

Renewable energy mandates facing legislative scrutiny/2



CAROLINA JOURNAL

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

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March 2013 Vol. 22 No. 3

STATEWIDE EDITION

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N.C. Rejects Exchange, Medicaid Expansion

Bill opts state out of Obamacare's key provisions

By DAN WAY
Associate Editor

RALEIGH

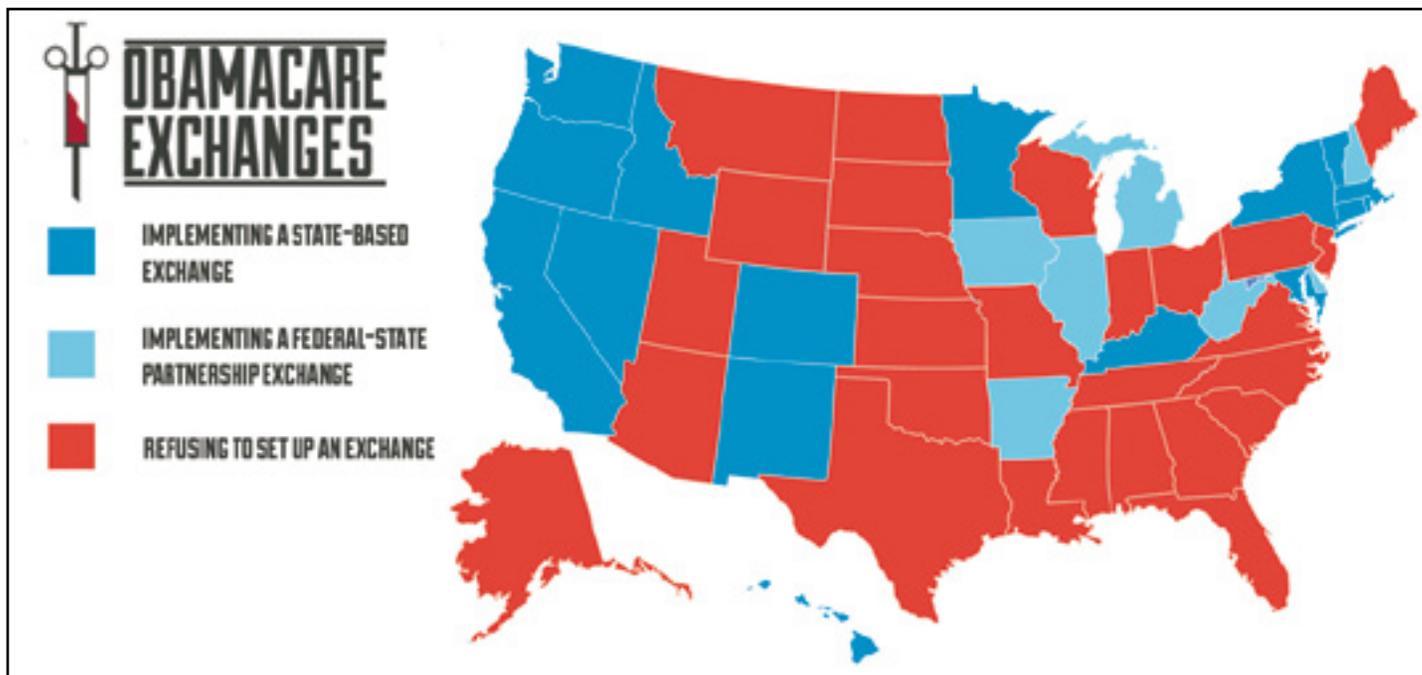
An amended bill to ban both Medicaid expansion and a state health insurance exchange was sent to Gov. Pat McCrory Feb. 26. McCrory had not signed the legislation at press time, but has said he supports it.



Gov. Pat McCrory

Votes on the bill reflected a deep partisan gulf on the measure, with Republicans and Democrats citing their own reports and statistics. It's also unclear how much money the state will have to pay to connect to the federal exchange, and how soon the state will have to pay it.

If, as expected, McCrory signs Senate Bill 4, North Carolina will join more than half the states in rejecting a



Here is the situation as of Feb. 27 regarding states establishing health care exchanges. Several states are still negotiating with the federal government, so their status may change. (Map courtesy of FreedomWorks)

state-based insurance exchange under the Affordable Care Act. McCrory also will find himself on the opposing side of at least eight Republican governors, including most recently Rick Scott of Florida and Chris Christie of New Jersey, who have accepted Medicaid expansion under Obamacare.

The Senate passed S.B. 4 Feb. 5, but the House added a provision to McCrory's request ensuring funding for the NC FAST information technology system, which will allow the state to connect to the federal Obamacare exchange — an online marketplace of federally approved insurance plans

from which individuals who do not get employer-provided health insurance would choose their preferred coverage.

In addition to the 26 states that have joined North Carolina in rejecting

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State's 'Unjust Land Grab' Attempt Continues

Attorney general working to take land from black family

By DON CARRINGTON
Executive Editor

RALEIGH

Despite a ruling by the N.C. Court of Appeals saying the state has no interest in the property known as Hammocks Beach, lawyers working for Attorney General Roy Cooper are forcing John H. Hurst and his sister Harriet Hurst Turner to continue fighting for the 289-acre Onslow County waterfront property. The



John Hurst is shown in front of buildings on the contested property in 2010. (CJ file photo)

Hursts' battle with the state has lasted more than six years.

John and Harriet's grandparents, who died during the era of racial segregation, had an opportunity to take possession of the land. Instead, the Hursts insisted it be transferred to a trust that

would use the property as a beach resort for African-American teachers.

That proposal became impossible when government-endorsed segregation ended. In 2010, a court ruled that the current owner, the Hammocks Beach Corp., must relinquish the property. The state wants to take the land without compensation to expand the adjacent Hammocks Beach State Park.

Carolina Journal first reported on the Hurst family case in January 2011. Documents obtained by CJ show that the Hurst family is willing to sell the land to the state after obtaining clear title to it.

The Hurst family thought the battle was over after a unanimous Dec.

Continued as "State's," Page 15

McCrorry Signs Bill Designed to Help Pay State's UI Debt to Feds

By BARRY SMITH
Associate Editor

RALEIGH Gov. Pat McCrorry in late February signed into law a bill that would rework the state's unemployment insurance system and put the state on track to repay a \$2.5 billion debt that the state borrowed from the federal government to pay unemployment benefits during the Great Recession.

House Bill 4 increases taxes for some employers, shortens the number of weeks an unemployed worker is eligible for benefits, and reduces the maximum benefits such a person can receive.

"This bipartisan solution will protect our small businesses from continued overtaxation, ensure our citizens' unemployment safety net is secure and financially sound for future generations, and help provide an economic climate that allows job creators to start hiring again," McCrorry said in a statement announcing his signing of the legislation.

The bill received some support from Democrats in the General Assembly. Four Democratic senators voted for the bill, as did three Democratic representatives.

Two Republicans in the House voted against it.

The bill cuts benefits by reducing the maximum weekly amount from \$535 to \$350 and reduces the maximum number of weeks a jobless worker can collect unemployment benefits from 26 weeks to 20 weeks. However, the duration could be reduced to 13 weeks if the economy improves and the unemployment rate drops significantly.

As a result of the new law and federal legislation passed earlier this year, a number of North Carolinians receiving extended unemployment benefits will see those checks stop later this year. Until the debt to the federal government is paid off, employers must pay an annually increasing surcharge. Under this bill, the debt will be paid off in 2015 or 2016 instead of in 2019, according to fiscal analysts.

The action by the GOP governor came as good news to Chuck Edwards, president and CEO of the C. Edwards Group Inc., which owns seven McDonald's restaurants in western North Carolina.

"I know that business in general is very appreciative of the state leaders for giving this some attention because

the problem wasn't even on the radar screen two years ago," Edwards said.

Edwards, 52, started working at a McDonald's on Spartanburg Highway in Hendersonville when he was 16 years old. Now, that restaurant is one of the seven that he and his wife own. He said they have 360 employees at the restaurants.

Edwards said that beginning in 2011, he was assessed a federal surcharge of \$21 a year per employee. The surcharge increases by \$21 a year until it maxes out at \$96, Edwards said. That surcharge would be in place until the debt is paid off.

This year, that surcharge amounts to \$63 per employee, he said. With 360 employees, that would make his federal surcharge \$22,680.

Edwards said the federal penalties that businesses have to pay are an impediment to reinvesting in his business.

"I think that it's critical that business sees some relief in the penalties so they can continue to provide jobs," Edwards said. "It is a limiting factor to being able to reinvest in our business,

add jobs, and give back to the community."

Edwards said he isn't trying to claim that the surcharge, in and of itself, will keep him from hiring new employees. "But it's one factor in a complicated equation," he said.

As a result of the new law and federal legislation passed earlier this year, a number of North Carolinians receiving extended unemployment benefits will see those checks stop later this year.

In addition to the surcharges assessed by the federal government, some businesses also will see increased taxes as a result of the new law. Those include businesses currently paying no taxes because they have a good employment history and businesses already paying the highest unemployment tax rate as a result of numerous layoffs.

One Republican who voted against the bill, Rep. Kelly Hastings, R-Gaston, said he did so because he believed voting for the bill would violate a no-new-taxes pledge he had taken. Democrats in the legislature argued that the benefit cuts were too steep and would result in critical losses of income for laid-off workers.

The bill takes effect July 1 and will apply to claims for benefits filed on or after that date. The tax portion of the bill takes effect Jan. 1, 2014. *CJ*



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State Briefs

Industrial Commission lax

A performance audit shows that the N.C. Industrial Commission has been lax in monitoring data to make sure North Carolina businesses are keeping up with their duty to provide workers' compensation insurance for their employees.

In addition, the report from state Auditor Beth Wood's office also said the Industrial Commission needs to ramp up its efforts to collect assessed penalties from businesses that fail to comply with the state's Workers' Compensation Act.

That act requires most companies doing business in the state to carry worker's compensation coverage to pay benefits to a worker or a worker's family if the worker is injured or dies on the job.

"Workers, unfortunately, may not even be aware that their employer is not carrying workers' comp until they get hurt," Wood said.

The audit recommends that the Industrial Commission implement procedures to follow up with businesses that have allowed coverage to lapse, and consider stricter enforcement of penalties assessed to those that do.

The commission agreed with the audit's findings and recommendations.

Senate: No to fracking fees

State senators have rejected a proposal that would give local governments the option of imposing impact fees on projects involving hydraulic fracturing, a procedure used to extract natural gas trapped in rocks. Senate Bill 76, which would allow companies to receive fracking permits as early as March 2015, passed the Senate and was in the House at press time. The bill bans local governments from assessing impact fees when companies used fracking to extract natural gas.

Sen. Josh Stein, D-Wake, brought up the idea. "We have the issue where the localities that are having all of this activity with all the trucks and all the influx of people from out of state living in trailers — I mean they need to be able to deal with the impact in their local communities," Stein said.

Sen. Buck Newton, R-Wilson, the sponsor of the bill, said, "We don't want ... patchwork impact fees across the state. And we certainly don't want those impact fees to be used as backdoor ways to try to block the development of these resources." CJ

Soles Choice Reveals State Award Shortcomings

By DON CARRINGTON
Executive Editor

RALEIGH

Weeks after *Carolina Journal* reported that a Feb. 11 event had been canceled honoring controversial former state Sen. R.C. Soles, D-Columbus, as a recipient of the Order of the Long Leaf Pine, *CJ* has been unable to find any record showing if former Gov. Bev Perdue approved the award.

Perdue, currently a resident fellow at Harvard's John F. Kennedy School of Government, did not respond to email or voicemail messages from *CJ*. The *Wilmington Star-News* also reported that it was unable to reach Perdue about the Soles award.

The Order of the Long Leaf Pine, created by Gov. Terry Sanford in the mid-1960s, routinely is called the most prestigious award that can be conferred by the governor of North Carolina. A survey of state records shows that Perdue approved approximately 250 Order of the Long Leaf Pine awards during her final weeks in office, but Soles' name did not appear in any of those records.

Soles, a Tabor City attorney, was North Carolina's longest-tenured legislator, serving in the General Assembly from 1969-2011. He continued to be re-elected even though he had been involved in a number of controversies.

In 1983, he was indicted on charges of conspiracy, vote buying, and bribery as a result of a federal corruption investigation, but was acquitted in a jury trial. More recently he has been in the news for several run-ins with young men who were former legal clients. Some claimed they had sexual relations with Soles when they were teenagers.

In 2009, Soles shot a former client in the leg after a confrontation with the man in Soles' front yard. In 2010, Soles pleaded guilty to assault with a deadly weapon and was fined \$1,000. A State Bureau of Investigation inquiry into Soles' relationships with teenagers, opened in 2009, has not produced any charges.

Wilmington television station WECT-TV reported Feb. 5 that Soles was scheduled to receive the award. *CJ* sought records confirming the honor.

Meantime, Crystal Feldman, spokeswoman for Gov. Pat McCrory, said McCrory is continuing the award and has a vetting process in place. He recently gave the Long Leaf Pine award to former state Rep. Jim Crawford, a Granville County Democrat.

Origin of Soles award unclear

The records of Perdue's Long Leaf Pine awards have been transferred to the North Carolina Office of Archives and History. An employee of that office



How or whether former state Sen. R.C. Soles got the award is unclear. (*CJ* file photo)

examined the records and found none indicating Soles had been approved or even nominated for an award. A separate review of the records by a *CJ* reporter also failed to find any pertaining to Soles.

CJ spoke with Allison Stivender, a recently retired state employee who handled processing the awards for Perdue. Stivender said she was swamped with requests in the closing weeks of Perdue's administration and that some of the information regarding requests may not have been saved properly.

Stivender remembered a request regarding Soles and believed it came in an email from Perdue staffer Pryor Gibson. She remembered preparing a certificate with Soles' name and believes she gave it to Gibson, a Wadesboro businessman who served eight terms in the General Assembly before resigning to work for Perdue. Stivender said she did not know if Perdue approved the award.

Gibson told *CJ* he remembered getting a request for Soles and that he forwarded the request to Stivender. "After that, I don't know what happened," he said. Nor did he know if Perdue approved the award for Soles. He added that he did not think he picked up the completed certificate from Stivender.

