

**Critics question indy Medicaid agency cost-cutting ability/2**



# CAROLINA JOURNAL

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

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## Senior Democrat Owes Thousands in Taxes

Attorney claims Wray now has paid his delinquent tax bills

By DON CARRINGTON  
Executive Editor

RALEIGH  
State Rep. Michael Wray, a Democrat from Gaston who serves as deputy minority leader in the state House of Representatives, owes more than \$100,000 in past-due federal, state, and local taxes, according to public records on file in Northampton and Halifax Counties.



State Rep. Michael Wray, deputy minority leader

Wray has business interests that are intertwined with those of his father, Harold Wray, who has accumulated approximately \$150,000 in past-due federal and local taxes of his own. As of June 6, the Wrays or their businesses owed thousands in federal income taxes, North Carolina unemployment



Rep. Michael Wray, who describes himself as a small business owner, has several business interests, including Gaston Hardware (above), a sheet metal business, and a restaurant. (CJ photo by Don Carrington)

insurance taxes, and property taxes in Halifax and Northampton counties, which constitute House District 27, which Michael Wray represents.

In February, the IRS filed two liens on Michael Wray's property, seeking to collect \$83,979 in unpaid federal taxes. At the same time the IRS filed three liens on his father's property for unpaid taxes totaling \$98,505.

In addition, Harold Wray has past due property taxes exceeding \$50,000. The Wray's own several small businesses and a significant amount of real estate. The individual amounts due to different government jurisdictions range from substantial sums of more than \$10,000 to relatively trivial personal property tax bills, unpaid for four years, totaling \$163.

Carolina Journal has been unable to determine a reason for the delinquent taxes because Michael Wray has not responded to several phone messages and emails.

June 23, one day before Carolina Journal Online published an earlier version of this story, Democratic political consultant Brad Crone called CJ to say that Michael Wray's taxes were paid. A few minutes later, CJ received a call from Wray's attorney Thomas Wellman, who also said Wray's taxes were paid. Neither offered any proof of payment nor any reasons why the taxes had been delinquent prior to inquiries from CJ.

After this story appeared online, CJ received an emailed letter, dated June 24 and signed by Thomas Wellman of Wellman, White, & Wilson LLC, a Roanoke Rapids law firm. The letter stated:

Since Michael H. Wray is a client of this firm, we have been authorized to respond to your inquiry regarding the tax obligations of Michael H. Wray.

Please be advised that there are no outstanding taxes to the federal or state government owed by Mr. Wray, individually, and all prior tax liens

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## Salisbury Sewer Fees Prop Up Broadband

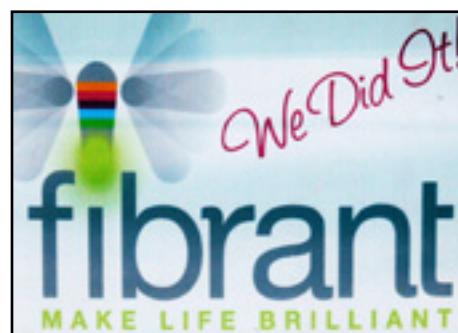
Moody's cites debts of Fibrant as reason to downgrade rating

By BARRY SMITH  
Associate Editor

SALISBURY  
One North Carolina city borrowed millions from its water and sewer fund to support its municipal broadband and paid the price with a downgraded bond rating.

This spring, Moody's downgraded Salisbury's bond rating, citing debts of its Fibrant broadband service.

Moody's notes that Salisbury



borrowed \$7.6 million from its water and sewer fund to support the Fibrant fiberoptic network, resulting in "a narrowed but still acceptable cash position for the water and sewer fund."

The report also notes that while Salisbury is making 1 percent interest payments on the borrowed funds, it

isn't repaying the principal.

Moody's downgraded the city's general obligation bond rating to A3 from Aa2, and its certificates of participation rating to Baa3 from A1. Cities with any "Aa" rating are judged to be of high quality and subject to very low credit risk.

Any "A"-rated cities are judged to be upper-medium grade and subject to low credit risk. A "Baa" rating is judged to be medium grade and subject to moderate credit risk.

"The city reports no plans for principal repayment and does not include repayment in their pro-forma calculations," Moody's report says.

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## Critics Question Agency's Cost-Cutting Abilities

BY DAN WAY  
Associate Editor

RALEIGH

As budget negotiators continued debating reforms in North Carolina's delivery of Medicaid at press time, a sticking point lingered over administration of the health insurance program for the poor and disabled. The state Senate wants to remove Medicaid from the jurisdiction of the Department of Health and Human Services, in a separate agency that could have Cabinet-level status. The House and Gov. Pat McCrory plan to leave Medicaid supervision with DHHS.

Senate leader Phil Berger, R-Rockingham, and Sen. Ralph Hise, R-Mitchell, who co-chairs the spending committee handling health and human services, say a separate Medicaid agency would enhance the program's accountability and make it more stable fiscally. But in Oklahoma, where such a transition took place years ago, the results "are disastrous," one critic of the Sooner State reform says.

Jonathan Small, vice president for policy at the free-market Oklahoma Council of Public Affairs, understands the impulse to create a standalone Medicaid agency. But he cautioned North Carolina lawmakers the solution could be even more costly than the problem.

"If you compare [Oklahoma] fiscal year 2003 to fiscal year 2013, state spending on Medicaid has grown 172 percent, or \$1.2 billion. That doesn't sound like a lot in North Carolina, but that's pretty significant dollars in Oklahoma on an annual basis," Small said.

"We can directly tie the astronomical growth in our Medicaid budget to them having their own now separate agency," he said. Indeed, according to the Kaiser Family Foundation, which closely tracks Medicaid spending, Oklahoma has outpaced North Carolina in average annual growth since 2004.

"Once you create a separate welfare entitlement agency, you've then created an entrenched constituency group, and that's exactly what we've seen in Oklahoma," where the Oklahoma Health Care Authority board members have close ties to the health care industry, Small said.

"Now this board has become actively involved in trying to influence health care policy in the state, [fighting] efforts by legislators to improve the efficiency in Medicaid," Small said.

As an example, he noted attempts to rein in expensive, medically unnecessary Caesarean section births that shot up 33 percent through Medicaid. Normal vaginal deliveries cost about one-third as much. "The pressure was so heavily put on those board members that they decided not to do that," Small said.

Oklahoma lawmakers created the autonomous, seven-member, uncompensated Medicaid board to gain more legislative control, budget predictability, and focus in the Medicaid program, Small said. North Carolina's Senate Republicans have voiced those same goals.

Hise said the Senate envisions Medicaid board members being budgetary experts instead of health care insiders because the Medicaid budget "is one of the most clustered spaghetti piles you could ever see."

For example, he said, the department had \$21 million in state spending tied to positions that had been unfilled for more than six months, and nearly \$34 million in vacant positions for the full fiscal year. The money was shifted to "anything that could be cost-allocated to Medicaid," Hise said.

Including federal funds, tens of millions more dollars paid for functions that had little to do with Medicaid's core mission of providing government health insurance to chil-

dren and families, pregnant women, the poor, and disabled, he said.

"The only way to get the clear picture on the Medicaid budget is to cut it apart" from budget items such as medical education at the East Carolina University and UNC-Chapel Hill medical schools, early childhood education, Health Department spending, and other areas, Hise said.

Small believes North Carolina would be served better reforming Medicaid from within and going to a managed care system.

"The sky is not falling in Florida, or Kansas, or Louisiana, where they are moving to systems of more managed care," he said. Florida allows health care provider-led networks to compete with managed care systems.

Oklahoma's legislature has pushed for such a system the past two years.

"They have been thwarted by the Health Care Authority's independent board," where members support the "really sweet" fee-for-service model favored by hospitals, Small said. North Carolina also has fee-for-service Medicaid.

Doctors and hospitals benefit financially from fee-for-service if they get "the Medicaid agency to cover as many services as possible at as high a

reimbursement rate as possible, and prevent the legislature from doing anything from encroaching on the care," Small said.

State Rep. Verla Insko, D-Orange, a member of the House Appropriations Subcommittee on Health and Human Services, said inexperienced House and Senate leaders "really don't know what they're doing" in attempting to reform Medicaid.

"They have no idea the problems that will emerge, that they will not be able to fix. It's too much too soon. It's too fast," Insko said. "I think that they've bought into the idea that the private sector can do everything better than the government."

Her main concern is a \$28.8 million Senate cut to end automatic Medicaid enrollment for 11,886 participants in a joint county-state special assistance program. It provides personal care services to a small part of Medicaid's elderly, blind, and disabled population in residential settings such as adult care homes.

The Senate plan would move some of those participants into Obamacare's federal health insurance exchange.

"It is a fallacy that the Affordable Care Act would cover their needs. The policies that they would get under the Affordable Care Act don't cover the services that they're getting under Medicaid. Those policies have co-pays, co-insurance. We can't do that," Insko said.

The state now provides Medicaid to anyone who qualifies for the special assistance program, including those who otherwise make too much money to qualify for Medicaid. The Senate budget ends that Medicaid eligibility.

Two groups comprise the 11,886 participants. Of those, 5,238 no longer would be eligible to receive Medicaid, according to DHHS. Hise said many of them belong to the so-called dual-eligible population. They already have private insurance or Medicare coverage. The rest would be eligible for subsidized coverage through Obamacare.

The second group totals 6,648. They would retain Medicaid coverage because they qualify on their own without the special-assistance automatic enrollment, Hise said.

None of the special-assistance recipients are being left without doctor care and hospitalization, Hise said, and their room and board charges still would be paid at residential facilities. What would be eliminated are premium, optional services North Carolina provides but the federal government does not require.

CJ





# Taxpayers Could Be on Hook if SEANC Wins Whistleblower Suit

BY DAN WAY  
Associate Editor

RALEIGH

The State Employees Association of North Carolina could receive significant monetary awards if it prevails in a whistleblower complaint against those investing the state pension fund's money.

If the investment managers, State Treasurer Janet Cowell, or her staff are found liable of wrongdoing, state taxpayers may be responsible for covering some of the costs of the award, according to the former U.S. Securities and Exchange Commission attorney who completed a forensic review of the retirement fund.

"It depends on who the SEC chooses to prosecute, or, for that matter, the FBI or other agencies" that might launch separate probes, said Edward Siedle of Ocean Ridge, Fla., founder of Benchmark Financial Services.

"If the state treasurer's office is complicit in illegal activity, [the office] might be required to pay a fine. The treasurer herself could be," he said.

## Forensic review

Siedle's forensic review found, among other things, \$6.8 billion in investment losses, and \$1 billion in fees paid to Wall Street money managers and political insiders, though only half that much was reported.

A spokesman for State Treasurer Janet Cowell told *Carolina Journal* Siedle's report is incorrect and inaccurate. The treasurer's office also denied the allegations in the report in a letter to investment advisory committee members.

"You've got half of Wall Street managing North Carolina money. Contrary to what the treasurer says, there

are hundreds more money managers involved in managing the pension than she's disclosed. There are hundreds of millions more in fees than she's disclosed," Siedle said.

"So who might be tagged by any investigation is really quite widespread," he said.

Siedle said the SEC has accepted SEANC's whistleblower complaint about suspected irregularities in the pension fund representing 875,000 active and retired state workers.

The SEC Office of the Whistleblower was created in 2010 with a \$450 million pool of reward funds under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

## Whistleblower eligible

If a complaint leads to an enforcement action, the whistleblower is eligible to receive between 10 percent and 30 percent of money recovered through repayments, penalties, and fines. Investors and pension funds could receive the rest.

SEANC could profit from the enforcement action, Siedle said, noting that investments from employee salaries helped to build the pension fund, formally known as the Teachers and State Employees Retirement System.

"I hope [SEANC members] profit handsomely from it. It will teach a very valuable lesson that introduces

tremendous discipline into the process for the state treasurer to know that her actions will be monitored for compliance with the law, and there may be severe consequences" if improper actions are uncovered, Siedle said.

Generally,

the SEC has jurisdiction over investment agencies rather than state treasurers. However, if state treasurers "are

doing certain things involving money managers, kickback schemes, etc., misrepresentations, fraud, then the state treasurer could be pulled into the [enforcement] activity," Siedle said.

Since its inception, the whistleblower program has made six awards to eight whistleblowers, ranging from \$25,000 to \$14 million.

"North Carolina is unique in that it is one of the largest funds, it's never been audited, it has a sole fiduciary. Those three things make it national news," Siedle said of the state treasurer's payments to investment fund managers.

"The treasurer says, 'I can't give you information on fund managers if they ask me not to because it's a trade secret,'" said Ardis Watkins, SEANC director of legislative affairs. Who the officers of a fund management company are, how much they're paid, "not one thing is considered something that the public has a right to know."

Watkins said Cowell has invested \$1 billion in pension fund money with Credit-Suisse. The international banking giant recently pleaded guilty to one reduced count of bilking the U.S. government out of taxes owed on investments and agreed to pay \$2.6 billion in penalties.

## 'Public has a right'

Credit-Suisse handles many of the funds of funds investments for which Cowell has denied records requests, Watkins said. Given the bank's admission of criminal liability, Watkins added, "it's plain stupid if we have blind faith" in its investment activities. "The public has a right to see these documents."

Investment fund managers typically get 2 percent of the amount of money invested from the state pension fund, and 20 percent of the profit the investment makes, Watkins said.

Funds of funds are large diversified investment portfolios much like mutual funds that typically handle transactions in the hundreds of thousands of dollars. Major public and pri-

vate pension plans often are the funds' only clients. But Watkins said investment fund managers often invest in funds of funds that are run by individuals "that are friends of theirs." Each transaction charges the same 2 percent fee and 20 percent of profit.

"If we give them \$500 million to invest, we're not even sure at the end of that how much is actually being invested," Watkins said.

Carousel Capital is one of TSERS' fund managers. Erskine Bowles, former UNC system president and President Clinton's chief of staff, is a founder and senior adviser of Carousel. Watkins said Cowell blocked SEANC from getting information on Carousel's investments of state pension money by declaring them trade secrets.

When SEANC requested documents from Cowell related to the activities of Carousel and other fund managers, only one sentence was printed on the 78 pages released on Carousel investment activities. The other information was redacted, and the pages were blank, Watkins said.

## 'Very limited contact'

In an email, Bowles said he has had "very limited contact" with Cowell, and that his role at Carousel for the past eight years has been as an adviser. "I have no office there, and have had no active role in firm management," he said.

Bowles added that Nelson Schwab, managing director of Carousel, told him that the firm has "disclosed all documents [relating to TSERS] to the full extent legally permissible without disclosing any trade secrets," while adding that he would prefer even more disclosure of fees than the law currently allows. "[M]y personal opinion is that that information should be made available for all firms investing capital for the state or the pension funds under its control," Bowles said.

State Attorney General Roy Cooper has issued an opinion upholding the trade-secrets disclosure exemption.

State Rep. Stephen Ross, R-Alamance, also defends Cowell's nondisclosure of fund managers' information based on trade-secrets grounds, especially in the alternative investments realm that gives rise to most of the secrecy complaints.

"It's a very, very competitive world out there" with enormous dependence on proprietary information to cobble delicate deals together, said Ross, vice president and investment officer for Wells Fargo Advisors.

If the state broke the trade-secrets confidentiality contract, the fund managers could pull out and leave the state without access to those alternatives as a necessary part of the investment mix, he said.

CJ

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## State Briefs

The latest federal employment data for North Carolina show positive signs of economic recovery, despite an increase in the state's official unemployment rate for May. That's the assessment from John Locke Foundation President John Hood.

North Carolina's official unemployment rate for May was 6.4 percent, according to the U.S. Bureau of Labor Statistics. That rate is up 0.2 percentage points from April but down 1.9 percentage points from an 8.3 percent unemployment rate in May 2013.

"May brought another set of relatively good payroll and employment reports for North Carolina," Hood said. "The unemployment rate edged up a bit as some workers re-entered the labor market looking for work, but both payroll jobs and household employment posted solid gains."

It's important to place the latest set of numbers in context, Hood said. "Given monthly fluctuations and sample sizes, it's wise to use a long-term perspective to evaluate the performance of the state's labor market compared to the national average, particularly if the goal is to shed light on the effects of public policies."

The BLS establishment survey of payrolls shows North Carolina has added about 78,000 jobs since July 1, 2013. "If the state had merely matched the national average, we would have created 13,000 fewer jobs during the period," Hood said.

According to a separate survey of households, 85,000 more North Carolinians were working in May 2014 than in June 2013, while 87,000 fewer North Carolinians were unemployed. "If the state had merely matched the national average since mid-2013, there would have been 33,000 fewer employed North Carolinians and 23,000 more jobless North Carolinians looking for work in May," Hood said.

Hood rejects the argument that recent improvements in North Carolina's employment data are tied to discouraged workers dropping out of the work force. "Declines in labor-force participation do not explain the differences between North Carolina's performance and the national average," he said. "North Carolina's total civilian labor force was only 0.04 percent lower in May 2014 than in June 2013. The national civilian labor force actually declined by a larger amount during the same period, 0.1 percent." CJ

# House Bill Targets 'Pension Spiking' Practice

By DAN WAY  
Associate Editor

RALEIGH

State agencies would have to reimburse the state retirement system for costs associated with letting employees pad their incomes to boost their pensions, under a bill that passed the House by a 115-0 vote June 19 and was before the Senate at press time.

"We've known for some time that there have been a few episodes of pension spiking where people have had their salaries raised extravagantly in the last few years of their careers — either state or, many times, local government employees — to get their pension higher than it would be otherwise," said Rep. Jeff Collins, R-Nash, a primary sponsor of the bill.

House Bill 1195, Fiscal Integrity / Pension Spiking Prevention, "certainly should be a deterrent to continuing to carry on with the pension spiking behavior," Collins said.

The anti-spiking law is just one of several efforts to inject more integrity into the \$87 billion Teachers and State Employees Retirement System. Collins and state Rep. Stephen Ross, R-Alamance, also a primary sponsor of that bill, introduced other legislation for consideration in the short session.

House Bill 1079 would create a compliance unit in the state treasurer's office to keep fraud, waste, and abuse in the retirement system in check.

House Bill 1209 would require an independent, third-party audit of financial statements prepared by the state treasurer for retirement system investment programs. It is an outgrowth of concerns raised by the State Employees Association of North Carolina over a lack of transparency regarding how the system's funds are invested.

Neither bill had passed the full House at press time.

Ardis Watkins, SEANC director of legislative affairs, said the association has no problem with the anti-spiking pension measure, but called it "a window-dressing bill" to give the impression reforms are taking place.

"There's not one thing they could do that would be more meaningful to the system than to show exactly what fees we are paying," Watkins said. "They don't want to do that, so we're seeing bills like anti-spiking." The employees association has asked the U.S. Securities and Exchange Commission to investigate "widespread potential violations of law" involving State Treasurer Janet Cowell's handling of investments from the state retirement system. (For more information, see <http://bit.ly/1UwUz4>.)

"Spiking ... is not rampant. This is not something everybody in the system does. This is isolated to probably 200 incidents a year," and typically involves high-paid positions, Ross said. For that reason only employees paid more than \$100,000 annually are subject to the proposed law.

"But when [incidents of spiking] happen they're usually large amounts of money, and it takes away from everybody else's retirement benefit because it costs the system," Ross said.

The bill is "only one of a number of issues that we're tackling. I guess they would say everything we've done is window dressing," Ross said.

One common method to spike a pension is for an employee to defer payments for items such as signing bonuses, unused sick leave and vacation time, and other money not considered direct compensation. Pensions are determined in a complex formula based on the last four years of work income, so inflating compensation in the final years boosts pension benefits.

When those accumulated dollars are lumped together at the time of retirement, they "grossly inflate" the last year's compensation, Ross said. That, in turn, jacks up the calculation for the employee's pension to a higher rate.

