wonder some considered a walkout," Brannon told the rally, which drew about 175 participants.

The Organize2020.com website linked the Wake County NCAE to the Nov. 4 walk-in. Moreover, the website of Guilford County Schools urged support of a walk-in the same day at GCS. The walk-in, where events were scheduled to urge higher pay for teachers and more spending on public education, initially was to take place before and after the school day, or in some cases, during the school day.

The Associated Press and WRAL-TV reported Oct. 24 that the NCAE planned the event.

"It's about getting parents, educators, administrators, elected officials, and everyone together in a school building having conversations about the challenges and successes that are in our public schools," NCAE president Rodney Ellis said in the Oct. 24 news report.

A page on the NCAE's website titled "Walk-In On November 4" included a "tool kit" for organizers, including this statement:

"At NCAE, we're excited that caring and committed educators from across North Carolina are prepared to

take action to protect and transform our public schools for the sake of all children. ... NCAE, therefore, calls on all Wake County educators to 'walk-in' on November 4. At a time when the governor and General Assembly are abandoning our students, we choose to stand up for our kids and the future of our communities."

By Oct. 30, however, that page had been taken down. Visitors to the page found a message reading, "Oops ... Page not found."

And as the walk-in gained more attention, Wake County organizers changed the schedule so that activities would not take place during the normal school day.

Senate President Pro Tem Phil Berger, R-Rockingham, and Sen. Neal Hunt, R-Wake, issued a joint statement Oct. 30 critical of the walk-in.

"We are deeply disturbed the NCAE is encouraging teachers to turn their backs on their classrooms and leave their students in the care of strangers who may lack formal training and background checks," the Berger-Hunt statement said. "Things have reached a new low when a teachers union is willing to abandon its core responsibility and jeopardize student safety for its own gain."

Hunt told *Carolina Journal* Oct. 30 he was glad that organizers changed the demonstration plans so that they wouldn't affect scheduled classes.

"It's totally inappropriate to take school class time to be used for political purposes," Hunt said. "They changed that, so I'm happy now. If they do it after school hours and it doesn't impact the students, I think it's fine."

Berger issued another statement Nov. 4, saying lawmakers "appreci-

ate the overwhelming majority of our teachers whose hard work and commitment are vital to the success of our children."

He went on to say he appreciated the right of North Carolinians to exercise their First Amendment rights.

He didn't have kind words for the NCAE, however.

"We don't appreciate the bully tactics of an organized union that puts kids' safety at risk to gin up its membership and inflate the salaries of its executives," Berger said. "There is a time and place for everything — and our schools are not the place for politics, and our children should not be the pawns."

Brannon, the Public Schools First NC leader, agreed that classroom time should not be used for political advocacy.

"I agree that the school day is instructional time and should be sacred and protected," Brannon said. "I think some schools misstep occasionally, and they got straightened out, and they did their teacher appreciation events before and after school."

The Organize2020.com website called on educators to work with PTA organizations and other education supporters to build support for the walk-in and other actions to protest the General Assembly's agenda. It provided petitions calling for higher per-student spending, hiring more teachers to reduce class size, and restoring teacher assistant positions in kindergarten through third grade. Supporters were instructed to send completed petitions to the Wake County NCAE address.

Debra Horton, executive director of the North Carolina PTA, said the state organization was "not an official participant in [the] program on Nov. 4."

Horton said local school PTAs had a lot of flexibility. "Some of them could have decided locally to be a part of" the walk-ins, she said. "We certainly support educators; we want them to be the most highly qualified and the most valued to stand in front of the students."

Guilford County Schools used its Web page and Twitter account to drum up support for the Nov. 4 walk-in.

"You're invited! Walk-In Day is Monday, Nov. 4," read the headline on the Guilford County Schools home page. A second page said, "Wear red for public ed and visit any GCS school before 10 a.m. to show your appreciation to our educators."

Guilford County Schools Superintendent Maurice "Mo" Green did not return a phone call seeking comment on the Web page or planned activities. CJ

Top Reason for N.C. Teacher Turnover? Leaving for Another School

BY DAN WAY
Associate Editor

RALEIGH

More teachers are moving to other public schools in the North Carolina system than in the past, and that is the No. 1 reason cited for teacher turnover in 2012-13, according to a state Department of Public Instruction report prepared for the State Board of Education that will be submitted to the General Assembly.

The cover page of the report indicated it was scheduled to be presented to the state board at its two-day meeting Nov. 6-7. A discussion of the report had been on the board's agenda and the report was posted on the board's website in late October.

But the item was removed from the agenda Nov. 1 without explanation, and the report was pulled from the website. Discussion of the report was delayed until the December state board meeting.

No turnover surge

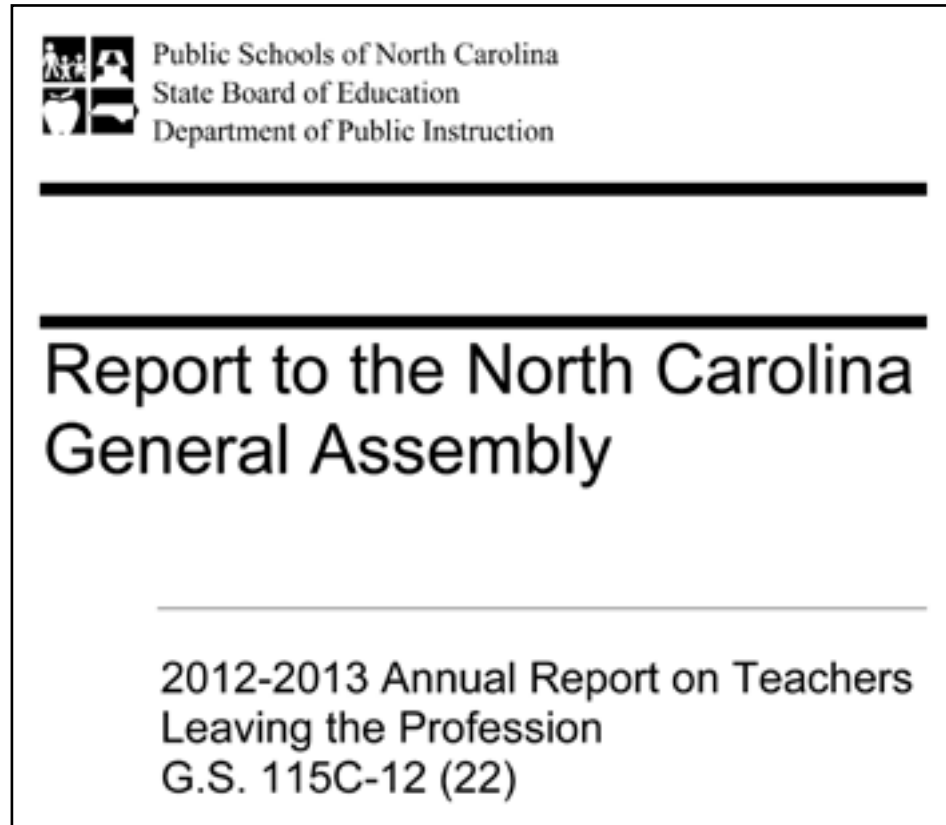
Organizers of the "Moral Monday" protests held at the General Assembly and across the state cited as justification for their actions changes made to state education policy by the 2013 General Assembly and Gov. Pat McCrory — including an end to teacher tenure, an expansion of charter schools, and a program allowing some low-income students to receive a tax-funded scholarship to attend private schools. The North Carolina Association of Educators and left-leaning groups have claimed that substandard pay and poor working conditions have driven up turnover rates.

But a closer look at the numbers does not back those claims. The state's 115 school districts reported that 13,291 of 96,419 teachers employed left their teaching positions during the 2012-13 school year, for a 13.78 percent system-level turnover rate, according to the report. That compares to 11,791 teachers leaving their positions in 2011-12, when the turnover rate was 12.13 percent. (For the statistics, visit <http://bit.ly/1cEWJKS>.)

Even so, a mere 10 percent of those leaving their jobs cited "dissatisfied with teaching/career change" or "resigned to teach in another state" — 1,325 all told — as their reasons for departing. Six in 10 of the teachers included in the 2012-13 report fell into the categories of job transfers, retirement, or family relocation.

Moreover, the calculations were made based on information available in March 2013, while the most recent General Assembly session was under way. None of the legislation cited by critics of Republican leaders in Raleigh had become law when the survey was taken.

Of the 13,291 teachers no longer



holding the same position, 2,654 of them moved from one public school to another, ending a three-year run of teacher retirements as the top turnover category.

The North Carolina Association of Educators did not respond to requests for comment.

"I'm glad to know that we're not losing an overwhelming number of teachers. I want not only to retain the best teachers but attract as many of the best and brightest we can to the teaching profession," said Bill Cobey, chairman of the State Board of Education.

"I want to be optimistic that there won't be great impacts, but actually the [Republican-passed] legislation, we have to look at what the impacts might be in a year or two from now," Cobey said.

"I'm trusting that the legislature will try to increase compensation for all teachers," he said. "I'm trusting and believing that the legislature will address compensation issues [in a succeeding session] and that what has happened will have a minimal impact."

State Superintendent of Public Instruction June Atkinson said turnover rates are important indicators of various trends, including student achievement.

As a general rule, "You tend to see the school districts having chronic low-performing students as being the school districts having the highest turnover rates," Atkinson.

There are several trend lines in the report that are "concerning" and bear scrutiny, including the number of tenured teachers leaving their positions, she said. Of the 13,291 teachers reported leaving, 6,254 were tenured.

"You see that in 2009-10 it was at 37 percent, and this past year [tenured] teachers leaving went to 47 percent," Atkinson said. She believes that reflects the number of baby boomer teachers nearing retirement and wonders whether education schools will produce enough new teachers to fill those vacancies.

Least in the west

The western part of the state consistently has had the least turnover of any region in the state.

"When you look at that trend line, you see that that percentage leaving in the western part of the state is increasing, and again I think the number of baby boomers we have in the western part of the state is a factor," Atkinson said.

"We are having fairly stagnant teacher salaries in our state," she said, and that could be causing the high number of teachers leaving one district to teach in another "because some school districts are able to pay higher [local] supplements than others."

"What was interesting to me about it is [the current report] was not a whole lot different from 2008-09," Lindalyn Kakadelis, director of the North Carolina Education Alliance, said of this year's report.

If this year's General Assembly's actions have an impact, "we would see it in the 2013-14 school year. It's going to show up with people leaving this current school year, not last school year," Kakadelis said.

She said the report details a growing number of teachers leaving traditional public schools for charter schools, from 49 to 143 year-over-year.

"Teachers are looking at going to

charter schools as a viable option," Kakadelis said.

Terry Stoops, director of research and education studies at the John Locke Foundation, said, "it is misleading to call this a 'turnover' report. It is more accurate to call it a teacher turnover and transfer report. In fact, 20 percent of what the state classifies as 'teacher turnover' consisted of teachers moving from one school district to another," Stoops said.

"There was a sizable uptick in the number of teachers who accepted a teaching position in another North Carolina public school or moved to a nonteaching position in education," he added, an increase of more than 50 percent in those categories.

"That suggests that more teachers are finding new and better opportunities within the current public school system," Stoops said.

"While some contend that North Carolina teachers are heading for the exits, this year's turnover report tells a different story. Only 6.6 percent of the teachers who left the profession during the 2012-13 school year did so because they were dissatisfied with teaching or decided to change careers," Stoops said.

Low resignations

Moreover, only 3.4 percent of the state's departing teachers resigned to teach in another state.

"Obviously, these teachers may have decided to resign regardless of state, local, and federal policy initiatives," Stoops said.

"There is very little that anyone can do to mitigate teacher turnover because most of these decisions are often based on personal or family circumstances that are beyond the control of administrators or elected officials," he said.

While there likely will be much talk about the statewide rate, individual district rates are much more relevant, he said, noting "significant variations" in teacher turnover and transfer among the 115 school districts.

Mount Airy had the lowest district turnover rate, 3.3 percent. Northampton County had the highest turnover rate in the state, more than 35 percent.

"These variations suggest that turnover and transfer are much more dependent on local conditions than state or federal policy," Stoops said.

Nor does teacher turnover and transfer appear to be correlated with teacher salary, he said.

"The district with the highest teacher salary supplement in the state, Chapel Hill-Carrboro, had a rate of 17.6 percent last year.

"On the other hand, Clay County provides no salary supplement to its teachers but registered a rate of 8.9 percent," Stoops said.

CJ

Town and County

Meck revaluation fix

Mecklenburg County is sending out adjusted property values as it begins a thorough review of property values in the wake of its botched 2011 revaluation. Property owners either will receive a bill for properties where the value was set too low, or a notice that a check will be in the mail if the property was overvalued, reports *The Charlotte Observer*.

It's been 17 years since the county updated its property data cards on the 356,000 parcels.

"In that time, a lot has happened to many properties," said Fred Pearson of Pearson's Appraisal Service, the firm hired to review property values.

"Some have new additions, some are properties where there were teardowns and new houses built. Some homes have a lot of physical wear and tear, and they need depreciation," he said.

Two houses in the prestigious Myers Park neighborhood were undervalued by \$266,700 and \$193,000. Pearson's also found several houses that were overvalued by more than \$100,000.

The county has until March 31, 2015 to complete the review.

Sweepstakes refunds

Lawyers for six Greensboro sweepstakes centers are seeking a refund of the \$175,898 in city licensing fees the parlors paid last year, reports the *Greensboro News & Record*.

Computer terminal-based gambling parlor operators have changed their games repeatedly in an attempt to stay ahead of changes in the law aiming to shut them down. When what had been video poker became sweepstakes offered in "business centers," there came a brief moment when it appeared that the industry might remain legal.

In response, a number of localities across the state decided to impose additional licensing fees upon sweepstakes parlor, either as a means to tax the parlors, out of existence or simply to cash in. And while the state's courts would rule against the sweepstakes parlor model, they also held the high licensing fees that some cities charged also violated state law. Now sweepstakes parlor operators want back those higher licensing fees they paid.

Greensboro officials note that the fees the city charged aren't as high as some other places in the state, but the city is willing to negotiate. CJ

G'boro Banking On Campus Helping Downtown

BY SAM A. HIEB
Contributor

GREENSBORO

Game changer." "Anchor." "New brand for Greensboro." "Cool."

If these terms describing a forthcoming project in Greensboro sound familiar, it's because the Gate City seems to have a lot of similar plans under way these days.

As the City of Greensboro ties up loose land-acquisition strings so it can begin construction on its \$65 million, taxpayer-subsidized downtown performing arts center, another major project appears to be in the works on the south side of Elm Street.

Tentatively named "Downtown University Campus," local officials say the mixed-use development, which will provide a presence for the city's seven colleges and universities, along with Moses Cone Healthcare, "will be a great place to live, work, play — and study," said Mayor-elect Nancy Vaughan.

"It's more than an academic collaboration. It's a business opportunity and economic development opportunity," said Ed Kitchen, former Greensboro city manager, who now serves as board co-chairman of Opportunity Greensboro.

Opportunity Greensboro, an offshoot of the nonprofit downtown booster group Action Greensboro, is spearheading the project, but the city's three biggest academic institutions — the University of North Carolina at Greensboro, N.C. A&T State University, and Guilford Technical Community College — are billed as partners in the project, as is Cone.

"This is going to be a game-changer for this part of Greensboro," said Tim Rice, Cone's chief executive officer.

Rice serves on the Downtown University Campus board of directors, along with UNCG chancellor Linda Brady, NCA&T chancellor Harold Martin, and GTCC president Randy Parker. The first phase will be a 100,000-square-foot building that will be owned and operated by a future nonprofit that will run the campus. A cost estimate for that first building is \$40 million.

But before construction can begin, the two-acre tract of land on the corner of South Elm Street and Lee Street must be purchased from the city. The tract's appraised value is \$914,000.

Initial plans call for the cornerstone building to house education programs dedicated to all levels of nursing, from two-year degrees to UNCG's doctoral nursing program.

Space will be allocated for classrooms, an auditorium, a student support center, and a "state-of-the-art medical simulation lab."