The award

A May 2009 *Raleigh News & Observer* story noted that Democratic Govs. Jim Hunt and Mike Easley gave out more than half of 13,600 awards that had been issued at the time. The story said Democratic consultant Gary Pearce, who served as press secretary for Hunt in his first two terms in the late 1970s and early 1980s, had written

on his blog that there were "no criteria" and "no review process" for applicants to the order during his tenure.

"We pretty much gave the things to anybody who asked, as long as there was no indictment pending," Pearce told the newspaper.

The *N&O* also reported that the day before he left office, Easley "quietly gave the award to Robert Lee Guy, the head of the state's troubled probation department. A photo of Guy with the certificate appeared in a Clayton newspaper, but Perdue's office could find no official record of the award." The story noted that Easley gave the award to his wife's parents shortly before Christmas 2004. Governors "thought so little of the awards that they didn't begin keeping track of who they'd given it to until 1983," the story said.

In recent years, any state employee retiring with at least 30 years of service routinely has received the award.

Busy December for Perdue

The guidelines to submit an application for the award were posted on Perdue's website, but are no longer available. The award is to "Recognize

The screening process for the Long Leaf Pine Award remains murky

individuals for their contributions to the State of North Carolina. The goal is to honor individuals who have made a significant impact towards creating a better North Carolina," the instructions stated. The guidelines con-

tained a link to a form that could be completed online and emailed to a special address in the governor's office.

Among the 250 people who recently received the Order of the Long Leaf Pine from Perdue include all of Perdue's Cabinet members, former N.C. Attorney General and Secretary of State Rufus Edmisten, actor Andy Griffith (posthumously), Gardner Payne, an attorney and former fundraiser for Perdue and Easley, 16 retiring members of the Shelby Police Department, and Michael Walden, N.C. State University economics professor (and columnist for *CJ*).

After reviewing hundreds of awards, *CJ* was unable to determine the screening process used to decide who qualified. State employees retiring after 30 years of service appeared to qualify automatically.

For at least one nominee, an Internet search of the candidate's service to the community was used. Stivender communicated her findings to Gibson, suggesting he had a role in the approval process. CJ

N.C. Hospitals and Doctors Battle Over Certificate-of-Need Law

BY DAN WAY
Associate Editor

North Carolina surgeon and physician groups are squaring off against hospitals in a regulatory reform battle with potentially hundreds of millions of taxpayer and insurance dollars at stake.

Private surgeons and physicians want to reform the state's certificate of need law — the legal process to obtain state approval for a variety of equipment, facilities, and procedures to ensure they are not duplicative of existing situations.

The surgeons want to make it easier to establish lower-cost, single-specialty ambulatory surgery centers that would reduce markedly payments the state makes to hospitals for Medicaid patients and for state employees under the state health plan. Hospitals say specialty surgery centers will cherry-pick the insured patients hospitals need to cover the costs of treating the indigent and uninsured.

They want to eliminate hospitals' ability to monopolize the surgery market and collect higher government-paid hospital rates at off-campus surgery centers.

"Hospitals in North Carolina have had many years of very limited competition from the few existing ambulatory surgery centers and diagnostic centers, and it's time for us to allow for competition," said Cathy Wright, a lobbyist for the North Carolina Orthopaedic Association.

"Competition will increase transparency, help the patients be more aware of the actual costs of their health care, and, I think, ultimately it will drive down costs," Wright said.

The North Carolina Hospital As-

sociation is among the most ardent opponents of relaxing the process for creating new stand-alone operating rooms and imaging centers.

"No law is perfect, and the certificate-of-need law certainly could be updated in a way that would benefit the people of the state of North Carolina," said Hugh Tilson, senior vice president of the Hospital Association.

"Our big concern is that given the implementation of Obamacare and all of the uncertainties that are in the world of health care right now, messing with the regulatory environment ... makes a lot of folks very nervous," Tilson said.

"The provisions related to operating rooms are incredibly problematic for hospitals," he said.

The House Select Committee on Certificate of Need Process and Related Hospital Issues conducted hearings on the complex topic last year.

State Rep. Marcus Brandon, D-Guilford, a member of the select committee, said it was the most difficult job he's undertaken as a legislator — a balancing act between the need for competition and potential effects on hospitals' quality of care.

"You've got hospitals that are trying to monopolize areas, but [regions] that don't have care," Brandon said. "I think what we did was try to make the process more efficient" and instill transparency in what is "not an open process." It can take three to four years for a certificate-of-need review, and by the time it's granted it could be out of date, he said.

State Rep. John Torbett, R-Gaston, select committee co-chairman, filed House Bill 83 to enact a number of the committee recommendations. Torbett's bill would remove replacement



One proposed bill would allow ambulatory surgery centers to open without having to go through a certificate-of-need process.

equipment from the certificate-of-need process. The dollar-amount triggers for a certificate-of-need review would be increased from \$2 million to \$4 million for capital expenditures for new institutional health services, and the monetary threshold would be raised from \$750,000 to \$1.5 million for major medical equipment.

There no longer would be a monetary threshold required to receive an expedited review for capital expenditures. It currently is any project less than \$5 million.

The bill would require those contesting certificate-of-need approvals to file separate bonds for each item being appealed. It would award costs and reasonable attorneys' fees to an applicant for a frivolous appeal or an appeal designed to delay a new institutional health service.

Rep. Marilyn Avila, R-Wake, a select committee member, is working on a second bill adopting other committee recommendations.

"This bill will allow for single-specialty ambulatory surgery centers to open," said Wright. The North Carolina Orthopaedic Association is helping to draft the bill.

It is being modeled after a 2005 update to the certificate-of-need law that allowed endoscopy units performing upper and lower gastrointestinal procedures to open.

"It's been very successful," Wright said of the 2005 reform. North Carolina's net Medicare savings related to that shift from hospitals to ambulatory surgery centers over the past six years are estimated at nearly \$225 million, she said. That is because Medicare reimburses hospitals 43 percent more than it does ambulatory surgery centers.

"If this bill passes, [hospitals are] not going to be able to charge the higher rates" at their off-campus facilities for Medicare patients, Wright said.

At present, the hospital-ambulatory surgery center mix of procedures is 80-20.

Allowing a wider array of ambulatory surgery centers would lead to

savings in Medicaid and state health plan payments, according to the orthopaedic association. Adding 50 new ambulatory centers and shifting 10 percent of patients from hospitals to the centers would save \$16.7 million in Medicaid payments from 2014 to 2020. At 100 new centers and with a 20 percent shift of patients, the savings would be \$33.1 million.

The association's projections for the state health plan coverage for state employees, under the same scenarios, would save the state \$53.3 million with 50 new centers and \$114.3 million with 100 new centers.

Avila's bill "will make it easier for communities to have access to ambulatory surgery centers," Wright said.

Currently, North Carolina has 0.98 ambulatory surgery centers per 100,000 people. The national average is 1.72. North Carolina also lags behind South Carolina (1.62), Florida (2.24), Tennessee (2.55), and Georgia (3.44), but has a higher rate than Virginia (0.64).

Only 23 of 100 North Carolina counties have ambulatory surgery centers, and 18 counties have neither a hospital nor an ambulatory surgery center. The other 59 counties are served by one or more hospitals.

New ambulatory surgery centers could provide cataract surgery, lens implementation, and retina and glaucoma procedures, Wright said. They could provide surgery for tonsils and adenoids, hernias, foot procedures, carpal tunnel, cystoscopy, lower-back epidurals for pain management, urology, or ear, nose, and throat.

"Competition will increase quality of care" through free-market principles, create more jobs, and make North Carolina a more physician-friendly state that would help in recruiting doctors, Wright said.

"There's not currently a free market in health care," Tilson said. "For hospital services, almost 50 percent of our patients are paid for by Medicare. They [government regulators] set the rates below the cost of care." CJ

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The North Carolina History Project is a project of the John Locke Foundation

Consumer Financial Protection Bureau Eyeing Retirement Savings

By KAREN McMAHAN
Contributor

RALEIGH

Representatives of the financial industry and policy analysts are concerned about reports that the U.S. Consumer Financial Protection Bureau is considering taking a formal role in helping Americans better understand and manage their retirement savings. Such a move would mark the agency's first entry into consumer retirement investments.

The agency has justified its interest by noting that a tsunami of retirement account rollovers are expected in the coming decade as millions of baby boomers reach retirement age, making seniors potentially vulnerable to financial scams.

Critics of the independent agency note that it lacks congressional oversight, and since it is funded by the Federal Reserve rather than regular appropriations, its "educational" role easily could expand to one of regulating individual retirement nest eggs or employer-provided retirement plans, and elected officials could do little to stop it.

As a response to the housing market collapse, Congress created the CFPB in 2010 in the Dodd-Frank Wall Street Reform and Consumer Protection Act to oversee consumer financial products and protect consumers. Title X of the act consolidated authority over rules arising from consumer protection laws that had been divided among seven agencies.

Already heavily regulated

Steven Long, a partner in the Raleigh law office of Parker Poe Adams & Bernstein who advises businesses and individuals in tax and employee benefits issues, said he doesn't see a need for more policies and rules from another regulatory agency since pensions and retirement accounts now are regulated heavily by the federal government. The 1974 Employee Retirement Income Security Act is enforced jointly by the Department of the Treasury, the Department of Labor, and the Pension Benefit Guaranty Corporation.

"ERISA imposes high fiduciary standards and obligations on private-sector employee benefit plans, and that includes education of participants and beneficiaries," Long said.

A bureau spokesman declined to comment to *Carolina Journal* on media reports about potential interest in individual accounts. The spokesman said the Dodd-Frank act directed the bureau through its Office for Older Americans to identify best practices and effective ways to educate seniors about personal financial management, including long-term savings.

Because 401(k)s and IRAs are two ways that Americans save for their re-

tirement, the bureau said it wants to ensure seniors have the information to make informed decisions at crucial times, such as when rolling over their investments, taking out loans, or modifying their investments.

Total U.S. retirement assets as of Sept. 20, 2012, were \$19.4 trillion, with \$5.3 trillion in individual retirement accounts and \$3.5 trillion in 401(k) plans, according to the Investment Company Institute, an investment industry association.

When the bureau became operational July 21, 2011, it was limited by statute to enforcing existing rules for banks and credit unions with more than \$10 billion in assets until the Senate confirmed a director. Once the Senate confirmed a director, however, CFPB gained authority to supervise larger participants in nonbank services.

But it's unclear if Richard Cordray, CFPB's director, is on the job legally. Diane Katz, a research fellow in regulatory policy for The Heritage Foundation, noted that a Jan. 25 decision by the U.S. Court of Appeals for the D.C. Circuit ruled that President Obama's use of recess appointments to install three members of the National Labor Relations Board was invalid because the Senate was not in recess at the time. Since Obama used the same procedure on the same day to appoint Cordray, the validity of that appointment is in doubt, opening the door to a legal challenge by financial services companies affected by CFPB actions, Katz told *CJ*.

Retirement products are regulated by the Securities and Exchange Commission, the U.S. Department of Labor, and several other agencies, Katz said.

The CFPB's rulemaking and enforcement actions in mortgage lending, education lending, and consumer banking already are limiting consumer choices and raising the cost of financial products and services, Katz said, so she's concerned the same thing could happen with retirement products and services.

CFPB's powers

In its haste to set up another regulatory agency to solve yet another crisis, critics say the CFPB was established in a manner that frees it of normal democratic checks and balances

that apply to virtually every other regulatory agency.

By creating the bureau within the Federal Reserve System and granting it permanent funding from the after-dividend profits of the Federal Reserve, Congress has no control over the bureau's budget.



In a January article for The Heritage Foundation, Katz wrote this budget independence precludes presidential oversight and even Federal Reserve intervention in bureau affairs.

Alex Pollock, research fellow at the American Enterprise Institute, wrote in a January 2012 *American Banker* article that "funding the CFPB by tapping the Fed's profits was an obvious, but successful transfer of money from the taxpayers without normal congressional appropriations, and moreover removed the ability of future Congresses to control the new expansive bureaucracy by the purse."

Pollock said the bureau, as with all other government entities, "should be subject to checks and balances — just as [the federal government was] designed by the American Founding Fathers."

Katz and legal experts have raised concerns over vague language in the statute, especially regarding

the bureau's enforcement authority against "unfair, deceptive, and abusive practices" in financial products and services.

Arbitrary enforcement?

While legal standards exist for "unfair" and "deceptive," existing regulatory law does not include the concept of "abusive," Katz said, raising the specter of arbitrary enforcement when the bureau defines "abusive."

Katz also noted in the Heritage article that the statute does not define "risk," leaving the bureau free to "define its powers without the checks and balances that typically protect citizens from government overreach."

On its website, the bureau solicits and posts complaints from consumers naming specific companies without verifying any allegations of wrongdoing. The bureau "is crafting regulations and commencing supervision and enforcement actions based, in part, on consumer allegations that are never checked for accuracy," Katz said.

While some CFPB opponents would like to see the statute establishing the bureau repealed, they do not advocate returning to the old regulatory model which allowed different agencies to apply different standards. Many critics agree that the CFPB's budget should be subject to congressional control and oversight.

CJ contacted North Carolina's U.S. senators, Republican Richard Burr and Democrat Kay Hagan, both of whom serve on the Senate Committee on Health, Education, Labor, and Pensions. Burr's spokesman said the senator was unaware of any possible CFPB involvement in consumer retirement investments since the issue had not come up in committee. Hagan's spokesman did not comment. *CJ*

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Rules Commission Rejects Ban On Pre-K Religious Instruction

By BARRY SMITH
Associate Editor

A RALEIGH regulatory oversight panel on Feb. 21 rejected an effort by the N.C. Child Care Commission to ban religious instruction at NC Pre-K schools held at religious facilities.

The Rules Review Commission, which oversees the regulation process for state agencies, voted 9-1 to reject the Child Care Commission's proposal, which would have prohibited religious activity during the Pre-K class day. Rules commission members cited a state law forbidding the Child Care Commission from interfering with religious activities at such centers, and said that the Child Care Commission should ask the General Assembly if it wanted a change.