Collins said a simpler fix than the complicated formula that was devised in the anti-spiking bill would have been to use a longer period of time, such as eight or 10 years, to calculate average pay on which to base the pension annuity.

"I think we would have had agreement from a lot of the groups fall apart if we tried to extend the four-year average to a longer average. I don't think any of the state employees groups would agree to that," he said.

The bill also imposes a cap on an employee's annual pension benefits. Once a certain level of deferred income has accumulated that would spike the pension calculation, the employing agency would be notified. The agency then would decide whether to keep compensation at the capped level, or exceed the cap and pay the difference back to the retirement system.

More substantive reforms, including a move to transfer Cowell's sole fiduciary responsibility of the retirement system to an oversight board, are expected in the long session next year, Ross said. North Carolina is one of only four states that grant sole authority over state retirement investments to one person.

"I can't speak for her; I can't say that she's on board or not," Ross said. "They understand that that's the direction we're going. Can we get it done? I don't know, but we're certainly going to make the case for it."

He said changing investment oversight of the system would require more work than could be accomplished in the short session. "In the long session you're going to see much more oversight coming into the plan," Ross said.

Also contemplated for the long session, Ross said, is creation of a defined contribution pension option in addition to the existing defined-benefit model.

Under the current defined-benefit pension, the state guarantees a certain retirement income based on a set formula. The employer is responsible for administering it. In a defined-contribution model, the employer pays into an employee account, and the employee decides how to invest it for retirement income.

"We're not throwing out the defined benefit in lieu of the defined-contribution," Ross said. But exactly what shape the new plan would take is still very much a work in progress amid several options on the table, he said.

One possibility would be for new employees to be in a defined-contribution plan.

"Defined contribution is preferred by younger employees because it's portable," and if they leave government service after a few years, they can take it with them, Ross said. CJ





# Professor: Coal Ash Solution May Rest in Recycling, Not Storage

BY DAN WAY  
Associate Editor

RALEIGH

As the General Assembly debated how to clean up coal ash ponds around the state and safely contain the residue from coal-fueled energy plants, environmental and engineering experts suggest the waste could be reprocessed profitably to reinforce highways and bridges, along with other construction applications.

John Daniels, associate professor and interim chairman of civil and environmental engineering at UNC-Charlotte, urged caution. "Ultimately, you want all of these ash ponds cleaned up, but you want to do it in a responsible way that maximizes the recycling potential of the material," he said.

Daniels said storing coal ash — residue remaining after burning coal to create electricity — in landfills entails risks. Instead he urged maximizing its use as a construction material.

## 15-year deadline

Senate Bill 729, which passed the Senate in late June and was before the House at press time, set a 15-year deadline for closing all unlined coal ash ponds in the state and said the ponds at four Duke Energy locations (Asheville, Dan River, Riverbend, and Sutton) must be closed no later than 2019. The bill also would end disposal of wet coal ash.

Quick timelines should be set to do a risk assessment and develop plans, Daniels said. "But as far as actual implementation, and to say, 'Thou shalt remove all ash by a certain date,' we want to be careful with that because there are unintended consequences that can occur" and "dubious benefits"



Coal ash can be recycled for use in the manufacture of sinks and countertops, such as the one here made with coal ash and glass. (Photo courtesy GeoMATRIX, Inc.)

derived, Daniels said.

"I'm very sympathetic to those who are concerned with ash" because of past spills that have compromised water quality, Daniels said. But he believes a degree of alarmism over the Dan River coal ash spill is driving public policy.

## 'Not hazardous waste'

"It's constantly characterized as toxic coal ash, and I think it's irresponsible to characterize it like that," Daniels said. "It's not hazardous waste, and it's not inherently toxic." The toxicity of the ash depends on the volume of the chemicals in the ash.

"If the litmus test is that ash leaches contaminants at levels above groundwater standards ... then the entire country is hazardous," he said, from compounds seeping naturally from soil. "That's not to diminish the need to manage this stuff properly"

through regulations.

Daniels agreed with Damian Shea, professor of environmental toxicology at N.C. State University, who told reporters at a recent luncheon that no short-term toxic harm has been found from some 39,000 tons of coal ash that leaked from a stormwater pipe at a closed Duke facility into the Dan River.

Shea said he knows of only "very isolated cases" in which coal ash spills contaminated groundwater. But long-term monitoring must be conducted along the Dan River where the coal ash settled, and the state needs to determine how best to deal with its coal ash ponds.

## Recycling for construction

"One of the things that the coal ash recycling industry is spending a lot of time thinking about, talking about now, is whether there's an opportunity to go into some of these older ponds and landfills and apply some technology, and use them as a source of supply for future ash," said John Ward, a committee chairman for the American Coal Ash Association and representative of Citizens for Recycling First.

"That's a future frontier for this industry. There's not a lot of that going on," Ward said. Technology now exists to transform the old, wet material stored in ash ponds into a finer, dry fly ash material commonly used in making concrete. The fly ash makes concrete less porous than Portland cement, bonds more tightly and flows more smoothly.

A little more than 40 percent of dry coal ash produced today is recycled and repurposed for concrete, wallboard, mining, structural fill, embankments, and agricultural purposes, among other uses.

Santee Cooper, South Carolina's largest energy utility serving 2 million customers, has contracted with the SEFA Group to reclaim and reuse stored coal ash at two sites. South Car-

olina-based SEFA already is converting wet coal ash to higher-use dry ash at one Santee Cooper plant and is building a second facility.

"We have contracts to beneficially use or recycle ash in all seven of our ash ponds at three different generating stations. We expect that this will take us 10 to 15 years," said Mollie Gore, Santee Cooper spokeswoman.

"In the case of our customers, it is the lower-cost solution to the long-term question of what are we going to do with our ash ponds," Gore said. "Transporting to a landfill was significantly more expensive than encapsulating in place," and "we stopped counting" the cost savings by using SEFA technology instead of those options.

## \$250 million cost

"The cost we've put on this for the entire program is \$250 million. That includes cleaning out the ponds, and it's delivering the ash to the customers," Gore said.

Duke Energy spokesman Jeff Brooks said the nation's largest utility is looking into the "carbon burnout process" technology to refine wet coal ash into dry form for use by the concrete industry.

"You'd have to build a new facility, and I think we've heard early estimates of around \$30 million," Brooks said. "I think that when you look at that, those facilities would be built on site, or near the site, and the coal ash would be converted there."

Ward said the American Road and Transportation Builders Association conducted a study a few years ago that found using ash to increase the durability of concrete "saves us over \$5.2 billion a year by making concrete roads and bridges last longer."

Using coal ash reduces the amount of water and energy required to create concrete, and landfill space to store it.

"In a lot of places in the country, the state departments of transportation require the use of it in order to improve the concrete," he said.

"We do actually require its use in certain projects, particularly bridge decks where there would be a lot of salt, like at the coast, and our divisions essentially from Raleigh west, where we have the salt in the winter time," said Nicole Meister, spokeswoman at the North Carolina Department of Transportation.

Because ash is finer than cement, it fills holes better and protects against salt infiltration and corrosion, Meister said.

"The Federal Highway Administration encourages its use," Meister said. "Last year we used about 20,000 tons in our construction projects." CJ

# McCrory Embraces JLF's 'Reverse Logrolling' Budgeting Tool

By CJ STAFF

RALEIGH

As the two chambers of the General Assembly negotiate a budget for the 2014-15 fiscal year, the administration of Gov. Pat McCrory has employed a fiscal tool also endorsed by the John Locke Foundation as a way for state agencies to move forward until a deal is completed.

McCrory's budget director, Art Pope, on June 23 directed most state agencies to prepare for the new fiscal year by adopting a budget technique, known as "reverse logrolling," which had been outlined one week earlier in a John Locke Foundation Spotlight report. "Logrolling" is a budgeting technique under which each chamber negotiates with the other to include specific line items in the final spending plan — choosing the higher spending level enacted by each chamber.

As outlined in a memo from Pope to department heads and fiscal officers, each state department and agency would reverse the logrolling process, operating under the lower of the two chambers' previously approved figures for individual budget line items. Unlike the status quo, which would allow state government to operate at 2014-15 budget levels agreed to during last year's budget debate, reverse logrolling would impose immediate cuts to agency and department budgets.

The General Assembly last year passed a budget that will keep state government operating until June 30, 2015. But during this year's budget adjustment (or short) session, McCrory and legislative leaders have proposed a number of fiscal measures requiring new legislation, led by pay increases for K-12 public school teachers and state employees. At press time June 26,

negotiations had not concluded, and if a budget conference report had not passed and been signed by McCrory before July 1, Pope's directive would take effect.

Pope's memo notes that vacant state positions that would have been cut in the proposed 2014-15 budget would not be filled, and teachers and other state employees would not receive pay raises or step increases.

Moreover, unless or until a new budget becomes law, the University of North Carolina system faces a \$19.8 million budget cut and the Department of Public Instruction may lose 30 percent of its funding.

In an exception to the reverse-logrolling practice, the memo said the McCrory administration would restore 7,400 teaching assistant positions that were eliminated in the Senate's budget plan.

The JLF Spotlight report, from director of fiscal policy studies Sarah Curry, identifies savings that would lead to a General Fund budget of \$20.6 billion for 2014-15. That would free up \$667 million, more than enough money to cover teacher pay raise proposals while leaving the state budget with a surplus.

"The state Senate's teacher pay plan would cost more than \$468 mil-

lion, meaning lawmakers could fund that plan and still have a surplus of \$198 million," said Curry. "The House's teacher pay plan would cost \$177 million. Legislative budget writers could fund that plan and have a larger surplus — nearly \$490 million."

Curry endorsed reverse logrolling for House and Senate budget negotiations. "Rather than one set of budget negotiators accepting particular programs or higher levels of spending

from their counterparts, with the expectation that those counterparts will do the same, legislators should agree to accept the lower spending numbers for each departmental budget," she said. "After all, a majority in at least one chamber already has decided that the lower spend-

ing figure will satisfy citizens' needs under current budgetary constraints."

Reverse logrolling makes sense when budget writers are searching for ways to address high-priority items, Curry said. "With lawmakers committed to increased spending for teacher pay and Medicaid, revenue constraints will not support higher spending in other areas of the budget."

Curry details a department-by-department list of potential savings

tied to the reverse logrolling approach.

For example, the total education budget would be \$11.281 billion in 2014-15, roughly \$19 million less than the Senate plan and \$275 million less than the House's proposal. State Health and Human Services spending would total \$5.072 billion using the reverse logrolling technique. That's almost \$33 million less than the House plan and \$193 million below the Senate budget.

The Senate proposed an 11.2 percent average pay increase for teachers who agreed to give up tenure, officially known as "career status." The House proposed 5 percent average raises without addressing teacher tenure.

"Reverse logrolling before the incorporation of a teacher pay increase would allow legislators more flexibility when discussing spending priorities," Curry said. "Legislators would have an opportunity to modify aspects of their respective proposals to include increased teacher pay or assemble desirable components of both plans into one. A reverse logroll also would allow enough money to be set aside in savings and reserves to avoid any unforeseen shortfalls in the next fiscal year."

"Our analysis shows that, even with a teacher pay increase and the need to cover a Medicaid shortfall, the legislature still would have many options for crafting a budget that continues to make improvements in public education, reform Medicaid, create jobs, and lower unemployment," Curry said. "If budget conferees use the reverse logroll method and leave their chambers' pride at the door, then everyone will benefit from the large surplus — taxpayers and state government alike."

CJ



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# McCrory Signs Tax Bill Covering E-Cigs, Eliminating Biz Fees

By BARRY SMITH  
Associate Editor

RALEIGH

**G**ov. Pat McCrory on May 29 signed into law a measure making myriad changes in revenue laws that would, among other things, levy a tax on electronic cigarettes and eventually do away with privilege license taxes charged by local governments. The bill also tweaked the tax overhaul law that was approved last year by the General Assembly.

The Senate gave initial approval to the bill May 28 and made its final vote just after noon the following day. The House concurred an hour later, and McCrory signed the bill at 4:05 p.m.

More than 300 North Carolina municipalities assess some sort of privilege license tax, bringing in \$62.2 million annually. The bill did away with those taxes, with the change taking effect July 1, 2015. Until then, privilege licenses would remain in effect, except cities no longer would be able to tax businesses not located within their corporate limits.

In a statement, McCrory said, "There's no debate that the privilege tax has been applied inconsistently, creating confusion and expense for our businesses. Therefore, I support needed reform."

He added that the associations representing mayors and city councils had legitimate concerns about the forgone revenue. But he said had received assurances from the chief tax writers in the House and Senate that they would work with local governments over the next year to "find a resolution that reforms the local tax option and addresses lost revenue, prior to the sunset date."

Most of the Senate discussion on the e-cigarette tax had to do with the taxation method. No senators argued against the tax, and there was no effort on the floor to strip the provision from the bill.

Sen. Ben Clark, D-Hoke, offered an amendment to change the method for calculating the excise tax. His proposal would have based the tax on the amount of nicotine in the e-cigarette rather than have a 5 cent per milliliter tax.

"We're trying to draw a relationship between the nicotine content, the e-liquid, and the excise tax imposed therein," Clark said.

Sen. Bill Rabon, R-Brunswick, said the e-cigarette tax would be a "hot item" in years to come, and opposed Clark's amendment, which failed by a 37-12 vote.

The excise tax will be assessed in addition to the 6.75 percent state and local sales tax in most areas of the state. The e-cigarette tax is supported by R.J. Reynolds but is opposed by some smaller companies. The tax

would become effective July 1, 2015. Fiscal analysts estimate that once the tax is fully implemented, it will bring between \$5 million and \$5.3 million a year into the state's coffers.

H.B. 1050 also clarified the rules covering the occupancy taxes charged

by localities for renting sleeping accommodations. Homes or rooms in homes that are rented for fewer than 15 days a year and are not listed through a real estate broker or rental service aren't subject to occupancy taxes. The change was made to assist homeowners who rent their residences during

golf tournaments at Pinehurst, which hosted the men's and women's U.S. Open championships in June.

The bill also makes other tax code changes, such as exempting new farmers from sales taxes used in their agribusiness; defining that prepaid meal plans, such as those used on college campuses, are subject to sales

taxes, and clarifying taxes on contractors installing items bought from retailers.

The original version of H.B. 1050, which passed the House 83-35, would have capped municipal privilege license taxes at \$100 per year. Andy Ellen, president and general counsel at the N.C. Retail Merchants Association, noted that privilege licenses had been administered inconsistently across the state.

"[The tax] was not intended to be a revenue generator," Ellen said. "It was intended for cities to know which businesses were in their town."

Paul Meyer, executive director of the N.C. League of Municipalities, said that the move would punch a hole in a number of cities' and towns' budgets. "They either solve [the revenue gap] through service cuts or property tax increases," Meyer said. "There's no other way."

Ellen noted that the state privilege license tax was repealed in 1997 and said that lawmakers were supposed to deal with local privilege taxes soon afterward. "It just never happened," he said. The issue has come before the Revenue Laws Study Committee, the group that meets when the General Assembly is not in session to take a look at tax statutes, but has never been addressed until now, he said.

"We think it's equitable," Ellen said of the proposed plan. "The time has come to fix the problem."

The bill also established a 5-cent-per-milliliter excise tax on e-cigarettes. Lawmakers said that that would amount to 5 cents per pack. Rep. Becky Carney, D-Mecklenburg, pushed to have that tax taken out of the bill, saying it had not been vetted enough. She also said she didn't think the tax was high enough. Her effort failed by a 76-41 vote. *CJ*



**E-cigarettes will  
be taxed at  
5 cents per  
milliliter of  
e-liquid**

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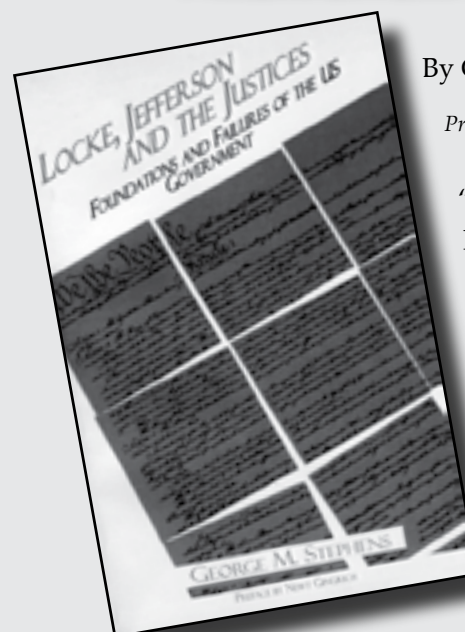
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**Locke, Jefferson and the Justices:**  
Foundations and Failures of the U.S. Government

By George M. Stephens

Preface by Newt Gingrich



"This book is about American politics and law; it is also about the roots of the Contract with America. A logical place to find the intent of the Founders is in Locke, [and] Stephens makes a contribution to highlighting this."

Newt Gingrich  
Former Speaker  
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of Representatives

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## COMMENTARY

## Politics Trumping Research Quality

College and university faculty members have been among the most outspoken critics of private school scholarships for low-income children, measures to improve the quality of classroom teachers, and many other education reform initiatives passed by the Republican-led General Assembly.

Many college professors make a good-faith effort to do research and engage in criticism responsibly. There are others, however, that are willing to compromise their purported commitment to rigorous analysis and scholarship to reinforce fanciful dogmas and political theories, using their university affiliation to give their research credibility it does not deserve.

This year, researchers from two institutions in the UNC system published a trio of studies that appear to be designed to make headlines and score political points, rather than contribute sound scholarship to the public policy debate.

In February, UNC-Charlotte professors Paul Fitchett and Tina Heafner published a three-page report titled, "Maybe Not Such a Blue Moon: The Substantial Phenomenon of Teacher Moonlighting in North Carolina."

Fitchett and Heafner use federal education data to suggest that "constrictive policies and Byzantine pay-for-performance schemes" are forcing public school teachers in North Carolina to "moonlight to escape the workplace hostility and restrictive environments present in many of today's schools."

Yet, they present no peer-reviewed research to back their claim. In fact, this research team references only one study, an obscure conference presentation from 2008. Fitchett and Heafner mention, but do not cite, an empirical research study on teacher moonlighting written by Auburn University professor John Winters. They omitted a reference to the article because it directly contradicts their claim.

Winters concluded that teacher pay "appears to have little or no effect on the propensity to moonlight." His findings echoed those published in peer-reviewed education journals a decade earlier.

About a month later, UNC-Wilmington education professors

Robert Smith and Scott Imig published results from their survey of more than 2,300 residents of North Carolina. They reported that North Carolinians overwhelmingly disapproved of Republicans' education reform measures. In fact, an astonishing 94 percent of their respondents agreed that public education in North Carolina is headed in the wrong direction.

Mainstream media outlets and public school advocacy groups enthusiastically disseminated the survey findings. But these articles and commentaries ignored a serious methodological problem.

At minimum, survey researchers should select a sample that mirrors the population from which it was drawn. Smith and Imig failed to do this. Rather, their online survey bounced around from person to person and from website to website, likely attracting respondents who completed the survey to air their grievances.

In May, two other UNCW researchers got into the act.

Megan Oakes, a graduate student in the UNCW Department of Public and International Affairs, and UNCW education professor Janna Siegel Robertson co-authored a survey of teacher attitudes regarding evaluation and merit pay. They found that only 1 percent of the 800 respondents believed that performance pay was beneficial, while a whopping 89 percent objected to the use of performance pay.

Similar to the dubious approach adopted by Smith and Imig, Oakes and Robertson used Facebook, email, and word-of-mouth to disseminate their survey to teachers, many of whom were formally or informally tied to teachers unions, public school advocacy organizations, and the Democratic Party.