Long-term plans call for the campus to expand into a mixed-use development where — as Vaughan put it — people can live, work, play, and study.

Officials say funding sources will be lease payments by the universities, a mix of federal and state grants, private donations, assistance from the city (mostly in the form of infrastructure improvements), and, last but not least, private donations.

"We still have a lot of money to raise," Kitchen said.

Greensboro has long sought development for this parcel of land, which is across four-lane Lee Street (soon to be Gate City Boulevard) from the city's thriving downtown.

It was the first choice when the city was searching for a site for a new downtown baseball stadium. But that deal went sour when the land was found to be contaminated. (The city used a \$3 million federal brownfield grant to remediate the contamination.)

There was brief talk of a mixed-use development with the Guilford County Schools administration building serving as the anchor. But — possibly after anticipating taxpayer response to such a project — it died a quiet death.

Not so much for the next project — a luxury hotel to be built with federal economic stimulus funds. If the proposal alone wasn't enough to prompt outcry from taxpayers, things got even more interesting once Guilford County Commissioner Skip Alston got involved.

Alston proposed a site closer to the center of downtown — across the street from the International Civil Rights Museum, on which Alston served as board chairman.

When it was revealed that Alston would receive a broker's fee, the deal became hotly politicized. But turning economic stimulus funds into real money is easier said than done, so that deal went south, although currently there is a new plan for a hotel on the site — although the proposed developer also has asked for \$750,000 in incentives from the city.

After all that, the Downtown University Campus announcement seemed especially sweet for Mayor Robbie Perkins, who was defeated by Vaughan — a fellow city council member — in the November election.

As a member of the City Council for 16 years, Perkins has had a front-

row seat as the projects for the south side of downtown have come and gone.

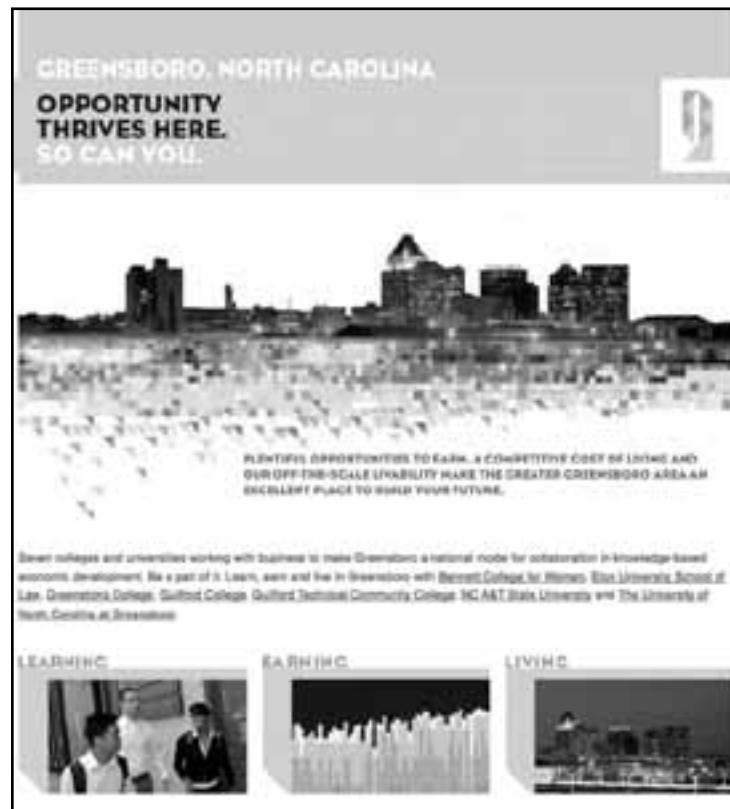
As mayor, Perkins spearheaded the push for the performing arts center on the north side of downtown. Funding proposals for that project have not been without controversy. Plans call for the city to split the cost with another local nonprofit, the Community Foundation, which will raise its share privately. Once it's built, the city will operate the center, named the Steven Tanger Center for the Performing Arts after its largest individual donor.

But the subject of entertainment venues is a bit touchy with many Greensboro citizens, given that the Greensboro Coliseum runs deficits while its director, Matt Brown, is the city's highest-paid employee.

It's hard to say if Perkins' push for the performing arts center contributed to his defeat, since his bankruptcy and divorce issues came to light during the election.

Still, he seemed satisfied that he was going out on a high note.

"We want to establish a new brand for Greensboro," Perkins said. "We needed an anchor for this side of downtown. This is cool. Cool is what you need when you think about engaging students." CJ



The website of Opportunity Greensboro which is spearheading the Downtown University Campus project.

Transit Panel Tells Wake Officials Buses are Best Bet

By DAN WAY
Associate Editor

RALEIGH

A trio of transportation experts told the Wake County Board of Commissioners in November that more bus service, and less eagerness to move to light rail, could be the best next step for Wake County public transportation. Population growth and density in Wake County likely are insufficient to secure vital federal grants needed to include light rail and commuter rail projects in a regional transit plan, the experts said.

"Look at your demand ... and come up with something you need that lines up with the demands of the community," said Cal Marsella, former CEO of Denver's Regional Transportation District, now working for a private transportation management firm.

"You can build your markets ... and test them" with buses, he said. "I would go low-cost to start with. You cannot build experimental light rail."

Community leaders must be careful in exulting rail service, said Steve Polzin, transit research program director at the Center for Urban Transportation Research at the University of South Florida.

"You can shoot yourself in the foot by creating second-tier status" for bus patrons, he said. "You're telling all those persons they're getting a second-class product."

Some communities "are hurting the folks that need [bus] transit now to get folks out of BMWs" and into light rail, Polzin said. "You need to be sensitive to who you're trying to help. ... Hold harmless your existing markets."

Marsella and Polzin also were joined on the panel by Samuel Stal-

ey, associate director of the DeVoe L. Moore Center at Florida State University.

The \$4.6 billion Wake transit plan already is three years old and needs to be updated to reflect inflationary costs and revisions to the multimodal components, they said.

That could include more emphasis on less costly expanded bus routes where demand exists, and purchase of rights of way for rail projects that could make sense years from now when higher ridership numbers justify them, the assembled experts said.

The transit experts said they came to virtually the same conclusions independent of one another's reviews. They were brought together to advise the commissioners on approaches to developing transit strategies for Wake County.

Orange and Durham counties have approved transit plans as part of a regional project and a half-cent sales tax to fund them. Wake has not put the sales tax on the ballot.

Under normal circumstances, a municipality implementing a regional rail system implements a penny-plus tax system to cover costs, Polzin said.

"As you build more stuff, you have more stuff to maintain going forward," and many communities across the country "struggle with that," Polzin said. Washington, D.C., is chal-

lenged by unfunded needs, and Portland is "slammed with employment and retirement costs that they haven't fully funded."

Transit projects are "notorious" for far exceeding projected costs, Staley said.

With those issues in mind, Marsella said, "I think that the financing assumptions need to be revisited. I think all three of us concur that getting federal support in the percentages that we're looking at right now is going to be problematic based on the numbers, the ridership numbers."

Marsella said the feds "are tough. It's a tough process" to get funding from them. Denver, for instance, had two corridors with significantly higher ridership numbers than Wake County's and didn't apply for federal funding because local officials were certain they didn't meet the criteria, he said.

"I'm not ready to cast a death knell" on the rail projects, he said. "Is it ready for rail yet? I'm not so sure about that." But Wake County could be ready for bus rapid transit that morphs into rail later, he said.

Planning should be put in place for future rail considerations, he said. "Keep your options open toward a vision to accomplish it."

The rail project, "from a pure, pragmatic numbers perspective, is a premature investment," Polzin said. "If this were a stock prospectus and someone were looking at this, they wouldn't jump, because you're an outlier."

Wake County is "not a normal urban area that's pursuing rail in the sense of having the robust existing market," Polzin said. "You're not turning away passengers on your buses." Forecasts in cities where rail is pursued often have 60 percent or more of riders converting from existing bus to rail. "You're not in that position as best I can tell."

But there are intangibles, he said. Building rail lines as an icon or as a statement that one's is a "progressive" community is "substantive, and it counts to people," Polzin said.

If that is the goal, he cautioned, a community should not "run around pretending that this is solving global warming, and reducing congestion, and saving air quality, and doing all kinds of other things," because analysts who understand the limits of rail transit's effects will know those claims are false.

If a community is "saying this is

an icon, this is something we do just like parks, and zoos, and museums, so be it. But don't, in effect, lie about it and try to rationalize it as a transit project," Polzin said.

Staley emphasized that whatever agency ends up taking the lead on the transit plan, it must "make sure your assumptions are real." If one uses bad numbers, they will be exposed publicly and very well could set back any transit improvement for decades, he said.

"Unfortunately, we see this happening over, and over, and over again," Staley said.

Polzin said there would continue to be pressure groups pushing for immediate action.

"We're talking hundreds of millions to billions of dollars, and there tends to be an impatience and kind of a mind-set to quit studying and start doing," Polzin said. "You need to counteract that" and not apologize for going slowly and deliberately.

"The good news is you're not behind the curve at all right now. Your levels of congestion are the envy of most cities, so you're not at a crisis point, and some cities are," he said.

All three experts said the private sector should be brought more into public transit.

The United States is "behind the curve of what's going on globally," especially in Asia and South America, Staley said. In those regions, public-private partnerships are used to maintain transit services. London auctions off its bus routes to private companies, but the city sets the operating standards, he said.

"If we go outside the U.S., we find that jitney services, van services" are used in high volumes, Staley said. The municipalities auction off the routes.

"Those are things we could be experimenting with in the U.S.," he said. The government would ensure the contracts are monitored and establish performance metrics, and the private firm would handle day-to-day operations.

Marsella pointed out that Denver entered into a 34-year agreement with a consortium of rail builders and other businesses that was responsible to build light rail lines and put up several hundred million dollars at the outset. The government pays a monthly sum to cover those costs.

Because of the private sector's role, the line is "coming out of the ground faster" than any project he's been involved with, Marsella said. The model makes sense for a municipality, he said, because it controls the fares, but the payments are on a pre-arranged schedule, and the private partners are responsible for employee costs and benefits.

"I'm absolutely convinced it's the best deal," he said.

CJ



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Wake Officials Seek Pact on School Construction Projects

By DAN WAY
Associate Editor

After the General Assembly earlier this year failed to enact legislation that would shift control of school building construction and ownership from the school district to the county commission, the Wake County Board of Commissioners voted 4-3 Nov. 18 along partisan lines to approve an interlocal agreement with the Wake County Public School System to reach that same aim.

Debate on the measure grew sharp at times. Minority Democrats contended the pact would worsen existing tensions with the school board. Majority Republicans insisted they were not pursuing a power grab or an ultimatum, but instead attempting a joint effort to be prudent stewards of \$983 million in school construction bonds.

A separate controversy emerged during the public comment period when Raleigh contractor Keith Harrod asserted that the school board "is completely ignoring both the letter and the spirit" of state statutes requiring a transparent competitive bidding process.

Republican Commissioner Tony Gurley defended the interlocal agreement. "This is not asking for any new legislative authority. This is simply a request to engage the school system under current legislative authority to allow the County Commission to cooperate with this program," Gurley said.

"Our responsibility to the taxpayers is to get the best value for the money. We're looking at spending almost \$1 billion over the next few years. I believe that the taxpayers will be better served having two boards working together on this new construction program," Gurley said.

Under the agreement, Gurley said, "the school board shall give due consideration to requesting the county by resolution to assume responsibility for some or all of the owning, siting, acquiring, constructing, equipping, expanding, improving, repairing, and renovating the property."

In turn, the county would participate "only to the extent and under the terms and conditions requested by the school board," Gurley said. "We are offering to cooperate with the school board."

Such mutual cooperation was used in building the new Career and Technical Education high school named at the Nov. 18 meeting for Vernon Malone, former state senator and ex-chairman of both the Wake County school board and county commission.

Democrat Caroline Sullivan said it is "a great idea" to have discussions with the Democrat-dominated school board, and they should cover not just

construction but funding issues and teachers.

The process needs to be done with mutual respect and not unilaterally, as was the case when the commissioners went to the legislature, she said. That attempt "was unsuccessful, and I also think it was unhelpful, and it was not good for the community."

Although she said she has "always been a proponent for doing local issues through interlocal agreements and not going to the legislature," Sullivan said, "I'm uncomfortable with approving this interlocal agreement because it seems unilateral."

Democrat James West said, "I fully agree with the ends," while questioning "the means, and the methods, and the timing of this."

West speculated the measure would produce "another stalemate, and you're going to be taking potshots at each other through the media and all these kinds of things."

Like her fellow Democrats, Commissioner Betty Lou Ward said the commissioners should have a deliberate strategy, go slowly, and meet with the school board to establish trust and good working relationships.

"The school board is not going to just flip over," Ward said. "If you have concerns about how much money they're spending, talk to them, but don't throw it down their throat."

But Republican Commission Chairman Joe Bryan said he already broached the issue with Keith Sutton, school board chairman, and outgoing County Manager David Cooke had spoken to school Superintendent Jim Merrill. They asked that the measure be taken up at the school board's Dec. 17 meeting.

"This is aspirational," Bryan said. "We need to find a solution to this issue. This allows and moves it in that direction."

Republican Paul Coble said the commissioners don't "have the luxury of waiting three or four months to look at this. We're not driving the timetable; the school board is. They put out an RFP [request for proposals] Nov. 8 for four or five new schools."

He said the school board is

"ready to move forward with that process. If we wait, we're going to miss the opportunity to have an influence on the costs of those schools that are going to be built. We want to make sure we can get in and save the taxpayers some money."

The interlocal agreement is the mechanism to stimulate cooperative talks, he said. But if they wait schools will be built "in a process that is probably going to be the most expensive

process that can be used, and we're not going to have the opportunity to save taxpayers money."

That was a reference to Harrod's concern about the bidding process being used.

"When only three companies can bid on building schools because of the way they wrote their contracts, there's something wrong, and we need to look at that, and we need to bring

it to the attention of the school board, and say that's a problem," Coble said.

Republican Phil Matthews also expressed unease about Harrod's comments.

"I think from what I'm hearing we've got potentially a very serious

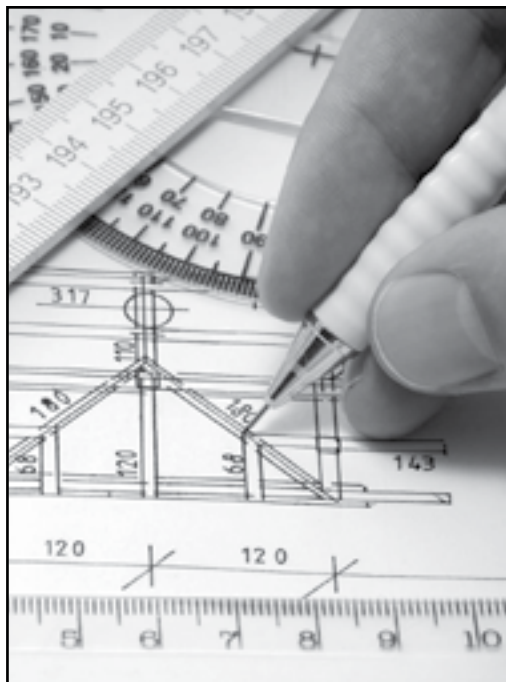
issue," Matthews said. "I don't care where you're coming from. We need to look into this and find out what's going on."

Harrod, president of Harrod & Associates Constructors, said the school board is using a construction management at-risk bidding process. Under that method, a selected firm serves as design and development consultant and general contractor during construction. The firm promises to complete the project at a "guaranteed maximum price," but there are no separate bidding sequences for the design, bidding, and building phases of the project.

"As far as can be determined, Wake County Public School System has not even considered the competitive bidding delivery method," outlined in N.C. General Statutes, Harrod said. "Nor have they provided a detailed, fact-based explanation as to why construction management at-risk provides financial benefits to the taxpayers of North Carolina as required by law."

By soliciting only construction management at-risk firms and writing very narrow criteria for which few North Carolina companies qualify, "It appears to me obvious that the Wake County Public School System is completely ignoring both the letter and the spirit of this law," Harrod said.