"The statute to me couldn't be any more clear," said Rules Review Commission member Jeanette Doran.

"From my perspective on the statute as written, there's no way to write the rule to meet the statute," said Garth Dunklin, one of the Rules Review Commission members. "What I am hearing are some very compelling discussions on both sides. But they're questions that need to be made on Jones Street."

The General Assembly meets in the Legislative Building, located on Jones Street in Raleigh.

The NC Pre-K program previously was known as More at Four, the state's attempt to help children considered at risk of failing in school to get an early start to their education.

Margaret Hamilton of Upper Room Christian Academy told the Rules Review Commission that the religious ban presented complications and confusion for parents and children attending the Pre-K program at the academy.

"We've had parents who have asked that they be included in the religious instruction," Hamilton said. "We've told them that we were told that we could not do it. ... If we have a chapel on Friday morning with the other classes, the students [from Pre-K] cannot attend. Some of the parents just want their children to go."

The school's Web page says that it offers kindergarten through fifth grade, in addition to preschool and Pre-K programs.

Hamilton said that sometimes

parents and children in the Pre-K program wanted to participate in Christmas pageants, but the religious ban further complicated rehearsals for such programs.

Child Care Commission representatives said they were concerned that students might receive unwelcome religious instruction at centers. Alexandra Gruber, an attorney representing the commission, said members wanted to defend parental choice.

"There's nothing in the curricula that would prevent a religious facility teaching religious values or instructing on religion in a non-Pre-K classroom,"



Margaret Hamilton of Upper Room Christian Academy in Raleigh expresses her concerns about a proposed ban on religious instruction in Pre-K schools at a Feb. 21 meeting of the Rules Review Committee. (CJ photo by Barry Smith)

Gruber said. "The commission recognized that there are limited NC Pre-K classrooms in the state of North Carolina.

"In some communities, there may be only one child care facility that has applied for and received the approval to participate in the NC Pre-K program," Gruber continued. "Their concern was that

for some children, if the only available option in a county is a religious-sponsored facility that teaches religion during the NC Pre-K day, that parents would not have an option to choose otherwise.

"The only option for a Muslim child might be to attend a Christian NC Pre-K program that instructs Christianity during that 6.5-hour to 10-hour day," Gruber said. "The commissioners were concerned that this would not be appropriate developmentally for children."

She also noted that the N.C. Court of Appeals has upheld that a Pre-K program is a constitutional right for what are called "at-risk children," or children considered at risk of failure in school.

The Rules Review Commission had raised concerns about the Child Care Commission's rule previously. Earlier in February the Child Care Commission reaffirmed its desire to keep the religious ban in the rule.

Previously, when the Pre-K program operated as More at Four, it was under the Department of Public Instruction, and a similar religious ban policy was in place.

However, those policies were regulated by the Child Care Commission, and the statutory provision regarding religion did not cover the Department of Public Instruction. CJ

COMMENTARY

In the Shallows On School Violence

In K-12 education, nothing matters more than ensuring that schools — and the children within — are safe. The recent heart-rending shooting at a Connecticut elementary school serves as a tragic reminder that violence is real. And it compels us to act.

Has the culture coarsened? Evidence is divided. Federal data show school violence has diminished. In North Carolina, school officials say crime and violence are down. New numbers presented by the Department of Public Instruction at January's State Board of Education meeting indicate acts of crime and violence have declined 4.3 percent since 2010.

The devil is in the details. North Carolina's crime and violence downturn occurred because schools reported fewer incidents of illegal possession of controlled substances, weapons, and alcohol. This is good news, but other indicators buried in DPI's report are not. In fact, several forms of violence on campuses have risen since 2010: assaults on school personnel increased 5 percent, sexual assault rose 14 percent, assault resulting in serious injury jumped 20 percent, and sexual offense increased 15 percent.

What to do? Our national safety debate portrays gun control as a panacea. In February, U.S. Secretary of Education Arne Duncan joined 350-plus college presidents in calling for greater gun restrictions. Though well-intentioned, the college presidents' proposals won't make schools safe havens. And their opposition to legislation permitting guns on campuses and in classrooms would leave students vulnerable.

Should every school employ an armed guard, as the National Rifle Association proposed? Perhaps, but local school boards should decide if and where guards are needed. In reality, thousands of schools (mostly middle and high schools) already have armed guards or school resource officers (law enforcement officers trained to work in K-12 settings); some systems, including Charlotte-Mecklenburg Schools, have their own police departments. Collective outrage over the NRA's proposal actually revealed stunning ignorance about

school security measures. Even President Obama supports more SROs in schools.

State legislators are mulling new ways to protect schools, and wisely so. Legislation pending before the North Carolina General Assembly would authorize local school boards to designate armed, trained, and certified "school safety marshals." School boards decide if marshals are employees or volunteers.

Such measures are sensible and necessary. Still, they won't address the often-ignored root causes of violence. True, mental health issues garner some attention, but it's cursory at best. And nobody talks about family breakdown. Yet a dysfunctional family is a significant risk factor for youth violence.

Though it's politically incorrect to say so, fatherlessness hobbles family functioning in myriad ways. As scholar Stephen Baskerville has noted, "Virtually every major social pathology has been linked to fatherlessness: violent crime, drug and alcohol abuse, truancy, teen pregnancy, suicide."

What about the graphic media violence that saturates kids' lives? Suggesting that violent media promote violent behavior invites derision. But in a 2009 policy statement on media violence, our nation's pediatricians — respecters of science — wrote, "The evidence is now clear and convincing: Media violence is one of the causal factors of real-life violence and aggression."

Yet we do little to shield children. Unlike obscenity, reprehensible violence in interactive media is protected under the First Amendment. In a 2011 decision overturning a law prohibiting the sale of violent video games to minors, the U.S. Supreme Court wrote, "This country has no tradition of specially restricting children's access to depictions of violence." Indeed.

So we stand in the shallows, looking, as the poet Robert Frost wrote, "neither out far, nor in deep." Shall we muster our courage and delve deeply into causes as well as correctives? We owe it to our children to try. CJ

Kristen Blair is a North Carolina Education Alliance fellow.



**KRISTEN
BLAIR**

School Choice Advocates Turn Attention to Funding Alternatives

Supporters seek funding, say choice saves taxpayer money

BY DAN WAY
Associate Editor

RALEIGH

The school choice movement has been growing in North Carolina, and many backers — from parents and advocacy groups to state lawmakers and local officials — believe the next logical step is to address funding issues to accommodate the expansion.

Terry Stoops, John Locke Foundation director of research and education studies, is among those who want to resolve funding inequities in how school choice is handled.

“Proponents of school choice envision an education system that ensures that all families have the means to choose the school that best meets the needs of their children, regardless of the provider,” Stoops said. “The way that those funds are collected and delivered may vary, but the principle remains the same. Families, not bureaucrats, should be in charge.”

Expanding school choice options would help North Carolina address a gap, Stoops said. And he highlights the inconsistency in opponents arguing that public tax dollars never should be used to fund private or parochial K-12 education as part of parental school choice.

“Few North Carolinians realize that the state has extensive educational options for preschoolers and college students but little for children in the ‘middle’ — the 1.5 million students in district-run public schools,” Stoops said. “Well over \$1 billion in state and federal funding goes to private preschools, child-care facilities, and institutions of higher education every year.”

Stoops explores options for improving parental choice in education through a detailed look at what has taken place in other states — and what could happen in North Carolina — as part of a new book by JLF, *First in Freedom: Transforming Ideas Into Consequences for North Carolina*.

A chapter in the book sets out a “nuts-and-bolts” guide to school choice issues, including funding.

“Tax-credit scholarships allow individuals or corporations — or both, depending on the program — to redirect a portion of their state tax payments to a nonprofit organization that provides private-school scholarships,” Stoops said.

These scholarships can take many forms, Stoops said. Eight states already operate 10 existing tax-credit scholarship programs.

“As North Carolina lawmakers look into tax-credit scholarships, they will face a number of questions,” he said, “Should credits be means-tested, universal, or have mixed eligibility? Should the credit apply to individual or corporate income taxes? To sales or property taxes? Should donors get dollar-for-dollar credits?”

Stoops also devotes attention to education savings accounts. “An education savings accounts is a tax-free vehicle in which parents can save money to spend on approved education expenses, such as tuition, textbooks, and tutoring, and into which governments can also deposit tax dollars for these uses.”

The 2013-14 General Assembly is expected to discuss many of these issues, including tax-credit scholarships and moving some charter school supervision away from state regulators.

“Our membership does not see any difference between tax credits, vouchers, or scholarships,” said Lianne Winner, director of governmental relations at the North Carolina School Boards Association, which opposes such funding.

“They all do the same thing,” Winner said. “It is a diversion of public resources to private entities” even if the mechanics are a little different.

Schools already have budgets with huge funding holes, she said. If the state is going to put taxpayer resources into education programs “it needs to be ones that are public and are accountable to the public.”

Winner said school choice “means a very different thing to a lot of people. A lot of people assume it means choice within the public sector, and we have a lot of that in this state” that didn’t exist a decade or two ago.

For example, she said, there is choice among public schools in an individual district. There are magnet schools and early college programs.

“We have charter schools. Those are public schools. They do have to be accountable to the public,” Winner said. “There is a mechanism when they are not performing the way they should the state can come in and shut

them down. Their testing data is a public document on the state board’s website. ... None of that is available for private schools.”

June Atkinson, state superintendent of public instruction, also objects to using tax credits for public education.

“I believe that is not in the best interest of public education, and more importantly I don’t think that’s in the best interest of the students of our state,” she said in an earlier interview.

“No. 1, money does matter, and we are in a very difficult time in our state when it comes to funding public education adequately,” she said.

“No. 2, any type of tax credit likely would not be equal to that of a public tuition in a private school, and No. 3, I believe that public education exists for the public good of our state,” Atkinson said. “It is an investment in our future, and by taking away from our public schools it’s a way of making and rendering them more ineffective rather than making them more effective.”

Stoops notes that about 50,000

children attend public charter schools in North Carolina, and that number is bound to grow now that the state has abandoned its longstanding cap of 100 charters statewide.

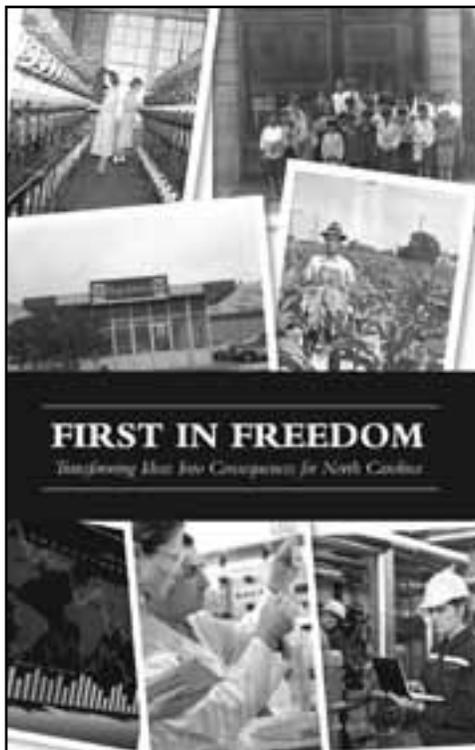
“These independent, tuition-free public schools of choice are more popular than ever, but the State Board of Education continues to approve heavy-handed rules and regulations that multiply the challenges that new and existing charter schools face,” he said. “Excessive regulation stifles experimentation, innovation, and customization.”

In the book, Stoops notes that state education agencies oversee only 19 percent of charter schools nationwide. School districts authorize and regulate more than half of all charter schools.

He calls for the General Assembly to amend the charter school law to give school districts full authority to create charter schools, but says an independent review board, for-profit companies, county commissions, city councils, mayors, or boards of trustees of two- or four-year institutions of higher education should have the same power.

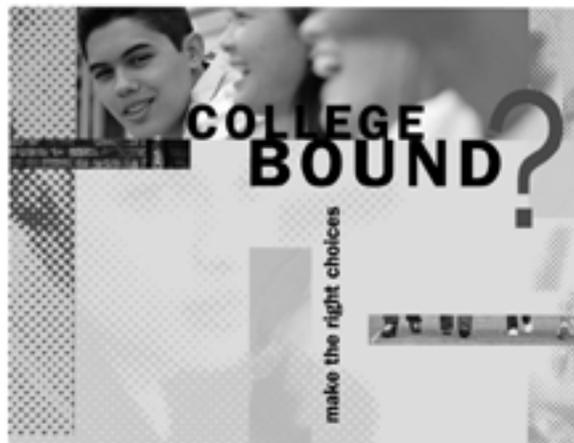
Winner said the school boards association has been lobbying for more than a decade “for local boards of education to create [charter schools], convert them, either have the choice to keep it under the local board of education or let it be its own independent school with its own independent governing board.”

“We don’t have a position on a separate review board,” Winner said, citing a possible lack of expertise if the review board were based in a small community. CJ



Options for improving school choice in North Carolina can be found in a new book published by the John Locke Foundation titled *First in Freedom: Transforming Ideas into Consequences for North Carolina*.

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Advocates Pushing For More Charters in Rural Areas

PEFNC's program wants to accelerate charter school growth

By BARRY SMITH
Associate Editor

RALEIGH

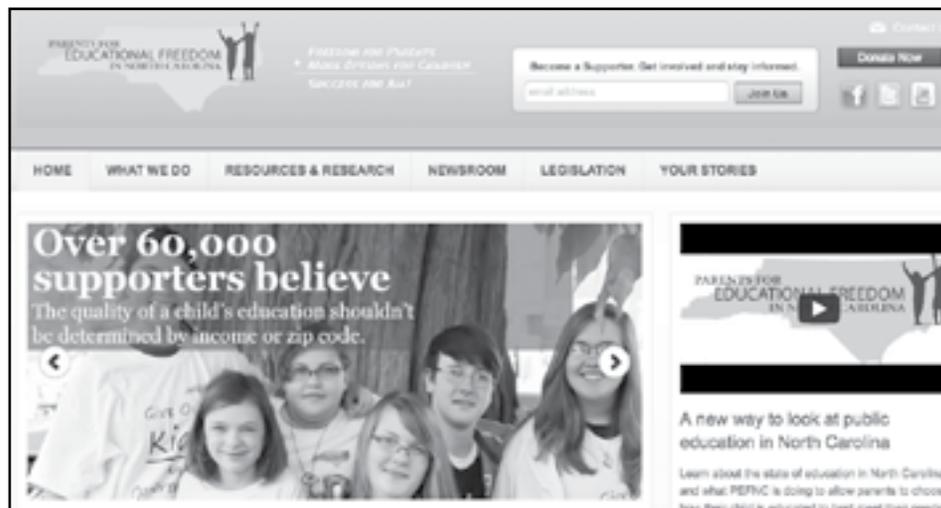
Even though lawmakers removed the cap of 100 charter schools nearly two years ago, the bulk of the nontraditional public schools remain in a cluster of metropolitan counties.