Taxpayers fund the UNC system to educate students and produce credible research. North Carolinians should object vehemently to that investment every time professors and university-based researchers willfully ignore those responsibilities for the sake of political activism. *cj*

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



**TERRY STOOPS**

## House and Senate Cannot Agree on Common Core

By BARRY SMITH  
Associate Editor

RALEIGH

During what may be the waning days of the 2014 General Assembly short session, lawmakers have yet to make a final decision about what to do with the Common Core curriculum.

At press time, both the House and Senate have passed separate versions of bills that seek to do away with the Common Core curriculum for public school children in North Carolina. But the chambers cannot agree on a consensus bill to send to Republican Gov. Pat McCrory, who has argued against repealing Common Core.

Common Core State Standards are curriculum and instructional standards in English language arts and mathematics for students in kindergarten through 12th grade. The National Governors Association, the Council of Chief State School officers, and Achieve Inc. developed them. The Bill and Melinda Gates Foundation has funded much of the project.

Forty-five states have adopted the Common Core standards. In North Carolina, the State Board of Education adopted them in June 2010.

Sen. Jerry Tillman, R-Randolph, who authored the Senate bill, said he believes House and Senate negotiators will hammer out a compromise before lawmakers go home this summer.

"We're going to go to conference," Tillman said. "We'll have a conference committee bill to ban it."

Tillman said he thinks his version, which has passed the Senate, would be acceptable to McCrory and avoid a veto.

"I've vetted it so that it wouldn't be vetoed," Tillman said. "He doesn't like the House version. He'll accept mine."

Both the Senate and House versions of the bill set up an Academic Standards Review Commission to recommend new curriculum standards to the State Board of Education.

The Senate version lets the commission recommend any curriculum standard it considers proper, including a Common Core standard. The House version would not allow the commission to consider incorporating a Common Core standard in future curriculums.

Tillman said it makes no sense to prohibit the commission from using a standard, even a Common Core standard, if it thinks it's the best one.

"That's utterly nonsense," Tillman said.

Under the House version, the commission would have nine members. Under the Senate version, it would have 11.

"We've got a little difference on some of the wording," Rep. Craig Horn, R-Union, who sponsored the House version, said during a House Education Committee meeting in mid-June.

"Neither of these bills stops us in our tracks," Sen. Dan Soucek, R-Watauga, told the committee, noting that the current curriculum will continue in place until new standards are adopted.

While the federal government did not develop the standards, Washington has helped pay for Common Core tests. In addition, the U.S. Department of Education has intertwined

Common Core standards within the Obama administration's Race to the Top program. North Carolina, which was one of the earlier states to adopt the Common Core standards, did so, in part, to improve the state's chances at gaining a grant from Race to the Top.

The Common Core standards have become controversial, with some

policy experts and state leaders questioning if the standards are rigorous enough in certain areas. Others have questioned whether the standards and corresponding curriculums, particularly in math, demand too much of young students in early grades.

Others have questioned whether adopting the Common Core standards amounts to the state ceding its authority to the national government.

Estimates vary over the cost of implementing Common Core standards in North Carolina. The Thomas B. Fordham Institute, which supports Common Core, estimates implementation will cost up to \$300 million. AccountabilityWorks estimates that the state will pay \$525 million over seven years to train teachers and purchase textbooks, materials, and technology to implement the standards.

The John Locke Foundation has recommended that the General Assembly adopt legislation to remove Common Core from state statutes. In addition, it has recommended establishing commissions that would raise the quality and rigor of the state's English language arts and mathematics standards, curriculums, and assessments. *cj*





# Voucher Supporters Urge Full Funding From General Assembly

By BARRY SMITH  
Associate Editor

RALEIGH  
Supporters of private school vouchers — known as Opportunity Scholarships — rallied June 17 outside the Legislative Building urging lawmakers to lift the cap on the number of students eligible to receive the vouchers in the coming school year.

Because more students applied for the scholarships than the number of slots available, a lottery was held June 25 to select the children who will receive them. The General Assembly would have to allocate more money for additional scholarships.

Darrell Allison, president of the nonprofit advocacy group Parents for Educational Freedom in North Carolina, which organized the rally, noted that 5,552 children applied for scholarships. However, the Opportunity Scholarships law, which passed in the 2013 session of the General Assembly, set aside funding for only 2,400 scholarships.

"No other state in our nation had as many applications in its first year of a program," Allison said.

Civil rights activist Howard Fuller, the former superintendent of Milwaukee's public schools, who initiated the nation's first voucher program after leaving that post, said educational choice shouldn't be limited to people with higher incomes.

"The reality is we should not have an America where only those of us with money have the ability to choose the best educational environment for our children," Fuller said. "These parents, these kids, have a right to be able to choose the best education for their children."

After the General Assembly created the Opportunity Scholarships program, opponents of vouchers filed a lawsuit in Wake County Superior Court questioning its constitutionality. In February, Judge Robert Hobgood issued an injunction blocking implemen-



Civil-rights activist and former Milwaukee school superintendent Howard Fuller addresses a June 17 rally outside the Legislative Building urging lawmakers to provide more funding for education vouchers. (CJ photo by Barry Smith)

tation of the vouchers.

In May, the N.C. Supreme Court lifted Hobgood's order, allowing implementation of the Opportunity Scholarships program to move forward. Oral arguments in the case are scheduled for August before the Supreme Court.

Rep. Rick Glazier, D-Cumberland, who opposes vouchers, said he thinks the Opportunity Scholarships are unconstitutional.

Glazier said children from lower-income families are being used as temporary cover for a program that eventually would be open to wealthier families who want to leave public schools.

"The vouchers were touted as a way to help poor children of the state have a private opportunity or option," Glazier said. "But in my view it was never really intended for poorer kids."

"The poor folks who have applied were used as the bait to get the switch," Glazier said.

Allison said he's hoping Senate and House budget negotiators will in-

clude money in the final compromise to allow all of the eligible students who applied for the vouchers to be awarded scholarships. He said lifting the cap would cost \$6 million to \$8 million.

The effort is a one-time deal, to be used for the 2014-15 school year, Allison said. "It's not a lifting of the cap in perpetuity," he said.

Roughly 100 parents and children flanked speakers at the June 17 rally, many wearing T-shirts that read, "Lift the cap on Opportunity Scholarships." Some carried signs that said, "I'm not just a statistic ... I matter!" and, "More parental choice for families!"

Parent Casey Cooper of Statesville said she wants the cap lifted to make sure that her son, Kenan, gets into a private school next year. She said her son is a special-education student who wants to design cars and needs extra help with math.

"I'm not saying that the public school district is not giving quality education," Cooper said. But she said that her son, because of his special education needs, would get more individ-

ualized attention at a private school.

House Speaker Thom Tillis, R-Mecklenburg, and Senate President Pro Tem Phil Berger, R-Rockingham, both lauded the effort.

"This is about giving parents an opportunity to put their child in a setting that helps ensure that they realize their hopes and dreams," Tillis said.

"It's the right thing to do for kids; it's the right thing to do for parents; it's the right thing to do for North Carolina," Berger said.

Both Berger and Tillis lauded Rep. Paul "Skip" Stam, R-Wake, for his role in championing the voucher cause.

Sen. Ben Clark, D-Hoke, along with Reps. Marcus Brandon, D-Guilford, and Rob Bryan, R-Mecklenburg, also offered support to the effort.

Brandon said more than half the children are not graduating from high school in his district, a factor that contributes to an increased likelihood of a person going to prison.

"This is a cancer in our community. and people are literally dying because of it," Brandon said. CJ

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# Charlotte Reclaims Top Spot in JLF City Tax Burden Listings

Average N.C. resident paid 4.3 percent of his income to local government

By CJ STAFF

RALEIGH

Eight of North Carolina's largest cities now have annual local tax-and-fee burdens topping \$2,000 per person. Charlotte regains its No. 1 statewide ranking among the largest cities, with a local government bill of \$2,379 per person. That's according to a new John Locke Foundation report.

Meanwhile, the average North Carolinian paid 4.28 percent of his personal income to fund city and county government in the 2012 budget year, the latest year with available data. That figure is down slightly from 4.32 percent in 2011.

"The typical resident of the median county in North Carolina paid \$1,277 in taxes and fees to county and municipal governments in the 2012 budget year," said report author Michael Lowrey, a JLF economics and regulatory policy analyst. "That's up from an inflation-adjusted figure of \$1,267 in 2011. But the average North Carolinian actually pays more since many of the state's more populous counties also have above-average local tax-and-fee burdens."

A family of four in the median county would face an average tax-and-fee burden of \$5,107. "That's a significant burden, especially given the high levels of state and federal taxation, along with the still-elevated unemployment levels present in 2012," Lowrey said.

Local government collected \$15.7 billion in property, sales, and other taxes and fees during the budget year that stretched from July 2011 through June 2012, Lowrey reports. "Local government revenues increased by roughly \$400 million in that budget year," he said. "This is not to say that all revenue sources increased. Sales tax revenues grew by \$150 million, or 7.5 percent, while property tax receipts increased by \$250 million, or 3 percent. Water department revenues and other tax and fee income were essentially flat."

Among North Carolina's largest cities, Charlotte (\$2,379 per person) jumped two spots to reclaim the No. 1 ranking for largest local government tax-and-fee burden. Before a one-year drop from the top spot, the Queen City had ranked No. 1 for a decade.

Mooresville dropped from the top spot to No. 2 in 2012, while Chapel Hill, Wilmington, and Monroe round-

**Combined City and County Tax Burdens  
for N.C. Municipalities with Populations of 25,000+**

City	Tot. Rev. Per Capita	2012 Rank	Property Tax	2012 Rank	Sales Tax	2012 Rank
Charlotte	\$2,379.13	1	\$1,503.77	3	\$404.64	1
Mooresville	\$2,336.16	2	\$1,524.81	2	\$331.71	5
Chapel Hill	\$2,315.59	3	\$1,646.29	1	\$279.86	22
Wilmington	\$2,195.41	4	\$1,308.00	10	\$401.95	2
Monroe	\$2,175.52	5	\$1,366.63	7	\$232.68	33
Durham	\$2,111.80	6	\$1,403.38	5	\$329.27	7
Asheville	\$2,078.99	7	\$1,239.86	15	\$364.29	3
Cornelius	\$2,000.77	8	\$1,478.07	4	\$310.61	12
Cary	\$1,951.32	9	\$1,227.27	17	\$287.21	19
High Point	\$1,947.06	10	\$1,295.84	11	\$274.65	25
Holly Springs	\$1,933.17	11	\$1,238.91	16	\$330.98	6
Matthews	\$1,932.93	12	\$1,371.54	6	\$297.55	16
Salisbury	\$1,928.97	13	\$1,055.27	23	\$260.42	29
Huntersville	\$1,927.47	14	\$1,334.33	9	\$286.22	20
Wilson	\$1,916.44	15	\$1,018.75	25	\$269.60	27
Raleigh	\$1,912.22	16	\$1,179.28	18	\$288.49	17
Greensboro	\$1,900.23	17	\$1,266.52	14	\$277.07	23
Garner	\$1,873.05	18	\$1,280.95	13	\$287.97	18
Wake Forest	\$1,871.08	19	\$1,340.68	8	\$284.37	21
Concord	\$1,836.83	20	\$1,281.90	12	\$312.69	11
Winston-Salem	\$1,808.43	21	\$1,097.51	21	\$275.93	24
Apex	\$1,696.91	22	\$1,151.62	19	\$264.63	28
Kannapolis	\$1,662.09	23	\$1,134.10	20	\$307.55	13
Sanford	\$1,660.42	24	\$1,086.34	22	\$340.11	4
Gastonia	\$1,656.84	25	\$1,040.30	24	\$249.99	30
Rocky Mount	\$1,569.25	26	\$886.77	30	\$244.01	31
Burlington	\$1,559.01	27	\$930.37	27	\$314.26	10
New Bern	\$1,530.64	28	\$897.87	29	\$305.96	14
Goldsboro	\$1,523.62	29	\$864.25	32	\$321.04	9
Greenville	\$1,464.79	30	\$829.38	33	\$305.94	15
Asheboro	\$1,411.24	31	\$949.92	26	\$234.09	32
Fayetteville	\$1,338.50	32	\$827.43	34	\$271.43	26
Indian Trail	\$1,273.57	33	\$926.10	28	\$162.33	35
Thomasville	\$1,267.59	34	\$878.84	31	\$222.05	34
Jacksonville	\$1,241.57	35	\$658.56	35	\$325.94	8

Source: JLF By The Numbers report (Note: Hickory not ranked)

ed out the top five. Along with those cities, Durham, Asheville, and Cornelius all had local tax-and-fee burdens of at least \$2,000 per person.

Among the list of 35 ranked municipalities with at least 25,000 residents, Jacksonville (\$1,241 per person), Thomasville, Indian Trail, Fayetteville, and Asheboro had the lowest local government tax-and-fee burdens.

Lowrey calculates the burden by adding all local taxes and fees collected in the city, then dividing by the total population. "That total includes both municipal and county taxes and fees, so a city's ranking depends to some extent on the taxes and fees levied by the surrounding county," he said.

Some commentators have questioned whether communities with higher sales-tax revenues ought to be labeled "high-tax communities" in the annual report. "Localities retain the discretion to determine their overall revenues by altering their property-tax rates and the other taxes and fees they collect," Lowrey said. "Thus higher sales-tax revenues allow a community

to lower its property-tax rates, provide more services, or both."

Kill Devil Hills, Pineville, and Hillsborough had the highest local per-person tax burdens among the 88 ranked N.C. communities with populations between 5,000 and 24,999 people. The report ranks each of these communities, along with 188 municipalities

with populations between 1,000 and 4,999 people. Even residents of 191 municipalities with populations of fewer than 1,000 people can see how their communities rank against their peers.

*By The Numbers: What Government Costs in North*

*Carolina Cities and Counties FY 2012* is the 16th such report published by the John Locke Foundation. Lowrey used the most recent data available from the state treasurer, Bureau of Labor Statistics, and Bureau of Economic Analysis to construct rankings of local government cost on a per-person basis. For counties, he also constructed rankings on a share-of-income basis.

Lowrey highlights a continuing problem that helps skew the rankings. Hyde and Sampson counties and 44

municipalities missed legal deadlines to file their State Treasurer's Annual Financial Information Report.

"Whether those local governments filed the statements after the deadline or not, the information was not available from the treasurer's office in time to be included in this report," Lowrey explained.

Lowrey also repeated his annual warning against comparing the relatively high per-capita tax numbers in resort communities to those in other N.C. cities. Communities with larger numbers of second homes and resorts — combined with small year-round populations — will see larger per-capita tax burden figures, he said.

The latest report contains another warning. "The state treasurer's office drastically reformulated how local government financial information is reported with data for the 2012 budget year," Lowrey said. "It is thus possible that comparisons between this edition of *By The Numbers* and previous reports might be more difficult."

Among the 10 most populous counties, Durham (5.66 percent), Mecklenburg (5.44 percent), Guilford (5.02 percent), New Hanover (4.84 percent), Forsyth (4.56 percent), Gaston (4.56 percent), Buncombe (4.52 percent), and Wake (4.44 percent) all ranked among the top 25 N.C. counties in average cost of local government. Union (4.04 percent) ranked near the middle of the pack. Cumberland (3.11 percent) ranked No. 83 of the 98 ranked counties.

North Carolina collected \$21.9 billion in state tax and fee revenues from July 1, 2011, to June 30, 2012. That's 6 percent of state residents' personal income. Local governments collected an additional \$15.7 billion in property, sales, and other taxes and fees. That's another 4.3 percent of personal income.

"Combined, they represent a state and local tax-and-fee burden of 10.3 percent," Lowrey said. "Federal collections raise the total tax burden on North Carolinians to approximately 26.8 percent of personal income, on average."

Lowrey stresses that a high cost-of-government ranking in the *By The Numbers* report does not equal a judgment that a city or county is governed poorly.

"*By The Numbers* helps taxpayers evaluate whether the services they receive from local government merit what they are paying for them," Lowrey said. "We hope taxpayers will continue to ask about the proper role of local government and its relationship to the state. It's important to keep these discussions alive and to ensure our local leaders remain accountable to taxpayers."

CJ

Local governments  
collected  
\$15.7 billion in  
sales, property, and  
other taxes in 2012



# W-S Officials Feel Shortchanged By Northern Beltway Project

By MICHAEL LOWREY  
Associate Editor

**T**he state has released detailed rankings of road projects to guide highway construction decisions. Officials in Winston-Salem cannot agree on whether the results are favorable for the area or not, reports the *Winston-Salem Journal*.

The key project in Forsyth County is the much-delayed Winston-Salem Northern Beltway. The beltway didn't rank highly among state-funded road projects, but should get considerable funding from a different pot of regional transportation money.

"Based on the best information on anticipated revenues, we are in pretty good shape," said Pat Ivey, N.C. Department of Transportation engineer for the district that includes Forsyth County. "We are pretty optimistic."

Ivey thinks there should be enough money available to complete much of the highway over the next 10 years.

Gayle Anderson, president and chief executive of the Winston-Salem Chamber of Commerce, does not share Ivey's optimism.

"We are going to get another segment or two," she said. "We are not going to get the road. The real economic impact is when the whole thing is built. It is what I call a road to nowhere. At the rate we are going, [the beltway segments] will take all the regional money, and all the other regional projects will get pushed behind. Meanwhile, Greensboro continues to get the lion's share of funds. They got their beltway money."

## Oak Island hotel

Economic development can be an emotional issue in smaller communities. That's certainly the case on coastal Oak Island, where the town may ease height restrictions on new construction to attract a hotel. The debate in Oak Island has a unique twist, reports the *Wilmington Star-News*, as the hotel is being sold as a way to minimize rising sewer rates.

Building a sewer system in a coastal community is tricky, and the vacuum sewer system the town constructed cost \$140 million instead of the \$42 million originally budgeted. This has resulted in high sewer bills for property owners, and those are expected to rise over time.

One alternative to high sewer

bills for residents is attracting more commercial development to have tourists cover some of the debt service costs. A hotel wouldn't make sense with the town's current height limits, however, which restrict new buildings to three stories.

The idea is controversial.

"If we could create the right kind of commercial development in a controlled way ... we could take the debt service off the backs of taxpayers and not increase the sewer bill every year," said Mayor Pro Tem Jim Medlin.

Mayor Betty Wallace disagrees.

"We are families, dogs, retirees — that's what we are," Wallace said. "That's what we have been. We don't want high-rises. We don't

want parties of 100 people. We want families to be able to enjoy vacations on the beach."

## Asheville water system

A judge has ruled that the General Assembly exceeded its authority with legislation placing Asheville's water system under the control of a local sewer authority. The decision is likely to be far from the last word on the matter, reports the *Asheville Citizen-Times*.

The administration of Buncombe County's water supply has been a contentious issue for decades. In 2013, the legislature placed Asheville's municipal water system under the control of the local Metropolitan Sewerage District of Buncombe County. The city objected and sued to block the move.

Superior Court Judge Howard Manning agreed with several arguments that Asheville made against the transfer. Manning found the legislature violated the state Constitution when it used a local law to transfer the water system. Local laws are those affecting only a few counties, but they cannot be used to address "health, sanitation, [and] non-navigable streams."

The judge also found that the General Assembly lacked a rational basis for making the transfer and ruled that the water law "is not a valid exercise of the sovereign power of the legislative branch of government (or the state of North Carolina) to take or condemn property for public use."

Manning concluded that even if the transfer were valid, the city would be entitled to compensation, which the law does not provide. The water system is valued at more than \$100 million. *CJ*

## COMMENTARY

# A Suspicious Reason To Raise Taxes

**I**n June, the John Locke Foundation released the fiscal year 2012 edition of *By The Numbers*, JLF's annual report on the cost of local government. *BTN*'s insights are particularly relevant this year, as two of the state's three largest counties — Mecklenburg and Guilford — have asked voters to raise the local sales tax rate by 0.25 percentage points. The timing is curious, given political and economic developments in the state.