While larger, more sophisticated projects may require a construction management at-risk process, "it is not appropriate for each and every project. In fact construction management at-risk was originally promoted to the legislature to meet the needs of unusual projects, certainly not the typical elementary school," Harrod said. CJ



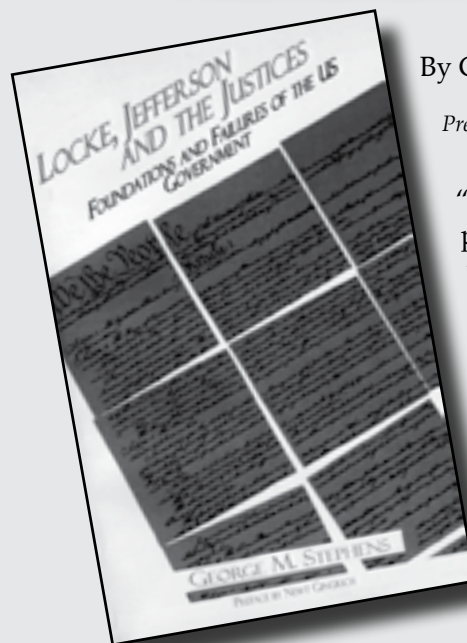
Locke, Jefferson and the Justices: Foundations and Failures of the U.S. Government

By George M. Stephens

Preface by Newt Gingrich

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Newt Gingrich
Former Speaker
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Appeals Court Blocks Bail Bonds Training Monopoly

By MICHAEL LOWREY
Associate Editor

RALEIGH

The state's second-highest court has rejected an attempt by the General Assembly to specify the sole organization that can provide the training that's required of bail bondsmen. In its ruling, the N.C. Court of Appeals held that the 2012 law ran afoul of a provision in the state constitution prohibiting monopolies.

State law requires bail bondsmen to obtain a license from the government. The requirements for obtaining this certification include 12 hours of classwork. In addition, bail agents must take three hours of continuing education classes each year to keep their license current. In recent years, two different groups have provided this mandated training: the for-profit North Carolina Bail Academy, which is owned by the Rockford-Cohen Group, and the nonprofit North Carolina Bail Agents Association.

As *Carolina Journal* documented in a January 2013 article, the relationship between these two organizations is strained at best. During the waning days of the 2012 legislative session, the General Assembly passed a law declaring that only the Bail Agents Association could provide bail bondsmen training. The exact origin of the provision is uncertain, though two senior legislative leaders are closely linked to the association. Sen. Tom Apodaca, R-Henderson, owns a bail bonding company and is former president of the N.C. Bail Agents Association. Rep. Justin Burr, R-Stanly, is a bail bondsman, and his father is the association's current president.

In response to the change in



The N.C. Court of Appeals viewed a 2012 change in the law as creating a monopoly on bail bondsman training and as detrimental to competition in the field.

law that would put them out of the bail bondsmen training business, the Rockford-Cohen Group went to court seeking to bar enforcement of the provision. Superior Court Judge Donald Stephens issued a preliminary injunction on Oct. 1, 2012, doing just that.

"This court cannot find any factual, logical, or reasonable basis that [the law] serves any other purpose other than to eliminate all current and future competition for the benefit of a private corporation or association in violation of the North Carolina Constitution," he wrote.

The Bail Agents Association then proceeded to challenge Stephens' determination and brought the matter before the Court of Appeals, where the

constitutionality of the provision was again the central issue.

Article I, Section 34 of the North Carolina Constitution states, "perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed."



The N.C. Supreme Court has addressed what constitutes a monopoly in a 1940 case, *State v. Harris*. The high court noted that, "monopoly, as originally defined, consisted in a grant by the sovereign of an exclusive

privilege to do something which had theretofore been a matter of common right."

"The exclusion of others from such common right is still considered a prominent feature of monopoly, and

the consequent loss to those excluded of opportunity to earn a livelihood for themselves and their dependents . . . has been considered the prime reason for the public policy then adopted into the Constitution."

Upon appeal, the Bail Agents Association contended that the "opportunity to provide state-mandated training to bail bondsmen is not a common right."

The Court of Appeals flatly rejected this argument.

"Defendant misconstrues the common right at issue," wrote Judge Linda McGee for the court in upholding the injunction.

"The General Assembly created the right to apply to provide creditable bail bondsmen training in the previous version of this statute. . . . Then, the General Assembly amended the statute to exclude all others from being considered by the Commissioner of Insurance to provide creditable bail bondsmen training.

"Thus, the common right that has been lost is the right to be considered by the Commissioner of Insurance for approval to provide creditable bail bondsmen training. By excluding all others, the General Assembly deprived all others of the opportunity 'to earn a livelihood for themselves and their dependents. . . .'"

Court of Appeals decisions are binding interpretations of North Carolina law unless overruled by the state Supreme Court. Because the three-judge panel made a unanimous ruling, the high court is not required to hear the case if the Bail Agents Association decides to appeal.

The case is *Rockford-Cohen Group, LLC v. N.C. Department of Insurance*, (13-124).

CJ

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AG Uses Personal Insurance for Campaign-Related Legal Bills

Continued from Page 1

Wallace also stated that Julia White's legal expenses were being covered by her umbrella policy with St. Paul Guardian Insurance Company.

Carolina Journal asked Harrell to estimate how high Cooper's legal fees may have mounted since the inception of the lawsuit. "Having examined the documentation, including petitions to the United States Supreme Court, I formed an opinion that the legal fees in the Cooper matter are in excess of \$400,000. The case is now remanded back to the Superior Court of Wake County for a scheduling conference. It follows that legal expenses will continue," he said.

The ad

In 2000, Cooper was the Democratic Party's nominee for attorney general. His main opponent was Republican Dan Boyce. Cooper won that election by nearly 136,000 votes out of 2.85 million ballots cast — a margin of 51-46 percent. He was re-elected in 2004, 2008, and 2012.

One week before the 2000 election, Cooper's campaign started running a television ad that read: "I'm Roy Cooper, candidate for attorney general, and I sponsored this ad. Dan Boyce: His law firm sued the state, charging \$28,000 an hour in lawyer fees to the taxpayers. The judge said it shocks the conscience. Dan Boyce's law firm wanted more than a police officer's salary for each hour's work. Dan Boyce — wrong for Attorney General."

Cooper's political committee paid more than \$1 million to air the ad multiple times on 28 North Carolina television stations.

But the ad contained statements that were not true. When the advertisement was running, Dan Boyce, his father Gene, Philip Isley, and Laura Isley were partners at the Boyce & Isley law firm in Raleigh. Dan Boyce did not work on the *Smith* case, the lawsuit the ad referenced. The Boyce & Isley law firm had not been created. Gene Boyce and attorneys from the Womble Carlyle Sandridge & Rice law firm filed the *Smith* lawsuit.

In addition, Gene Boyce was not the candidate, and he did not charge \$28,000 an hour to the taxpayers in the *Smith* case. Legal fees in class-action lawsuits are set by the judge, and the final payment to the attorneys was much lower than the amount alleged in the ad.

Case history

Boyce's lawsuit alleges that Cooper and his 2000 campaign committee ran a political ad that was defamatory and constituted unfair and deceptive trade practice, and that they participated in a conspiracy to violate a North Carolina law prohibiting false

ads during election campaigns.

A Wake County judge dismissed the initial complaint in April 2001 for "failure to state a claim upon which relief can be granted." Gene Boyce did not give up. In September 2002, the North Carolina Court of Appeals issued a ruling on Boyce's appeal of the initial hearing. The court concluded that the "plaintiff's complaint presented a sufficient claim upon which relief could be granted for defamation and unfair and deceptive trade practices" and "that the trial court erred in dismissing plaintiffs' complaint."

The case has been before state and federal appellate courts on eight occasions. In May 2012, the U.S. Supreme Court — for a second time — denied Cooper's request to review the matter and end the case in his favor. Each appellate court decision has moved the plaintiffs toward their goal of a jury trial.

Gene Boyce has been practicing law since 1956. He served as assistant chief counsel to the Senate Watergate Committee, working with U.S. Sen. Sam Ervin, D-N.C., on the investigation of President Nixon's 1972 presidential campaign.

Umbrella policies

Umbrella policies are designed to provide an extra layer of protection beyond the coverage included in a person's automobile and homeowners or renters insurance. A typical umbrella policy may protect the policyholder from claims such as slander, libel, or defamation of character. Protection in the event of claims for those matters could be stated in the policy.

Cooper's 2000 umbrella policy through Travelers, as reviewed by *CJ*, did not include the terms libel or defamation under coverage.

Current umbrella policies appear to be clearer on libel and defamation issues.

Insurance industry literature suggests that the changes were made to protect from defamation lawsuits unpaid bloggers and others leaving comments on social media sites.

Promotional information posted on the Travelers website says the following: "As a Travelers auto insurance customer, you can add an additional layer of personal liability protection with Travelers umbrella insurance. Umbrella insurance offers an extra layer of liability coverage, which can help if you ever find yourself responsible for unexpected damages that exceed the limits of your auto, home, or boat policies." Another statement lists, "Coverage against libel, slander, defamation of character, and invasion of privacy," in a summary of items covered.

A current umbrella policy sold by GEICO (owned by this reporter) covers "Personal injury," which is defined as follows: "Mental or bodily in-



Raleigh attorney Gene Boyce filed his lawsuit against Roy Cooper alleging that an ad in Cooper's 2000 campaign was defamatory and constituted unfair and deceptive trade practices. (CJ photo by Don Carrington)

jury, shock, sickness, disease, or death including care and loss of services; or injury arising out of ... libel, slander, defamation, humiliation, or a publication or utterance in violation of a person's right of privacy not arising out of any business pursuit of any insured."

Cooper's annual premium when the lawsuit was filed was \$135. The policy required him to maintain insurance on all vehicles and homes leased or owned. The section titled "Duties After Loss" also requires the insured, "in case of an 'occurrence' which may involve this policy," to, at the insurance provider's request, "help us ... to make settlement."

The limit of liability is \$1 million. Cooper purchased the Travelers Umbrella Policy through BB&T Insurance Services in Rocky Mount. A supervisor for BB&T Insurances Services told *CJ* she could not comment on individual policies, so it is unclear if Cooper or Travelers has changed the terms of the policy or the premiums he must pay to maintain coverage.

Cooper's legal team

The full extent of Cooper's legal team to date is unclear, but in a 2005 letter to the State Board of Elections, campaign attorney Wallace stated the following:

"The Travelers has engaged the firm of Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P. The Committee is informed that the individual attorneys at Brooks Pierce include, but may not be limited to Jim W. [Phillips], David Kushner, and Henry Frye. The firm of O'Melveny & Myers, L.L.P. has also appeared by and through Walter E. [Dellinger], Matt Shores, and Pam Harris. Ms. White's carrier engaged the firm of Smith Moore, L.L.P. The Committee is informed and believes that [Alan] W. Duncan, James G. Exum, and [Allison Van Laningham] have appeared in the action. The Committee is informed and believes that other attorneys in each of the firms may have also participated in the defense of the claims asserted in the action." *CJ*

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Local Governments, Universities, Colleges Facing Employer Mandates

Continued from Page 1

"An informal survey conducted last fall, however, suggested it could impact up to 10,000 temporary employees," Worthington said. That would comprise 3,000 adjunct faculty members and 7,000 staff employees.

"The ACA is an unfunded mandate, and campuses will receive no additional funding to provide the required health care coverage," Worthington said.

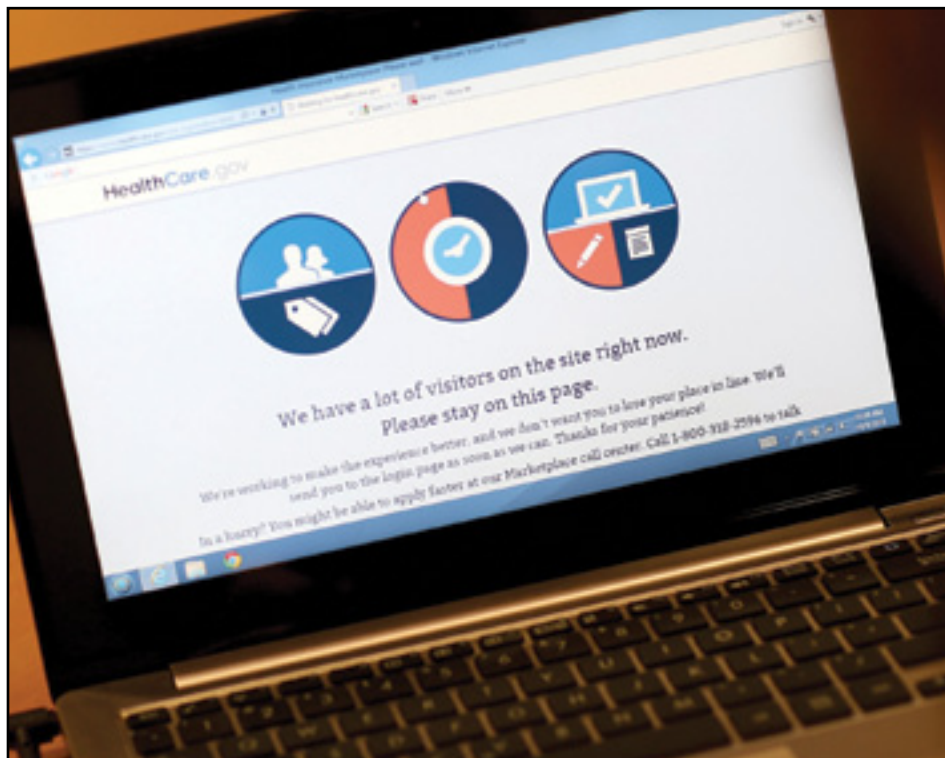
UNC General Administration has no plans to cap employees' hours to avoid Obamacare's health coverage requirements. Campuses may have adjunct professors teach as many hours as needed, Worthington said.

"It could have — quite significant for us — a budgetary impact on the college," said Randy Parker, spokesman at Guilford Technical Community College. Complying with law changes "has created a lot of angst for us."

The college likely will cut some adjunct professors' hours rather than add them to the insurance plan. Because course demands will remain steady, the college will need to hire more adjunct professors, who teach part-time, to fill the gap, Parker said.

There are 21 colleges and universities within driving distance in the Triad, Parker said. Many are considering the same strategy, and that is "creating some challenges for all of us in finding enough faculty."

Some adjunct staff also work part-time in other campus offices and may need to be shifted onto the health care plan, Parker said. It could be necessary for GTCC to hire full-time staff to monitor the hours of its part-time workers across its five campuses to ensure they remain under the new 30-hour "full-time" designation, Parker said.



Local governments and colleges and universities will be subject to employer mandates in 2015 under Obamacare rules and regulations.

Megen Hoenk, spokeswoman for the North Carolina Community College System, said community colleges essentially "are all making decisions locally on how to comply ... given their own individual circumstances."

She said colleges are still working out how they're going to handle any impacts.

Najuma Thorpe, spokeswoman for the North Carolina League of Municipalities, said the league's risk management services director told her "it is a little bit too early to say where this is going with regard to our members."

Most municipalities have fewer than 50 employees, "and some will need to measure the seasonal and part-time hours just in case this results in full-time equivalents, whereby they hit

the 50-employees threshold," Thorpe said.

Small companies, identified as those with fewer than 50 employees, are exempt for now from the Obamacare mandate to provide their workers with insurance.

"Most are taking a wait-and-see attitude regarding the public exchanges," Thorpe said. Those electronic marketplaces sell the coverage plans approved by the federal government as compliant with Obamacare mandates.

Greenville City Manager Barbara Lipscomb said the city plans no employee cuts or reduction in services due to the Affordable Care Act.

But Lipscomb said Obamacare's mandates contributed about 3 percentage points of an anticipated 8- to 10-percent increase in the city's 2014 health insurance costs.

Todd McGee, director of public relations at the North Carolina Association of County Commissioners, said he's heard nothing concrete about any actions planned by the state's 100 counties.

"We have not experienced or initiated cutbacks or reductions to our employee work force as a result of the Affordable Care Act requirements," said Onslow County Manager Jeff Hudson.