Parents for Educational Freedom in North Carolina has launched what it calls the N.C. Public Charter School Accelerator program, aimed at helping rural North Carolina counties obtain charter schools, prepare potential charter operators to navigate the state's bureaucracy, and, after obtaining their charters, help them provide quality instruction to their students.

"This is serious business," said Darrell Allison, president of PEFNC, a nonprofit advocacy group that promotes school choice. "We've got to make sure that we push for and we demand higher quality out of public charter schools. We can't have mediocre schools."

Charter schools are public schools that get tax money based on the number of students enrolled at the school. Each is governed by its own board of directors and generally has more flexibility and fewer regulations than traditional public schools.

Allison notes that by this fall there will be 132 charter schools in the state, with more than a third of them in



The website of Parents for Educational Freedom in North Carolina is at <http://pefnc.org>.

either Charlotte, Durham, Greensboro, or Raleigh. He said that about half of the 156 letters of intent to open charter schools in the fall of 2014 were located in those cities.

"It looks like they're trying to make sure that students across the state have choice everywhere," said Joel Medley, director of the N.C. Office of Charter Schools.

The accelerator program is working to open charter schools in fall 2014 in Bertie, Halifax, and Scotland counties, none of which has a charter.

"We're talking about counties in regions where we've had a historically dismal performance," Allison said.

PEFNC notes that the three counties have an average end-of-grade test passage rate of 49 percent. The graduation rates are 76 percent in Halifax and Scotland counties and 72 percent in Bertie County.

"We are trying to offer very high-quality options to students who don't currently have options available to them in some of our state's under-

achieving districts," said Christopher Gergen, who has been retained by PEFNC to help create the program. Gergen, a Durham-based entrepreneur and management trainer, has experience working with private and charter schools to improve their leadership and student performance.

"We're not focused on output, we're focused on outcomes," Gergen said.

Gergen said the accelerator draws on similar programs in Chicago, Denver, and New Orleans.

"The first stage is to improve the applicants' access to best practices, leadership, and coaching as they prepare their charter school applications," Gergen said.

Medley said that while the state charter schools office does have workshops to help potential operators through the application process, the office doesn't have the resources to provide the intensive level of training that the accelerator program will be providing.

PEFNC's accelerator program won't stop when a charter is awarded. They plan to support the applicants through their planning year, Gergen said.

The training will be for both the charter school's administrators and its board of directors. Allison said the accelerator program will take charter applicants chronologically from the application process to opening their doors to students.

The group does not plan to stop with one set of applicants. It hopes to have an additional six charters ready to open in each of the following three years.

To accomplish the task, the accelerator program has amassed a support team to work with the applicants. It includes officials with the KIPP Foundation charter schools, founders and chief school officers of other charter schools, and former Teach for America corps members.

"It sounds like they're reaching out to folks that have demonstrated that they have charter school experience, have produced charter school excellence, have worked in small rural areas, or have recently opened charter schools," Medley said.

Allison noted how charter schools have more flexibility and the ability to embrace innovation more openly than most traditional public schools.

Some schools have expanded hours, he said. For example, some charter schools start at 7 a.m. and end at 6 p.m. in order to provide more time to help students with reading.

"You have schools that, every quarter or so, have two or three Saturdays where they have students in the classroom," Allison said. CJ

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Town and County

Backyard cottages nixed

Raleigh City Council has rejected a proposal allowing backyard cottages under its new development code. The move comes after the idea generated strong opposition from neighborhood groups, reports the *Raleigh News & Observer*.

Backyard cottages typically run about 800 square feet, and include a kitchen and bathroom. Such outbuildings are often used by older relatives or rented out, where they are popular with college students and other young adults.

A major appeal of allowing the cottages is that it would allow existing neighborhoods to have a higher population density. That is also the exact reason that many residents of older neighborhoods dislike the idea, fearing that allowing cottages would create additional traffic and noise.

"Many of us moved to Raleigh because we don't want a dense neighborhood," said Linda Watson, chairwoman of the Glenwood Citizens Advisory Council.

Several council members said they may create a pilot program in one neighborhood if enough of its residents support the cottages.

City-county consolidation?

Tight budgets have returned to the agenda the concept of consolidating the city of Wilmington and New Hanover County for the provision of services. Whether the latest talks will amount to anything remains to be seen, reports the *Wilmington Star-News*.

The idea of combining services is not new. Broad merger proposals came before voters three times in the past and were rejected, most recently in 1995. Since the last defeat, the two entities have agreed on smaller mergers, creating the Cape Fear Public Transportation Authority and the Cape Fear Public Utility Authority.

"We want to look at where can we save money, where can we be more efficient, and where can we build real partnerships," Woody White, chairman of the New Hanover Board of Commissioners, said of the latest talks.

For now, the focus is more on cooperating than merging departments. The New Hanover County Commission also has three new members who want greater collaboration and may back a broad merger. CJ

Sparks Fly As CLT Authority Bill Moves Ahead

By DAN WAY
Associate Editor

Who gets to run Charlotte Douglas International Airport has become a prickly, billion-dollar turf battle. Charlotte and Mecklenburg County officials want to ground what they see as an unnecessary power grab orchestrated by Republican lawmakers to end long-standing city control in favor of a new regional authority.

The legislation, Senate Bill 81, ostensibly is being considered as a way to protect investments in what all agree is a giant economic engine for the Charlotte region and the state. As the airport continues to grow and plans coalesce for a future intermodal transportation park, backers of a regional authority say full-time administration that is expert in a variety of disciplines is needed.

Under the legislation, all assets of the airport would be transferred to a 13-member board, whose members would serve no more than two four-year staggered terms. Mecklenburg, Cabarrus, Gaston, Iredell, Lincoln, and Union county commissions each would appoint one member to the authority's board. Charlotte City Council and the Charlotte mayor would appoint one member each.

The Senate president pro tem and House speaker each would recommend one member to the General Assembly for approval. The governor would have one appointment. All three appointments must be residents of Mecklenburg County. The board would appoint two at-large members.

The measure was reported favorably Feb. 20 out of the Senate Rules Committee. It then was assigned to the Senate Finance Committee to determine whether transferring the governance of the airport might create legal and financial concerns related to outstanding bond issues. The bill was in committee at press time.

Sen. Bob Rucho, R-Mecklenburg, said Charlotte Douglas is a "very cherished asset" with "remarkable success" as a "huge attraction for business" due to decades of management by aviation director Jerry Orr.

But at 71, Orr may retire soon. "We can never depend on one individual to be the architect, implementer of the design and vision that is so critical," Rucho said.

According to *The Charlotte Observer*, Orr has suggested the airport would operate better under an authority instead of the city. Orr has sparred with city officials over bond issue accounting miscues that drew attention from the IRS a few years ago, and complained when airport security was transferred from his supervision to the Charlotte-Mecklenburg Police Department after a teen stowaway died in the wheel well of a jet.

"There are a number of airports within the state of North Carolina and across the country that have moved to this authority [format], and what the authority is designed to do is actually to provide experience, expertise, and a clear focus" that goes beyond a part-time job for an assistant city manager, Rucho said.

The authority would do a better job providing "a vision and a strategic plan for the advancement and growth of that airport," Rucho said.

RALEIGH

Over the past few years, efforts have been made to make the airport and a proposed surrounding intermodal transportation park into a "huge economic engine and driver" for the state, Rucho said.

"It is critical that the authority provides the dedicated and knowledgeable experience to continue moving it down that pathway of continued success," Rucho said. "It is very critical for the region, the city and the state ... to have knowledgeable people in place."

Sen. Malcolm Graham, D-Mecklenburg, was not persuaded. "It is not broken," Graham, chairman of the Mecklenburg County legislative delegation, told committee members. "We're about to break it" if the Charlotte-run airport is remade into a regional authority with state involvement.

Graham, a former Charlotte City Council member, said the airport is "a billion-dollar asset," and called the rush to approve S.B. 81 without proper study "an act of political malpractice." He said there is bipartisan support on the Charlotte council "to put the brakes on this."

"Quite frankly, I think it's being pushed" toward approval too fast, Charlotte Councilman Andy Dulin told the committee. "Talk and conversation is a healthy thing. We don't mind having a study done," Dulin said. "We'll pay for it."

Charlotte Douglas International Airport, operated by the city since 1936, is the sixth-busiest airport in the nation. It handles more than 700 flights daily and has the lowest boarding costs of any airport in the U.S., Dulin said.

Sen. Tom Apodaca, R-Henderson, chairman of the Rules Committee, took exception to the characterization of the legislation being rushed.

"In an effort not to have malpractice, I will send this bill to Finance for them to have a look," Apodaca said. "We are a deliberative body."

"It just seems odd to me" that there are more appointments from Raleigh than from Charlotte, said Sen. Josh Stein, D-Wake. That "sounds like a power grab from Raleigh."

Stein, a member of the Raleigh-Durham Airport Authority that runs RDU International Airport, noted that none of the RDU board members is appointed by the governor or the General Assembly.

But Sen. Bill Rabon, R-Brunswick, noted that six of the 11 board members who would select the two at-large members would be from either Charlotte or Mecklenburg counties, so they could keep control of the authority through those at-large appointments.

Stein also prompted the decision to refer the bill to the Senate Finance Committee after remarking the state treasurer's office is concerned about legal considerations of moving more than \$800 million in bonds backed by Charlotte's AAA bond rating into a new authority with no history or rating.

"There is an issue of whether all of the bonds are going to have to be bought back" and reissued by the city at a potentially higher cost, Stein said.

Rucho said the \$800 million in bonds are supported through the airport's revenue stream, not taxes. No assets from Charlotte can be used to pay the bonds, he said, so he believes the revenue bonds stand on their own merit. CJ



Under proposed legislation, all assets of Charlotte Douglas International Airport would be transferred from the city of Charlotte to a 13-member board made up of appointees from surrounding political jurisdictions. (City of Charlotte photo)

Cumberland County Connects Premiums to Employee Health

By MICHAEL LOWREY
Associate Editor

Cumberland County is the latest local jurisdiction in North Carolina to link medical insurance premiums employees pay to their health. Employees meeting medical targets will pay less for health insurance, reports the *Fayetteville Observer*.

For several years, the county has offered a \$30 monthly discount on health insurance to employees who attend its annual wellness fair. To earn the discount, employees now must meet established standards in three of four areas or show a 10 percent improvement compared to the previous year.

The county spent \$17.6 million in fiscal 2011-12 on its employee health plan. Claims rose 11 percent compared to the previous year.

"We're trying to do what we can do to contain costs," County Manager James Martin said. "Employee accountability is one way to try to do that."

Not all employees favor the initiative, but that did not deter Martin from adopting the requirement.

"As unpopular and distasteful as it is, that's what we need to do," he said. "Otherwise, the cost of employee health care is going to go so high that we're going to end up in a situation where employees are going to have to pick up a greater and greater share of the cost of their individual health insurance."

The county already operates a primary care clinic and pharmacy for its workers. It gives its employees an extra 30 minutes for lunch if they use the time to exercise.

CMPD review board

Since 1997, a Citizens Review Board has reviewed allegations of police misconduct in Charlotte. *The Charlotte Observer* reports that, to date, the board always has sided with police, calling into question the usefulness of the review board.

Since its creation, citizens have brought 78 cases of alleged misconduct by Charlotte-Mecklenburg Police Department officers before the review board. In 74 cases, the cases were dismissed without the review board holding a formal hearing. In the four cases in which a hearing was held, the board sided with police.

These outcomes are not surprising in part because the process favors police. To obtain a formal hearing re-

quires a citizen to show by a preponderance of evidence that an officer engaged in misconduct. That's difficult to accomplish, since citizens don't have access to internal affairs reports. The review board also lacks investigative powers.

Tim Lynch, director of the Cato Institute's Project on Criminal Justice, criticized Charlotte's review board as "not serious about looking into complaints or doesn't have the power to look into misconduct."

The public also has lost confidence in the review board.

"In this situation, all the red flags just point to the word is out that the board always sides with police," Lynch said. "What happens is people stop filing complaints because of the perception. Then the police use that decline as a sign they are doing a good job."

Monroe government panned

A consultant's report has painted a highly unflattering picture of Monroe's city government, complete with a meddling city council, secret recordings, and nepotism, reports *The Charlotte Observer*.

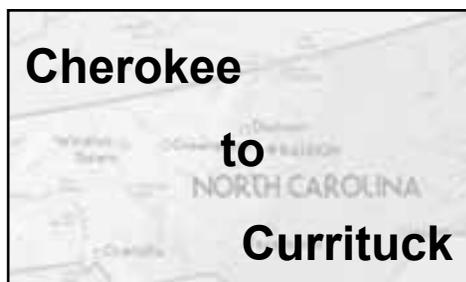
The report by Parker Poe Adams and Bernstein was commissioned in response to Monroe's high turnover among city managers. It contains a long list of serious issues facing the Union County city of 33,000.

Under its council-manager model of government the council sets policy with the city manager acting as Monroe's top administrator. Most council members did not understand or respect this division of responsibility, and frequently intervened in disputes that should have been in the city manager's areas of responsibility. City managers, in turn, have been unwilling to stand up to city council for fear of being fired.

One person interviewed by the consultant said, "If Jesus himself wanted to be the city manager of Monroe, he would have been fired in 6 months."

The report also found "credible and objective evidence" that Police Chief Debra Duncan had recorded former City Manager Wayne Herron secretly during a dispute over compensation. This contributed to Herron's resignation, after a phone call threatening Duncan was traced to Herron.