Local sales tax revenue fell dramatically during the Great Recession. In fiscal year 2008, cities and counties across the state collected \$2.8 billion in sales tax receipts. Just two years later, local sales tax revenue had fallen by more than 25 percent, to just \$2 billion in nominal terms (not adjusted for inflation).

Overall local government revenue collection didn't fall by one-fourth from the 2008 peak, however. Rather, counties and municipalities raised property tax rates to make up for their reduced sales tax collections. Between 2008 and 2012, local governments increased their property tax take by \$1 billion a year. This came despite significant reductions in property values in many communities as the housing bubble burst.

Put another way, in fiscal year 2008, local governments in North Carolina received 56.5 percent of their nonutility revenues from property taxes, with sales tax revenues accounting for 21.7 percent of revenues, while other taxes and fees accounted for the remaining 21.8 percent of revenues.

By comparison, local governments got 64.7 percent — an 8.2 percentage point increase — of their revenues in fiscal year 2012 from property taxes and only 16.3 percent of revenues from sales taxes. And that comes with sales tax revenues growing to \$2.2 billion in 2012, roughly 7.5 percent above 2011 collections.

Both Mecklenburg and Guilford counties followed this general trend. In 2008, Guilford County collected \$306 million in property taxes and \$88 million in sales taxes. The respective 2012 figures are \$362 million in property taxes and only

\$67 million in sales taxes. Mecklenburg County collected \$802 million in property taxes and \$248 million in sales taxes in 2008. By 2012, property tax receipts were up to \$941 million while sales tax revenue had fallen to \$205 million.

Endorsing a tax increase

generally is a risky move for politicians. That's especially true for a property tax increase, as the average homeowner knows exactly how much property tax he pays. By comparison, the average citizen has no idea how much he pays in sales taxes each year, making sales tax increases much more popular alternatives for pols looking to spend

more.

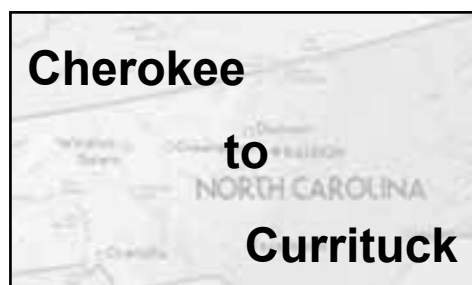
Both counties have issues. Guilford voters have rejected sales tax increases three times in recent years. Mecklenburg County, meanwhile, already has the state's third-highest local tax and fee collections, trailing only two coastal counties where the presence of vacation homes distorts the results.

The immediate need for higher tax revenues is suspect for two reasons. First, the North Carolina economy continues to recover. Economic growth and increasing employment boost spending and, yes, sales tax revenues.

Perhaps more important, a majority of the commissioners in each county claimed the main reason to raise sales taxes was to provide more money for education. The commissions authorized referendums for higher tax rates while the General Assembly was in session, with both chambers proposing significant teacher pay raises, and Gov. Pat McCrory supporting a pay hike.

Such statements of intent aren't binding, though — money is fungible and counties can move money around as they please. Thus, what Mecklenburg and Guilford counties would like to do is tax more to spend more. And that remains a questionable goal, regardless of the state of the economy. *CJ*

Michael Lowrey is an associate editor of *Carolina Journal* and the author of *By The Numbers*.



**MICHAEL LOWREY**

# Unsettled High Point Mayor's Race Promises Election Fireworks

BY SAM A. HIEB  
Contributor

HIGH POINT

The past year may have been the most contentious in the history of High Point politics, which in turn should make the mayor's race in the November municipal election a hot one.

High Point continues to struggle from the decline of the furniture and textile industries, leaving the future uncertain for the city of 104,000 residents. The plan by a flamboyant Miami architect to transform the city is stalled, putting the fate of the nonprofit overseeing that transformation in question.

Adding to High Point's problems was the controversy surrounding incumbent Mayor Bernita Sims. In October 2013 the City Council approved a resolution requesting her resignation following a State Bureau of Investigation probe into the handling of her late sister's estate.

The 6-3 vote was along racial lines, prompting accusations of racial bias against the city's first black mayor.

Sims did not respond to a request for an interview, but in October she told *Carolina Journal* "it is not my intention to step down. It's not going to happen."

Whether or not she will seek re-election remains to be seen. Filing does not start until early July, and Sims has not declared her intentions.

The only candidate who has stated his intention to run for mayor is Guilford County Commissioner Bill Bencini.

Bencini has served on the Board of Commissioners since 2010 and is a former High Point City Council member. He decided not to seek re-election to the commission after General Assembly Republicans redrew the districts. Much of High Point was excluded from his new district.

Bencini also did not respond to several requests for an interview, nor did fellow Commissioner Bruce Davis, who in June told the *High Point Enterprise* he was contemplating a run for mayor.

Davis already is in campaign mode, since he made a run for the Democratic nomination for the 6th Congressional District seat currently held by retiring Rep. Howard Coble.

Davis was defeated in the primary by Laura Fjeld, a relative unknown in Guilford County politics. Davis protested his defeat to both the county and state election boards, claiming his defeat in his home Guilford County "defied credulity."

Davis also raised the possibility that someone swung the election to Fjeld by hacking the county's voting machines.



Bernita Sims



Bill Bencini



Bruce Davis



Marcus Brandon

Both elections boards rejected Davis' protest.

One other public official is pondering a run for High Point's highest office — state Rep. Marcus Brandon, whose 60th District covers a good portion of High Point.

Brandon decided not to seek re-election to the General Assembly, opting instead to make a run for the 12th Congressional District seat that opened up when Rep. Mel Watt took a position with the Obama administration.

Though Brandon came up short in the primary — Greensboro state Rep. Alma Adams will face Republican challenger Vince Coakley in November — Brandon nonetheless was encouraged by the support he received from his High Point constituency.

In a phone interview, Brandon told *CJ* his congressional run "was an amazing experience, although we came up short."

"We still won High Point," Brandon said. "I am so proud they stuck by their representative. It gives me a lot of confidence."

But Brandon's decision to run hinders on another factor — his promise not to run if Sims seeks another term as mayor.

Brandon told *CJ* he regards Sims as a "hero of mine," and the way she handled the firestorm surrounding her "made her an even stronger mayor."

"You're talking about a family issue," Brandon said. "I don't think her decision to run for mayor should have anything to do with that."

Whether or not Brandon runs for mayor, he said he still has a passion for High Point and many ideas on how to help the city move forward.

His biggest issue is High Point's public schools. High Point schools are operated by the Guilford County school system, which also runs Greensboro's schools. Having two significant cities operating under one school system is a challenge, Brandon said.

With that in mind, Brandon maintains the responsibility for High Point's schools lies with the city, although it has no legal authority over the schools.

"Obviously we cannot rely on the state government, the federal govern-

ment, or even the school board to deal with the issues concerning High Point schools," Brandon said.

Brandon believes a public-private partnership — along the lines of Charlotte's Project L.I.F.T., an organization that provides money, mentoring, and educational tools for parents of at-risk students — would benefit High Point schools.

"The responsibility lies with High Point," Brandon said. "My goal is to bring all the stakeholders to the table."

Whoever the next mayor is, he or she will have a full plate. The City Project — the city-funded nonprofit charged with overseeing downtown

revitalization — commissioned architect Andres Duany to provide his vision of a High Point that would attract the millennial crowd.

While some of Duany's suggestions are practical — such as a "pink code" that would lighten the bureaucratic red tape for entrepreneurs looking to relocate to High Point, others — such as structures made from sea cans — were a bit unorthodox. Another would be expensive — "dieting" Main Street, i.e., making it narrower. In theory, cars would drive at slower speeds, presumably making it more likely drivers would stop to enjoy downtown shops and restaurants.

But the City Council is showing reluctance to move forward with Duany's plan. In May, the council voted to cut City Project's funding, prompting an outcry from project supporters.

Brandon called the City Project "not a bad project" but is still concerned that any economic development efforts should involve the entire community, not just downtown.

"Getting people trained and getting them skilled is the way you help make a sustainable city," Brandon said. *CJ*

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The Wild West is the JLF's blog in Western North Carolina. Asheville's Leslee Kulba blogs in this site, designed to keep track of issues in the mountains of N.C.: <http://western.johnlocke.org/blog/>



# Legislature Repeals Durham's Jim Crow-Era Gun Law

By DAN WAY  
Associate Editor

**D**urham County officials are awaiting a ruling from the state on what to do with tens of thousands of gun owners' personal information now that the county's Jim Crow-era gun registry has been repealed in a "very large" legislative victory.

"I have asked that question to the people in Raleigh at the Administrative Office of the Courts, and they are researching it, and they are supposed to get back to me to let me know what's going to happen with these," said Cindy Buchanan, Durham County assistant clerk of court/head cashier. "So right now I don't have an answer."

A local legislative bill created Durham County's gun roll, the only firearm registration system in North Carolina, in 1935.

State Sen. Mike Woodard, D-Durham, introduced a local bill that was passed into law June 18 abolishing the registration requirement. Because it was a local bill, it became law without the governor's signature after passing both chambers of the General Assembly.

"We've got an alert going out right now to have people contact the county commission to demand these records be destroyed," said Paul Valone, president of Grass Roots North Carolina, a nonprofit gun rights organization.

"If that doesn't work, I suppose we need to look into legal action. Gun registration is not legal in North Carolina, period, end of story," Valone said.

"Right now, they're back here in my office under lock and key," Buchanan said of the gun registrations.

"I've got two big filing cabinets full."

She said it's difficult to tell how many gun registrations were entered every year, and she did not know how many are contained in the filing cabinets. "It's not on any kind of database as far as a computer, and it doesn't keep any running account," Buchanan said. "It's all done by paper," and forms are filed alphabetically, not by year.

When registering, a gun owner would bring in information on the gun, fill out the paperwork, and get an old-fashioned carbon copy, with the original going into the county files.

Buchanan said she is not aware of any government use for the registrations, nor did she know of any law enforcement agencies cross-referencing gun permit purchases to make sure gun owners were complying with the registration law. She declined to speculate if the law was effective.

"Since we issue the concealed carry and pistol permits, we made everybody aware of the law that you were required to register your firearm under state law," said Durham County Sheriff's Maj. Paul Martin, who oversees concealed carry permitting for the sheriff's office.

"But that [registration] law has never been enforced as far as I know," Martin said. "That's not the sheriff's domain."

Martin is not convinced that the

records should be destroyed. One value of keeping them is that they contain serial numbers for guns. Those identifiers are not collected on gun permits.

So if a gun were stolen and the owner didn't know the serial number, it could be retrieved from the registry, Martin said. Likewise, if a stolen gun were recovered, it could be traced to the owner through the registry.

"It's not a computerized system, it's 79 years old, and as far as I can tell there's more than 40,000 pieces of paper up there" that would have to be sifted through individually to find the right registration document without knowing the owner's name, Martin said.

Woodard did not respond to requests for comment.

Valone called Woodard's repeal legislation "a very large, symbolic victory" that eluded his organization in its past at-

tempts to get it passed.

Those attempts failed because the General Assembly has a tradition of not moving a local bill without a legislator from that jurisdiction sponsoring it.

"Quite frankly, given the political orientation of legislators in Durham County, we could never find a sponsor," Valone said.

"Fortunately, Sen. Woodard stepped up and did the right thing in repealing what was originally passed

as a Jim Crow law," Valone said. He and Martin said the catalyst for the 1935 legislation was some two dozen murders in one year at illegal liquor houses.

"I don't understand why a registration law would have had any impact on that," Valone said. "My suspicion is that it just allowed the sheriff to keep an eye on people, and the sort of people he was keeping an eye on at that point were people of color."

Once Woodard set his repeal bill in motion, Grass Roots North Carolina "provided impetus to make sure it got a floor vote," Valone said.

Durham County's gun registration made it the only place in North Carolina exempt from a statewide pre-emption law passed in 1995 prohibiting any local government from adopting gun laws more stringent than state statutes.

Pre-emption is a vital gun owner protection, Valone said.

"The reason for that is that you don't want to go through, say, Chapel Hill with a handgun in your car and become a criminal because you didn't know they had a handgun ban in Chapel Hill back in the early 1990s," Valone said. "Pre-emption allowed law-abiding gun owners to remain law-abiding" throughout the state.

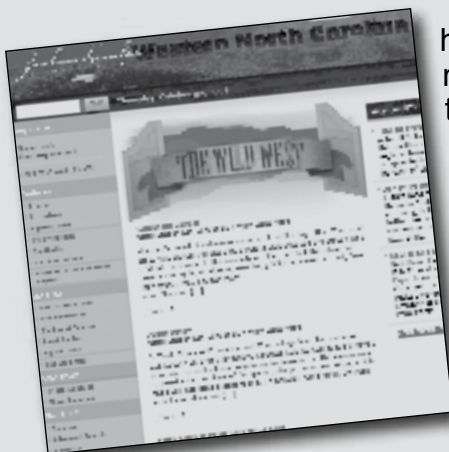
Durham County's gun registration law "has been a large loophole in pre-emption," Valone said. "If push came to shove, if you or I drove through the City of Durham without registering our handgun with the Clerk of Superior Court, we were guilty of a crime," Valone said. "The law did not require you to be a resident to register your gun in Durham," only possessing it.

CJ



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# Senior Democrat Owes Thousands in State, Local, Federal Taxes

Continued from Page 1

have been released. Furthermore, all ad valorem property taxes for which Mr. Wray is responsible are current."

Wray is not the only Democrat to face recent tax problems. Former state Rep. Deb McManus of Chatham County resigned from the General Assembly in December after she was arrested on felony tax charges. She was charged with three counts of embezzlement of state individual income taxes totaling more than \$47,000 over a 2 1/2 year period ending in July 2013. The money came from her husband's medical practice, where she served as the bookkeeper.

Wray is serving his fifth term in the General Assembly, and in May he won his party's primary, defeating the Rev. Franklin Williams Jr. of Weldon. He has no Republican opposition in the November general election.

Wray's recent campaign benefited from an independent expenditure from "Mainstreet Merchants for a Better North Carolina," an organization affiliated with the North Carolina Retail Merchants Association. The organization reported spending \$1,972 on March 26 to buy billboard messages supporting Wray. "Michael Wray for House District 27 — a Strong Leader Who works for All Of Us," was the message, along with a photo of Wray that appeared on the billboards.

Wray, in addition to serving as deputy minority leader, serves on several key committees in the General Assembly. He is vice chairman of the Regulatory Reform Committee and also serves on Appropriations, Environment, Health and Human Services, and Commerce and Job Development committees.

In campaign literature and online biographies, Wray describes himself as a small business owner. His business interests include Gaston Hardware, Wray's Sheet Metal LLC, and Frazier's Restaurant. He also buys and sells land and receives rental income from various farm properties. The Northampton County Register of Deeds index shows, since 1991, Wray as a grantor or grantee in approximately 120 deeds. On his most recent Statement of Economic Interest, received March 12 by the State Board of Elections, Wray lists 76 North Carolina properties in which he has an ownership. His wife and parents are co-owners of many of the businesses and properties.

## Federal taxes

On Feb. 18, the IRS filed two Notice of Federal Tax Lien documents with the Northampton County Clerk of Superior Court, naming Michael Wray as the delinquent taxpayer. The documents indicate that for 15 consecutive quarterly periods from the beginning of 2009 through September 2012, Wray shortchanged the IRS. The docu-



Rep. Michael Wray's recent campaign benefited from an independent expenditure from "Mainstreet Merchants for a Better North Carolina," which spent \$1,972 to buy billboard messages supporting his candidacy. (CJ photo by Don Carrington)

ments do not specify which of Wray's businesses is associated with the past-due taxes. Wray, according to the IRS, currently is responsible for a total of \$83,979 in unpaid federal taxes, interest, and penalties.

Wray's father Harold is responsible for \$98,505 over the same period.

"We have made a demand for payment of this liability, but it remains unpaid," states each document signed by federal Revenue Officer Robert Johnson. "Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue." The liens give the IRS a first claim on the proceeds of the sale of any of the real estate parcels the Wrays own, but they do not prevent the Wrays from selling any of their property, businesses, or other possessions to settle their debt with the IRS.

## State taxes

The Wrays also had problems keeping up with their state tax obligations. In 2013, the Division of Employment Security in the N.C. Department of Commerce filed five separate "Certification of Unemployment Insurance Tax Delinquency" notices with the Northampton County Clerk of Superior Court, naming Wray's Sheet Metal as the delinquent payer. Those notices total \$5,677 in taxes, interest, late payments, and court costs.

The delinquent periods include the fourth quarter of 2011, the first through the third quarters of 2012, and the second quarter of 2013. Unemployment insurance taxes are used to pay benefits to qualified unemployed workers. Four of those delinquency notices were satisfied in June after CJ began investigating the Wrays' taxes.

## Local taxes

Northampton County tax records show Michael Wray has not paid 2013 property taxes on three parcels he owns, owing \$3,704 on a two-acre parcel, \$1,341 on a five-acre parcel, and \$2,416 on a 161-acre parcel.

Wray co-owns Frazier's Restaurant in Weldon with his father. Halifax County tax records list Harold Wray as owing unpaid 2013 property taxes of \$3,319 for the Frazier's Restaurant property, and Michael Wray as owing unpaid 2013 property taxes of \$3,293 for a four-acre parcel that includes the parking lot of Frazier's Restaurant.

Northampton County tax records list Harold Wray as responsible for the unpaid taxes on approximately 60 properties, involving approximately 100 past-due bills totaling \$50,067 in taxes and interest. Some unpaid bills go back to 2011.

Collecting property taxes from Harold Wray has been a challenge for local government. Northampton County has filed a legal action against him on six separate occasions since 1989. The most recent complaint, filed in June 2012, involved 14 parcels with unpaid taxes totaling \$9,326. A July 2009 judgment against Harold Wray involved 18 parcels with unpaid taxes totaling \$6,404.

The town of Gaston also has had to use legal action to collect from Harold Wray. A June 2013 judgment stated that Harold Wray and his wife Shirley owed the town \$113,000 in unpaid property taxes from 2006 through 2010 involving five parcels.

The Wrays had not paid much smaller tax bills. Gaston Hardware has unpaid Northampton County personal property taxes for 2010, 2011, 2012, and 2013, totaling \$163. Wray's Sheet Metal has not paid 2013 Northampton County personal property taxes totaling \$983.

## Federal subsidies

Michael Wray, his family members, and business associates have received significant subsidies from the U.S. Department of Agriculture as well, according to the Environmental Working Group's farm subsidy database. EWG is a Washington, D.C.-based nonprofit research organization that tracks federal farm subsidies.

From 1995-2012, Michael Wray was the 10th-largest recipient of USDA subsidies in Northampton County, re-

ceiving a total of \$169,435 for conservation projects and peanut subsidies. He received \$570 per year conservation subsidies from 2009-12 — the same years he was not paying some federal taxes.

Other USDA subsidy recipients listed during the 1995-2012 time period include his wife Kay, \$51,050; his father Harold, \$94,095; his mother Shirley, \$49,725; and business partners David Dunlow and Debra Dunlow, \$70,279 and \$52,931, respectively.

A separate business entity named Dunlow and Dunlow received \$7,732,656 in USDA subsidies for activities in Northampton and neighboring counties. According to the website, David and Debra Dunlow own that entity.

## Selling and borrowing

In spite of the growing family tax issues, Michael Wray has remained active selling land and borrowing money.

In May 2011, Wray sold a 173-acre tract of land in Greensville County, Va. He purchased the property in 1999 and co-owned it with his wife Kay, and business partners David Dunlow and his wife, Debra. CJ was unable to determine the sales price.