Incorporating Obamacare mandates such as expanding coverage for dependents up to age 26, providing preventative care at no out-of-pocket cost to patients, removing lifetime or annual coverage limits, and not excluding members with pre-existing conditions created an increase in costs "estimated to be below 2 percent of the total cost for the Onslow County employee health plan," Hudson said.

Amanda Hutcheson, Brunswick County public information officer, said there have been no layoffs, reduction in hours, or elimination of programs

to comply with Obamacare, but insurance costs will escalate due to the law's mandates for additional coverage.

Increasing preventive services for women's health care will cost \$86,105 each of the next two years. The transitional reinsurance fee designed to help fund the Obamacare exchanges will cost \$123,624 each of the next two years. The Patient-Centered Outcomes Research Institute fee will cost \$209,729 this fiscal year and \$211,479 in 2014-15.

Durham Assistant County Manager Deborah Craig-Ray said Durham County "had to make very few changes to its health benefit to comply with Affordable Care Act requirements" because the county's plan offers benefits similar to those in Obamacare-compliant policies.

She said "the county's plan has included coverage for Essential Health Benefits, co-pay-free preventive services, coverage for adult children up to the age of 26, and no pre-existing condition exclusions for a number of years. ... Part-time employees who work a minimum of a 50 percent work schedule are already benefits-eligible, and at this time will continue to be eligible. The county has made no changes to its retiree benefits."

School districts may have dodged the Obamacare bullet at this point.

"The health coverage for employees is provided by the state. If there is discussion among school finance officers, I'm not aware of it, and I've not heard any discussion of it by the school board members," said Ed Dunlap, executive director of the North Carolina School Boards Association.

Community colleges are faced with the same IRS part-time employee conundrum as the UNC System. A typical response from community college officials came from Janet Burnette, executive vice president and chief financial officer of Southwestern Community College in Sylva.

"While we are still evaluating our options, it appears that we will have to limit the hours that we allow part-time employees to work," Burnette said.

Responses from other government agencies clustered around several reactions to Obamacare.

- Little or no impact: City of Goldsboro, City of Wilson, Durham Technical Community College, Halifax Community College.

- Monitoring hours of part-time employees: Robeson County, Central Piedmont Community College, Southeastern Community College.

- Reducing hours of adjunct faculty members: Cleveland Community College, Fayetteville Technical Community College, Randolph Community College.

- Adding part-time employees: Craven Community College.

- Reviewing staffing policies or unsure: Coastal Carolina Community College, Davidson Community College, Robeson Community College.

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Starr Concerned Colleges Not Requiring Enough of Students Today

By CJ STAFF

RALEIGH

As tuition costs climb, student loan debts accumulate, and recent graduates struggle to find jobs, more people are questioning whether the American system of higher education is working as well as it could. Kenneth Starr, president of Baylor University and well-known independent counsel for federal government investigations from 1994 to 1999, visited North Carolina recently to discuss whether higher education is “working hard or hardly working.” While in Raleigh, Starr discussed higher education’s challenges during an interview 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: I understand that the topic [of your presentation] is based on this idea of looking into the notion of whether colleges are really doing now what they were designed to do. Is that a major concern?

Starr: I think it’s a legitimate concern. In some instances, it should be a major concern. It should be a concern for faculty, as well as administrators. It should also be a concern for alumni, for trustees, and perhaps most of all for parents and the students themselves. Some of the studies are showing that students in higher education generally — and I am painting with a broad brush here — are studying considerably less than those who went to college in my generation. What used to be a 40-hour study week has, at least according to the polls I’ve seen, become more of a 23-hour study week. Well, if anything, one would think that the numbers are going up, even with the efficiencies brought in by the Internet and other wonderful technical aids to learning.

So I think we need to be introspective. We need to take the criticisms. We in higher education need to take the criticisms that are being leveled at higher education very seriously and really look at what is it that we are doing. What is it that we’re seeking to accomplish?

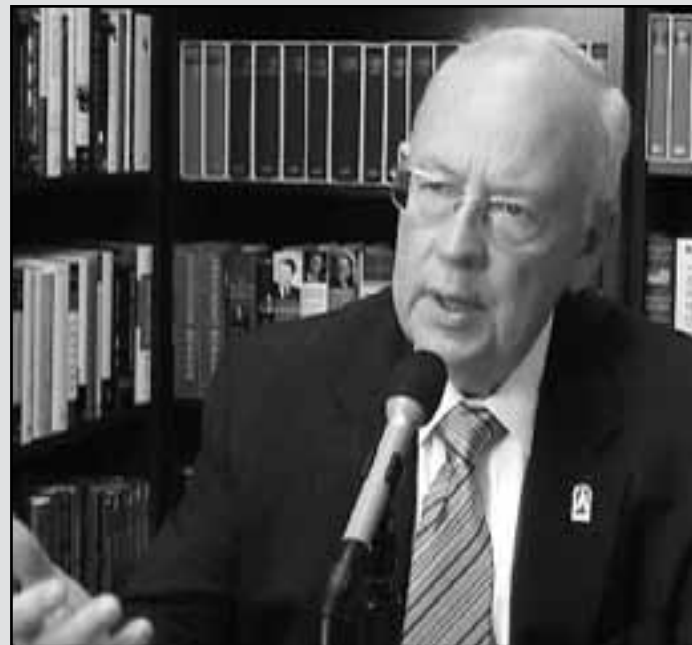
Kokai: Beyond just the number of hours spent, are the types of things that students are studying the right things for a college environment?

Starr: I think that’s another serious question that each institution needs to ask itself. The American Council of Trustees and Alumni, ACTA, by name, came together five or six years ago ... based in Washington, D.C. And it’s been very helpful in analyzing the rigor of the curriculum of over 1,000 colleges and universities.

The results of that were, I think,

“I think we need to be introspective. We need to take the criticisms. We in higher education need to take the criticisms that are being leveled at higher education very seriously and really look at what is it that we are doing. What is it that we’re seeking to accomplish?”

Kenneth Starr
President
Baylor University



somewhat distressing for much of higher education. Now, some will quarrel with the standards and the categories employed by ACTA, but I take those categories seriously. I hasten to note that the university that I’m privileged and blessed to head up did receive an A. That’s the highest grade. There are no A-pluses.

But only 23 — this last go-round — colleges and universities received an A from ACTA for the rigor of the curriculum. What is it that you’re requiring those students to do? And the illustration that I like to use is our illustrious graduate student-athlete, [Heisman trophy winner and current Washington Redskins quarterback] Robert Griffin III. I know this is not Redskins country, but you have listeners everywhere. And Robert Griffin was the true student-athlete.

Because he was and is interested in law school, he had to take a foreign language, like the other Baylor students. But what did he choose? He chose Latin. And I’m free to say, even though privacy laws prevent certain kinds of disclosures, this is in the public domain, he got an A in both Latin I and Latin II.

That is the ideal. We want students to really be, from the Baylor perspective, transformed, to see and read the great works. We want them to be transformed in their perspective, to grow in maturity, to ask those existential questions. What is life all about? What is human? What does it mean to now be in the United States in the 21st century, a global century? Those big questions that I’m fearful all too frequently we, in higher education, are not calling on our students to ask.

Kokai: Some people approach college as, “This is the stepping stone on the way to the job. You should go into college, get the skills that help you get a job.” Is that the wrong way of looking at the college experience?

Starr: I think it’s an imbalanced way. One should be mindful of preparation for life itself, including being a productive citizen. For the students of this generation, I hope they’re taking a very careful look at being entrepreneurial, and finding the joy that comes from creating. But people may not have that particular gift or that particular sense of calling. But yes, I think there needs to be an awareness of it and careful planning. At the same time, education should not be simply an instrumentalist way to achieve a high-paying or relatively high-paying job.

One of the programs that I love at Baylor University is called the Business Fellows program. So yes, one has training as an undergraduate in business, but one also reads widely, including in the classics. So the idea is to educate for citizenship, for service to the country, to the world, one’s own community, and a much more broad sense of what it is to be an educated — college-educated — person, especially in the 21st century. Mindful of jobs, but not driven by that as the *summum bonum*.

Kokai: Some people will consider what you’re saying and think to themselves, “I can’t see how reading Plato or Cicero is going to help my kid who’s heading to college in the long run.” What’s the response to people who just don’t get that viewpoint?

Starr: It’s a fair question, but the answer, in short, is one is developing one’s analytical skills of thinking and communication, thinking rigorously, thinking analytically, and then hoping that one has the opportunity to have the sort of mentorship that we do honor at Baylor so that one needs an editor to be able to analyze, to write, to communicate, and to have someone tell you, “Excuse me, but your verbal communication needs to be improved. Why

don’t we begin by eliminating the use of the word ‘like’ every third word?” Those kinds of mentorships that we all need ... to develop the mind.

[Former President Franklin Roosevelt], it is said — I don’t think this is apocryphal — called on then-ancient Justice [Oliver Wendell] Holmes in his 90s as a courtesy call, and the justice had recently retired. He found the justice blind, as he was in his great, late age, having Plato’s *Republic* read to him. And when the president-elect said, “Mr. Justice, why are you reading Plato?” Holmes replied, “Well, Mr. President, to improve my mind.”

So ... even if we’re entirely instrumentalist, you will be a more effective human being if you have had the discipline and the opportunity to read the great works and to read them rigorously, and then to have the opportunity to discuss those works and to write about those works.

Kokai: If people who are interested in improving the college experience want to take a first step away from where we are now, to the point we need to be to have a good college education for most students, what should they do?

Starr: I think first is to look at what are the actual requirements for graduation at their alma mater or the institution that is drawing them. And then, secondly, do a rigorous analysis of that. And has the curriculum been watered down, as it were? Now, that’s subjective. But there are those like ACTA ... that can be a guide and give one benchmarks as to whether, in fact, the college is doing that that it should do to help train and to empower young people to be truly effective citizens in the classical sense. CJ

UNCG Faculty, Students Resist Facility Spending

By JESSE SAFFRON
Contributor

RALEIGH
Students at the University of North Carolina at Greensboro pay the highest debt service fee — the fee used to pay for past and future campus construction costs — in the UNC system.

Out of the \$2,390 that a UNCG student shells out each year in student fees, \$707 is used to pay off the school's construction-related debt. Of that \$707, \$435 is being channeled into a controversial project for a \$91 million campus recreation facility, which is scheduled to open in 2016.

UNCG, like many colleges in North Carolina and across the country, has raised its tuition and fees at a marked rate in recent years. From 2007-08 to this 2013-14 academic year, tuition and fees at UNCG have increased by almost 60 percent. As the fifth-largest school in the UNC system, UNCG now also has the fifth-highest tuition and fees. So for some students and professors, the \$91 million recreation center (the most expensive building in the school's history) represents a huge burden and signals that the university's priorities are backward.

On Oct. 30, more than 40 students and faculty members held a press conference on UNCG's campus to express their disapproval. A faculty member said that UNCG is becoming "a fancy hamburger stand without the beef," claiming that the push for flamboyant campus facilities has overtaken the push to improve academic excellence. "I am very concerned about the shift in emphasis at this university," said another professor, Susan Dennison.

Student representatives and concerned parties have been vocal throughout the past few months. Two days after the press conference, one student, Jonathan Lyle, wrote a letter to the editor of Greensboro's *News & Record*, claiming that "prioritizing this expansion undercuts UNCG's teaching mission, making it less attractive to students looking for quality, yet affordable education. UNCG is failing its students, and it's failing as an institution of higher education."

The recreation center is part of a massive, multiyear project initiated by UNCG, called Spartan Village. The Village was planned and designed — at least partially — around enrollment projections that have not matched reality. According to the UNC General Administration, the school's undergraduate and graduate enrollment figures declined by 5 percent and 12 percent respectively between 2009 and 2012. Those arguing against the new construction say that it makes little sense to force students to pay \$435 per year for an expansive facility at a shrinking university.

According to the UNCG administration, 45 faculty positions will be eliminated this year because of state funding cuts (although those are vacant positions); the school also is shuffling 14 professors to new positions to avoid layoffs. There also will be reductions in graduate student stipends. Students and faculty opposing the new facility believe that spending fee revenue on projects unrelated to what they view as a deteriorating academic environment will do a disservice to students and the reputation of UNCG.

The university administration sees things differently. On its website, the UNCG administration writes that the existing facility is too small given the current student population, and that demand for recreation facilities has increased since the current building was built in 1992. They also point out that the new building will provide new jobs for students; will host concerts, dances, and other campus events; and will be an overall benefit to the community.

Other North Carolina colleges have caught the construction bug. N.C. A&T State University has announced plans to build a \$90 million student union. A couple of years ago, N.C. State University renovated its student center for a cool \$120 million. At a recent UNC-Wilmington trustees meeting, the administration presented plans for a new athletic facility. A host of other schools recently have constructed buildings or have plans for sprawling renovations. CJ

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



COMMENTARY

'General Education' At UNC-Chapel Hill

What do the following courses have in common: The History of Hip Hop Culture; Bollywood Cinema; Cowboys, Samurai, and Rebels in Film and Fiction; Love, Sex, and Marriage in Soviet Culture?

Yes, those are courses taught at UNC-Chapel Hill. Moreover, these are General Education courses that Chapel Hill students can choose to fulfill graduation requirements outside of their major.

In the past, general education meant broad courses like Survey of World History, American History before 1865, and American History from 1865 to the Present.

A new report by Jay Schalin and Jenna Ashley Robinson of the Pope Center, "General Education at UNC-Chapel Hill," describes the current program as an "all-too-typical 'smorgasbord' approach." It is "unstructured" and "unwieldy." Students choose from among 4,700 courses!

The paper contends that the current system "exists as much for the good of the faculty and various campus political constituencies as it does for students." The authors say that many faculty members regard the GenEd curriculum "as a means to advance their own department's courses and even their own narrow fields of research." In addition, the GenEd program tends to "promote particular political beliefs and intellectual trendiness."

Schalin and Robinson would eliminate the multitude of narrow courses in favor of those meeting a standard of broader subject areas and more important material. Students still could choose from a menu of more than 700 courses.

The report also discusses what a general education curriculum ought to be. In the authors' view, a core education in the 21st century should impart three things: "One is the ability to reason; another is an awareness of the world's most important ideas, the ones that have affected the course of history and the modern world; the third is a high degree of cultural awareness."

To achieve those goals, they say, students should be acquainted with logic, quantitative reasoning, philosophy, Western civilization,

comparative religious systems, British and American literature, and the U.S. founding.

UNC's failure to have a coherent approach to what a college graduate should know is not unusual. As Russell Nieli wrote in a Pope Center paper, "From Christian Gentleman to Bewildered Seeker," for its first two centuries American higher education had "one simple and overriding goal: the production of morally earnest Christian gentlemen, well versed in liberal learning and in the classics of Greco-Roman and Biblical high culture."

This was even true of public colleges, says Nieli. But the center broke apart in the 1870s when Charles Eliot introduced electives at Harvard. Recognizing that scientific knowledge was proliferating — and seeing the German scientific university as a model — Eliot made it easier for students to pursue academic specialties, and he set the stage for the modern research university.

That also undermined the concept of a unified body of knowledge. Colleges that modeled themselves after Harvard (even today, most do) copied the elective system.

The electives approach was not fully satisfactory. In 1945 a blue-ribbon committee of Harvard faculty issued a famous report spelling out the problems of the electives system. "A supreme need of American education is for a unifying purpose and idea," it said. "We are faced with a diversity of education which, if it has many virtues, nevertheless works against the good of society by helping to destroy the common ground of training and outlook on which any society depends."

Unfortunately, the Harvard experts never quite figured out what to do, and "core curriculum" is more a hope than a reality. Perhaps the Pope Center report will encourage UNC-CH to take a second look at the purpose of its curriculum. And if it doesn't, perhaps other schools will. CJ

Jane Shaw is the president of the John W. Pope Center for Higher Education Policy.



JANE SHAW

Campus Briefs

Duke University students behaved badly the night sociologist Charles Murray came to Durham.