The report noted the existence of nepotism, with the city hiring the husband, son, son's fiancée, and an ex-girlfriend of the son of a city council member. *CJ*



COMMENTARY

US-American Merger Shouldn't Hurt Charlotte

In February, American Airlines agreed to merge with US Airways, the dominant airline in the state with its largest hub in Charlotte. The announcement sparked some concern, as recent airline mergers often have led to the elimination of a major hub as the two carriers combined their operations. Such fear is misplaced in this case, though there's reason to expect some reduction in the size of the combined carrier's Charlotte hub, and, by extension, flights to other cities in North Carolina.

American Airlines' business model has changed in recent years. It now offers flights almost exclusively from just five "cornerstone" markets: Los Angeles, Chicago, New York City, Miami, and Dallas. Of these, only Dallas and Chicago actually function as domestic hubs.

American's New York City operations at LaGuardia and JFK airports are too small to offer much in the way of connecting opportunities. Miami's location makes it a great place to connect to fly to Latin America but also makes it a rotten (and expensive) place to connect for purely domestic travel.

Fear that the merger will result in the elimination of either or both of US Airways' Charlotte and Philadelphia hubs is misplaced. The combined carrier has no workable substitute for either hub.

That does not mean, however, that there will not be changes in the scale of operations in Charlotte or Philadelphia. US Airways' business model recognized that it could not generate the sort of revenues that American, Delta, and United have received. US Airways compensates for this by lowering its costs, particularly for labor. With the merger, US Airways employee pay will go up to match the higher rates American pays. This is exactly why most of US Airways' unions are all for the merger.

From this it follows that not all of US Airways' existing flights will make sense at American's higher

labor costs. That could mean some routes could be eliminated — some of the international flights from Charlotte are particularly vulnerable — but could also translate into a bit less service (i.e., fewer flights a day) to cities relatively close to Charlotte, including cities in North Carolina.

Increased revenues could offset some of the higher labor costs, but that necessarily would translate into higher fares and fees.

Communities often see airline mergers as an opportunity for additional service. Mergers certainly do create opportunities to "connect the dots" between, say, American's operations in Chicago, Dallas, and Miami, and markets American currently doesn't serve in North Carolina.

There could be some potential for new routes to appear, but that potential is limited by the realities of the airline business. Airlines are not eager to add long flights to small markets on high-cost-per-seat-mile 50-seat regional jets. And that's especially true if they fly over a major hub like Charlotte.

Indeed, airlines' dislike for smaller regional jets stretches beyond using them on 800-mile

routes. New labor agreements at Delta, United, and, yes, American, pave the way to begin replacing 50-seat regional jets with larger aircraft. Which is to say that the bar for air service soon will be raised. Much

of the growth in air travel will come via larger aircraft, not more flights.

It always takes a while for the impacts of mergers to become apparent. Industries, including the airline business, always adapt to changing conditions.

There's no reason to believe that North Carolinians won't continue to enjoy excellent access to air transportation, including a major hub in Charlotte, when all is said and done. *CJ*



MICHAEL LOWREY

Air travel growth will come in the area of larger aircraft, not more flights

Michael Lowrey is an associate editor of Carolina Journal.

Court: Counties Can't Change Property Revaluations Arbitrarily

By MICHAEL LOWREY
Associate Editor

RALEIGH

The contentious issue of property revaluations for tax purposes came before the N.C. Supreme Court, which in late January ruled that Brunswick County's 2008 property tax revaluation for some undeveloped lots on Ocean Isle violated the law. The ruling was considered vindication for Mark Saunders, CEO of The Coastal Companies, described as the largest developer in the county by the Wilmington *Star-News*, who blamed the county's "greed" for its faulty revaluation process.

State law requires that counties must appraise property for tax purposes at least every eight years. Counties may not, however, revalue properties that they designate for reassessment in the years that have not been established by statute for tax valuation. To ensure consistency and accuracy, counties also must establish a uniform set of rules and procedures for use in a revaluation.

For its 2007 revaluation, Brunswick County chose to use the "sales comparison" or "lot price" method, which relies on recent sales price data to compare similarly situated parcels. One drawback of this method is that most parcels sold have completed infrastructure. This tends to overstate the value of lots lacking such amenities as available water and sewer connections.

To account for this, Brunswick long had included a "condition factor" in its calculations. County appraisers

first determined a base value for a parcel using sales of comparably developed lots as a reference. The value of undeveloped lots was determined by assigning a percentage of the value of a developed lot. That percentage is called the condition factor.

Applying this approach, an appraiser assigned undeveloped lots at the Ocean Isle Palms development a condition factor of 0.2 (20 percent of the value of a developed lot), resulting in values of between \$45,000 and \$60,000 per parcel for the 2007 tax year. The Coastal Companies owns Ocean Isle Palms.

Not all undeveloped parcels in the county had been assigned a condition factor of 0.2; some lots received a condition factor as high as 0.4. In the 2007 revaluation, not all undeveloped lots were given a condition factor.

Soon after the 2007 revaluation was complete,

the county appointed a tax assessor, who ordered that the condition factor no longer would be used and that all undeveloped properties would be taxed at their full base values from 2008 on.

As a result of this change, the taxable values of Ocean Isle Palms' parcels surged, ranging between \$191,250 and \$718,630.



Ocean Isle Palms challenged the reassessment in 2010. The North Carolina Property Tax Commission ruled in the company's favor, finding that the county's decision to stop using the condition factor amounted to an illegal change in appraised value in a nonreassessment year.

The N.C. Court of Appeals, however, held that further proceedings were needed to determine whether the in-

consistent application of the condition factor resulted in accurate assessments of the true value of the lots. If they did not, then state law would let the 2008 changes correct mistakes made the previous year. One of the three judges hearing the cases disagreed with this finding, bringing the matter before the Supreme Court.

Before the Supreme Court, Brunswick County argued again that its decision to stop using the condition factor simply was an attempt to fix earlier mistakes. The high court did not agree. "Although the county attempts

to frame its actions in 2008 as the correction of an error, we find that the county instead instituted a new revaluation system," wrote Justice Robert Edmunds for the high court.

Edmunds noted that the county did not merely adjust Ocean Isle Palms' condition factor for 2008 based on new information; instead, it threw out the condition factor altogether.

"Property values are not set in concrete. The statutes allow a county discretion to revise its standards, rules, and schedules to ensure that appraisals conducted in revaluation years reflect the true value of real property in light of changing conditions or available data. Here, if the county did not want the condition factor method to remain in use in 2007, its remedy was to revise the schedule of values for that revaluation year to reflect a change from its previously approved approach to undeveloped property appraisal," wrote Edmunds.

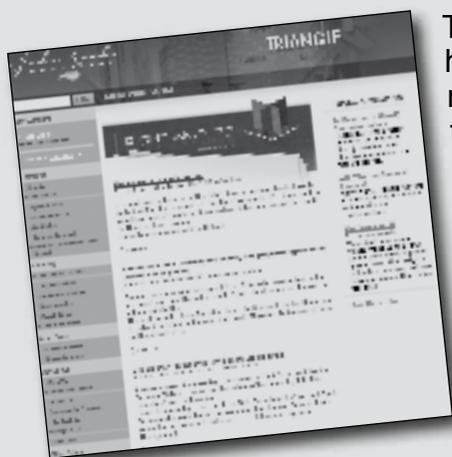
"However, when no such timely change was made, the county may not retroactively label as error a historically approved methodology endorsed by the schedule."

The case is *In re Ocean Isle Palms LLC* (128A12). CJ

**Plaintiff cited
Brunswick
County's 'greed'
in legal challenge**

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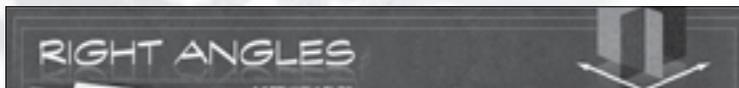
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Amendments Limiting Union Activity May Go to Voters

BY SAM A. HIEB
Contributor

RALEIGH

Backing up comments promising North Carolina would remain the “least unionized state in the United States,” Speaker of the House Thom Tillis has sponsored a bill that would place on the November 2014 ballot constitutional amendments limiting union organizing.

House Bill 6, which was co-sponsored by Reps. Tim Moffitt, R-Buncombe, and Tom Murry, R-Wake, would allow citizens to vote on constitutional amendments that not only would cement North Carolina’s status as a right-to-work state and guarantee the right of union members to elect their leaders by secret ballot, but also prohibit collective bargaining among public-sector employees at all levels of government.

“We must protect our workers and their right to work,” Tillis, a Republican from Mecklenburg County, said in a January speech before the General Assembly. “We must send the very clear message to businesses already in North Carolina and those considering expanding here, that North Carolina will continue to be the least unionized state in the United States.”

Tillis spokesman Jordan Shaw said the speaker’s message is part of the Republican majority’s efforts to turn the state’s economy around.

“We think that having this amendment in our constitution makes North Carolina more attractive for business and job creation,” Shaw said.

Once H.B. 6 was filed, it wasn’t long before pro-labor groups pushed back.

“North Carolina already has a right-to-work law and a ban on public-sector collective bargaining. States that have passed amendments related to secret-ballot union elections now face lawsuits and legal expenses. These amendments are a ridiculous waste of taxpayers’ time and money,” said state AFL-CIO Secretary-Treasurer MaryBe McMillan in a statement.

The N.C. Justice Center also criticized the bill, issuing a statement saying “research demonstrates that increased union membership leads to higher wages — for both union members and non-union members — and greater access to benefits such as health insurance and pensions.”

Left-leaning editorial boards weighed in as well. The *Raleigh News & Observer* stated, “given right-to-work is already law, a constitutional amendment is absolutely ridiculous,” while the *Asheville Citizen-Times* said, “North Carolina needs a constitutional right-to-work provision about as much

as it needs one outlawing glaciers.”

North Carolina has banned collective bargaining by public employees since 1959. The state also faced a legal challenge to its status as a right-to-work state in the 1949 *Lincoln Federal* case, which also challenged Nebraska’s right-to-work constitutional amendment.

Both state laws were upheld by the U.S. Supreme Court.

The state’s right-to-work status appears to be correlated with its low union membership.

According to numbers from the U.S. Bureau of Labor Statistics, 2.9 percent of North Carolina’s work force was unionized in both 2011 and 2012, for totals of 105,000 and 112,000, respectively. The other states with union mem-

bership at less than 5 percent of total employees are South Carolina (3.4 percent), Georgia (3.9 percent), Arkansas (4.2 percent), Louisiana (4.5 percent), Tennessee (4.6 percent), and Virginia (4.6 percent).

That’s compared with the most

unionized states in the lower 48: New York — where 24.1 percent of workers are union members — Washington (19.0 percent), Michigan (17.5 percent), Rhode Island (17.4 percent), Oregon (17.1 percent), and California (17.1 percent).

While the possibility of a legal challenge to North Carolina’s status as a right-to-work state does not appear imminent, some say anything’s possible.

“Republicans are always worried about legal challenges. I can tell you that something you think is common sense and a slam dunk in the court system — well — no, it’s not,” said Rep. Debra Conrad, R-Forsyth, who is a secondary sponsor of the bill.

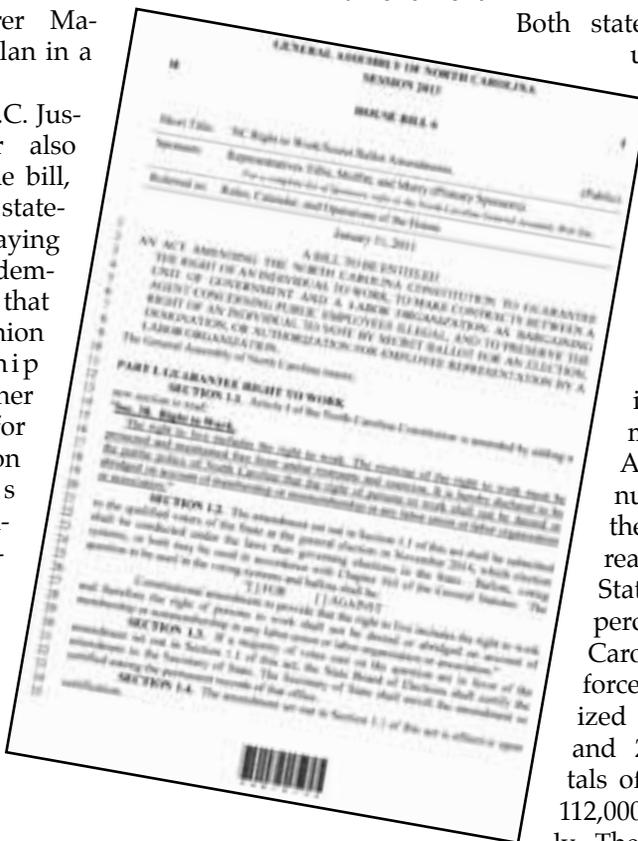
Conrad cited her experience as a Forsyth County commissioner and its legal battle with the ACLU over sectarian prayers at the opening of commission meetings.

That legal battle worked its way through the courts until the Supreme Court declined to hear Forsyth County’s appeal.

Supporters say the main purpose of a constitutional amendment is to send a message to companies that may be looking to relocate.

“Everything seems to be focused on one issue — making sure North Carolina attracts business. There seems to be one central mission — to figure out why North Carolina seems to be a great place for business, but yet it’s not happening,” Conrad said. “How can we get this stalled economy moving again? How can we get manufacturing back? If it takes a constitutional amendment to send the signal that we’re a right-to-work state, then that’s fine with me.”

CJ



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North Carolina Rejects Health Exchange and Medicaid Expansion

Continued from Page 1

a state-run exchange, seven others seek to operate an exchange jointly with the federal government, and the remaining states will manage their own exchanges.

The funding for NC FAST originally came from federal grants former Gov. Bev Perdue accepted that were related to the Obamacare exchange.

The Senate did not agree with the changes in the House version of S.B. 4, sending the bill to a conference committee. The conference report passed the House 74-40, and the Senate, 31-16.