In July 2013, Michael Wray sold a 79-acre parcel of land, also in Greensville County, Va., for \$164,290. He bought that land in 2002 and co-owned it with his wife and the Dunlows. According to the county tax office, the couples no longer own land in Greensville County.

Public records also show that Michael Wray and his associates have negotiated approximately \$3 million in loans since June 2011. Deeds of trust signed by Michael Wray, his father, their wives, or the Dunlows, since June 2011 involve seven loans, with the largest for \$2 million in November 2013.

## Gas usage

In September 2013, the *News & Observer* of Raleigh raised questions about another money matter involving Michael Wray. Wray's campaign finance reports showed that he spent more than \$28,000 on gas from July 2011 to June 2013. According to the *N&O*, the 427 fuel purchases suggested Wray claimed more than 100,000 miles of travel in his sport-utility vehicle.

During the same period, he also spent \$17,700 in campaign funds at 117 different times on meals or other food purchases. Campaign funds can be used for expenditures resulting from a campaign for public office or expenditures resulting from holding office.

Legislators receive a per diem payment of \$104 for each day the General Assembly is in session to cover food and lodging. Payments also cover Fridays, Saturdays, and Sundays — days when the legislature often is not meeting. That amounts to \$749 a week for food and lodging. CJ



# Salisbury Using Water-Sewer Fund Fees to Pay For City Broadband

Continued from Page 1

Since the Moody's credit downgrade occurred, there's been an upheaval in the administration at Salisbury city hall. After a nearly five-hour closed session June 17, the Salisbury City Council emerged to announce that it had "mutually terminated" the contract of City Manager Doug Paris. The following day, the city's public information officer, Elaney Hasselmann, resigned.

## No response

Salisbury officials did not respond to repeated personal, telephone, and email requests for an interview.

Paris had been city manager for two years. Before that, as assistant city manager, he was seen in Raleigh frequently, lobbying members of the General Assembly who were discussing a law placing limits on city-owned communications providers.

That law, approved in 2011, requires municipalities to get a vote of the people before borrowing money to build municipal broadband systems. It also prohibits the use of noncommunications sources to pay for broadband expenses, bans the practice of charging subscribers less than the actual cost of providing the service, and requires municipal broadband entities to pay a comparable amount of local property taxes and state income taxes that a private entity would owe.

Paris and representatives from other North Carolina cities with municipal broadband services convinced the General Assembly to exempt existing providers from most of the law's restrictions.

David Williams, president of the Alexandria, Va.-based Taxpayers Pro-



Residents visiting the Salisbury Customer Service Center are encouraged at the center's online FourSquare page to "be sure to ask about Fibrant communications when you visit." (CJ photo by Barry Smith)

tection Alliance, says municipal broadband outfits regularly use a mixture of sources to pay their expenses.

## 'Different hybrids'

"We've seen different hybrids of this," Williams says. "We've seen in Chattanooga [Tenn.] how they got their system built through a Department of Energy stimulus grant through the power company. In [Provo] Utah, for Utopia, they're going to be charging on the utility bill for broadband."

Salisbury is the largest city involved in Salisbury-Rowan Utilities, which provides water and wastewater services to residential and business customers in Rockwell, Salisbury, Spencer, East Spencer, and Granite

Quarry.

"That's a critical point in this," Williams said. "It's not just [Salisbury's] taxpayers that are on the hook."

Moody's report says the city has met other debt obligations related to Fibrant by renegotiating the terms for the debt with lenders, along with borrowing from the water and sewer fund. It suggests that Fibrant is an "over-leveraged asset."

"The negative outlook reflects Moody's belief that the city's broadband system will continue to be challenged to meet its forecasted financials which include customer growth and a rate increase that has not been adopted," the report says.

"A continued reliance on extraordinary borrowing from the water and sewer fund, rather than paying COP and bank certificate debt service from the broadband enterprise or the general fund budget, could result in additional negative pressure on the credit," the report says.

## Salisbury draft budget

The draft budget for the city of Salisbury shows that in addition to the \$7.6 million borrowed from the water and sewer reserves, Fibrant owes nearly \$33.9 million in certificates of participation bonds — borrowing that was not approved by a referendum. That adds up to nearly \$41.5 million.

Fibrant expects to pay nearly \$11.4 million in interest on the certificates-of-participation bonds between now and 2029, when the city expects to have the bonds paid off.

The city's outstanding debt for all funds, excluding the money Fibrant owes to the water and sewer reserves, is \$79.4 million.

Fibrant's budget for the 2014-15

fiscal year is \$6.2 million, according to the draft budget. The city anticipates getting \$5.4 million in operating revenues, with the remaining coming from other revenue sources.

## Goal: 35 accounts per week

The draft budget shows a goal of adding 35 new Fibrant accounts per week for the next fiscal year. Other telecom providers in Fibrant's service area include AT&T (including U-verse), Windstream, Time Warner Cable, Dish Network, and DirecTV.

Fibrant offers fiberoptic Internet, video, and phone service. Cable services range from \$39.16 for basic service to \$161.16 for the highest-level platinum service. Premium channels are \$17 a month, and pay-per-view adult movies run \$9.99.

Stand-alone Internet service starts at \$45 a month, the same price as stand-alone digital telephone service. Fibrant offers package deals for combining services.

A report by the Heartland Institute, a Chicago-based free-market think tank, laments the problems faced by another municipal telecom system in Burlington, Vt.

The Green Mountain State's largest city has spent nearly \$50 million on its system and will ask residents for an additional \$10.5 million to settle a defaulted loan debt. The initial loan was \$33 million. The city was unable to market the system enough to repay the loan.

Williams said that in some cases, private communications companies come in and purchase struggling communications systems at a discount. "They're jumping on these muni-broadband systems that aren't working," Williams said. "This is kind of back-door corporate welfare." CJ

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# Neily: Supreme Court Needs to End its Pro-Government Bias

BY CJ STAFF

RALEIGH

The U.S. Supreme Court is supposed to uphold the U.S. Constitution's limits on the federal government's powers. Clark Neily, senior attorney at the Institute for Justice, argues that the nation's highest court has fallen short of meeting its obligations. Neily details his concerns in the book *Terms of Engagement: How Our Courts Should Enforce the Constitution's Promise of Limited Government*. Neily discussed key themes from that book with a John Locke Foundation audience earlier this year. He also spoke 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:** That really is what we think of the Supreme Court — it's sort of the final arbiter on whether laws and the execution of laws are constitutional or not. Your book sort of takes a look at just how good a job or bad a job the court is doing. What is your progress report?

**Neily:** It's not good. Unfortunately, for about the last 75 or 80 years, the Supreme Court has really refused to enforce some of the most important constitutional limits on government in any meaningful way. And that includes, for example, economic liberty, property rights, the idea that the federal government is one of enumerated and therefore limited powers. None of these important limits on government power are enforced in any meaningful way by the Supreme Court or by the lower courts.

**Kokai:** You mentioned the past 75 or 80 years, which suggests that the court did a good job of addressing this obligation beforehand. What changed?

**Neily:** Well, the Supreme Court's track record was mixed before the New Deal, but after the New Deal [it] was almost uniformly negative when it comes to things like federalism, property rights, economic liberty, tax policy. The list could go on and on.

And what changed essentially was that the Supreme Court threw in the towel on trying to impose any significant limit on particularly the federal government's ability to micromanage the economy, and then everything that comes with it. And then as years went past, the Supreme Court also threw in the towel on trying to restrict the exercise of state power, at least in the areas of economic liberty, business regulation, and so forth.

And the result since then has basically been unrelenting judicial abdication in all of those areas, to the point, really, where as I say in the book, there are two kinds of judging in constitutional cases — real and fake. And in

*"We need a judiciary that engages the facts of every constitutional case, to ensure that the government is legitimately exercising constitutionally authorized powers. That's what's missing in most constitutional cases today."*

Clark Neily  
Senior Attorney  
Institute for Justice



most constitutional cases you get the fake kind.

**Kokai:** If you get this fake kind, what are the negative results for us as a society?

**Neily:** The negative result for us as a society is the complete abrogation of constitutional limits on government power in the areas that I've mentioned, a reduction in liberty, and essentially the government being allowed to control areas of our life where it has no business being — from, you know, a constitutional standpoint and from a policy standpoint, where it has been an absolute disaster for the government to be there.

And, of course, we're seeing the latest one as the rolling train wreck of Obamacare continues to move forward toward its, I think, hopefully, inevitable disastrous end, but one that's going to be very expensive and could have been avoided had the Supreme Court fulfilled its constitutional duty to enforce constitutional limits on the federal government.

**Kokai:** Some people listening to us are going to say, "Now, wait a minute. Wait a minute. I've heard about this conservative court. We have a conservative court led by Justice John Roberts, and maybe — outside of that Obamacare decision that people found a little puzzling — it's generally been a court that's been conservative." That sounds like a different take than what you're putting forward in *Terms of Engagement*.

**Neily:** Oh, absolutely. Look, the sort of old dichotomy between the supposedly liberal side of the court and supposedly conservative wing of the court is not a very useful paradigm. The really important paradigm these days is those justices who reflexively defer to the government in most constitutional cases and those who do not.

Unfortunately, right now, at least within the areas of property rights and economic liberty, most justices tend to defer reflexively to the government. There is a very bright division on the court on matters of federalism, where five justices refer reflexively to the government and four do not. But, generally speaking, I don't think that the conservative/liberal divide is the most useful paradigm anymore.

It really is a question of those justices who think that all constitutional cases should involve real judging and those justices who think that at least some constitutional cases should involve fake judging. Right now, I hate to tell you, it's 9-0. The entire Supreme Court subscribes to the principle that, in many constitutional cases, the people who are bringing suit should just get fake judging, and that's wrong.

**Kokai:** It sounds like a very bad situation right now. What can we do, if anything, to change it?

**Neily:** We can insist on judges going forward who believe in constitutionally limited government and don't just say that they believe it, but actually walk the walk. In other words, we should have a Senate Judiciary Committee that sits down with every judicial nominee going forward and says, "The first thing we're going to talk about is your theory of constitutionally limited government. And you better have a concrete theory. You better be able to back it up with specific examples. And if you can't, this is going to be a very short hearing." That's what needs to change going forward.

**Kokai:** Is there any hope for any of the justices who are on the high court now? I mean, conservatives, conservatives politically, often like Clarence Thomas or Antonin Scalia, even Samuel Alito. Do any of them have a chance of being better at dealing with these issues?

**Neily:** Maybe somewhat. Unfortunately, all of those justices that you mention — Alito, Scalia, Thomas — embrace, at least in certain circumstances, this thing called the rational basis test, which is really none of those things. It is the Supreme Court's default standard for resolving constitutional cases. It applies in cases involving economic liberty, property rights, federalism, tax policy — most unenumerated rights.

The rational basis test is a fraud. And it doesn't involve any real judging whatsoever, and it's just the judge's rubber-stamping whatever the government has done. As long as we have a Supreme Court all of whose members embrace the application of rational basis review at least in some settings, we're not going to have a properly engaged judiciary.

And that's what we need. We need a judiciary that engages the facts of every constitutional case, to ensure that the government is legitimately exercising constitutionally authorized powers. That's what's missing in most constitutional cases today.

**Kokai:** What about someone who is listening to us and says, "Wait a minute. If Scalia and Thomas and Alito, if those guys are off base, this has got to be kind of an extreme argument"? Why is this not an extreme argument but is something that people outside of the Institute for Justice should be also focusing on?

**Neily:** Yeah, it's a great point. And I know that people probably think, "Well, you know, they're getting it right sometimes." Justice Thomas wrote a wonderful dissent in the *Kelo* eminent domain case. Justice Scalia got it right in the *Heller* gun case. I was one of the lawyers representing the plaintiffs in that case.

So, unfortunately, those are more sporadic than they are consistent. CJ



# Wake Tech Promoting Instructors to Professors

By HARRY PAINTER  
Contributor

RALEIGH

A new faculty promotion system at one of North Carolina's largest community colleges could increase the school's focus on education. On the other hand, it could be a sign of "mission creep," as the college joins a recent trend of community colleges striving to look and act like universities.

Until this year, Wake Technical Community College — like nearly all community colleges in North Carolina and many in the nation — had a "flat" faculty structure: All teachers were called instructors, and pay was based on their longevity and academic degrees. But the school recently announced that instructors could apply for promotions to various professorial levels, with commensurate raises — and 196 instructors became professors in a February ceremony. That's about 35 percent of the total faculty.

Before the change, there was no way for faculty to move up other than by entering administration. To earn more money, instructors had to leave teaching.

"In part, what we're trying to do is recognize that we have high-quality people that hold their own very well" when compared with faculty at four-year colleges, said Bryan Ryan, the senior vice president of curriculum education. "When you think of community colleges, they're often overlooked and undervalued; in some cases, it's because of the perspective and terminology we use."

The system has four tiers of promotion. Instructors with at least three years of full-time experience can apply for the rank of assistant professor. Five years makes one eligible for associate professor; seven, for full professor; and 12, for senior professor. A peer review committee decides whether to promote each individual.

Each promotion comes with a 3 percent raise, with raises capped at 6 percent. Requirements for promotion vary, Ryan said. Professors in academic fields might merit promotion for getting published in journals, presenting at conferences, and joining statewide associations and committees. Professors in more technical fields

might warrant a new title for getting licensed, getting advanced degrees, or contributing to the employment of their students.

The new ranking system is not universally popular, however. A former instructor who was at Wake Tech when the discussions started told the Pope Center, "There was a lot of resistance from mostly folks who either a) did not qualify [for a promotion]; or b) they just flat-out wanted an egalitarian-type system." Some of the leadership in the wider community college system also resisted, he said.

The introduction of ranks comes at a time when some community colleges are signaling that they want to move away from their work force training roots and become more like universities. States such as Michigan and Florida are allowing community colleges to offer bachelor's degrees, and California is

considering it.

Kelly Markson, who has been promoted to full professor of business administration at Wake Tech, said in an email, "Wake Tech is a leader among the community colleges in N.C., and I wouldn't be surprised if others followed suit." At a recent community college seminar, she said, "several instructors from other schools asked me about it. So, I know the word has spread, and there is a buzz about it."

But other colleges may not have the resources to create new titles, at least if they intend to back them with raises. Wake Tech's size makes resources more plentiful than at smaller colleges like Nash Community College in neighboring Nash County. Charlotte's Central Piedmont Community College, Wake Tech's rival for the largest community college in the state, has not adopted a rank upgrade system.

Wake Tech includes additional pay only when it can afford it. High enrollment numbers last year made raises possible this year, but Wake Tech President Stephen Scott and Ryan both have said that faculty members are aware that the funds are not guaranteed. But even if the funds are not there, the honorary rankings will remain. CJ

Harry Painter is a writer at the John W. Pope Center for Higher Education Policy.



## COMMENTARY

### Cell Phone Education

Technological changes have a way of creating new possibilities, but also new problems.

Cell phones have evolved to the point where they can be used to make excellent audio and visual reproductions of events. Consider an occurrence last February at the University of Wisconsin-Whitewater. In an introductory sociology class, the instructor invited in a guest lecturer, Eyon Biddle.

Biddle is the director of organizing in Milwaukee for the Service Employees International Union.

His talk turned into a harangue about the evils caused by Republicans, whom Biddle excoriated as being racist, classist, homophobic, and dishonest. A student used his cell phone to record it.

Some people thought the problem here was that a professor had wasted students' time with a guest speaker entirely unqualified to speak in an academic setting. Others, however, thought the problem was that the student made the recording.

Key among the latter group was the Whitewater administration, which has moved to ban the use of cell phones to record what goes on in classrooms. The faculty senate has approved a ban, and chancellor Richard Telfer has indicated his support, saying, "Faculty on this campus have the right to establish the policies for their individual classrooms."

Like most free speech and communication issues, the cell phone recording controversy has a lot of "gray area." Colleges are struggling to find the best way to respond.

Some schools have adopted rules about recordings, and most are taking a restrictive stance. The University of Virginia's policy prohibits "recording and transmission of classroom lectures and discussions by students, unless written permission from the class instructor has been obtained and all students in the class as well as guest speakers have been informed that audio/video recording may occur."

Even with consent, a recording may be used only "for the purposes of individual or group study with other students enrolled in the

same class." And lest there be any doubt, recordings "may not be reproduced or uploaded to publicly accessible web environments."

Rutgers University also has wrestled with this issue. A faculty senate study reported, "For some students, the knowledge that they are being taped may have a chilling effect on their willingness to ask questions or participate in discussions."

That might be true. The way statements can spread on the Internet with potentially harmful

consequences, it certainly is possible that some students would refrain from speaking up in class if they thought that their comments might come back to haunt them on social media.

Faculty members also might change their behavior if they know they're being recorded. Consider the trouble a professor might find himself in if he used the

"devil's advocate" approach in class to challenge students.

College dean and former professor Matt Reed explains that he often tried to generate controversy and stimulate student thinking by making the case for ideas he didn't believe. Reed writes, "I shudder to think what could have happened if some student had recorded and distributed five well-chosen minutes of a presentation on communism or fascism. Out of context, it could have looked awful."

There seem to be sound reasons for limiting or even prohibiting recordings in class. But there are also reasons that pull the other way.

In the UW-Whitewater case, without the ability to record, all the student could have done would have been to jot down some of what the speaker said. Without the clear evidence a recording provides, it would be almost impossible for a student to lodge a complaint that would "stick" when a professor or guest speaker goes into a harangue.

Like most free speech issues, this one isn't black or white. CJ



GEORGE LEEF

George Leef is director of research at the John W. Pope Center for Higher Education Policy.

## Campus Briefs

N.C. State University's Poole College of Management now offers a global luxury management track as an option in its yearlong master of global innovation management program. The concentration is offered by N.C. State and SKEMA, a French business school with seven satellite campuses around the world, including one at N.C. State's Centennial Campus in Raleigh.

The program boasts that its graduates receive two master's degrees in one year: a master of global innovation management from N.C. State and a master of science in global luxury management from SKEMA. In addition to two semesters of coursework, the program features trips to fashion and luxury hubs in Europe and New York as well as a mandated internship.

Luxury management, according to GLM materials produced by N.C. State and SKEMA, is a multidisciplinary field that requires understanding of consumer behavior, brand management, marketing, and entrepreneurship, among other subjects.

N.C. State is one of only three colleges in the United States offering programs related to luxury management, perhaps for good reason. Most graduate programs in business and management offer baseline coursework and provide knowledge applicable in a variety of industry sectors. Industry-specific knowledge, such as how to market luxury goods, typically takes time and hands-on experience to acquire.

Luxury management should be an elective graduate course in the Poole College, rather than a curriculum area leading to a degree. But the existing program seems to cater to the student seeking to improve his or her résumé after realizing that completing an undergraduate degree in fashion and textile management has not led to a career in ... fashion or textile management. Or, worse, it caters to students who want to vacation in Europe and New York while receiving a couple of quick and not-too-challenging graduate degrees in the process.

Of course, N.C. State, which doesn't offer scholarships for GLM students, does not mind collecting the tuition: \$21,000 for in-state students and \$35,000 for out-of-state students. CJ

Compiled by Jesse Saffron, a writer and editor at the John W. Pope Center for Higher Education Policy.

## Race-Based Preferences in Peril at UNC-Chapel Hill

By HARRY PAINTER  
Contributor

RALEIGH

Last June 2013, the U.S. Supreme Court took a step toward weakening racial preferences in university admissions. Ed Blum is trying to end them for good nationwide, potentially starting at the University of North Carolina at Chapel Hill.

*Fisher v. University of Texas at Austin* is the ongoing case of Abigail Fisher, a young woman who claimed in 2008 to have been rejected from UT-Austin because she is white. While the 5th U.S. Circuit Court of Appeals rejected her lawsuit, the Supreme Court overturned the decision and sent Fisher back to the 5th Circuit. The justices ruled that in approving UT-Austin's admissions policy, the lower court had not applied the standard of "strict scrutiny" required in affirmative action cases.