On a positive note, they did not break windows, threaten Murray physically, or shout him down during his Oct. 28 lecture (as did University of North Carolina at Chapel Hill students in 2009 to former U.S. Rep. Tom Tancredo, R-Colo., who was speaking about immigration reform). Instead, Duke students showed their immaturity and anti-intellectual tendencies by walking out of the auditorium when Murray began to speak. (Roughly half the audience did so).

Murray long has been anathema to the political left for his 1994 book, *The Bell Curve*, a scholarly treatment of the role intelligence plays in determining success in life. The main theme of the book concerned how society is separating into socioeconomic subcultures based on intelligence (rather than ethnicity), but critics focused on his analysis of statistics showing different average IQs for different races.

Murray has been vilified — unfairly — as being a racist for reporting his findings. One of the walkout organizers, Prashanth Kamalakanthan, accused Murray in *The Duke Chronicle* of building “a career espousing a hierarchy of humans in which babies born poor, brown, or female are responsible for their own miserable lot.”

As such, he betrayed his lack of comprehension of Murray’s work, for Murray was issuing a warning about the potential harm caused by such social stratification, rather than espousing a racial supremacist agenda as Kamalakanthan claimed.

A second student wrote the following defense of the walkout, revealing a frightening animosity toward the free and objective exchange of opinions that universities are supposed to champion:

“The free market of ideas serves those exceptional few with the most intellectual and social capital ... only by subjecting everyone else to even higher levels of social control and intellectual scrutiny, all the while asserting these same people’s ‘liberty’ and ‘equal right to speak.’”

If Duke students find the “free market of ideas” to be distasteful, the university has failed them.

CJ

Jay Schalin is the director of policy analysis for the John W. Pope Center for Higher Education Policy.

UNCW Grapples With New Legal Rights for Students

By JESSE SAFFRON
Contributor

RALEIGH

On Oct. 25, a heated exchange took place at the meeting of the board of trustees at the University of North Carolina at Wilmington resulting from an intense collegiate civil liberties debate.

For several years, Sigma Alpha Epsilon, a fraternity at UNCW, was embroiled in back-and-forth wrangling with school administrators over alleged hazing and underage drinking infractions. The fraternity maintained that student affairs administrators weren’t allowing SAE members to have legal counsel present at conduct hearings. SAE argued that administrators conducted much of the proceedings behind closed doors and that students weren’t allowed to respond to hearsay and unsubstantiated accusations.

In February 2013, the fraternity’s then-president, Ian Gove, wrote a letter to the North Carolina General Assembly asking that students and student organizations involved in nonacademic disputes be allowed to have legal counsel, or some form of representation, at all disciplinary hearings.

Two months later, a bipartisan group of legislators drafted a bill titled the Student and Administration Equality Act (the SAE Act — an homage to the SAE fraternity). With the help of Robert Shibley, senior vice president of the Foundation for Individual Rights in Education, an organization that promotes freedom on college campuses, the SAE Act became law in August.

North Carolina became the first state in the nation to provide such protections for university students.

The law allows students and student organizations charged with nonacademic conduct violations to be represented by an attorney or “nonattorney advocate.” However, students charged with academic dishonesty or students who face proceedings in a “Student Honor Court” are exempted from this law. This means that if a student is charged with one of these exempt offenses and opts to pursue adjudication in a student-led court rather than an administrative proceeding, he or she won’t be able to hire counsel.

In a recent letter to the UNC system schools, Tom Ross, the UNC president, said that he is troubled by the law because it “has the potential fundamentally to alter processes intended to help students make better decisions and is likely to add delay and significant costs to the student disciplinary



process.” Nonetheless, after the SAE Act became law, the UNC Board of Governors and the General Administration directed each UNC system school to change its procedures to achieve compliance.

At the recent UNCW trustees’ meeting, one trustee, Dennis Burgard, expressed concern that the student disciplinary system has a “great deal

of subjectivity” that gives students “very little assurance” that the system is impartial. Some trustees were worried that students might become implicated in criminal cases. Others wanted an assurance from the administrators that students were

made aware of their right to an attorney before and upon being charged.

Repeatedly stressing that the goal of the student disciplinary process is “educational” in nature, Patricia Leonard (vice chancellor of student affairs) and John Scherer (one of the administration’s attorneys) said the process is intended to “keep students in school,” and that there are significant differences between university disciplinary procedures and the criminal judicial system.

Scherer at times appeared to be evasive and condescending to the trustees. When asked by a trustee if he would recognize that the SAE Act originated because of UNCW’s actions toward the SAE fraternity, Scherer replied, “I can’t comment on the intent of the legislature.” At one point, Scherer even began boasting about his past prosecutorial accomplishments to add some “authority” to one of his responses.

Leonard said that when officials determine a student’s sanction, they look at whether the student has “accepted responsibility,” whether there is a “sense of contrition,” and whether the student understands the impact of his or her behavior. Some of the trustees thought that these imprecise terms were indicative of a system that needs a serious overhaul.

The chairman of the board of trustees, Wendy Murphy, highlighted the issue by saying that, unlike campus “conduct” cases, students involved in academic dishonesty cases have a defined and objective set of sanctions that apply consistently.

In the coming months, UNC system schools will have to implement the new law and tackle some of the other underlying issues that were not addressed by the SAE Act, such as creating a consistent set of student sanctions. If the clash of interests between school administrators and the students’ newly codified right to an attorney bears any resemblance to the UNCW meeting, this issue may make its way back to the legislature or the courts.

CJ

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



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Opinion

Higher Education Funding Formulas In Dire Need of Updating

Every two years, the General Assembly appropriates money to the schools in the UNC system to cover the cost of instruction — primarily professors' salaries and benefits. But the formula used to determine how much money the system requests is outdated, opaque, and creates the wrong incentives for university growth.

Indeed, the formula, with its famed "12-cell matrix," evoked lively questions at the September UNC Board of Governors meeting because it is so complex and because it mingles arbitrary estimates with actual figures. However difficult to fathom, the formula is of vital importance to chancellors because it drives appropriation requests made to the legislature for each school.

The formula has two parts. First, the system calculates "requirements" for each school, based primarily on the size of the student body and how many hours each professor is expected to teach.

Specifically, the formula takes into account the number of student credit hours taught at a given university, the number of hours each professor is expected to teach, the salary and benefit rate at each campus, and the cost of libraries. Once this "institutional support rate" is calculated,

it is adjusted at some campuses to account for the proportion of low-income students a campus teaches and the size of the school.

Second, the expected tuition revenues are subtracted from the requirement amount to generate the final appropriation request amount.

Since the enrollment formula determines the vast majority of funding that universities receive from the General Assembly, it significantly shapes universities' behavior — sometimes for the worse.

The formula is not all bad. For instance, a university receives more money if students take more courses and teachers instruct more students. Student credit hours are used to calculate the requirement funds for each school, while full-time-equivalent students (12 hours) are used to calculate tuition revenue. Thus, students taking heavy loads help the university by upping the requirement funds without increasing the tuition revenue that must be subtracted.

Moreover, the formula relies on "average" faculty workloads from the National Study of Instructional Cost and Productivity (aka the Delaware Study, which is based at the University of Delaware). If faculty members teach more student credit hours than the Delaware Study predicts, then the university has more money for other purposes.



There are, however, serious problems with the formula. First, the Delaware Study may not reflect faculty workloads accurately. Second, there are two ways for professors to be more "productive":

They can teach either more courses or the same number of courses in larger lecture halls. Faculty members generally dislike both, but usually prefer larger courses to more hours.

Unfortunately, the main motivation the formula encourages is a rapacious appetite for growth — even at the expense of other academic goals.

When a university shrinks in a given year, its funding is cut in both real and per-student dollars. This was the case for six UNC campuses in 2013-14. Those campuses had smaller "requirements" as determined by the formula and also absorbed a part of "management flexibility" cuts.

This effect gives chancellors a strong incentive to expand enrollment every year. Yet growth is not always in the best interest of the students — often it means that less qualified students are admitted, leading to falling retention and graduation rates.

The formula also potentially affects academic decisions — particularly about the departments and majors that should grow and those that should shrink or should be closed. The formula specifies a different number of hours each professor is expected to teach based on the subject. Universi-

ties receive more money for some courses than for others — regardless of their own staffing patterns.

The formula groups academic disciplines into four categories, according to how many hours professors are expected to teach. For example, professors in Category I, which includes many basics such as math and history, are expected to teach 708.64 undergraduate student credit hours per year. By contrast, professors in Category IV disciplines (engineering and nursing) are expected to teach only 232.25 student credit hours per year.

These parameters provide universities with incentives to play games. For example, by classifying history or English departments as "humanities" (Category II), universities can demand higher funding. Demand for these courses (which are required for most degrees) is constant, but professors in Category II can teach fewer hours than those in Category I, so colleges can justify hiring more faculty to satisfy the demand.

The formula sends mixed signals to college administrators and invites universities to try to game the system rather than focus on excellence.

It's time to update the formula to align with the right incentives for university growth and performance. In today's economic climate, the formula should encourage prudent growth and academic excellence, not gamesmanship and confusion. *CJ*

Jenna Ashley Robinson is director of outreach for the John W. Pope Center for Higher Education Policy.



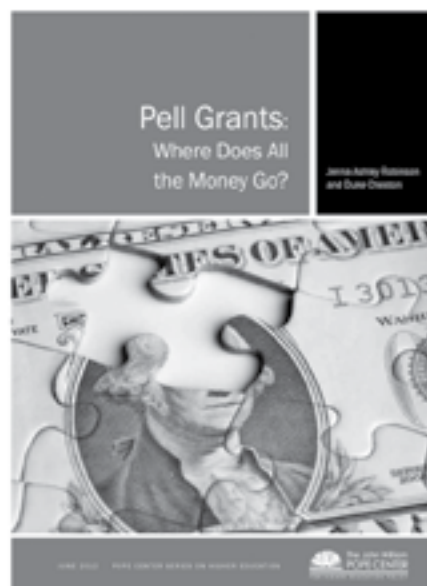
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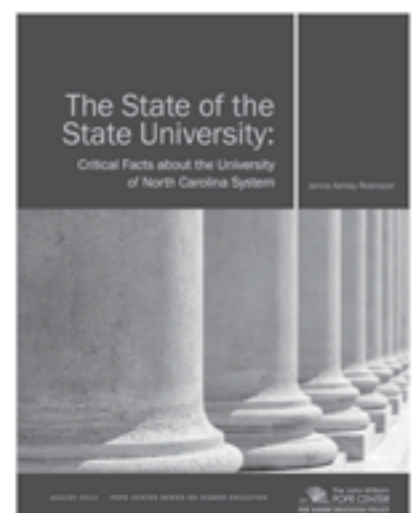


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• April 14, 1865. A famous actor pulls a trigger in the presidential balcony, leaps to the stage, and escapes, as President Lincoln lies fatally wounded. In the panic that follows, 46 terrified people scatter in and around Ford's Theater as soldiers take up stations by the doors and the audience surges into the streets chanting, "Burn the place down!" *Backstage at the Lincoln Assassination* is the untold story of Lincoln's assassination: the 46 stage hands, actors, and theater workers on hand in the theater that night, and what each of them witnessed in the chaos-streaked hours before John Wilkes Booth was discovered to be the culprit. *Backstage at the Lincoln Assassination* is must reading for anyone fascinated with the saga of Lincoln's life and the Civil War era. More at www.regnery.com. CJ

Book review

Time-Traveling Limbaugh Rushes into Children's History

• Rush Limbaugh, *Rush Revere and the Brave Pilgrims: Time-Travel Adventures with Exceptional Americans*, Simon & Schuster, 2013, 224 pages, \$19.99.

BY HAL YOUNG
Contributor

It happened to be listening to the Rush Limbaugh program the afternoon he announced his new book, *Rush Revere and the Brave Pilgrims*. He invested a long segment of the show talking about how his wife Katherine and spy novelist Vince Flynn urged him into this new venture, writing a book for children to teach the concept of American exceptionalism.

I confess that while I enjoy Rush's commentary and humor, I cringed inwardly as he described the book. The main character would be "Rush Revere," the patriot-themed mascot of Limbaugh's "Two If By Tea" beverage line. The story would feature Rush's talking horse Liberty, who has the ability to travel back in time.

Maybe it's just that I'm not the intended audience. Still, I thought, the Pilgrims have been maligned and misrepresented by all manner of liberals, revisionists, and anti-colonialists. How would they stand up to the onslaught of a friend?

I'm a fan of the Pilgrims. One of my ancestors came across on the Mayflower, I've read Governor William Bradford's *Of Plymouth Plantation*, reviewed Nathaniel Philbrick's *Mayflower* for *Carolina Journal*, and my wife and I drew on original sources for our small book *We Gather Together*. So while I'm not a historian per se, I'm tolerably well-acquainted with the actual history.

I have to say up front, Limbaugh gets the historic facts straight. It's the style which is problematic for me. I'm comfortable with historic fiction or even, to some extent, novelization of historic accounts, but Limbaugh's approach to engaging young readers is to transport the Revere character and two of his fifth-grade students right into the scene. It's an awkward situation to handle, because one of the hallmarks of the Pilgrims' saga was uncomfortable intimacy; the party leaving Southampton was just over 100, of whom only 53 survived the first winter, and by no means were all friendly with one another. You can't just blend into the scene when it's that crowded and personal, even if you're not trying to conceal an intelligent horse on a very small ship. Rush Revere and the children necessarily become part of the group, interacting with the major figures like Bradford, Myles Standish, and Squanto.

That close involvement opens up a philosophy-cum-science fiction problem of time traveler ethics. When his young companions see the suffering of the colonists in "The Starving Time" of 1620-21, they are moved to offer some of their provisions to help the weakened settlers. Revere warns them away, arguing that intervening in the course of history may change the modern-day outcome. The point is repeated when the time travelers almost cause a serious injury, and

only the temporal gifts of Liberty the horse allow them to avert an anachronism. It's a distraction to have to explain this problem.

On the other hand, I still found myself drawn into the Pilgrims' situation and sympathizing with their fears, discomforts, and rejoicing. Limbaugh is a good storyteller, and as many popular historians have recognized, there is a power in narrative history that makes purely documentary accounts dry and lifeless.

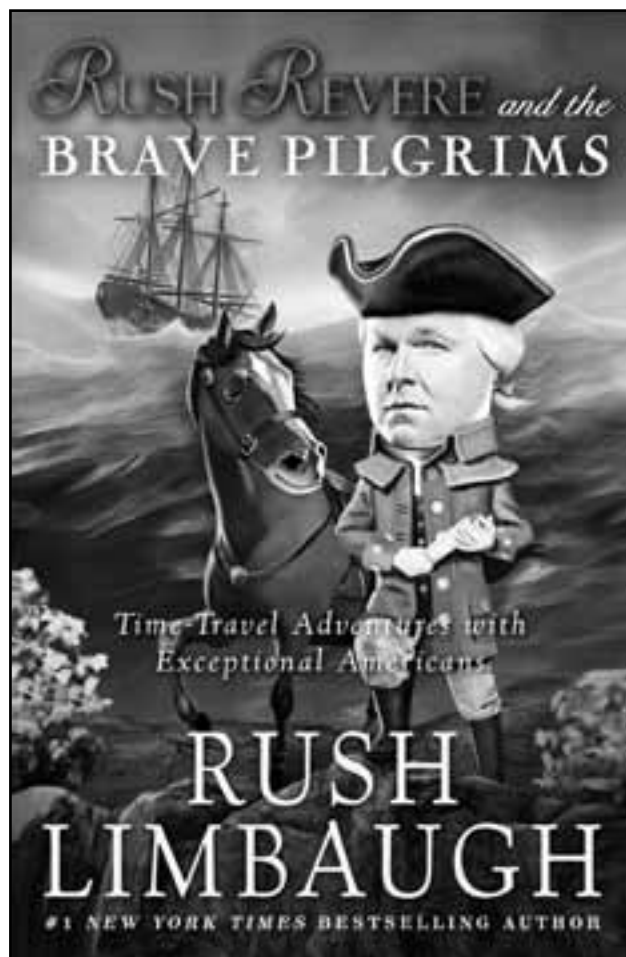
As you might expect when considering Limbaugh's on-air persona, self-referential humor and self-promotion bubble through the story. Many of the illustrations feature the cartoon Revere, who has Limbaugh's face. There are references to the substitute teacher's regular job working for an iced-tea factory, and the horse suggests that quick-thinking Revere ought to have a call-in radio show. There's also enough brand placement to suggest a revenue stream somewhere for KFC, Taco Bell, or Olive Garden.