The conference report includes a fiscal note saying it will cost \$45.7 million to connect to the federal exchange, with roughly half due during the current fiscal year. But the fiscal note says it's unclear how much money the federal government will reimburse the state for technology and personnel expenses for NC FAST.

'Illusion' of state control

Republican leaders made it clear they would reject a state-based exchange early in the session. "This is the right direction for the state of North Carolina. The federal government created this monster" and should be responsible for operating the health care exchanges, state Rep. Justin Burr, R-Stanly, a vice chairman of the Health and Human Services Committee, said during committee debate.

Burr called it "an illusion" to believe the state would control how a state exchange is run because the federal government would dictate the guidelines. He and other Republican committee members said the federal government has a poor track record of keeping funding promises, and worried that the Affordable Care Act is just another expensive, bait-and-switch program.

After the state connects to the federal exchange, federal and state officials said participating in the exchange would impose no additional costs on North Carolina taxpayers.

"The costs are covered by us" at the federal level, said Fabien Levy, public affairs spokesman at the Department of Health and Human Services in Washington, D.C., the agency overseeing implementation of Obamacare.

States opting to join the federal exchange "wouldn't be on the hook for anything," Levy said.

Media reports and liberal advocacy groups suggested instead that



Critics of the Affordable Care Act, sometimes called Obamacare, say federal incentives for states to create exchanges are a "bait-and-switch" gambit, and that state control of the exchanges is only an "illusion." (iStockphoto graphic)

not operating a state-based exchange would tap North Carolina's General Fund. A report in the *Raleigh News & Observer* estimated the annual cost at \$181 million. The story did not cite a source for that figure or explain what the expenses would be, leaving an implication that the money would come from state taxpayers.

But the \$181 million figure can be traced to an analysis done by the state Department of Insurance. It's an estimate of the fees that would be assessed to private insurance companies, rather than state taxpayers.

"Insurers would pay \$181 million in fees to fund the operation of a federal exchange," said Kerry Hall, spokeswoman for

the Insurance Department. "The insurers would pass those costs on in some form to consumers. ... It's not state dollars."

Liberal Medicaid concerns

State Rep. Verla Insko, D-Orange, amplified liberal concerns about the Medicaid provision of the bill. She called the measure "an attack on poor people" and a "shrinking middle class." She attempted unsuccessfully to attach amendments to what she called "a very misguided bill" and to slow its progression to a floor vote by asking that it be re-referred to the House Insurance Committee.

Under Obamacare, small business owners who have 50 or more workers will be required to pay health insurance for those employees or pay a fine, she said. Expanding Medicaid coverage would relieve those business owners of that burden while helping to create a healthier work force, she said.

"These are working families. They are not people who are not responsible," Insko said. But they don't earn enough to buy health insurance and are falling behind "through no fault of their own." Newly eligible recipients would include some of the state's underserved mentally ill population, she said.

McCrary said an administrative review on the Medicaid issues that included discussions with the White House, other governors, health care providers, and legislative leaders concluded it is "abundantly clear that North Carolina is not ready to expand the Medicaid system, and that we should utilize a federal exchange."

Recent Medicaid audits show North Carolina Medicaid "is broken and not ready to expand without great risk to the taxpayers and to the delivery of existing services to those in need," McCrary said.

Long-term costs cannot be projected because of insufficient information from the federal government, he said, and the state failed to prepare for participation in Obamacare the past year by building "necessary and reliable systems to implement a state exchange."

And because of "ongoing political uncertainty of the federal budget deficit," the state has no assurance the federal government would meet its matching fund promise for Medicaid expansion, McCrary said.

Scathing Medicaid audit

Defending the decision not to pursue the federal health law reforms, House Speaker Thom Tillis said state Auditor Beth Wood, a "duly elected Democratic auditor, has said hundreds of millions of dollars have been wasted either through just outright wasteful practices and policies or through wasteful management" in Medicaid. "It's fairly well-documented."

The present system needs to be fixed before it can be expanded, said Tillis, a Mecklenburg County Repub-

lican.

When she released her audit in January, Wood said one finding is that North Carolina spends 38 percent more — or \$180 million — on Medicaid administrative costs than the average spent in nine peer states that were reviewed. Administrative costs eat up about 6 percent of North Carolina's Medicaid program. Those costs averaged 4.5 percent in the nine states with similarly sized programs.

Although the Division of Medical Assistance is the primary provider for Medicaid services, two-thirds of spending was done by 10 other divisions for which "there is no cost accountability," Wood said.

"While DMA is spending about half of its administrative costs on contracted services, we don't really know how much other contracted services are being done by these other 10 divisions and whether or not they are properly tracking their costs," Wood said.

Without such monitoring safeguards, the state cannot properly budget Medicaid expenses or know when budgeted allocations have been exhausted. That leads to perennial major budget overruns, she said.

The audit also raised red flags about possible legal problems.

"We found that the division's budget and developmental practices potentially violate state statutes that have been enacted to ensure agency and legislative accountability of these public expenditures," Wood said. "We also found that the division clearly violated three directives from the General Assembly."

"I don't want you to blame the auditor's report" or the federal budget uncertainty for not approving Medicaid expansion and a state-run exchange, Insko said during committee debate.

She said the \$1.4 billion cost overruns cited in the audit included only \$375 million in state funds; the balance was federal money. Although the audit cited systemic disarray throughout Medicaid, Insko said she's been told those problems could be fixed before the year is out. She blamed the overrun on the General Assembly directing the agency to meet an unreasonable savings number.

Rep. Beverly Earle, D-Mecklenburg, said the state Department of Health and Human Services typically has repaid the federal government for cost overages, and that shouldn't be used as an excuse to limit coverage now.

"If the problem is how the federal government operates," sending North Carolina residents to a federal health exchange instead of a state-run system "seems like the opposite of what we should be doing," said Rep. Nathan Baskerville, D-Vance. CJ

State's 'Unjust Land Grab' Attempt Aided in Court By Attorney General

Continued from Page 1

18 decision by the Court of Appeals, which ruled against the State Board of Education and in favor of the family.

However, the fight continues because Cooper's office is trying to secure the property for the benefit of another state agency, the Department of Environment and Natural Resources, which would add the disputed property to the adjacent Hammocks Beach State Park, which DENR operates. The case is complex because DENR is not a party to the lawsuit.

The centerpiece of the Appeals Court ruling was that on at least two occasions during the current dispute, the State Board of Education has claimed no interest in owning the property, and the board could not reverse its position and pursue the parcel.

Cooper's office kept the case alive by filing a Petition For Discretionary Review Jan. 23 with the N.C. Supreme Court. In his Feb. 4 response to the state's petition, the family's attorney, Charles Francis, referred to the state's efforts as "an outrageous, unlawful, and unjust land grab." *CJ* was unable to determine how soon the Supreme Court will decide whether to review the case.

Former State Board of Education Chairman Bill Harrison told *CJ* that after the Appeals Court ruling, his executive committee met by phone the first week of January and decided not to pursue the matter.

Harrison said he changed his position after talking with DENR officials at the insistence of an attorney working for Cooper. The board of education apparently discussed Hammocks Beach in a closed session Jan. 9 or 10 and decided to continue supporting Cooper's



The section of the Hammocks Beach property in the foreground of this photo originally was part of a resort for blacks during days of segregation. (CJ file photo)

pursuit of the property for DENR. The board's cooperation was necessary because it was the only state agency that was a party in the legal proceedings.

Senior Deputy Attorney General James Gulick and Senior Deputy Attorney General Thomas Ziko are the primary attorneys for the state. Gulick is assigned to the Environmental Division of the AG's office and works on matters affecting DENR. Ziko heads the Special Litigation Division that includes an Education Section deal-

ing with the State Board of Education. They convinced the state board to continue the fight with the understanding that if the board became the owner of the property, it would turn the land over to DENR to expand the adjacent Hammocks Beach State Park.

The AG's office and DENR officials would not discuss the case with *CJ*, saying they don't comment on ongoing litigation. Documents obtained from DENR about the case provided some insight into the state's position, but the correspondence from Gulick was redacted. A DENR spokesman told *CJ* that Gulick redacted information that he believed constituted confidential communications between a public body and its attorney.

The Appeals Court's December ruling stated that Superior Court Judge Carl Fox erred in 2010 when he appointed the state board as the trustee of the property. The Appeals Court instructed Fox to issue a new order conveying the property to the Hurst family.

The AG's petition asked the Supreme Court to review the Appeals Court decision, saying "there is enormous public interest in preserving the unique, undeveloped, and large coastal property at issue in this case." The petition also stated that the case involves "legal principles of major significance" and "the decision of the Court of Appeals appears to be in conflict with decisions of [the Supreme] Court."

The Hursts contend that a 1950 deed involving their grandparents' in-

heritance provides for the property to go to them as the legal heirs since the state twice has spurned the land.

The property was part of a much larger tract that was set up in 1950 in a trust, known as Hammocks Beach Corp., for the purposes of developing and operating a beach resort for the exclusive use of African-American teachers and their families. The entire 10,000-acre property had been owned by Dr. William Sharpe, a New York surgeon who moved to Onslow County in 1917 and befriended John L. Hurst, a hunting guide and son of a slave, and Hurst's wife Gertrude.

The property included Bear Island, which eventually became the major component of Hammocks Beach State Park.

After the 1964 Civil Rights Act outlawed discrimination based on race, the resort became less attractive to African-Americans, who had other vacation options. Hammocks Beach Corp. was unable to raise enough money to maintain the facility, and it fell into disrepair.

The agreement with Sharpe stated that if Hammocks Beach Corp. could not maintain the property or uphold the original terms of the trust, then the State Board of Education would have the opportunity to acquire the land. If the board refused, it would revert to the Hurst and Sharpe heirs.

In a 1987 consent agreement, the Sharpe family surrendered any future interest in the property and the State Board of Education renounced any interest in becoming a successor trustee because a government agency could not administer a segregated facility.

Moreover, in 2007, the AG's office expressly stated that the state had no interest in owning or controlling the property. After Fox's 2010 order, however, Cooper's lawyers changed course and initiated action to claim the property for the State Board of Education.

Conflicts of Interest

Any real estate acquisition by the state needs the approval of the Council of State, consisting of Gov. Pat McCrory, Lt. Gov. Dan Forest, and the eight other statewide elected executive officials. Even though the issue was discussed during the administration of Gov. Bev Perdue, the council took no action on the property.

Conflict of interest issues may arise with four council members. State Treasurer Janet Cowell and Superintendent of Public Instruction June Atkinson serve on the State Board of Education. Forest also serves on the board, even though the relevant actions relating to the Hammocks Beach property took place before he assumed office.

Cooper and his attorneys already havestakedout a position on the issue. *CJ*

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Moore: Why Do Some Want 100-Year-Old Transportation Mode?

BY CJ STAFF

RALEIGH

Some Triangle politicians continue to push for a new taxpayer-funded regional passenger rail system. Adrian Moore, vice president for policy at the Reason Foundation, says passenger rail makes no sense for most American communities, including North Carolina's Triangle region. During a recent visit to Raleigh, Moore discussed passenger rail 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: In general, light rail, passenger rail, these rail schemes, they don't tend to work in the U.S., do they?

Moore: No, they don't tend to work well in the U.S. We don't have the right kinds of cities, and we don't have the culture of travel that lends itself to that mode of transportation.

... I pose to people a thought experiment. Think, if you can, of anything out there in your life where we have said, "Oh, you know that thing we used to do 100 years ago? That's way better than what we're doing now. We need to go back to that." Let's go back to 100-year-old cameras. No. Let's go back to 100-year-old medicine. No. Let's go back to 100-year-old housing. No. Wait. Nothing.

There's nothing where we want to go back to the technology of 100 years ago, except in transportation, where there's this romantic notion that we should go back to the technology that worked great 100 years ago and give up the superior technology we've developed meanwhile.

Kokai: Your thought experiment makes sense, I think, to most of us. So why is there that disconnect? Because there are a lot of people who think, "You know, train travel, passenger rail, that sounds like a good idea, especially with all this congestion we're dealing with and all the people moving to the area." Why do we have this disconnect?

Moore: There are two strands that I see in sort of the motives for why people support this. One is the kind of ... romanticized notion that you just described. In general, polling for "Do you like the idea of having a light rail line you could ride to work or to shopping on the weekends," people say yes, because the notion of this thing makes a lot of sense to people. It's like, oh, I can imagine myself using that, and that would be great.

That doesn't line up with what actually happens. So then a city builds it, and, inevitably, almost without fail,

"There's nothing where we want to go back to the technology of 100 years ago, except in transportation, where there's this romantic notion that we should go back to the technology that worked great 100 years ago and give up the superior technology we've developed meanwhile."

Adrian Moore
Vice President for Policy
The Reason Foundation



in dozens and dozens of systems built around this nation, the number of people who actually then proceed to ride the train falls way short of the people who were polled who said they would ride the train, because reality has this nasty way of interfering with our romantic notions of the world.

So it's not very practical. You think about a train. It goes in a straight line, and it's only convenient for things that are right on that train line. And if you think about your life, ... pick a major road in the city you live in, and think about how many of the destinations [you] go to in a month are on that road. That's what a train line is like; it's like one road. And my guess is, most of the time you're not going repeatedly to places that are on one road. You don't live and work on the same road. It just doesn't connect. We don't live that kind of linear life. So it doesn't match reality.

And then there's the other track of support for light rail, which is straightforward. Look, cars are just evil. They cause pollution. They cause congestion. They cause sprawl. They are the root of so many environmental and social problems. Therefore, we need to go back to this 100-year-old technology because the new technology which we've invented is bad, and I have a crusade against it.

Kokai: You touched on this with the comment about cars being bad. Even those who don't necessarily think cars are bad think we have too many of them on our roads, and that light rail or passenger rail is a way to help deal with all of the congestion we have and the pollution that the cars create. Does it do that?

Moore: No, it doesn't. ... If I take this, you know, this part of town where

there is a major arterial road going into the city center, and there's a light rail line, you can say, "Well, some people who used to drive that arterial now ride this light rail line, so congestion is [better] on that road." Never mind that congestion in the city as a whole did not go down because of that light rail line.