The court did not reverse previous decisions upholding racial preferences, but it said Texas' policy was unconstitutional. That is, the courts are still allowing universities that receive federal money to have racial preferences in admissions, but there is a point at which such preferences become illegal. The exact line is being drawn.

The 5th Circuit in November heard oral arguments in *Fisher*, but has not issued its ruling. In any event, Blum, whose one-man Project on Fair Representation recruited Fisher, has named UNC-Chapel Hill as one of his next targets. He intends to bring a lawsuit highlighting Carolina's admissions practices.

For the *Fisher* case, Blum set up UTNotFair.org, a website seeking potential plaintiffs whose enrollment applications were rejected by UT-Austin. He has done the same at UNC-Chapel Hill, the University of Wisconsin-Madison, and Harvard University — UNCNotFair.org, UWNotFair.org, and HARVARDNotFair.org. Those three schools, he believes, are out of compliance with the law as interpreted by the Supreme Court.

As in *Fisher's* case, Blum — who is not an attorney — will connect his next plaintiff with someone from a network of lawyers he has developed over the last 20 years. The attorneys will argue that because of racial preferences, the plaintiff — most likely white or Asian-American — was rejected and a less-qualified applicant was admitted.

Why do Harvard, Wisconsin, and UNC-Chapel Hill stand out? Blum believes Harvard has a quota for Asians. He says that Wisconsin is "one of the worst" offenders in the nation. A 2011 study by the Center for Equal Opportunity found "an extremely large degree of preferences to blacks and Hispanics over Asians and whites in 2007 and 2008" at the Madison campus.

In an interview with the Pope Center, Blum indicated his main critique of UNC-Chapel Hill's admissions policy was related to an amicus brief filed in the *Fisher* lawsuit. The brief acknowledged that UNC-Chapel Hill could achieve its aspirations for racially diverse student body without relying on racial preferences. Blum sees that as an admission of guilt.

Specifically, the brief analyzed

UT-Austin's Texas Ten Percent Plan and how it might work at UNC-Chapel Hill. That policy, guaranteeing admission to a state-funded university to Texas public school graduates who finished in the top 10 percent of their classes, is a key point of contention in *Fisher*. *Fisher* argued that the 10 percent plan is a race-neutral way to achieve racial diversity.

After the 2003 Supreme Court decision *Grutter v. Bollinger* allowed racial preferences at the University of Michigan, the University of Texas restored race to its admissions criteria, and that is the action *Fisher* is contesting.

In UNC-Chapel Hill's *Fisher* brief, the university said that if it had adopted a race-neutral plan similar to the University of Texas plan, its racial diversity would increase by 1 percent, but its median SAT score would drop by 55 points.

Blum says the brief shows that UNC is unwilling, as required, to try a race-neutral plan — such as a "top 10" plan — before implementing a plan including racial preferences.

Blum said he is "swamped," and that his three websites, as of April 25, had nearly 20,000 visits and hundreds of responses. He added that there are "dozens and

dozens of individuals who we believe" may have a legitimate case. He readily admits, however, that finding the next Abigail Fisher is not easy.

"People don't like lawsuits, people don't like courtrooms, and they don't want to be in courtrooms with lawyers."

It wasn't easy for him the first time, either. Despite his UTNotFair enterprise, he was not able to find a suitable candidate until a longtime friend sympathetic to his cause, Abigail's father Richard Fisher, called him. Blum may not be able to rely on such a connection this time.

A challenge to UNC-Chapel Hill's policy, building off of *Fisher*, could be the death knell for racial preferences if a court rules that the university first must develop a race-neutral plan like the one in Texas. CJ

Harry Painter is a writer at the John W. Pope Center for Higher Education Policy.



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## Opinion

## Colleges, Universities Struggle to Stay Afloat in Changed Environment

In 2013, 33,000 businesses filed for bankruptcy in the United States. Such normal, healthy commercial losses perform a critical function in a robust market system. Firms that don't satisfy the wants of customers, attract patrons, and stay within their budgets fall by the wayside, opening the door for entrepreneurs who can more effectively use scarce resources.

Historically, such vigorous turnover has been absent in higher education, as government subsidies have perpetuated a static environment by protecting colleges and universities from economic fluctuations.

That environment may be changing.

Total undergraduate and graduate enrollment in the U.S. declined by more than 3 percent over the last two years, reaching 19.8 million in fall 2013. Steep enrollment declines have left some campus officials scrambling to attract and retain more students.

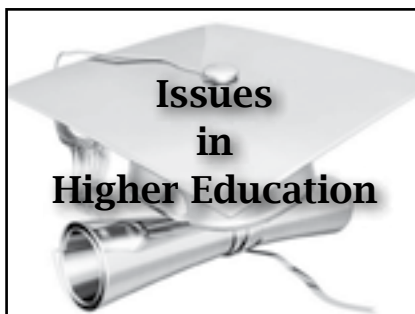
Moody's Investors Service downgraded 36 private colleges' credit ratings last year and gave the entire not-for-profit sector, public and private, a negative forecast. A study published last year by *Forbes* looked at the financials of 925 private nonprofits, giving almost 60 percent of them a C or D grade. Before 2008, on

average, about five private four-year colleges closed or merged each year. That number has doubled in recent years, according to Vanderbilt University researchers.

There is a sliver of good news for private nonprofits: Nationally, spring 2014 enrollment increased by 2 percent over spring 2013. Schools with large endowments and steady enrollment can survive an economic downturn. However, that fact may not be comforting for small and mid-sized tuition-dependent colleges with meager endowments and diminishing student populations. For instance, enrollment at Iowa Wesleyan College, a private liberal arts institution, has declined by 30 percent since 2009. It recently reported a \$2.5 million deficit and is eliminating 16 of its 31 majors.

At Kentucky's Georgetown College, a budget shortfall has ballooned to \$4 million. Officials say they will cut 20 percent of the faculty, eliminate four majors, and reduce employee and retiree benefits. The board of trustees at Mid-Continent University, also in Kentucky, has voted to fire the entire faculty and close the school permanently by June 30. Seniors on the verge of graduation were bailed out by volunteer instructors who continued teaching courses, and by a local church association, which sponsored the commencement ceremony!

Other schools, such as Yeshiva



University in New York, are selling real estate to fill budget holes. Cash-strapped women's colleges like Chatham University in Pittsburgh and the College of Saint Elizabeth in New

Jersey are considering co-ed expansion to increase enrollment.

The problems faced by the aforementioned private nonprofits also affect private for-profits, historically black colleges, and law schools.

Last fall, for-profit colleges' enrollment dropped by 9.7 percent, and data from spring 2014 show a 4.9 percent drop from spring 2013. Some say the recent decline is a result of heightened scrutiny from federal and state governments and "consumer advocates" who accuse the schools of excessive recruitment pressure and fudged job placement rates.

The tribulations of historically black colleges have become prominent, too. Many HBCUs face complicated admissions decisions, as they are competing with better-funded, predominantly white institutions that can offer huge scholarships to top freshmen. In North Carolina, a push was made in the late 1990s and early 2000s to increase HBCU enrollment, but as Fayetteville State University Chancellor James Anderson said in a recent interview with Raleigh's *News & Observer*, "They [HBCUs] were recruiting a lot of students who had no

business being there."

For some HBCUs, admissions issues are of minor significance when compared to their financial stress. A recent audit of St. Augustine's University — a private HBCU in Raleigh — showed a \$3 million reduction in tuition revenue as well as a \$700,000 pending lawsuit. Those issues prompted Everett Ward, the university's interim president, to announce furloughs, administrative job eliminations, and the closing of some campus facilities during the summer.

Law schools also are hemorrhaging. From 2010-11 to 2013-14, only 16 of the country's 195 law schools enjoyed enrollment increases. The actual declines are staggering. Eighteen schools had enrollment decreases of more than 30 percent. Last fall's entering class was 24 percent below the all-time high that came in 2010.

So, what is the big takeaway? I believe Matt Schiffrin, a managing editor for *Forbes* online, described it succinctly in an article published in mid-June: "Economics 101 tells us that either college admissions officers and their consultants are inept, or more likely, that the supply of schools offering college degrees needs to drastically shrink. But don't hold your breath waiting for colleges to go bankrupt en masse; history shows that these government-subsidized institutions can linger on for years even when their financial statements bleed red ink." CJ

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

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## Book review

## Hillary's Hard Choices an Autobiography for Dummies

• Hillary Rodham Clinton, *Hard Choices: A Memoir*, Simon and Schuster, 2014, 635 pages, \$35.

By LLOYD BILLINGSLEY  
Contributor

The cover shot evokes *Vanity Fair*, and the inside photo shows Hillary Clinton at her desk, looking very much in charge. Readers will find it hard to imagine a book like *Hard Choices* if, as Hillary claims on page 595, she has yet to decide whether to run for president in 2016. In that quest, the former first lady faces a big problem, revealed in the book's dedication.

"For America's diplomat and development experts," it reads, "who represent our country and our values so well in places large and small, peaceful and perilous all over the world." One of those perilous places is Benghazi, Libya, where Hillary demonstrated some of the "choices I made as Secretary of State." Readers do not encounter the Benghazi chapter until page 382, but other clues come early.

The death of Osama bin Laden, and the loss of so many of his top lieutenants, she explains, "would certainly degrade the capacity of al-Qaida's core in Afghanistan and Pakistan to stage new attacks against the West." That is the official Obama administration narrative, but the nation's 67th secretary of state acknowledges "a more diffuse and complex threat" of terrorist attack.

In September 2012, for example, "when extremists whipped up outrage across the Muslim world over an offensive but obscure Internet video about the Prophet Muhammad. U.S. embassies and consulates in many countries were targeted as a result."

In *Hard Choices*, Hillary Clinton touts a concept known as "smart power," that involves "choosing the right combination of tools — diplomatic, economic, military, political, legal, and cultural — for each situation." She explains, "I felt even more certain that we needed to pursue the smart power approach to counterterrorism." She charts past attacks such as Iran in 1979, Beirut in 1983, along with Kenya, Tanzania, and, of course, Sept. 11, 2001, in New York City and Washington, D.C.

"I knew how essential it would be to lead with strength a reeling department while remaining focused on ongoing threats," Hillary writes. But in September 2012 in Benghazi, the leadership did not seem strong, and the secretary of state showed little evidence that she had learned lessons of past attacks.

"As secretary of state, I was responsible for nearly 70,000 employees," she says. "When something went wrong, as it did in Benghazi, it was my responsibility."

Hillary Clinton says the events in Benghazi occurred in a "fog of war," which is not quite right. The United States had provided military aid, including air support, to forces opposed to longtime dictator Moammar Gadhafi, who was captured and executed. Libya might have been unstable un-

der the new government, but strictly speaking, the country was not at war.

"There will never be perfect clarity on everything that happened," Hillary says. "It is unlikely that there will ever be anything close to full agreement on exactly what happened." But Hillary's uncertainty disappears when it comes to the infamous video.

"I know there are some who don't want to hear that an Internet video played a role in this upheaval," she contends. "But it did." To back it up, she cites *The New York Times* and Susan Rice, U.S. ambassador to the United Nations. On television, Rice said it was "a spontaneous reaction" to what had happened in Cairo, "prompted, of course, by a video." Yet, on page 34, Hillary contradicts that narrative, referring to the "terrorist attack in Benghazi."

On that attack, she says, there has been "a regrettable amount of misinformation, speculation, and flat-out deceit by some in politics and the media." Critics accuse Rice of "trumping up tales of a protest that never happened in order

to cover up the fact that this had been a successful terrorist attack on President Obama's watch." She denies that Rice was "intentionally deceitful." And how about the secretary of state? Clinton includes her famous statement:

"With all due respect, the fact is we had four dead Americans. Was it because of a protest? Or was it because of guys out for a walk one night who decided they would go kill some Americans? What difference at this point does it make?" Then she denies that this was minimizing the tragedy and walks away from the whole thing.

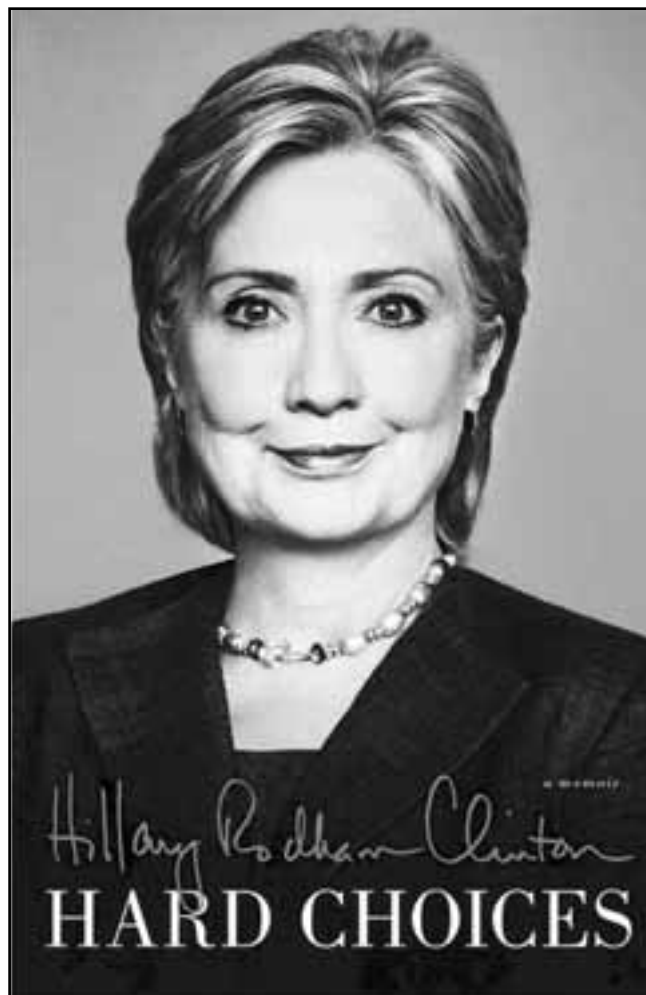
"Those who insist on politicizing the tragedy," she says, "will have to do so without me." Readers will be hard-pressed to find a clearer declaration of irresponsibility.

Much of *Hard Choices* is vintage autohagiography, bulked with promotional filler. It took a village to produce this book, and the text betrays extensive vetting. The accounts are perfectly predictable and sometimes enlightening.

In North Korea, the political oppression is "nearly" total. Fidel Castro rules Cuba with "absolute power," but Chile suffered the "brutal military dictatorship of General Augusto Pinochet." The coup that brought Pinochet to power, says Hillary, is "a dark chapter in our involvement in the region." She does not describe the Benghazi attack and the ongoing cover-up as a dark chapter.

Benghazi is evidence that America's enemies are rushing to attack during the Obama administration. After reading Hillary Clinton's book, they may make the hard choice to wait for even better conditions.

Readers would do well to consult *Hell to Pay: The Unfolding Story of Hillary Rodham Clinton*, the 1999 book by Barbara Olson, who perished in the 9/11 terrorist attack. For a contrasting account of the views of an influential American woman, see Peter Collier's *Political Woman: The Big Little Life of Jeane Kirkpatrick*. CJ





# How an 18th-Century Jury's Action Kept North Carolina Together

I knew that eight lords proprietors were given what was then the colony of Carolina, and that seven of the eight, or their assigns, later "conveyed to the king all of their rights, titles and estates, royalties, franchises, privileges, and immunities in and to the lands covered by the grant."

The holdout was Lord John Carteret, also known as Earl Granville, the successor of the original lord proprietor, George Carteret. I also knew that his descendants had land ownership up to the Revolutionary War. What I didn't know was the interesting process under which Granville lost his property.

In 1663 and 1665, a grateful King Charles II had awarded the land as a "thank you" to the lords proprietors for their allegiance during the English Civil War. The eight had helped restore Charles II to the throne. Although the crown still ruled Carolina, the lords proprietors were granted much power, including establishing a form of government and collecting

taxes. In 1712, Carolina was separated into north and south. In 1729, seven of the eight nobles sold their land tracts to the crown.

Lord John Carteret later was granted and assigned one-eighth of what had been some of the best land in the Province of Carolina — the Granville District, between the Virginia-North Carolina border, and another line approximately 65 miles south.

During the mid-1700s in Granville's district, allegations of land agent corruption abounded, and residents demanded transparent bookkeeping.

When Carteret died in 1763, his eldest son showed little interest in the district. Historian Merton Coulter has pointed out that two-thirds of the quitrents (land taxes) went directly to Granville, who did not spend a shilling "toward governing the colony."

During the early 1770s, the royal governor complained that one-third of the colony's population subsidized the colony's operations. So he helped

persuade the crown to purchase the Granville district: "Granville," according to Coulter, "was undoubtedly on the verge of selling out his district to the King." Then the Revolution came.

In the early 1800s, Granville's descendants filed suit to reclaim their property rights. The attorneys were a "who's who" in the profession. William Gaston represented the Granville descendants. Duncan Cameron represented the defendants, including William Davie and Josiah Collins. In 1805, a jury ruled for the defendants.

Both lawyers appealed to the longest section of the Declaration of Rights in the 1776 N.C. Constitution. It reads, in part: "All the territory, seas, waters, harbors with their appurtenances, lying between the lines above described [Virginia and South Carolina] are the right and property of the people of the state to be held by them in sovereignty. ... Provided further, that nothing herein contained shall affect the titles or possession of individuals holding, or

claiming, under the laws heretofore in force, or grants heretofore made by the late King George II, or his predecessors, or the late Lords Proprietors, or any of them."

Appealing to "the sentiments of right reason and natural equity," Gaston argued that as of 1776, Lord Granville's descendants had an indisputable property claim. Cameron argued that Granville's status — as a lord proprietor he had the authority to establish a government — set him apart from any other individual; Granville had a title, and he was an extension of the king.

The jury ruled for the defendants, and Granville's descendants lost the land. Many North Carolinians remained apprehensive, however, because an appeal remained on the U.S. Supreme Court docket for a decade without a hearing.