On factual matters rather than just style, I give Limbaugh reasonably high marks — maybe an A-minus. He hits most of the highlights squarely — the itinerary of the wandering church from England to Holland and then to America, the mixed nature of the passengers on the Mayflower, the hostility of the sailors, their suffering on shore. He shows their faith simply but respectfully. He also illustrates something of an American constant, the tension between those whose religion is their deepest motivation, and those driven by a quest for individual human autonomy. Both would claim their desire is freedom, but the different presuppositions have always placed the two parties into conflict.

Consistent with his message of exceptionalism, Limbaugh emphasizes the political and economic aspects of the story. He is careful to explain how the Mayflower Compact was less a visionary statement and more an attempt to resolve the struggle between the Pilgrims, who wanted to land quickly for the sake of the sick passengers, and the "strangers" who demanded to sail further south as originally intended. He highlights Bradford's decision embracing private property ownership, which was a key economic improvement over the original experiment in communal living, but doesn't acknowledge that their sense of community probably saved the colony when half the party died and the rest were starving and ill.

In the balance, I'd say *Rush Revere* doesn't really add much to the list of children's literature on the Pilgrims. There are good young-reader narratives of the people of Plymouth colony that don't involve talking, time-traveling horses; I love the books in the old Landmark series, myself.

Still, there is much worth remembering in *Rush Revere and the Brave Pilgrims*, and when the story is told by a popular media figure, those lessons are likely to be read widely. Whether or not Limbaugh's style is your cup (or bottle) of tea, this book is going to introduce a lot of students to a very sympathetic presentation of our earliest founders, and that's worthy of thanksgiving. CJ



Freedmen's Bank Served Blacks in Post-Civil War Economy

After the Civil War, former slaves were encouraged to participate in a free-labor economy. But much of the South lay in ruins. It was difficult to find work, much less start enterprising careers.

The 1860s was a decade of economic adjustment. During the conflict, many African-American soldiers saved paychecks in newly established banks such as the Free Labor Bank in New Orleans.

Anticipating victory by the Union and the eventual freedom of all slaves, the Freedmen's Savings and Trust Company, commonly known as the Freedmen's Bank, was formed before the war's end. A congressional act incorporating the institution was enacted on March 3, 1865.

In the beginning, the Freedmen's Bank had a limited purpose. It was a place to deposit money to be invested in stocks, bonds, and other securities of the United States. Legislators ini-

tially ensured that deposits were not lost due to risky ventures.

Although never part of the Freedmen's Bureau, which was created to help recently freed slaves live independently, the bank served a complementary mission. For that reason, many freedmen perceived the Freedmen's Bank and the Freedmen's Bureau to be one. It is not difficult to understand why. Bureau agents often encouraged freedmen to build capital and distributed bank literature while doing so.

Even the lifespan of the organizations were similar. Both were formed legally on the same date. Although the bank lasted a little longer than the bureau, both organizations' effectiveness decreased considerably after 1870.

When the bank struggled financially, trustees elected abolitionist and former escaped slave Frederick Douglass as chief officer to restore the bank's credibility and popularity among blacks. Once assuming the helm, Douglass figured out that the bank had been sinking slowly in a sea of debt, and he even used his own money to try to keep it afloat. But his efforts only polished the brass of a

sinking financial ship.

Previous executive and trustee mismanagement, argues historian Walter L. Fleming, had doomed the "most promising plan to aid" the freedmen; after an 1870 charter amendment allowed the bank to lend money, top management issued a series of questionable loans. According to historians John Hope Franklin and Alfred A. Moss, "political influence" secured those loans while big financiers "unloaded bad loans" on the bank. Public confidence in the bank had been waning, and after the economic depression of 1873, it was lost. On June 28, 1874, all branches closed.

Branches were in the 11 former states of the Confederacy and in former slaveholding West Virginia, Kentucky, Maryland, and Missouri. There were branches in Washington, D.C., New York City, and Philadelphia, too.

In North Carolina, Freedmen's Bank branches were located at New Bern and in Raleigh. Bank trustees established a New Bern branch, as many freedmen lived in the town's vicinity. After two years of lobbying, Assistant Commissioner of the North Carolina Freedmen's Bureau Nelson A. Miles played an integral role in convincing

national bank trustees to establish a Raleigh branch.

Some scholars, such as Carl Osthaus, argue the bank failed because the government forgot about the freedmen and made no great effort to relieve them. Other historians, including Fleming, contend that government officials and bankers colluded for individual profit.

By the late 1880s, African-Americans eventually established themselves in the banking industry — a difficult task with memories of the Freedmen's Bank failure still fresh in many minds. In 1888, in Richmond, Va., W.W. Browne opened the first bank to be administered solely by blacks — Savings Bank of the Grand Fountain United Order of True Reformers. Two years later, similar banking ventures had opened their doors in Washington, D.C., and in Chattanooga, Tenn.

Although the causes of the Freedmen's Bank's failure have been debated, one thing is certain: Recently emancipated slaves saved money in hopes to participate in a free-labor economy.

CJ

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



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Book review

Williamson: The Intrusive Nanny State Will Never Bow Out Quietly

• Kevin D. Williamson, *The End is Near And It's Going to Be Awesome: How Going Broke Will Leave America Richer, Happier, and More Secure*, Broadside Books, 2013, 229 pages, \$27.99.

By LLOYD BILLINGSLEY
Contributor

RALEIGH
The title doubtless emerged from the marketing department, but this book is not apocalyptic alarmism about Planet Earth. Author Kevin Williamson of *National Review* believes the end is near for politics, essentially a system of violence run by predatory gangsters masquerading as principled politicians.

As the author shows, the American founders were familiar with this theme. Readers new to the subject will find here a thorough and timely primer on the pillage people.

"The roots of governments more closely resemble organized crime syndicates," Williamson writes, and "governments are in most cases the result of the very thing they promise to protect us against: the arbitrary use of violent means in the pursuit of narrow, self-interested ends." The "final stage of politics is a man with a gun at your front door," and none of this is mere rhetoric.

The U.S. Department of Education, which has existed since 1980, deploys paramilitary squads armed with Remington 12-gauge shotguns. As Williamson observes, these squads like to bash in doors in predawn raids that victimize innocents and their children. On Sept. 11, 2001, some 2,334 federal employees were working on IRS cases for every federal employee investigat-

ing Osama bin Laden and al-Qaida. The government was "pointing more guns at its own citizens than those who would shortly murder some 3,000 people."

Williamson also marshals evidence that the Department of Homeland Security "has been partly transformed into an organized crime syndicate." The IRS has three times as many employees as the FBI, and penalties for tax evasion surpass those for homicide.

Williamson notes the "business" institutions closely enmeshed with government, such as the ethanol industry and GM, aka Government Motors. And the author is not talking partisan politics. "Elitist ideologies are by their nature bipartisan," he argues, "Democrats and Republicans being two branches of the same political enterprise." Neither is the author making a case for better politics. Rather, "the fundamental problem is politics itself, the practice of delivering critical goods and services through the medium of federal, state, and local governments and their obsolete decision-making practices."

Williamson contrasts the world that does work, exemplified by the iPhone, with the world that doesn't work, exemplified by political institutions. Unlike the iPhone, which keeps getting better and cheaper, "resistance to innovation is part of the deep structure of politics. It never goes out of business — despite flooding the

market with defective and dangerous products, mistreating its customers, degrading the environment, cooking the books, and engaging in financial shenanigans that would have made Gordon Gekko pale to contemplate."

Williamson sees politics "choking to death on its own contradictions

because it can't evolve." As he notes, other than Social Security, few 1935-vintage products remain in use. Worse, government attempts to manage systems too complex to understand. For example, Washington politicians can't design an intelligent national health care system because "the information burden is just too vast." Obamacare, a certified train wreck even before it left the station, would seem to prove his point.

Likewise, spending \$1 trillion on a War on Poverty has resulted in "more poverty." This happened because "the politician is the man who has the power to make his preferences mandatory" and he can saddle future generations with the cost. By Williamson's estimate, the national debt and unfunded liabilities of some \$150 trillion "far outstrip all the wealth on this planet." This is bound to crash, and something will have to be put in the crater.

As the author sees it, "consumers in the aggregate perform precisely the role that Marx envisioned for his socialist central-planning agencies, but they do so without politics and without armed coercion." Williamson believes that "the majority of what the federal

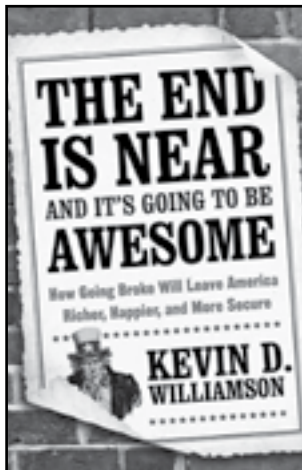
government does can be taken over by cooperative enterprise — right now." The author advances some investment alternatives to Social Security and decries the enduring "company store" of employer-provided health care. On the other hand, he also finds an overlap between "government funding" and an absence of benefits, as in Medicaid. His self-help mutual-aid model of health care deserves consideration, but will any of his ideas get the hearing they deserve?

After all, the pervasive regime of political correctness prefers that provocative ideas not be heard at all. As the author notes, Cornell University booted a professor for assigning F.A. Hayek's *The Road to Serfdom* to students. The products of government education, subject of a thoughtful chapter, emerge shrink-wrapped in statist superstition: Government is inherently wise, and to pass a law against problem X is to solve problem X. And so forth.

Williamson finds allusions of government violence in "The Godfather" but "2001: A Space Odyssey" better shows where we are now, what we might call late statism. HAL, the supposedly infallible computer in charge of the mission, is clearly malfunctioning but wary of being disconnected.

Williamson is fully aware that "politics is not going to go quietly and the political class may make the coming changes unnecessarily painful and disruptive." When the state's legitimacy is questioned, "it grows vicious." True to form, "the federal government has been reduced to a thrashing and infantile thing, and the violence implicit in the system has risen to the surface."

Therefore, the end might well be near, but it's not likely to be so awesome. CJ



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Finished reading all the great articles in this month's *Carolina Journal*? Don't just throw it in the recycling bin, pass it along to a friend or neighbor, and ask them to do the same.

Thanks.



BOOKS AUTHORED BY JLF STAFFERS



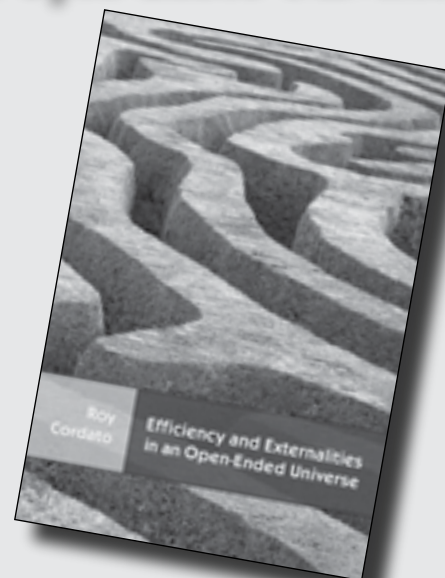
By Roy Cordato
Vice President for Research
John Locke Foundation

"Cordato's book is a solid performance, demonstrating impressive mastery of both the Austrian and neoclassical literature."

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Cato Journal

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Book review

Krauthammer's Book a Window into His Mind, Heart, and Soul

• Charles Krauthammer, *Things That Matter: Three Decades of Passions, Pastimes, and Politics*, Crown Forum, 400 pages, 2013, \$28.

BY ELIZABETH LINCICOME
Contributor

RALEIGH

Charles Krauthammer's new book, *Things That Matter: Three Decades of Passions, Pastimes, and Politics*, is an eclectic, engaging, and witty collection of columns and essays from one of America's most widely read thinkers. This book is a window into the author's mind, heart, and soul. Upon completion, the reader will truly understand what makes this man tick.

Things That Matter is divided into 16 chapters comprising primarily newspaper columns and shorter magazine pieces he wrote for *The Washington Post* and *Time*. There are also five long-form, denser essays addressing the ethics of embryonic research, Jewish destiny, and America's role as the world's superpower. For those familiar with the author's regular weekly column, these essays require much more than a casual reader's attention.

While Krauthammer, a syndicated columnist, political commentator, and physician, often takes the conservative stance on most hot-button topics, he will surprise readers throughout this book by admitting he sees both sides of certain issues.

In select columns, the author defies the ideological status quo and shares his independent views on feminism, evolution, and the death penalty. His newfound admirers may not know it, but Krauthammer was once a Democrat, having worked in the Carter

administration as Vice President Walter Mondale's speechwriter. This book will appeal to readers across the political spectrum, as well as some who loathe politics.

In the opening lines of his autobiographical introduction, the author raises many important questions and discusses what matters most to him.

In doing this, he gives us a glimpse into what the book is all about: "What matters? Lives of the good and the great, the innocence of dogs, the cunning of cats, the elegance of nature, the wonders of space, the perfectly thrown outfield assist, the difference between historical guilt and historical responsibility, homage and sacrilege in monumental architecture, fashions and follies and the finer uses of the F-word ...

manners and habits, curiosities and conundrums social and ethical: Is a doctor ever permitted to kill a patient wishing to die? Why in the age of feminism do we still use the phrase 'women and children'? How many lies is one allowed to tell to advance stem cell research?"

The author dedicates the book to his wife and son, Robyn and Daniel, and makes it clear that what has mattered most to him is his family. The first chapter is a collection of very personal columns in which we learn a lot about Krauthammer the man. He mourns the loss of his brother Marcel, who died of

cancer at age 59 in January 2006. The author also briefly explains how he was paralyzed in a serious accident during his first year of medical school.

Those who watch Krauthammer regularly on Fox News may not realize he is confined to a wheelchair because of the way the TV studio set is laid out. He is paralyzed from the waist down.

We also learn that he adores chess, Washington Nationals baseball, and his black Labrador retriever, Chester.

Several recurring themes appear throughout the collection. These include Krauthammer's views that we now live in a culture in which everything has been dumbed down to placate our nation's failing schools, along with a decline in civil society in general; that the Supreme Court should

stay out of legislating cases related to such social controversies as same-sex marriage, affirmative action, and abortion rights; and that President Obama is responsible for losing the war in Iraq.

The themes most relevant to today, however, are that of constitutionalism, or the role of government in the lives of its citizens, along with Obama's failure to lead our country.

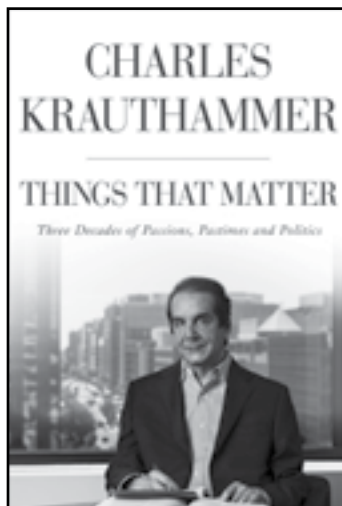
On the Constitution: "It defines concretely the nature of our social contract. Nothing in our public life is more substantive. Americans are in the midst of a great national debate over

the power, scope, and reach of the government established by that document. The debate was sparked by the current administration's bold push for government expansion — a massive fiscal stimulus, Obamacare, financial regulation, and various attempts at controlling the energy economy."

On Obama: "This is a president who to this day cannot bring himself to identify the enemy as radical Islam. ... [F]or President Obama, the word Islamist may not be uttered. Language must be devised to disguise the unpleasantness. Result? The world's first lexicological war. ... This would all be comical and merely peculiar if it didn't reflect a larger, more troubling reality: The confusion of language is a direct result of a confusion of policy — which is served by constant obfuscation. ... The result is visible ambivalence that leads to vacillating policy reeking of incoherence."