The question is kind of one of balance. I mean, in a sense, if light rail didn't consume so many resources, it might not be such a bad thing. But in cities that have rail transit, you have typically on the order of somewhere between 25 and 50 percent of all the transportation spending in those cities going to the transit system. And those transit systems are carrying, generally, 2 or 3 percent of travel. Now, it doesn't take a great brain to realize that if you're spending 25 to 50 percent of the money on 2 or 3 percent of the users, that means you're spending 50 to 70 percent of the money on the system that's carrying 98 percent of the users. And that system is not sustainable. You're going to have a collapse.

So in that way, transit actually makes congestion worse because it uses so many resources for so few people. It means there [are] fewer resources for the system that's actually carrying everybody, which is the roads, and the roads get worse as a result.

Kokai: Some of the supporters of transit will look at other communities that have transit systems and say, "Look, it works here." What are they missing? What's the part of the picture that they're missing when they look at some other community and desire to have a train system just like that?

Moore: Well, I mean, they're missing any kind of facts. They're saying, "Well, look, it looks cool. Look at how pretty that train is. Look at those

nice mixed-use apartments built beside it. Look, there's transit-oriented development. Look how happy the people riding transit are."

What they're ignoring is the reality I just described, that it's great — Portland, awesome — except they're still spending 45 percent of their money on a system that's carrying 5 percent of their travelers. That is eventually going to come to an end. It just can't be sustained.

As the rest of the system begins to break down because it has to carry 90 percent of the people with 40 percent of the money, or 50 percent of the money, it just can't be sustained that way. And so, they're just overlooking the realities behind the shiny train. The shiny train kind of catches the eye and dominates the mind.

Kokai: In the time that we have remaining, a lot of people see in this [Triangle] area, and in the Charlotte area as well, there is a lot of congestion, and something needs to be done. What should we be doing, other than looking at these nice, shiny trains?

Moore: The No. 1 thing is, in no other place do we assume that you should not expand when demand expands. This idea that you can't expand the road system is laughable. You always hear, well, if you add more lanes to the roads then you just get more travel and it just fills up and you wind up with congestion just the same. But there's more people traveling, you know? I mean, it's just, yeah, it's like saying, well, if you build a second store and that store is busy on the weekends, too, you haven't made any progress. Well, twice as many people are going to the store and buying goods. More people are on the roads. That means more people want and find it economically valuable to travel. CJ

N.C. Couple Backs Center Promoting Study of Liberty

BY JANE S. SHAW
Contributor

RALEIGH

Traditionalists who worry about an ideological tilt in academia are finding small islands of respect for the foundations of Western civilization popping up on university campuses throughout the country.

These programs are underwritten and promoted by individual donors, foundations, and other organizations. Supporters say they can make a difference in a fight to restore objective analysis and the search for truth.

One such program that is gaining attention is the Tocqueville Program at Furman University.

This program, which has been in operation for about seven years, illustrates how two individuals, a North Carolina husband and wife, Sandy and Ginny MacNeil, who have education "in their bones," can help a program that elevates often neglected but crucial topics.

Furman is a respected liberal arts college in Greenville, S.C., with an undergraduate enrollment of about 2,500. Like many small, once-religious colleges cut off from their moorings, it maintains a traditional aura while also advancing more contemporary ideas such as sustainability.

Enter the MacNeils, who helped two professors find the funds to give greater attention to classical political philosophy. The Tocqueville Program provides each year for a speakers' series and a seminar in political thought.

Benjamin Storey, one of the two directors, says that studying work of the 19th-century Frenchman helps today's students acquire "both an understanding of the distinctive principles of modern liberal democracy, as well as an appreciation of the enduring questions addressed by the broader Western tradition."

The program, however, does not focus on Tocqueville alone; the first year's project applied traditional political philosophy to a modern issue, biotechnology.

Until 2001, the MacNeils spent their professional lives in Wisconsin, where Ginny served on the University of Wisconsin's board of regents and her husband, Sandy, was involved in a variety of businesses and philanthrop-

ic endeavors. They moved to North Carolina "for an adventure," Ginny says, and settled near Hendersonville.

Once in North Carolina, the MacNeils still wanted to help foster quality education but weren't sure how. Then they read an article in *The Weekly Standard*, "The Left University," by James Piereson, tracing the ideological history of today's university. Piereson argued that 19th-century theorists in the university "laid the intellectual groundwork for political Progressives"; then, in the 1960s this progressive university was swept by "radical preoccupations with cultural change" and became "the left university."

But Piereson ended the article referring to a growing movement to change the university by restoring the "search for truth, and respect for the heritage of free institutions." Among the efforts mentioned were the Madison Program at Princeton, the Gerst Program at Duke, and the Political Theory Project at Brown.

"That inspired us," says Ginny MacNeil.

They set about to find a smaller, nearby university with professors who shared their interests in traditional education. They discovered Furman, where two political science professors, Storey and Aristide Tessitore, wanted to help their students delve more deeply into political thought. And the Tocqueville Program was born.

The MacNeils became tireless fundraisers for their new collaboration. Today, the program has funding from several foundations, and the university itself is using it as a fundraising tool. Sandy MacNeil has written the program into his will.

Meanwhile, Storey says that the classes always are filled to capacity, and graduates of the program have gone on to such places as Baylor University, Boston College, Harvard University's Kennedy School of Government, and the American Enterprise Institute.

To create a center "dedicated to the study of political liberty and the history of free institutions" you need two things: committed professors and energetic donors. Today, Furman University has both. CJ

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



Alexis de Tocqueville

COMMENTARY

UNC's Cure Worse Than the Disease?

The replacement of Julius Nyang'oro, the disgraced chairman of UNC-Chapel Hill's African and African American Studies department, by the department's No. 2 administrator, Eunice Sahle, was heralded as a great solution to the academic corruption that was uncovered as part of an investigation into the school's football scandal.

Sahle was lauded for her strict adherence to academic and ethical standards. Indeed, under her direction, there is little chance that the same outlandish academic misconduct that occurred under Nyang'oro, including no-show classes, passing grades for little or no work, and a general absence of standards, will continue.

Yet, in this case, the cure may be worse than the disease. Students may be better off learning nothing in no-show classes with Nyang'oro than studying diligently under Sahle. Certainly, some ideas are more injurious to both student and society than ignorance, and Sahle's ideas seem to belong in that poisonous category: full of grudges, resentment, and antipathy toward our society, the stuff of collectivism and the victimhood culture that often crushes productive spirits.

Her ideas are available to anyone who wants to know, through her writing. It seems that no one from the university, the Board of Governors, the system administration, or the media thought to look into her writing. Or cared to. Apparently, academia has become so intellectually lax that the actual ideas one holds don't matter.

Her 2010 book, *World Orders, Development, and Transformation*, provides great insight into Sahle's world-view and intent. The book covers many topics, but is centered roughly on Third World economic development. She also speaks of the need for "transformation," but never specifies what she means.

Yet she provides clear hints of her intended transformation. In one alarming admission, she says she writes "from a neo-Gramscian perspective." Antonio Gramsci was a founder of the Italian Communist Party in the early 20th century. One of his central ideas was the process of "hegemony," in which propo-

nents of an established world-view perpetuate control without overt political rule by controlling society's institutions.

From that perspective, Gramsci noted that, in order for communism to take over in a Christian, capitalist world, it first had to undermine the existing hegemony. To do so, it would have to subvert nations politically by secretly and gradually gaining control over their culture and institutions. Eventually, the world would be reordered along egalitarian lines, with the foundations of freedom destroyed in the process.

This became known as the "long march through the culture" (the actual phrase was coined by German revolutionary and Gramsci admirer Rudi Dutschke in the 1960s).

The "coloniality of power" theories of Peruvian sociologist Anibal Quijano form another major influence on Sahle. She cites Quijano's view that racism is "central to the rise of the world capitalist system."

Along with Gramsci, many of Sahle's direct sources form a Who's Who of the anti-capitalist, anti-Western left: Frantz Fanon, Michel Foucault, David Harvey, Immanuel Wallerstein, Howard Zinn, and many others.

In that light, her call to transform our existing free, prosperous, capitalist society must be viewed as a push for collectivism and group politics. And indeed if Sahle adheres to the Gramscian philosophy of subverting capitalism by a "long march" through its institutions, then it is logical to assume that she will encourage students to adopt her ideology.

The real problem, however, is not Sahle, but that nobody in authority bothered to question whether her beliefs might be detrimental for our society. UNC's top administrators, key faculty members, and the state's politicians and media aided and applauded her promotion into a position of greater influence. This is not how people intent on remaining free behave. CJ

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



JAY SCHALIN

Campus Briefs

N.C. State University's Union Activities Board caused a bit of a national media sensation in early February when it announced an event it planned to host called "Dirty Bingo."

Ostensibly for purposes of sex education, the prizes for the game included sex toys and sexually oriented literature and videos valued at \$305, purchased with money from student fees.

The event prompted a group of students to organize a protest of the event, but the event was called off before they got the chance. State gaming laws prohibit giving away prizes worth more than \$10 without a license.

The UAB did not have a license, so no prizes were given away, and the board changed the theme of the event.



UNC-Chapel Hill officials have ramped up "sex education" efforts as well. In mid-February, the school announced that it would add 10 condom dispensers at various locations around campus, including the Student Union and Student Recreation Center.

Duke University organized its own series of events in early February devoted to sexual issues. Called "One Sexy Week," the program included lectures that were both theoretical and practical. On the theoretical side, the university hosted a screening of "The Purity Myth," a video based on a polemical book of the same name by Jessica Valenti.

Valenti argued, among other things, that virginity doesn't actually exist, and emphasizing it in the mainstream culture leads to promiscuity.

On the practical side, a lecture with an unprintable name about how to induce female pleasure attracted more than 200 people, according to organizers.

A more sober-minded lecture made it on the program, too. Psychologist Gary Glass spoke about the psychological and emotional issues that drive the hookup culture.

Glass offered tips for students to avoid the emotional damage that often follows casual sex. *CJ*

Compiled by Duke Cheston, a writer for the John W. Pope Center for Higher Education Policy.

UNC System Considers More Out-of-State Students

By DUKE CHESTON
Contributor

RALEIGH

Would enrolling more out-of-state students help finance the state's university system, raise its national reputation, and spur the economy? Or would it be a slap in the face to state citizens who support the system with their taxes?

State leaders have been wrangling with such questions. A proposal to raise the cap on out-of-state enrollments surfaced recently at the January meeting of the UNC Board of Governors.

The UNC system currently limits the number of out-of-state freshmen that each university can enroll at 18 percent. The Board of Governors put the cap in place in 1986 and in 1994 started enforcing it with budget penalties for universities that went over the cap. For example, UNC-Chapel Hill was supposed to pay \$335,000 in fiscal 2011 after it went over the limit by 24 students. That penalty later was cut because it was deemed too harsh in light of budget cuts.

For some schools, the cap is irrelevant. At UNC-Pembroke, for example, only 3 percent of students who enrolled in 2012 were from out of state. Only 12 percent of UNC-Asheville's freshmen were from out of state in the latest year reported by the College Board.

But UNC-Chapel Hill has chafed under the limitation for years. A number of its peer institutions, not burdened by such a cap, enroll a much larger proportion of out-of-state students. For example, 29 percent of University of California at Berkeley freshmen, 33 percent of University of Virginia freshmen, and a whopping 43 percent of University of Michigan freshmen are from out of state.

Those schools have an advantage in both revenues and in student selectivity. Tuition at UNC-Chapel Hill for out-of-state students is \$28,250, nearly four times the \$7,500 charged to in-state students. In addition to receiving more tuition, the universities draw from a larger pool of applicants.

But this time N.C. A&T State University is at the center of the debate. At the January meeting, Chancellor Harold Martin said that his university finds it especially difficult to find qualified students. As a historically black school that specializes in challenging fields like engineering, he's looking for talented students in a talent pool that is already eagerly picked over.

N.C. A&T went over the cap by a considerable amount this past fall, admitting 31.4 percent out-of-state students in its freshman class — going over the 18 percent limit by more than 50 percent. School officials insist it was just a fluke, the result of a changed enrollment process.

Still, administrators at N.C. A&T



would like to see the cap raised. N.C. A&T has struggled to find enough qualified students from North Carolina. In 2002, each school in the UNC system set a 10-year goal for enrollment growth; after 10 years, N.C. A&T is about 5,000 students short of its goal, by far the furthest behind its goal of any UNC school.

Wanda Lester, associate vice chancellor for academic affairs at N.C. A&T, told the Pope Center she supports raising the cap because it will improve both the quality of academics at UNC schools and the long-term economic outlook for the state. "I'm not saying there should be no limits," she said, but a higher cap would be beneficial nonetheless.

Proponents of increasing out-of-state enrollment say it would benefit the state economy because more bright students would stick around after graduation, although it's a difficult claim to verify. Proponents also say that it would not mean fewer spots for in-state students; the proposal would expand enrollment overall, keeping the number of in-state students the same and just increasing the number of out-of-state students allowed in.

Unfortunately for N.C. A&T,

proposals to increase out-of-state enrollment have been floated before and they never got very far.

For one thing, state taxpayers don't like the idea of subsidizing outsiders. Even though out-of-state tuition is much higher than in-state tuition, it still doesn't cover the cost of a UNC education. In 2009, UNC-CH spent \$58,379 per student, according to federal data.

Another objection is that allowing more students from outside the state would make it more difficult for North Carolina students to get into a "flagship" UNC campus such as Chapel Hill. This is perhaps the strongest argument among parents with college-age children. "When you have children, you would certainly hope that you could get the best value for their education," Irvin Roseman, a Board of Governors member from Wilmington, said in an interview.

All in all, a change in the undergraduate cap is unlikely right now. But if pressure continues to build, the issue will surface again. *CJ*

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



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Opinion

Competition Bringing Marketplace Mechanisms to Campuses

Incentives matter, whether someone is selling peanuts from a pushcart or selling his teaching of philosophy. If there is more profit in figuring out how to do something better than others and thereby reap greater gains, count on people behaving that way.

Adam Smith, perhaps the most perceptive observer of human action of his time, pointed out from experience that incentives mattered to professors.

At Scottish and English universities in the 18th century, professors in the main were paid directly with student fees, while others were paid entirely by the university. In the former case, professors were diligent in their teaching, but in the latter, they tended to do their teaching in a "careless and slovenly manner."