Some have speculated that the decision would have been overturned, and the property restored to Granville's descendants, as Chief Justice Marshall had ruled previously that the Treaty of Paris did not invalidate English titles. CJ

*Dr. Troy Kickler is director of the North Carolina History Project ([northcarolinahistory.org](http://northcarolinahistory.org)).*

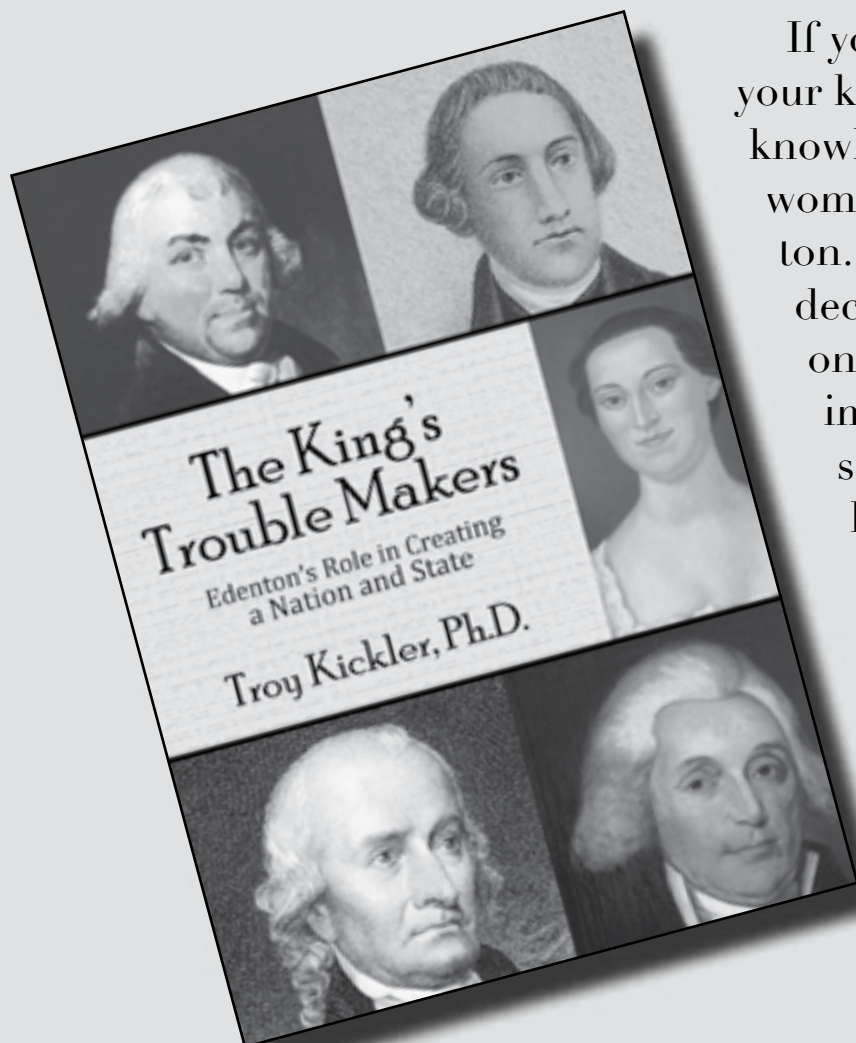


**TROY  
KICKLER**



**Lord John Carteret, Earl Granville.**

## BOOKS BY JOHN LOCKE FOUNDATION AUTHORS



If you don't know about Edenton, North Carolina, your knowledge of U.S. history is incomplete and your knowledge of North Carolina insufficient. Organized women's political activity in America was born in Edenton. The concept of judicial review — that courts can declare legislative acts unconstitutional — was championed here. Ideas for a national navy and defense were implemented here. Many passages of the N.C. Constitution (1776) and the U.S. Constitution originated here. Leading proponents of the U.S. Constitution (a.k.a. Federalists) lived in this small place, and so did nationally known jurists and politicians.

Dr. Troy Kickler, founding director of the North Carolina History Project, brings Edenton, its people, and its actions into proper and full focus in his book, *The King's Trouble Makers*.

Go to [northcarolinahistory.org](http://northcarolinahistory.org) for more information.



## Book review

# Piketty's Leftist Marx Update Worships Destructive Egalitarianism

• Thomas Piketty, *Capital in the 21st Century*, Belknap Press, 2014, 696 pages, \$39.95.

BY GEORGE LEEF  
Contributor

RALEIGH

This the most talked-about book of the year. French economist Thomas Piketty has written an updated version of Karl Marx's *Capital* arguing that the rich are too rich and will continue to get richer yet unless the government steps in with higher taxes.

Liberals backing higher taxes to redistribute wealth and expand the scope of government have praised the book to the heavens.

On the other hand, conservative critics have punctured the author's theory about capital accumulation and his quantitative case that inequality has been getting "worse."

Those responses to Piketty, accurate though they are, do little to blunt his egalitarian appeal. Arguing against Piketty on the grounds that inequality isn't as great as he says is futile. The real problem with Piketty isn't his numbers, but his egalitarian philosophy.

What he has penned is an apology for the use of state coercion to take property away from some people who supposedly have too much. Piketty's countryman Frederic Bastiat coined the perfect term for that more than 150 years ago in his book *The Law*. Bastiat called it "legal plunder" and saw it as a purely destructive force, both economically and morally.

We already have a great deal of legal plunder, but Piketty wants more.

Legal plunder appeals to the envious and resentful people who want

to see the successful pulled down and their wealth redistributed to those same envious and resentful people. It also appeals to politicians who can take advantage of those character flaws, telling people, "Put us in power, and we will level the unjust wealth disparities in society."

Piketty's book thus dovetails with Barack Obama's "They didn't build that!" rallying cry to his base, reinforcing the cancerous idea that it is a proper function of government to make sure that no one gets "too rich."

But redistribution of wealth is not a proper function of government. Government, as Bastiat explained, should protect the liberty and property of each person against aggression, foreign or domestic. It becomes an aggressor when politicians use taxation to confiscate lawfully acquired property from owners.

Such redistribution inevitably opens a Pandora's Box of social and political harms. Once government begins taxing people just for the sake of leveling, many will redirect their energies away from peaceful production, cooperation, and trade, and into lobbying, bribery, or worse, attempting to induce officials to throw some of the confiscated wealth their way.

Striving to gain political pull gradually replaces striving to improve yourself, to make the best use of your resources, and to come up with ideas that promote progress.

After the redistributive idea takes hold, it grows like an invasive weed, choking out civil society. Piketty's book is a big dose of fertilizer for those weeds.

Not only does coercive redistribution incite envy and erode social cooperation, it damages the very people it's supposed to help. Redistributive taxation does not channel money from the pockets of the rich into the pockets of the poor. Instead, it engorges the coffers of the state. The progressive taxation that Piketty wants to increase means that wealthy taxpayers will have less money and the political class will have more. Then what happens?

In the fairies-and-unicorns world of leftism, politicians will spend the additional money on a host of things that are in "the public interest." But anyone who observes what the federal politicians do with the money they currently take should realize that thoughts about "the public interest" are merely incidental to their overriding interest — remaining in office.

Politicians squander resources on a huge array of programs ranging from useless to counterproductive, creating short-run electoral advantages: bridges to nowhere, crony capitalist "investments," bailouts for favored companies and unions, welfare programs that breed dependency, educational fads that actually inhibit learning, websites that don't work, and so on.

Wasteful spending is unavoidable

able once government goes beyond its few proper functions. It doesn't help the poor, but instead makes it harder for everyone to advance.

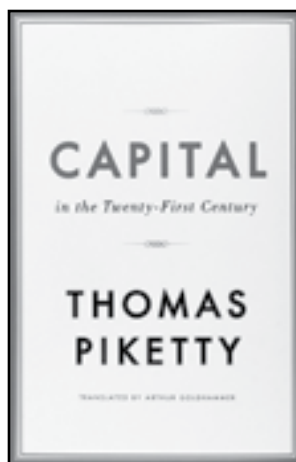
Piketty is oblivious to what the wealthy would have done with the money he wants to tax away. They would have spent some, they would have donated some to charities, and they would have invested some in whatever ways they thought best. Poorer people would benefit greatly from that money.

As Milton Friedman said, "Nobody spends other people's money as carefully as he spends his own." Diverting resources away from the voluntary, generally efficient private sector and into the coercive, generally inefficient government sector is a bad trade-off. It's especially bad for poorer people who would have benefited from the spending, contributions, and investments of the rich.

Big government is no friend of the poor, who fare much better in a minimal state where the wealth disparities are huge than in a megastate where the wealth gap is small.

Piketty frets that unless we accelerate global wealth redistribution, the rich will become excessively powerful. It's true that wealthy people sometimes try to buy themselves governmental favors and often succeed. The solution to that problem is not to tax away wealth, but to get rid of those features of government that allow people (rich or not) to obtain favors from the state.

The real problem we face isn't inequality, but that government is too powerful, consumes too much of our limited resources, and has become more of a menace to our rights than their protector. CJ



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## Book Review

## Cheney Bio of Madison Debunks Traditional View of Founder

• Lynne Cheney, *James Madison: A Life Reconsidered*, Viking, 2014, 564 pages, \$36.

By MELISSA D. MITCHELL  
Contributor

My interest in James Madison started with one of those on-line quizzes asking, "Which Founding Father Are You?" As I read the sympathetic synopsis of James Madison's traits, I was intrigued. Did he really run the show, but stay behind the scenes? Did other leaders dream big dreams, while Madison did the silent work to make those dreams realities? Did he have hardships and always stay positive?

I realized that my history education was a bit spotty for the period surrounding the time of the Revolution, the drafting of the Constitution, and the early years of our country. Just as I was hitting the Internet to learn more about James Madison, Lynne Cheney was on the airwaves talking about her book, *James Madison: A Life Reconsidered*, which took her five years to research and write.

Cheney, who chaired the National Endowment for the Humanities and, of course, is married to former Vice President Dick Cheney, has written more than a dozen books. In telling the story of Madison, Cheney offers necessary context of the period: details about the dress, physical appearance, and personalities of the people he encountered. By providing these details, she lightens the massive amount of historical information about the Revolutionary War, the Founding Fathers,

the constitutional convention, and the amendments to the Constitution.

"James Madison, one of the great lawmakers of the world, descended from generations of people who drew their living from the land," says Cheney. Madison's family came to Virginia in the early 17th century and became tobacco farmers.

Born in 1751, "Madison loved the outdoors," but he also was "bookish," notes Cheney. In 1762, Madison was sent to a boarding school, where he met instructor Donald Robertson. An immigrant from Scotland, Robertson was "[a] man of extensive learning and a distinguished teacher." The school's library allowed young Madison to read authors like Virgil, Cicero, Locke, and Montesquieu. He learned Latin and Greek, which were essential for attending college.

At 18, Madison left Virginia to attend Princeton. Readers may be surprised as Cheney describes these early years in Princeton's history, when students rushed to morning prayers at 5 and attended another prayer service in the evening.

Madison's biggest struggle, during his lifetime, was with a mild form of epilepsy. He described "sudden at-

tacks" that temporarily suspended "intellectual functions."

"People suffering from epilepsy — had a double burden, the disorder itself and the religious view ... that the sufferer was unclean, sinful, or possessed by demons," Cheney writes. Madison rejected the biblical passages used to support this belief, which may have contributed to his reputation as an unbeliever or a deist. "He was on fire with the idea that no one should have to accept ideas that seemed wrong to him. A man's conscience was his own, not the property of the state," says Cheney.

The chapter on the Constitutional Convention provides an in-depth look at Madison's role in the fight. The convention ruled that everything would be done in secrecy. Thomas Jefferson thought this "abominable." Years later, Madison noted, "No constitution would ever have been adopted by the convention if the debates had been public."

Although Madison was not the convention secretary, he took it upon himself to take notes that were "only intelligible to myself," and he would transcribe at night. He later said, "The work almost killed him."

But his labors produced one of

the most treasured records of American history, says Cheney. Along with Madison's notes and Cheney's scholarship, the history provided within this chapter is nothing less than exciting.

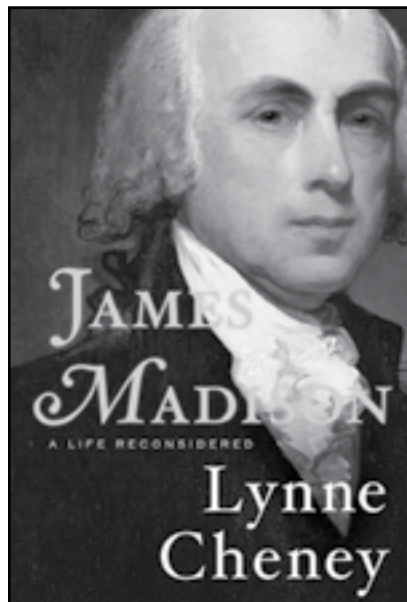
Another exciting chapter chronicles the adoption of the Bill of Rights. The debate became so contentious that it almost resulted in Aedanus Burke of South Carolina challenging Fisher Ames of Massachusetts to a duel.

Lynne Cheney's book is a hefty one, and every chapter is filled with detailed information, not just about Madison, but also the early history of our country. There is far too much material to cover within a single review. She provides insights about the marriage of Madison, a confirmed bachelor, to Dolley Madison, who was 17 years his junior, along with her role in his life and her place in U.S. history. Cheney also discusses Madison's two terms as president and his retirement.

The laws and decisions made by these early leaders could have destroyed our nation. But Madison's work to form the union and his vision for this country as the fourth president of the United States, allowed the union to survive bad laws and decisions.

By Cheney's account, the online quiz about Madison was wrong on many points. Yes, he wrote the *Federalist Papers* anonymously, but he spoke up loudly in many debates and did not run the show. He did not make the dreams of other men possible; Madison's ideas and dreams were his own.

Cheney has written a great historical book. It filled a void in my education and inspired me to learn more about the early days of our country. CJ



## BOOKS AUTHORED BY JLF STAFFERS



By John Hood  
President of the  
John Locke Foundation

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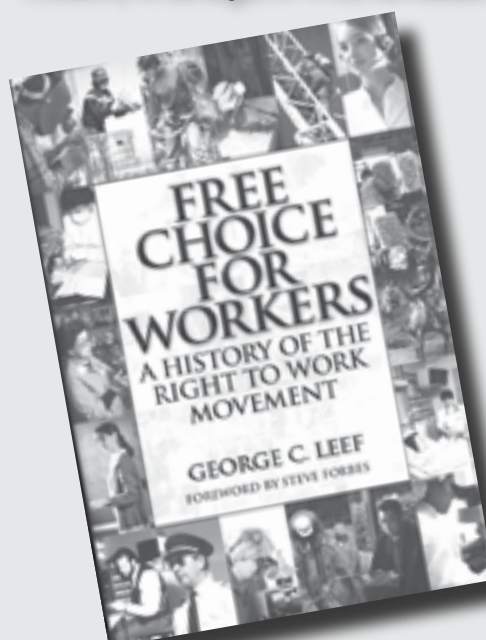
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## COMMENTARY

## Obamacare Sets Up SHOP

Employers with fewer than 50 full-time workers do not suffer Obamacare's employer mandate tax if they do not offer health insurance coverage. However, if a firm chooses to offer coverage, it must comply with the law's standards.

Small employers that typically have offered their workers some type of health care benefit in the past could be frustrated by this policy change, since the coverage package mandated by the law could reduce their firms' bottom lines. Employers unable to afford federally qualified plans would have two options: Steer their workers toward subsidized plans on the individual market, or claim a small employer tax credit that offsets the cost of their contributions toward employees' health insurance premiums.

Come Nov. 15, Obamacare's Small Business Health Options Program is set to open its doors. SHOP originally was scheduled for implementation last year, but this, too, was delayed. Through a SHOP exchange, businesses with up to 50 full-time employees can offer employees either one health insurance option or multiple plans within a specified level of coverage (bronze, silver, gold, or platinum health plans). Commensurate with the law's health insurance exchanges for individual policyholders, employers using SHOP also may qualify for government subsidies.

In a 2012 report filed by the Government Accountability Office, many small employers whose workers earn just above minimum wage do not offer health insurance. Nor do many low-wage workers prefer this fringe benefit because it often reduces total take-home pay. Based on a study by the N.C. Institute of Medicine, just 41 percent of businesses with fewer than 50 workers provided health insurance, while coverage is available from 99 percent of businesses with more than 50 workers.

With Obamacare's expanded access to government subsidies, one would expect SHOP to expand participation and enhance employee choice. That was the federal health

law's original intent. But GAO's report states otherwise, concluding that SHOP tax credits do not provide as much value to small employers and their workers as the Obama administration advertises. Moreover, the initiative is hardly groundbreaking. Small-employer tax credits have been in existence since before Obamacare's inception in 2010. North Carolina implemented them in 2007 for businesses with fewer than 26 employees.



**KATHERINE RESTREPO**

Under Obamacare, such employers may get premium assistance toward their group coverage under three conditions: They already provide health insurance and pay at least 50 percent of employees' premiums; they employ up to 25 full-time-equivalent employees; and their average annual wages must be less than \$50,000. Meanwhile, the maximum credit amount the government will offer employers (50 percent of the employer-paid health insurance coverage premium, 35 percent for tax-exempt employers) runs on a sliding scale — higher wages mean lower subsidies.

Nationwide, the number of small employers eligible for SHOP subsidies ranges from 1 million to 4 million. According to GAO's report, of the 170,000 small employers who claimed a credit in 2010, fewer than 20 percent of firms received the maximum credit amount.

Should an employer decide to sign onto a SHOP plan this fall, premium subsidies will phase out completely by 2016. And eligible North Carolina business owners who already provide generous coverage to their workers will not gain much of a benefit, since the maximum credit calculation is based on the state's average premiums for small-group coverage.

Overall, it looks as if the SHOP tax credits will not lure as many small employers as targeted. And without employee choice in the mix, not much will be changing in the way in which small employers provide group coverage. CJ

*Katherine Restrepo is health and human services policy analyst for the John Locke Foundation.*



## EDITORIAL

## War Between The States

Within hours of the June announcement that two Charlotte-based companies, LPL Financial and The Lash Group, would move thousands of jobs across the border to South Carolina, political and civic leaders in Charlotte and Raleigh began pushing the panic button on business incentives, arguing that North Carolina's current package of corporate giveaways is inadequate.

The resulting furor was a perfect illustration of why you can't make good public policy on the basis of a few anecdotes.

To argue that North Carolina ought to be more generous with incentives — as if shelling out \$17 million in tax money for an Advance Auto Parts headquarters in Raleigh wasn't already reckless — is to argue that North Carolina is falling behind in economic development. If North Carolina were matching or exceeding its competitors in job creation and economic growth, the case for expanding the state's incentive programs would be weak.

So let's compare the two Carolinas in actual economic performance:

- Since the start of 2014, payroll jobs in North Carolina have increased by 0.44 percent. Payroll jobs in South Carolina have increased 0.4 percent. North Carolina's private sector has posted a 0.74 percent rise in payroll jobs so far this year vs. a rise of only 0.47 percent for South Carolina.

- Since the start of 2014, a separate measure — employed persons in the BLS household survey — has increased 1.4 percent in North Carolina, compared to 1.2 percent in South Carolina.

- More generally, North Carolina's gross domestic product grew

by 4.2 percent in 2013, faster than the national average (3.5 percent) and South Carolina's GDP (3.1 percent). The difference isn't just explained by population flows. Real per-capita GDP rose 1.3 percent in North Carolina during 2013, compared to 1.1 percent growth in the nation as a whole and only about 0.1 percent growth in South Carolina.

The proper goal of economic policy is to maximize the growth of jobs, incomes, and opportunities. In theory, a state or locality offering large cash grants or targeted tax breaks to favored companies might constitute good economic policy — if they resulted in a net increase in jobs, incomes, and opportunities within that jurisdiction. Advocates of incentives often assert this to be the case, however, rather than actually proving it.

Giving cash or tax breaks that lure a company into town typically increases the demand for public services. Who pays for them? The companies and households that didn't get incentives.

Making incentives available to all companies would be nothing more than across-the-board tax relief — and there is solid empirical evidence that such policies boost state economic growth. Selective incentives, on the other hand, fare poorly in the economic literature.

North Carolina officials need to refocus on what truly drives long-term economic growth. It isn't gimmickry or giveaways. It's a sustained strategy to deliver high-quality public services at the lowest possible cost, thus creating a business climate that welcomes investment, innovation, and entrepreneurship. CJ



## EDITORIALS

# Liberals vs. Science

*Empirical research discredits the Left*

Despite all the talk of a “war on science” being waged by conservatives and Republicans — to match their supposed wars on women, men, the young, and the old, no doubt — North Carolina now features a shrill and relentless rhetorical war on social science by liberals and Democrats.

In editorials, sound bites, social media, and floor debate, the Left continues to insist that state and local tax burdens have no effect on economic growth, that higher state spending on Medicaid and unemployment insurance creates jobs, that teacher assistants boost student achievement, and that offering teachers bonuses to obtain graduate degrees makes them more effective in the classroom.

None of these claims has empirical support.

When liberals claim that taxes don’t affect job creation or economic growth, they are ignoring the results of hundreds of academic studies published since 1990 that reveal negative relationships between state economic performance and overall tax burdens (in 63 percent of the relevant studies), property taxes (61 percent), sales taxes (65 percent), business taxes (67 percent), and marginal income tax rates (70 percent).

When liberals claim that higher

state spending on public assistance programs boosts the economy, they are ignoring the results of 62 academic studies published on the issue since 1990. In two-thirds of them, higher state spending on public assistance was associated with less economic growth, not more.