In an interview, former White House press secretary Dana Perino asked Krauthammer if his training as a psychiatrist had given him an advantage in making astute political observations. His response is classic Krauthammer and demonstrates why Americans flock to his writing.

"Actually no," he responded. "Although, I do like to joke that there's not much difference in what I do today as a political analyst in Washington from what I used to do as a psychiatrist in Boston — in both lines of work, I deal every day with people who suffer from paranoia and delusions of grandeur. The only difference is that the paranoids in Washington have access to nuclear weapons." CJ



BOOKS AUTHORED BY JLF STAFFERS



By John Hood
President of the
John Locke Foundation

Selling the Dream

Why Advertising is Good Business



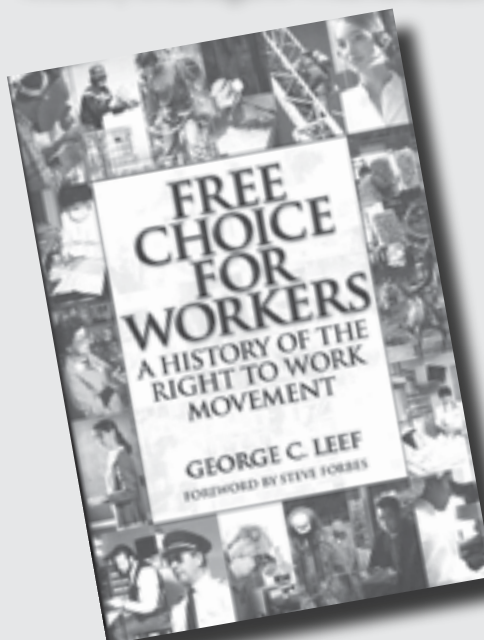
"[Selling the Dream] provides a fascinating look into the world of advertising and beyond ... Highly recommended."

Choice
April 2006

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Free Choice for Workers:

A History of the Right to Work Movement



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COMMENTARY

Conservatives: Step Up for Education

There's nothing worse than a complainer — except a complainer who expects someone else to solve a problem. So I have a challenge for conservatives who, with good reason, rail against the state of public education in North Carolina: If you truly believe individual responsibility is a fundamental tenet of conservatism, get off your couch and help the hundreds of thousands of children trapped in a stagnant education system that is failing them.

As the state's abysmal 2012 test scores reveal, the next generation desperately needs you. Just 41 percent of North Carolina eighth-graders were proficient in reading. That means six of 10 young teens don't read well enough to meet basic requirements for their grade. These kids have an even tougher time with math. Only 34 percent of eighth-graders met the proficiency standard in math — 66 percent lag behind.

Dig deeper into Department of Public Instruction data, and the bad news gets worse, particularly for minority boys and poor kids. As my John Locke Foundation colleague Terry Stoops has pointed out, a mere 12.5 percent of male African-American students in grades three through eight were proficient in reading and math. Black male students scored only one-tenth of a point higher than migrant children.

Hispanic male students are in a similar, albeit slightly better, position. Of the 49,359 who took the state tests in grades 3 through 8, just 9,246 were proficient in reading and math — a mere 18.7 percent. That leaves 40,113 of these Hispanic boys looking at a bleak future.

The story is the same for poor kids. Of the 377,891 North Carolina public school kids who took the tests and are deemed "economically disadvantaged," only 17.4 percent — 65,914 — met the proficiency bar for grades three through eight in reading and math. A staggering 311,977 didn't hit the minimum standard.

"Shocking and heartbreaking" is an understatement.

It doesn't take a Ph.D. to realize the difficulty these kids face in high school, if they stay in. If they give up and drop out, their personal plight becomes our societal plight. You and I will have no choice but to deal with the ramifications of their inability to be employed gainfully and self-supporting.

While we continue the fight for more options for these kids and their parents, we must also address the existing crisis. These 430,000-

plus kids need conservatives to care about them as individuals, and to take action as individuals.

The most obvious step is to volunteer at a public school as a mentor or in some other capacity that directly impacts learning. If you are rebuffed at a traditional school, try a charter school. These public schools are operated by out-of-the-box thinkers

who are likely to be open-minded to people who come to their doors with a student-first attitude and an offer to dig in.

Outside the classroom, support legislators and legislation to give parents a choice in how their children will be educated. House Speaker Pro Tem Paul "Skip" Stam, R-Wake, has been an unapologetic champion for a slate of choices including public charter schools. Thousands of families are benefiting from opportunity scholarships for kids with special needs and kids from low-income families, thanks to Stam and a bipartisan legislative coalition of Democrats and Republicans.

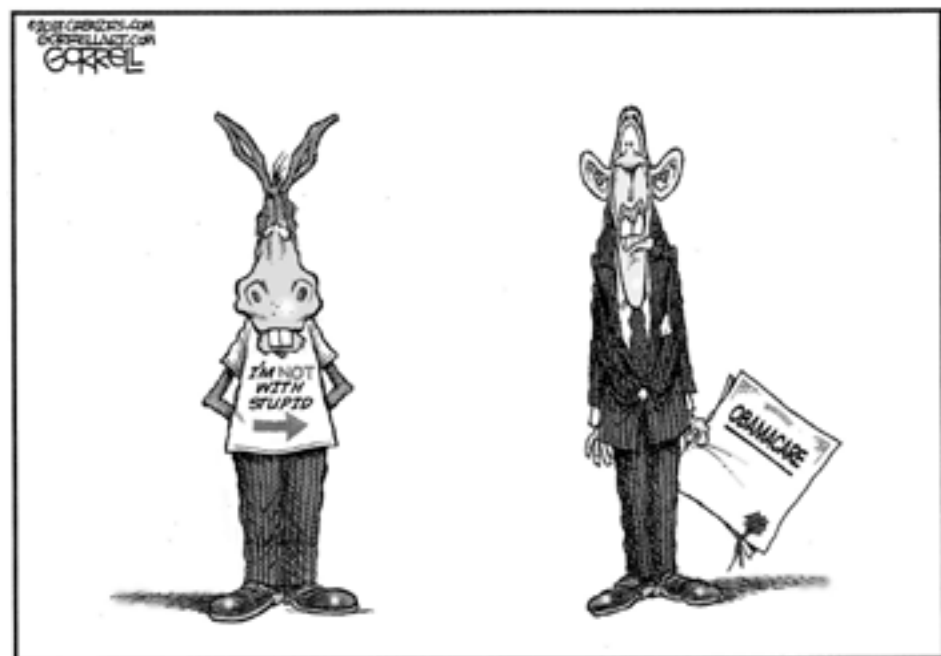
Conservatives must become teachers, curriculum specialists, principals, and superintendents if we expect to change the education trajectory. That means being proud of our kids and grandkids who choose teaching, just as we are proud of them when they choose business and entrepreneurship.

It is our time to step up. The liberal education establishment has made its mark on North Carolina, and the results speak volumes. CJ

Donna Martinez is co-host of Carolina Journal Radio.



DONNA MARTINEZ



EDITORIAL

Hagan: Obamacare Failures Are Your Fault

An insidious corporate conspiracy has a nefarious goal — forcing you to buy health insurance policies that you wanted to purchase anyway. At least that's what Sen. Kay Hagan and other Democrats scrambling to defend Obamacare after its clunky rollout are arguing.

If instead getting a range of coverage at prices you can afford sounds reasonable, then the rapacious profit-seekers have bamboozled you. Insurers don't want Obamacare to work. So they have eroded public support for it by offering consumers in the individual market "nonstandard" but affordable coverage — knowing they would have to cancel their consumer-friendly products when the law takes effect in January. Oh, the humanity.

Such paternalism — Washington knows what's best for you — is nothing new. But trashing the intelligence of the American people may be the only way that backers of the Affordable Care Act can deflect attention from the law. Recently, we've been inundated with reports of failures in the registration process at the Obamacare website; millions who purchased insurance on the individual market facing canceled policies and the prospect of paying thousands of dollars more each year for new ones; and dozens of physicians groups and hospitals dropping out of the networks that will cover patients under Obamacare. Between now and January, who knows what more will happen?

For weeks, Hagan and her staff have tried to distance themselves from the real-world consequences of the law. In November, insurance companies got the blame for continuing to provide "noncompliant" coverage. (Hagan is up for re-election in 2014, if

you didn't know.)

Hagan hosted a Nov. 12 conference call with reporters about Obamacare's disastrous rollout. It did not go well. Even liberal *Washington Post* columnist Dana Milbank observed that "the Q&A session was so painful that [Hagan] should qualify for trauma coverage under the Affordable Care Act."

If the senator dug a hole, spokeswoman Sadie Weiner kept digging.

"In her capacity as a member of the HELP Committee, Senator Hagan was involved with that committee's markup of the health care reform bill in the summer of 2009," Weiner told the *News & Record* after the conference call. "Once insurance companies began disingenuously offering plans that they knew they would be canceling, it became clear that more people would be getting cancellation letters," Weiner said.

Short version: Hagan was one of the architects of Obamacare, and she knew insurance companies would sell policies that were too cheap to satisfy the law. And yet insurers kept offering them because people wanted to buy them. The nerve!

To be sure, insurance providers were not innocent bystanders as Obamacare was pieced together. The feds purchased their support by offering subsidies and regulations (such as the individual mandate) that guaranteed profits and eliminated competition.

But it takes a buyer and a seller to complete a voluntary transaction. Hagan is blaming the health law's failures on the people who were willing to purchase "substandard" insurance all along. To paraphrase Walt Kelly, she has met the enemy, and he is us. CJ

EDITORIALS

No Drastic Cuts

Total state spending went up, not down

Remember when fiscal conservatives took over North Carolina government and radically reduced its size and scope?

Sorry, trick question. No such event ever happened, except in the fevered imagination of liberal activists.

One source of confusion here is that the state budget contains a variety of different funds and revenue sources. One of them is the General Fund, which uses state tax and fee revenue to finance public schools, corrections, the state's share of Medicaid, and other programs. Back in the day, most of the state budget was contained in the General

Fund, so lawmakers, reporters, lobbyists, and others typically said "the state budget" when what they really meant was "the General Fund."

Such rhetorical laziness is no longer wise. Most state spending now occurs outside the General Fund.

North Carolina spent about \$5,350 per resident on education, health care, transportation, and other state services in 2012. That's about 79 percent more than North Carolina spent 20 years ago, and 34 percent more than a decade ago. If you divide by average per-capita income, that translates into 14 percent of personal income spent on state services — the

highest level in state history.

By 2015, total per-capita state spending is projected to drop from that 2012 peak to around \$5,109. That translates into — hold onto your hats! — a 4 percent decrease over three years. The 2015 spending figure still will be the third highest in North Carolina history. We might just survive the apocalypse.

The state's reliance on federal funds is not a healthy trend. Total government spending in the United States is too high. At 34 percent of gross domestic product in 2012, it is lower than the postwar peak of 37 percent (reached in 2009) but still markedly higher than the postwar average of 30 percent.

America's immediate goal should be at least to return to that 30 percent level. North Carolina can do its part by pressuring Congress to freeze or reduce federal spending, while continuing to reform the state's fiscal policies.

North Carolina voters, in turn, can do their part by making sure they have good information about the size of government, so they can hold their public officials accountable for what happens in the real world, not in some liberal writer's imagination.

CJ



Lonesome Train

No justification for rail

The vast majority of North Carolinians — and Americans — never will use rail or bus transit on a regular basis. Mass transit is irrelevant to their lives, except as an expense on their tax bill or a distraction from building or expanding the roads they use to get to work, school, shopping, or other destinations.

The point is that transit is primarily a program of public assistance, a means of providing mobility to people who either can't afford personal vehicles or can't operate them for some medical reason. Transit has some convenience users and even a few ideologically motivated users, but not many.

Those points were reinforced at a November briefing in Raleigh by a panel of experts chosen by the Wake County commissioners to advise policymakers on transit options. Cal Marsella, who ran Denver's transit agency for 14 years; Samuel Staley, a profes-

sor of public policy at Florida State University; and Steve Polzin, a transit researcher at the University of South Florida, said population growth and density in Wake County are unlikely to support light rail and commuter rail projects in a regional transit plan.

Marsella, who oversaw two major expansions of the Mile High City's rail and highway infrastructure, noted that only about 40 percent of rail commuters on new transit lines had stopped driving; the remaining 60 percent had been riding buses and switched to trains. Since Wake County's buses aren't running anywhere near capacity, he saw little economic reason to consider fixed rail for commuters.

Limiting automobility will result in a combination of higher costs, horrendous traffic, and public resentment. Let's not go there, by any transportation mode.

CJ

COMMENTARY

N.C. Enacts Conservative Ideas

Over the past three years, the North Carolina legislature has enacted Ronald Reagan's favorite tax reform, Barry Goldwater's favorite regulatory reform, and Milton Friedman's favorite education reform. Yet some North Carolina conservatives of my acquaintance seem to think that the Republicans who lead the General Assembly have accomplished little.

I frequently get invitations to speak to civic clubs, community groups, university classes, or other organizations around the state. During these appearances, I've been struck by just how wide the gap between public perception and political reality has become.

At one recent event, I explained the economic rationale for replacing the existing federal income tax code with a simpler, pro-growth Flat Tax of the kind that President Reagan and many of his economic advisers believed was the ultimate goal of tax reform. Afterward, a local Republican activist came up, expressed his enthusiasm, and asked if I thought the North Carolina legislature would ever consider enacting such a tax plan.

Which is, of course, exactly what the legislature did in 2013 — a fact I had just finished explaining, obviously ineptly, to my audience. Starting in 2014, North Carolina will impose a single, flat-rate tax on a broader base of personal income. When fully implemented, tax reform will establish a flat rate of 5.75 percent, down from today's income-tax rates of 6 percent, 7 percent, and 7.75 percent. The corporate income tax rate also will drop substantially. Before the tax reform, North Carolina imposed some of the highest marginal tax rates in the South. After tax reform, our marginal tax rates will be among the lowest.

The General Assembly also continued to pursue other ideas popular with conservatives. For example, in each of the past three sessions, the General Assembly has enacted regulatory reform bills to contain or eliminate vague, costly, and counterproductive rules on business. Their handiwork would have thrilled longtime Arizona Sen. Barry Goldwater, who saw the growth of the regulatory state as an especially egregious problem.

"To me," he wrote in 1974, "one of the most frightening aspects of this government by regulation is the fact that the rules and procedures are promulgated by people who were not elected to their jobs." By ensuring that new state rules are truly authorized by state legislation, and that old state rules survive periodic review or else automatically disappear from the books, North

Carolina's new regulatory reforms ensure that current elected officials retain control over state policymaking — which is precisely the system that Goldwater favored.

As for school reform, economist Milton Friedman did much to publicize parental choice and competition in books, columns, and media appearances over more than a half-century of public

life. Since his death, the Friedman Foundation for Educational Choice has become a leading voice for reform.

Over the past three years, North Carolina policymakers have turned these principles into policy by eliminating artificial restrictions on the creation and expansion of charter schools, and by authorizing a new scholarship program to assist low-income families who think their children might be served best by private schools. Tens of thousands of North Carolina students will benefit directly from these reforms — but hundreds of thousands more will benefit indirectly as district-run public schools respond to new school-choice options by improving their own educational performance, an effect that has been documented now in numerous empirical studies.

While most liberal Democrats and left-leaning independents will never embrace the Flat Tax, regulatory reform, or school choice, that's not the case for most Republicans, independents, and moderate Democrats. Gov. Pat McCrory and legislative leaders would do well to make sure their own base knows they have just enacted Carolina versions of Reagan's tax reform, Goldwater's regulatory reform, and Friedman's education reform.

CJ

John Hood is president of the John Locke Foundation.



JOHN HOOD

EDITORIAL BRIEFS

Economic Growth

The U.S. economy traditionally has grown by about 2 percent a year. But there's good reason to question whether that growth rate can be maintained, writes Brink Lindsey in a paper for the Cato Institute.

The usual measure for the size of the economy is real (inflation-adjusted) gross domestic product per capita. Four factors contribute to increases in GDP per capita over time: growth in labor participation, or annual hours worked per capita; growth in labor quality, or the skill level of the work force; changes in the amount of capital invested per worker; and growth in so-called total factor productivity, or output per unit of quality-adjusted labor and capital. Over time, the relative importance of these four factors has changed, but the rate has remained consistent.