When liberals complain that Republican proposals to transfer tax dollars from funding teacher assistants to raising teacher pay will do more harm than good, they are ignoring the fact that 69 percent of studies found the presence of teacher assistants has no measurable effect on student learning, while most empirical research finds the quality of classroom teachers to be a key factor.

And when liberals complain that ending bonuses for graduate degrees will harm teacher quality, they ignore the 81 percent of 114 studies published since 1990 concluding that teachers with graduate degrees are no more effective than teachers without them.

For liberals to insist that North Carolina’s recent decisions to reduce and reform taxes, limit entitlement spending, and redirect education dollars to performance-based teacher compensation are “mean-spirited,” “extreme,” “ideologically motivated,” or “immoral” establishes only that they are ignorant of or indifferent to the findings of modern social science. *CJ*

# Government Spending

*No matter what Democrats say, it’s still too high*

Did budget cuts during the Great Recession leave state spending in North Carolina lower than it has been in decades? Fiscal liberals say yes. They point to the fact that spending from the General Fund — which includes most of the revenue from state taxes on income, sales, and corporations — peaked in 2009 at \$21.4 billion and then declined to below \$19 billion in 2011. Liberals argue that if you take into consideration the higher funding needs created by rising prices and population, North Carolina’s state budget is smaller in real terms than it has been in decades.

Fiscal conservatives observe, however, that the General Fund finances only part of the state budget, which also includes highway funds, federal funds, and other receipts. North Carolina’s state budget is actually about \$50 billion, nearly half of it funded by revenues routed through

Washington rather than by General Fund spending.

Total state spending adjusted for inflation and population growth reached its highest point in 2011-12, at about \$5,350 per person. It remains well over \$5,000. That’s higher than any year before 2012, and about double what North Carolina spent as recently as the late 1980s, pushing past 12 percent during the onset of the Great Recession before reaching its peak of 14 percent in 2012.

During the Great Recession, total federal, state, and local expenditures reached 36 percent of America’s gross domestic product. Only in wartime 1945 had government consumed so large a share. As of 2013, it was still about 34 percent.

North Carolina leaders can help get those numbers back to more reasonable levels by maintaining pro-growth policies and fiscal restraint. *CJ*

## COMMENTARY

# Economy Boosts GOP Prospects

During the past few months, Gov. Pat McCrory and the Republican leaders of the state House and Senate have been at odds over budget issues, health care reform, Common Core, and other issues. Conservatives are disappointed with the McCrory administration’s continued defense of corporate giveaways, whether for Hollywood filmmakers or Advance Auto Parts. The two legislative chambers have differed on Medicaid reform and lottery revenues, just to take two examples.

And yet, despite these internal tensions, Republican leaders aren’t in a panic. McCrory’s approval rating is ticking upward. GOP prospects for November are improving. Is this a case of irrational exuberance?

No. The single most important trend affecting any election cycle is the performance of the economy — and the latest news for North Carolina’s economy has been good.

During the height of last year’s legislative session, with liberal media outlets and Moral Monday protesters predicting gloom and doom, the state legislature adopted several key conservative reforms. McCrory signed them. They included an end to extended benefits for unemployment insurance, a sweeping regulatory-reform bill, a lean state budget, and a major reduction and rewrite of state taxes, including the adoption of a pro-growth Flat Tax.

Critics didn’t just argue that these measures would fail to improve North Carolina’s economy. They forecast that the legislature’s actions would make the economy worse by reducing consumer demand, starving crucial public services, and giving the state a bad national reputation.

Well, let’s check the numbers. Here are the trends since the passage of UI reform, regulatory reform, tax reform, and the state budget in mid-2013:

- Job creation in North Carolina has exceeded the national average, according to the monthly payroll survey conducted by the Bureau of Labor Statistics. If we had merely matched the national average from June 2013 to May 2014, North Carolina would have created

about 13,000 fewer jobs than actually occurred.

- North Carolina also has done better than the nation as a whole in unemployment declines and employment gains, according to the separate BLS household survey. There were 85,000 more North Carolinians working in May 2014 than in June 2013, while 87,000 fewer North Carolinians were

unemployed. If the state had merely matched the national average since mid-2013, there would have been 33,000 fewer employed North Carolinians and 23,000 more jobless North Carolinians looking for work in May.

- North Carolina’s better-than-average performance is not the result of people dropping out of the labor force, as some partisan critics and

lazy journalists allege. In fact, North Carolina experienced a smaller decline in its labor force from June 2013 to May 2014 (just 0.04 percent) than the nation as a whole did (0.1 percent).

- Beyond the labor market, the most-familiar measure of the economy is gross domestic product. The federal government produces the national measure on a quarterly basis but releases only annual estimates for states. According to the just-released figures for 2013, North Carolina’s economy grew by 4.2 percent, faster than the national (3.5 percent) and regional (3.2 percent) averages. Adjusting for inflation and population growth, North Carolina’s real per-capita GDP grew by 1.3 percent in 2013, again faster than the national and regional averages.

The nation’s recovery from the Great Recession has been slow and weak by historical standards. Rightly or wrongly, voters mostly blame Congress and President Obama for that. Within North Carolina, however, there is a growing sense of economic momentum over the past year — an impression based on real, measurable trends.

However messy politics in Raleigh may look at the moment, these trends don’t portend electoral calamity for the party in power. And Republicans know it. *CJ*

*John Hood is president of the John Locke Foundation.*



**JOHN HOOD**

## MEDIA MANGLE

Editors, Beware  
The Press Release

There was a time when the news media cast a skeptical eye at any press release that came over the transom. It was assumed that they were filled with what advertising people call “case making” and journalists used to call “lies.”

Consequently, the content of a press release was scrutinized carefully, lest readers or viewers be mis- or mal-informed.

In the early '90s there was a group in this state called North Carolinians Against Racist and Religious Violence, NCARRV for short. Each year they would issue a press release listing all the “hate crimes” that had taken place in North Carolina the previous year. Invariably their release would express alarm at the increase in these bias crimes.



**JON  
HAM**

I had just become managing editor of *The Herald-Sun* in Durham back then, so I told our reporter to call NCARRV and get the actual list of these hate crimes, with descriptions and details, not just the numbers.

When we got it, we found that “hate crimes” included things like “The home of a gay man in Wilmington was burglarized.” Also listed were several editorial cartoons from around the state that had nothing to do with race or religion, much less violence.

We ran that story, and I wrote a column about the dishonesty of NCARRV. And then a funny thing happened. They never put out that release again. In fact, the group disappeared.

I thought of NCARRV recently when Everytown, a group funded by former New York Mayor Michael Bloomberg, issued a press release claiming that there had been 74 “school shootings” in America since the Sandy Hook shooting in December 2012. I couldn’t remember 74 incidents in which a deranged gunman entered a school and began shooting randomly at kids, which is what the Everytown report implied.

Apparently I was not the only one. Even CNN, after analyzing the cases, cut it down to 15 incidents. After reading CNN’s 15, I would cut it down by a few more than that, as several were after-school shootings between gang rivals or students with a grudge against each other.

Another batch of incidents, alarmingly, took place at historically black colleges or universities, but they also were violent disputes between individuals or groups, not random gun violence on a captive group of students.

Still, many news media outlets eagerly ran Everytown’s statistics without checking on their validity. Whether editors were motivated by anti-gun personal feelings is impossible to determine, but it would not be the first time that news judgments were made with an eye toward perpetuating a certain narrative.

Perhaps this latest incident of “advocacy research” will make editors more careful. I hope so.

CJ

*Jon Ham is a vice president of the John Locke Foundation and publisher of Carolina Journal.*



## Is Small the New Big?

As a culture, we often have celebrated bigness. Reports on the biggest fish caught, the biggest skyscraper built, or even the biggest ball of twine wound (I think it’s around 12 feet in diameter) all will get our attention. It’s probably related to an attitude that more is better than less.

The triumph of big over small has — for a long time — also prevailed in the business community, and for good reasons. Being a large company offered some big pluses. Larger companies could take advantage of “economies of scale.” Instead of hiring a few people to do many tasks, bigger companies could hire many people, each of whom would do one or a few tasks. This allowed the old adage of “practice makes perfect” to kick in. The more someone did a task, the better he became at it, translating into lower costs for the business.

Bigger companies also could afford to purchase more specialized and complex machinery that, again, made them more efficient, productive, and profitable. Such machinery often had too high of a price tag for the “little guy,” and so gave a competitive edge to “big” over “small.”

But these advantages of bigness may be changing. In some economic sectors, small companies are beating big firms. We may be witnessing a shift in the economic climate toward “small” being the new “big.”

Several factors are behind this shift. Historically, American consumers often have been suspicious of big companies. This viewpoint may be a holdover from the early 20th century, when monopolies held sway over much of the economy. We like to root for the “little guy,” maybe because most of us can identify with him. So our heart is with small over big.

Also, as consumer tastes and preferences change — sometimes rapidly — small companies frequently can give us what we want quicker than large companies. Large businesses may have to go through several layers of bureaucracy, testing, and decision making before a new product or service is rolled out. In many small companies, one person

can do this.

Yet the most significant game changer helping small firms today may be technology. Information technology easily can put a small firm in touch with both suppliers and customers half a country or half a world away. Small companies can do all their management tasks — accounting, payroll, taxes, etc. — using inexpensive or even free computer programs.

Plus, sophisticated market analysis of buyers, trends, and “what-if” scenarios now can be installed and run on almost any personal computer or tablet. It used to be that only the “big players” could afford this kind of economic intelligence.

Add to these the fact that companies don’t need scores of employees and expansive building square footage to be successful. Companies with revenues in the millions literally can be run from a room with a couple of workers.

This is why, despite all the recent changes and upheaval in the world economy, small companies have held their own. Indeed, in the 2000s, companies in the U.S. with 20 employees or fewer accounted for over 85 percent of all establishments, and that percentage actually increased slightly during the decade.

A good example of the changing economic landscape of company size is in the beer industry. In 1980 there were fewer than 100 breweries in the country. Today there are nearly 2,700, and the growth has come entirely from the rise of microbreweries. While big breweries still dominate the beer market (two companies account for 90 percent of domestic beer sales), the market share of the microbreweries has been rising.

Does this mean big companies are doomed? Of course not. In fact, in several industries there is a trend toward consolidation of smaller firms into larger firms. This has been the case recently in the telecommunications industry.

But in terms of small companies having the tools and ability for a “fighting chance” against the big firms on the block, that opportunity is there. Failure is still a possibility — but it’s not a certainty. CJ

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



**MICHAEL  
WALDEN**



# Conservative Reforms and Business

Before an entrepreneur considers whether to expand his business or move to a new location, he typically goes through a checklist that includes most, if not all, of these items:

- Cost of living and quality of life
- Tax burden
- Reasonable regulations, preferably including right-to-work laws
- Skilled local work force
- Well-maintained roads and bridges, reasonable traffic congestion
- Natural beauty, perhaps with easy access to mountains or beaches
- Easy access to urban hubs and cultural amenities
- Low energy costs

Fortunately, any business looking at North Carolina can check them all, for now.

Recent policy decisions have brought our business tax climate from 44th in the nation to 17th, based on the Tax Foundation's rankings. A fourth consecutive year of regulatory reforms has built on the momentum of the first three, reducing burdensome regula-

tions that stifle economic growth. Changes to the transportation funding formula have shifted scarce transportation dollars to roads, bridges, and congestion relief. School choice, and a focus on career technical training and coordination with community college and university degree programs, improve the skill sets of and employment prospects for North Carolina workers.

Low energy costs are critical to all kinds of businesses. Whether the company is an automobile parts manufacturing plant, a tire distribution site, a high-tech data center, or a brewery, high electricity costs eat into profits and limit investments.

According to the U.S. Energy Information Administration, North Carolina ranks 44th in energy expenditures per capita, the lowest of our surrounding states. Recent legislative decisions could enhance access to and reliability of energy sources, while reducing costs. For North Carolina to maintain a competitive edge in business recruitment and economic growth, smart energy policy decisions will be critical.

Natural gas development is occurring in 32 states. With the potential for rich gas deposits in at least 10 counties, North Carolina needs to become one of those states. Hydraulic fracturing and natural gas exploration measures advanced during the short session. Under Session Law 2014-4, the moratorium on fracking was lifted, the deadline for fracking rules is Jan. 1, 2015, permits can be issued soon

after all rules are in place, and a new Oil and Gas Commission will adopt rules and oversee the development of any oil and gas resources that are uncovered. The new fracking regulations protect the environment, the industry, and property owners, and ensure the health and safety of citizens.

Extracting natural gas can have a significant impact on state and local economies with job creation, capital investments, and tax revenues. Just as 31 other states have done, North Carolina has established a severance tax to ensure that costs of natural gas extraction are paid for by the industry and that taxpayers receive benefits from production. Many states are

seeing game-changing boosts to their economies. Perhaps most significant is that natural gas development can reduce energy costs.

A little-reported provision in the fracking bill could have long-term and significant impacts on energy costs in North Carolina. Section 27 orders the State Energy Office to study and make recommendations on comprehensive long-range energy policy, looking at not only environmental impacts but also the economic effects of different sources of energy. The study will revisit a 2007 requirement mandating that 12.5 percent of our energy come from efficiency measures and renewable energy sources — a requirement that is proving impractical and expensive. Too often the costs associated with energy and the economic impact on consumers and businesses are overlooked.

The cost of energy matters. When the cost of electricity goes up, the cost of everything goes up. North Carolina's leaders understand this and are putting reforms in place to fix past decisions driving up the cost of electricity, paving the way for energy exploration and development, and encouraging new ideas and innovations. *CJ*

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



**BECKI GRAY**

Recent policy decisions moved N.C. business climate from 44th to 17th

## Chaos in Obama's Washington

Make no mistake about it. The Obama administration is in freefall and teetering on the brink of collapse.

In Barack Obama's Washington, chaos is the order of the day. Chaos permeates the White House, the president's national security team, the State Department, and most of the other federal agencies under Obama's control. The examples of outright incompetence, scandals, and potential criminal activity are numerous.

President Obama and his team are giving Jimmy Carter a good name.

The rare exception to the rule is our nation's military, which continues to perform with courage and valor under the most difficult of circumstances.

Just think about what has transpired since Obama took the oath of office in January 2009. It is stunning to

reflect and review.

Out of the gate was "Fast and Furious." This is the scandal that allowed weapons from the United States to pass into the hands of suspected gun smugglers so the arms could be traced to Mexican drug lords. The result was predictable and had tragic consequences.

The Bureau of Alcohol, Tobacco, Firearms, and Explosives — which stage-managed the whole fiasco — lost track of hundreds of firearms, many of them linked to crimes, including the fatal shooting in December 2010 of Border Patrol agent Brian Terry.

Then there was the targeting of conservative groups by the IRS and the relentless stonewalling by that agency and the White House. Cooperation with Congress — which was attempting to get to the bottom of the matter — was almost nil, and many on the Democratic side of the aisle claimed that singling out conservative groups for punitive treatment by the IRS was a "phony" scandal.

Just when you thought things couldn't get worse, the IRS has claimed that Lois Lerner, the agency bureaucrat who is both the focus of

the congressional inquiry and was tasked with overseeing tax-exemption applications, lost thousands of emails after her computer crashed. Many of those emails, the tax collection agency claimed, could not be recovered.

And now, as it turns out, the IRS destroyed her computer hard drives. Does the phrase "cover-up" come to mind?

But not to worry — last February Obama denied any wrongdoing from the IRS, telling Fox News Channel's Bill O'Reilly there was "not even a smidgen of corruption" in the way the tax enforcers processed paperwork for tea party groups seeking tax-exempt status just like other issue-advocacy nonprofits.

Right.

Even Richard Nixon didn't have that much chutzpah.

Let's not forget the terrorist attack in Benghazi, Libya, that left four Americans dead. For weeks, the president, then-Secretary of State Hillary Clinton, and Obama's talking-points master, Susan Rice, the national security adviser, blamed the deaths on an obscure Internet video that had been posted long before the attack.

Oh, have I forgotten Obamacare,

its disastrous rollout, and its increasingly negative impact on families?

Then there were "red lines" with Syria that were ignored, and a prisoner swap with the Taliban.

How's that working out?

We cannot ignore the complete chaos on our southern border, as a massive influx of illegal immigrants flows into the United States from Central America and Mexico.

Perhaps the most tragic and heartbreaking scandal of all is the Veterans Affairs medical care fiasco. This mistreatment of our veterans by the government bureaucrats, who in some instances manipulated the system for personal gain, is immoral and wrong on myriad levels.

Last of all, we have Iraq being terrorized by the Islamic State of Iraq and Syria, or ISIS — vicious thugs who in many instances behead their prisoners and claim they have executed 1,700 Iraqis on their march across Iraq.

Who knows what tomorrow will bring? *CJ*

*Marc Rotterman is a senior fellow at the John Locke Foundation and a former official in the Reagan administration.*



**MARC ROTTERMAN**

# Dix Campus to Become Green Energy Destination Park (a C/ parody)

By WOOD Z. OWELL  
Environmental Correspondent

**T**he McCrory administration has agreed to sell the Dorothea Dix campus to the city of Raleigh, ending a two-year stalemate over the 306-acre property. Under the agreement, according to documents obtained by *Carolina Journal*, the city would pay state government \$50 million for most of the property, converting that section into North Carolina's first Green Energy Destination Park.

Much of the Dix campus hillside would be covered with a solar cell farm, with wind turbines dotting the perimeter of the area. These facilities would generate electricity, which would be used to power six car-charging stations. "That's about all of the power we can get out of this few acres of solar and wind power," said a spokesman for the City of Raleigh.

Any other proceeds, the spokesman said, would be directed to the nonprofit Wake County Bird Rescue Association that will set up an avian first-aid station amid the wind turbines to minister to mangled birds.

The funds also will be used to purchase special containers for bird carcasses that are designed to keep the odor of decaying sparrows, robins, finches, and hawks from bothering people picnicking in the shade of the



Here is how planners envision the new Green Energy Destination Park at the Dorothea Dix Campus after the state sells it to the City of Raleigh. (CJ spoof photo)

nearby solar panels.

Raleigh Mayor Nancy McFarlane, who was named executive director of the Dix Hill partnership, said the shade from the panels turned out to be an unexpected bonus. "It really makes for a great, green atmosphere," she said.

From 1856-2012, "Dix Hill" was the site of a state mental hospital named after the 19th-century mental health pioneer. The campus now

houses offices for the N.C. Department of Health and Human Services, and under the arrangement with the city, DHHS would maintain its office buildings on 54 acres of the campus.

The sale spurred controversy, and negotiations between the city and the state stalled, in part because the 1850 deed stated the land was donated for the purpose of establishing a mental hospital. Some state officials balked at allowing a park on the property, say-

ing that use would violate its intended purpose.

McFarlane said many of the amenities at the park would encourage "harmonious co-existence with the natural environment," satisfying the mental-health stipulations in the original deed.

McFarlane cited a document commissioned by the partnership titled "Marketing Urban Sustainability at Dix," including architectural designs of the property. The plans include a Zen meditation area, off-leash dog park, organic community garden, composting facility, and biofuels production area.

Vehicles burning fossil fuels would be banned from the campus. Visitors who could not walk from off-site parking spaces would be transported to the park via bicycle rickshaws or horse-drawn carriages.

Euell Gibbons, president of the National Association of Green Energy Destination Parks, told *CJ* he was thrilled with the plans he has seen for the Dix property.

"North Carolinians have a birth-right to enjoy the breathtaking vistas of downtown Raleigh," Gibbons said. "And this park will let them do that, so long as they're prepared to ignore the turbines that will block their sightlines and are willing to wear welder's goggles to blot out the blinding glare from the solar panels." *CJ*



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