There's reason to question whether this 2 percent trend will continue. All four components of growth appear sluggish at best, notes Lindsey. Hours worked per capita are down and unlikely to reach new highs, labor quality is likely to remain flat, the investment rate continues to decline, and factor productivity also isn't growing very rapidly.

The best solution, suggests Lindsey, may come from changes in regulatory policy.

"In the quest for new sources of growth to support the American economy's flagging dynamism, policy reform now looms as the most promising 'low-hanging fruit' available," says Lindsey.

Food stamps review

For decades, the Supplemental Nutrition Assistance Program, or Food Stamps, has enjoyed bipartisan support in Congress. The broad consensus is eroding, and there's good reason to re-examine how SNAP operates, writes Michael Tanner in a new policy brief for the Cato Institute.

In 2000, 17 million Americans received SNAP benefits, and the program cost \$18 billion. Last year, 48 million received \$78 billion in benefits. SNAP is the country's second-most expensive means-tested welfare program, behind only Medicaid. States have much flexibility in administering SNAP, and the growth rates have varied considerably from one state to another.

There are three factors driving the increased cost of SNAP: a lowering of eligibility requirements, increased outreach to get more people to apply, and increased benefits for those in the program.

Despite the growth of SNAP, hunger and malnutrition remain problems for low-income Americans. A Government Accountability Office report concluded that "research finds little or no effect on the dietary or nutrient intake of individuals" receiving SNAP as opposed to those who do not.

"[T]here is little proof that the expansion of SNAP has significantly reduced hunger or improved nutrition among low-income Americans," says Tanner. "In the absence of much stronger research, continued expansion of the program seems to be based more on faith than evidence." CJ



Growth and the Economy

I recently had a very interesting conversation with a prominent state leader. The person was "picking my brain" about various economic issues, one of which is our low rate of economic growth. The leader wondered if boosting the growth rate could be one of the keys to solving many of our problems.

Before I address this question, let's first look at where we stand in North Carolina on economic growth. Historically, we look pretty good. From 1977-2012, the annual growth rate in economic production in our state averaged 3.4 percent, well above the national average of 2.8 percent. Our state was also a leader in job creation, besting the national average by 1.8 percent to 1.3 percent in annual job gains.

The numbers have been less impressive since 2000. A big reason is that both North Carolina and the nation went through two recessions in the first decade of the new century. North Carolina's economy also had to adjust to changes and dislocations created by international trade agreements.

However, what often is overlooked is how well North Carolina's economy did in the middle of the 2000s (2003-08), when there was an economic upswing. Our state outpaced annual economic growth in the nation by a rate of 2.3 percent to 2.9 percent.

The "Great Recession" is over, and economic growth has returned in the last three years. North Carolina's aggregate economic production is up an average of 1.8 percent during each of those years. Still, our state has 120,000 fewer jobs than before the "Great Recession," and there are more than 400,000 people officially classified as unemployed.

So our state is growing, but not at the rates we once enjoyed. What if we could grow faster — how much difference would this make? What if we could boost our annual economic production growth rate from the current 1.8 percent to 3 percent — similar to what it has been historically?

This would mean 240,000 more jobs on top of those created by current growth over the next five years, and could cut our unemployment rate in half

by 2018.

State budget issues also would be eased with faster growth. Public revenues available for spending by the state are tied directly to the performance of the economy.

Increasing the state's annual economic growth rate from 1.8 percent to 3 percent would mean an additional \$280 million in annual revenue available for spending in the state's General Fund. This would translate into \$100 million more each year for K-12 education, \$48 million of additional annual funds for higher education, and \$68 million more yearly for health care services and assistance.

Sounds good, correct? But the big question is how to achieve this. If it were easy, it would have been done long ago. Unfortunately, economists don't have a magic formula. Clearly, a better skilled and trained work force is part of the answer — perhaps today more than ever. But what mix of early childhood education, teacher training, teacher pay, technology, and parental involvement will deliver the best results? Which ones should receive priority? Educators all around the world are debating this question.

And what about infrastructure? Building roads used to be an easy answer, and certainly North Carolina's focus on roads in the last 60 years was a big part of the state's economic improvement. However, today infrastructure is broader, and includes not only highways but also airports, high-speed Internet, and access to energy sources like natural gas. Even with faster growth, there are limited infrastructure funds to spend. Where should they go?

Also, economic growth isn't necessarily spread evenly among people and regions. In fact, recently economic growth has favored higher-income households over lower-income households and cities over rural areas. So while better growth may move up the average, it may not improve all parts of that average.

Faster economic growth would go a long way to addressing our numerous private and public economic issues. But achieving it may be as elusive as the Cubs winning the next World Series. (Sorry, Chicago fans!)

Michael Walden is a Reynolds Distinguished Professor at North Carolina State University.



MICHAEL WALDEN

Sequestration: A Model For Other Fiscal Policies

Before the disastrous rollout of the Affordable Care Act caused a public-relations nightmare for the Obama administration and congressional Democrats, recent budget battles in Washington had left Republicans battered. Following this fall's partial government shutdown and fight over the debt ceiling, Gallup's poll reported the GOP's favorability rating at an all-time low of 28 percent. The party also lost on the fiscal cliff as the president succeeded in raising taxes.

There has been one clear victory, though. The November 2011 failure of the congressional supercommittee charged with crafting a debt reduction package triggered sequestration, a roughly \$85 billion yearly across-the-board cut to domestic and defense spending. When it took full effect in March, conservatives could point to a genuine achievement in the effort to shrink government.

Sequestration produces similar cuts in each of the next six fiscal years. It is, therefore, soon likely to be repealed or negated. Democrats want to trash it immediately. Many Republicans are buckling because of the significant reductions in defense

spending. Regardless of its future, sequestration, and indeed the GOP's losses on the debt ceiling, government shutdown, and fiscal cliff provide a valuable lesson. Conservatives would do well to turn their attention to rules and the long term, rather than fixate on immediate policy battles.

Here's why procedure matters. Institutions like bicameralism (the need for a bill to pass through two bodies), the Senate filibuster, and the presidential veto have created a system stacked in favor of the status quo. Normally the interest protecting current policy has a significant advantage over that attacking it.

Unfortunately for Republicans, however, fiscal politics do not work this way. Fail to pass the debt extension, and the country goes into default with, at least the experts warn us, dire effects for our economy. Fail to pass one or more of the 12 annual appropriations measures before the fiscal year starts on Oct. 1 and government expenditures on the covered operations go to zero. There's some kind of shutdown.

In both cases the reversion point — the outcome should nothing happen — is not the status quo. Action is inevitable and, for reasons I don't have space to explain, results in more spending and a higher debt ceiling.

Sequestration happened because it was practically the inverse. Its reversion point, at least for the first year, was an economically and politically tolerable cut. As the default outcome

of dormancy, the spending reductions enjoyed all the benefits of a status quo position. No one had to form a coalition around a proposal and maneuver it through the hazardous House and Senate legislative processes.

Republicans should work to make fiscal policy procedures behave like sequestration. They might try to reform appropriations, for example. Congress has exercised its duty to commit money annually since 1789. There is, however, no constitutional basis for the schedule. Article I, Section 8 of the Constitution forbids an appropriation "to raise and support armies" for more than two years, but nothing is said of annualized spending or at what intervals dollars should be allocated to domestic operations. Indeed, there already exist some multiyear and even permanent appropriations. Legislators associated with the "No Labels" group are trying to establish a biennial cycle. The courts, moreover, have repeatedly favored congressional supremacy to practice the "power of the purse."

Congress could pass a law allowing appropriations on domestic operations to last many years, or even into perpetuity. The consequence of legislative inaction would be maintaining current spending levels — or perhaps modest annual cuts, a similarly advantaged, if not strictly status quo position. Advocates of additional spending would have to construct coalitions large and cohesive enough to grab the agenda and mobilize

behind a proposal that could make its way through the tortuous legislative process into law.

In fact, something along these lines has been proposed by Sen. Rob Portman, R-Ohio, and Rep. James Lankford, R-Okla. They have introduced bills providing an automatic continuing resolution or stopgap spending measure if appropriations are not passed on time. The initial funding would be at the previous year's levels and would drop 1 percent every three months the legislation remains unapproved. The automatic CR, however, keeps in place the current fiscal infrastructure, one biased in favor of increased spending and that consumes precious legislative time.

Of course, if we really want to cut government spending, we must look to entitlements. The principle of a fused status quo and reversion point could be applied to Social Security and Medicare. Expenditures — like cost-of-living adjustments — would no longer be automatic but dependent on explicit congressional action. This would hold members accountable for policy change and force downward pressure on spending. Procedures are indeed important, and it's time conservatives turned them from liabilities into assets. *CJ*

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**ANDY
TAYLOR**

2013 Reforms Should Pay Off Over Time

The year 2013 has seen significant reforms — to our tax system, job-killing regulations, transportation and infrastructure priorities, and education.

The result will be substantive and meaningful changes in North Carolina. We will be positioned to recover from the recession more quickly, encourage businesses to move and expand in the state, and create new and good-paying jobs.

Tax reform started in 2011 when a new majority in the General Assembly allowed a "temporary" one-cent sales tax hike to sunset, amounting to a \$1.3 billion tax cut. They repealed the land transfer tax option, an additional tax on the sale of real property.

In 2013, the General Assembly and the new governor got serious about transforming a 70-year-old tax system. North Carolina now has a flat personal income tax rate — 5.8 percent

for 2014 and 5.75 percent in 2015. No more higher rates for higher earners, just a simpler, fairer system.

The corporate tax rate (which was highest in the Southeast at 6.9 percent) will drop to 6 percent in 2014, 5 percent in 2015, and 3 percent by 2017, assuming revenue targets are met. Dozens of carve-outs and special treatments were eliminated from the sales tax system. The death tax was eliminated.

The Tax Foundation's analysis of North Carolina's tax reform moves our national business tax climate ranking from 44th to 17th. We call this a good start!

But even with comprehensive tax reform, business owners tell us that the regulatory burden in North Carolina discourages business investment and expansion. Again, starting in 2011, the General Assembly began unraveling the complicated, outdated, and oppressive regulations that have been strangling our economy.

Administrative rules may be made by unelected and unaccountable bureaucrats, but they carry the same form, punch, and penalties as laws. Every regulation imposes a cost

on someone. Businesses pass higher costs along to customers, affecting our overall economy. Many rules are outdated, unnecessary, burdensome, and inconsistent with regulatory principles or legislative intent.

Touted as the most important business bill this year, the 2013 regulatory reform requires government agencies to review their rules periodically and determine if they are still needed. Those that are not will expire. Rules that work and are fair will stay on the books. All new rules will come with a built-in sunset date — ensuring regular review and justification.

As entrepreneurs consider where to locate and invest, a well-designed infrastructure system is a critical part of their decisions. Reforms to the state's transportation funding formula, based on safety, need, and congestion data rather than paying off politically connected patrons, will alleviate congestion, improve safety, and help get North Carolinians to work and goods to customers.

Expanded school choice with more charter schools and scholarship opportunities for low-income kids allow families, rather than Raleigh

bureaucrats, to make education decisions. A high school diploma in North Carolina should be a ticket to success, whether to fill the demands of employers immediately or to facilitate continued learning in advanced programs.

While much has been accomplished, the work is not done. Responsible budgeting should be focused on rebuilding the state's savings accounts. Repealing certificates of participation would curtail debt that has not been approved by taxpayers. Carefully considering hydraulic fracturing and alternatives to renewable energy mandates will lift burdens on our economy.

It will take a while to reverse 140 years of big, costly, and overreaching government. There is no quick fix. But committed leaders have made progress and are to be commended. With this new direction, North Carolina once again can be first in freedom. Spread the word. *CJ*

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



**BECKI
GRAY**

Hagan: Hey, I Said I Back ObamaCAR, Not ObamaCARE (a CJ parody)

BY ASTON MARTIN
Automotive Correspondent

GREENSBORO

Sen. Kay Hagan, D-N.C., said her 2010 vote for the Affordable Care Act, aka Obamacare, was a mistake. She thought she was voting for the Affordable Car Act, or Obamacar.

Hagan, who is expected to face a tough re-election battle in 2014, said that contrary to multiple news reports, she never supported Obamacare because "some things are best left to the private sector, and health insurance is one of them."

Owning a quality automobile, however, should be "a basic right of all Americans," Hagan said. "Some people don't have cars, and others have substandard cars. Everyone is entitled to a good car and to the benefits that come with car ownership."

Under the proposed law, a new "Driver's Bill of Rights" would give American car owners the stability and flexibility required to make informed choices about their automotive needs, Hagan said.

"If you like your car, you can keep your car, your mechanic, and even your current car insurance," she said.

Hagan made her remarks at a press conference at a low-performing GMC dealership in Greensboro, saying it was a prime candidate to be taken over by the federal government if Obamacar became law. She said a provision in the legislation allows the U.S. Department of Transportation to seize



N.C. Sen. Kay Hagan held a rally for Obamacar at a local car dealership, but she announced it on the ill-fated Obamacare website, thinking it was the Obamacar website, and no one could get it to work, so attendance was sparse. (CJ spoof photo)

dealerships selling vehicles produced

by manufacturers that accepted federal bailout money, and those lots would be converted to car exchanges under the law, where consumers can purchase "Obamacar-compliant" vehicles.

White House spokesman Jay Carney told *Carolina Journal* he was "furious" that Hagan had leaked details of the secret legislation to the public.

"She should know better," Carney said. "We were waiting to introduce the Affordable Car Act in 2015, when we expect to have a Democratic majority in both the House of Representatives and the Senate. If we don't win, Republican obstructionism will continue, and they'll let Americans keep buying the vehicles they want rather than the vehicles they should drive."

'If you like
your car,
you can keep
your car, and
your mechanic'

A copy of the legislation obtained by *CJ* found several inconsistencies with Hagan's "if you like it, you can keep it" vow.

For instance, only federally licensed dealerships are considered to be Obamacar-compliant. Any driver who purchases parts or receives maintenance (including oil changes) from an independent retailer or mechanic no longer complies with the law and must purchase a new car.

The so-called "Cash for Clunkers" program under which the federal government purchased used cars from consumers if the owners would buy new ones "was only the beginning," Hagan said. "We didn't take nearly enough old cars off the road. Obamacar will make sure we sell millions of new, made-in-America vehicles."

A set of "talking points" Hagan distributed to the media included the following details from the proposed legislation:

- Coverage — Ends "insurance rate discrimination." Those with poor driving records cannot be charged more than those with clean records. Insurance companies cannot cancel policies as long as drivers keep their payments current.

- Cost — Outlaws lifetime limits on car-related expenses.

- Care — Preventive maintenance is provided at no cost to consumers who earn less than 400 percent of the federal poverty level. Those earning more must pay full price and have all scheduled maintenance completed four times a year. *CJ*

E.A. MORRIS FELLOWSHIP FOR EMERGING LEADERS

The E.A. Morris Fellowship is seeking principled, energetic applicants for the 2014 Fellowship class.

Applications available online or at the John Locke Foundation. Application deadline is December 6, 2013.

Please visit the E.A. Morris Fellowship Web site (www.EAMorrisFellows.org) for more information, including eligibility, program overview and application materials.

Eligibility

- Must be between the ages of 25 and 40, must be a resident of North Carolina and a U.S. citizen
- Must be willing to complete a special project requiring leadership and innovative thinking on a local level
- Must be willing to attend all program events associated with the fellowship
- Must not be the spouse of a current or past Fellow.

Timeline

September 15, 2013: Application period opens

December 6, 2013: Applications due

January 3, 2014: Finalist notification & invitations to Selection Weekend

February 1-2, 2014: Hello/Goodbye Gala & Selections Weekend

March 21-23, 2014: Retreat 1 — Pinhurst, NC

June 13-15, 2014: Retreat 2 — Blowing Rock, NC

October 17-19, 2014: Retreat 3 — Coastal NC

February 7-8, 2015 Fellowship ends/Hello Goodbye Gala



www.EAMorrisFellows.org

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