In contemporary America, we overwhelmingly pay professors a salary under a contract with a college or university. That salary usually has no direct relationship with the diligence and effectiveness of their teaching. We get lots of badly taught courses.

Markets have a way of breaking through barriers, however. Entrepreneurial people, including academics, always are looking for ways to profit from doing things better. Today's higher education system has lots of potential for that.

Consider the company StraighterLine, which has an online platform

called Professor Direct. Professors offer for-credit online courses to students; thus far, 14 are doing so, in such fields as history, accounting, business, psychology, and writing.

Those courses don't cost much when compared with even the least expensive "brick-and-mortar" college offerings. StraighterLine charges \$49, and the professor can set whatever price he wants to above that. Competition keeps total prices low. One professor, for example, charges each student only \$50 above the \$49 base.

Competition also affects the services the professor offers. Some are willing to ensure a great deal of student contact and prompt response to questions, while others may choose a lower service model. One StraighterLine professor promises students that he will respond promptly to emailed questions, offer online "office hours" for two hours per week, and create supplemental tutorial videos in addition to regular course materials.

Just as the market offers hungry people everything from the minimal service of fast-food drive-throughs to the maximal service of fancy restaur-



rants, so will the new higher education market offer students a range of choice in service level — choice that barely exists when they enroll at a college today.

The competition-driven revolution in online education is bringing entrepreneurial thinking into a field that in many respects remains stuck in the horse-and-buggy age. Students will be able to customize their learning to suit their needs.

Although a great deal of attention has been lavished in the last year on Massive Open Online Courses,

perhaps the more important trend is toward what we might call POCs — Personalized Online Courses. (I left out the "Open" because students usually will have to pay something for educational services they want.)

Another competitor in the online education market is Udemy.

Educators who offer their courses on Udemy may or may not be academics with university positions, but they all have a passion to teach about something. They can set their own prices. David Janzen is a Udemy seller, offering a course in computer science for \$89.

The course is the same as his ba-

sic computer science course at California Polytechnic State University at San Luis Obispo, but there are no deadlines. In an email, he told me that he has had more than 500 students take his online course, although a smaller percentage of students complete it online than complete it when they take it on campus. The reason, he says, is that more of his online students lack the necessary discipline to do the assigned work.

It's too bad that so many students don't have the discipline needed to complete an online course, but they're only out \$89. We don't denounce sales of home exercise equipment just because many people lack the willpower to make themselves use it; similarly, we shouldn't criticize online courses just because many students lack the discipline to complete them.

Udemy courses don't lead to college credits. Janzen informed me that no student who has taken his course has asked for a certificate to prove that he passed it. Evidently, students are pursuing the knowledge he offers simply because they think it's valuable. That's an encouraging sign.

It is a bad habit Americans have gotten into that we often look askance at learning opportunities unless they're "for credit." The return of the free market in higher education will help break that habit, as people again learn for the sake of learning (as Adam Smith's students did) and stop taking courses just because they need some credits. CJ

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



GEORGE LEEF

Competition brings entrepreneurial thinking to education

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From the Liberty Library

• The apocalypse is here. You can't hide under your desk once the four horsemen have arrived, in the form of national debt, crippling dependence on government, extremism in the Middle East, and the suffocating grip of the bureaucratic state on every aspect of life. America's problems were many years in the making, caused by both parties, and they will haunt us for generations to come — if we survive at all. In *Obama's Four Horsemen*, syndicated columnist David Harsanyi slams the Obama administration for its reckless handling of four massive problems that have mushroomed into a disaster of biblical proportions. These problems may have taken decades to develop, but the time to ignore them has run out. Learn more at www.regnery.com.

• Just before his death in December, Judge Robert Bork completed *Saving Justice*, a memoir of his tenure in the Nixon administration. In June 1973, Bork was plucked from a quiet life of academia at Yale University and planted into the tumultuous soil of constitutional crisis by an administration on the verge of collapse. From the ousting of the vice president to the discharge of the Watergate special prosecutor, Bork recounts his personal experiences as a member of the administration during the last half of 1973 and first few months of 1974. For more information, visit www.encyclopedia.com.

• While President Obama and the left like to pretend that they oppose bullying with all their hearts and souls, the truth is far darker: The left is the greatest purveyor of bullying in modern American history. Breitbart.com editor Ben Shapiro says bullying has morphed into the left's go-to tactic, as it attempts to quash their opponents through fear, threat of force, violence, and rhetorical intimidation on every major issue facing America today. In *Bullying*, Shapiro uncovers the simple strategy used by liberals and their friends in the media: bully the living hell out of conservatives. Play the race card, the class card, the sexism card. Use any and every means at your disposal to shut them up. Hidden beneath the left's supposed hatred of bullying lies a passionate love of its vulgar tactics. More at www.simonandschuster.biz. CJ

Book review

Essays on Voluntary Aid Shatter Myths of Welfare State

• Tom G. Palmer, ed., *After the Welfare State*, Jameson Books, 2012, 180 pages, \$8.95 paper.

By GEORGE LEEF
Contributor

Most Americans walk around in a fog of myths and misconceptions concerning the welfare state.

They believe that in the absence of government welfare programs, there would be little or no support for the needy. They believe that welfare mainly helps those who are unable to help themselves. And they believe that there are no practical alternatives to the welfare state.

Because so many people hold those ideas, politicians find it easy to manipulate them into supporting an array of programs that look "compassionate" on the surface but in fact are deeply harmful to the nation's social and economic fabric.

With Tom Palmer's latest book, the Atlas Economic Research Foundation continues its project of enlightening people to the benefits of true liberalism, this time by demolishing the mythology surrounding the welfare state. Readers who approach the book with an open mind will conclude that we'd be far better off if we had left the important business of helping the needy to voluntary action.

In his opening essay, Palmer introduces readers to a key understanding: Governmental welfare is an instance of the tragedy of the commons. Once the government's treasury is opened to groups seeking benefits — and there is no way to limit access to supposedly altruistic groups — the result is certain to be the same as opening up pasture land to every owner of farm animals. The pasture ("the commons") will be ruined through overuse.

Palmer links our mounting and seemingly irreversible debt accumulation to the welfare state, since the flood of red ink is driven mostly by the promises politicians made in the past to give people "free" money and in-kind benefits. Massive borrowing to pay for welfare benefits (along with other governmental boondoggles) is putting a heavy mortgage on future generations.

The next two essays concern nations that have been much in the news recently for their economic woes: Italy and Greece.

Piercamillo Falasca's "How the Welfare State Sank the Italian Dream" recounts the political and economic history of Italy following World War II. Americans who read about the condition of Italy today, with huge government debts that put it on the brink of default, probably have no idea that from the late 1940s to the 1960s, Italy was a model of fiscal prudence. It enjoyed rapid economic growth because the government intervened very little in the economy. Italians knew that if they wanted to prosper, they had to work and create wealth on their own. From 1946 to 1962, Falasca observes, the average annual rate of economic growth was 7.7 percent — a fabulous performance.

With that economic success, however, came the temptation to divert wealth produced in the private sector into the government for redistribution. In the 1960s, the seeds of Italy's current economic malaise were sown as politicians, eager to win support through vicarious generosity, enacted increasingly costly welfare measures. Among those measures was a national health care system financed almost en-

tirely through taxation.

The result was a dramatic change in the country. Economic growth began to decline and now hovers around 2 percent annually. Unemployment has risen steeply, and the government's budget is a sea of red ink.

Bad as the economic effects of welfarism have been, Falasca writes, "the deepest consequences of Italy's welfare state ... are not economic but cultural. The culture of welfare addiction is what has made change so difficult." Once people become habituated to government handouts, it is nearly impossible to reverse course.

Aristide Hatzis cites his native Greece as a "precautionary tale" that warns us to avoid the welfare state. Much as was the case in neighboring Italy, after World War II Greece enjoyed steady economic growth despite considerable political instability.

In 1981, however, the nation elected the socialist party headed by Andreas Papandreou, who envisioned a radically transformed nation — a welfare state with a government-

planned economy and cradle-to-grave welfare benefits. The majority liked the promises of an easier life, but the results have proven to be "a deadly mix of a bloated, inefficient welfare state with stifling intervention and overregulation of the private sector," Hatzis writes.

Especially enlightening is Hatzis' explanation that health care in Greece is very expensive, even though the nation has adopted a "free" government-run system. So why is it expensive? Because services are free, there are long waiting lists. To obtain care, people resort to bribery. Americans should learn from the Greeks and their unhappy experience.

Couldn't the welfare state be replaced with better, voluntary institutions? Two essays answer that question in the affirmative.

In "The Evolution of Mutual Aid," David Green explores the history of voluntary (or "friendly") societies in England. Those societies arose without any coercion, as individuals

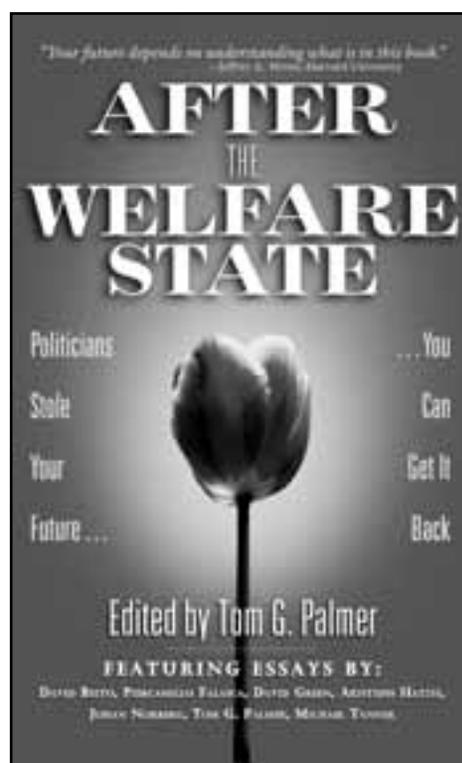
combined their resources to improve security for all members. Before the passage of the government's National Insurance Act in 1911, a large and growing percentage of the British population was protected by a "safety net" constructed entirely from the voluntary efforts of those societies.

Green's essay is followed by history professor David Beito's, which focuses on the American experience with mutual aid societies. "Only churches rivaled fraternal societies as providers of social welfare before the advent of the welfare state. In 1920, about 18 million Americans belonged to fraternal societies, nearly 30 percent of all adults over the age of 20," he writes.

Among other services, those societies made medical care available to their members. Long before government got involved, millions of poor people were able to get care by joining one of the many societies.

A crucial point about these societies is that they needed to guard against moral hazard. With limited resources and no power to tax, they had to find ways to keep members from claiming unwarranted benefits. Beito argues that they were quite successful in doing so.

The takeaway from the book: Poor people were better off with voluntary institutions than with government welfare programs. CJ



Fletcher Offered Entertaining Perspectives on Early N.C. History

Maybe more so than any other novelist below the Mason-Dixon line, including the 19th-century William Gilmore Simms of South Carolina, Inglis Fletcher of North Carolina painted the most comprehensive, historical portrait of the land on which she lived.

Her novels also possibly did more than histories to introduce readers to the colonial and Revolutionary-Era history of North Carolina.

Although an Illinois native, Inglis Fletcher (1879–1969) had deep ancestral roots in northeastern North Carolina, and in particular the Albemarle region. Fletcher later moved with her husband to the Tar Heel State, near Edenton at the Bandon Plantation by the Chowan River.

As a child, young Inglis' interest in North Carolina history was sparked by her grandfather, who described the Tar Heel State as "that valley of Humiliation, between two mountains

of Conceit."

Eventually, she would write extensively about North Carolina, but first she traveled widely and wrote about those journeys. As a young woman she married John Fletcher, a mining engineer who traveled a lot in the northwestern United States. In five years, they moved 21 times. She also traveled to Africa in 1929, and like

Ernest Hemingway and fellow North Carolinian Robert Ruark, she wrote novels — *White Leopard* and *Red Jasmine* — that were informed by her African travels and experiences.

She mostly is known for her North Carolina historical novels, though. During the mid-20th century, millions purchased her Carolina Series novels that also were translated into seven languages.

From 1942 to 1964, during what normally would have been her retirement years, Fletcher wrote the Carolina Series — a compilation of novels with stories spanning 200 years of North Carolina history from Sir Walter

Raleigh in 1585 to the ratification debates on the Constitution in 1789.

Her Carolina Series may be fiction, but fact informed her fiction. In her acknowledgment sections, Fletcher always listed the archives in which she did research and preparation for her work. Her work sometimes romanticized the past. Nevertheless, in the words of Philip McFee and Ted Mitchell, she "believed that research needed to precede composition. ..."

Although her first novel in the Carolina Series, *Raleigh's Eden*, required six years of research, her common and subsequent practice — with the exception of two novels — was to do research for a year and spend the next year writing.

Fletcher realized that her goal was to entertain. So her novels were filled with romance and adventure. As she wrote in the acknowledgment section of *Raleigh's Eden*: "In writing a historical novel the problem is not to turn fiction into fact but to make

a fact appear to be fiction." But the author tried, as much as is possible in the historical fiction genre, to be true to the historical record when offering readers a sense of the past.

So that readers would not be misled, she stated in her prefatory remarks if any characters were entirely fictitious, as she admitted in *The Scotswoman*: "I invented a family of fictitious MacQueens. ..." Later she explains why she did not present the Scots speaking in a Scot dialect as they did in the 1700s. She was afraid that she would make historical errors as she presented a "delightful dialect."

If you are interested in Inglis Fletcher's Carolina Series, here is a list of her historical novels: *Raleigh's Eden* (1940); *Men of Albemarle* (1942); *Lusty Wind for Carolina* (1944); *Toil of the Brave* (1946); *Roanoke Hundred* (1948); *Bennett's Welcome* (1950); *Queen's Gift* (1952); *The Scotswoman* (1955); *The Wind and the Forest* (1957); *Cormorant's Brood* (1959); *Wicked Lady* (1962); and *Rogue's Harbor* (1964).

They are an entertaining introduction to North Carolina's early history.

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



**TROY
KICKLER**

Inglis Fletcher's
Carolina Series
encompasses
200 years of
N.C. history

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Movie review

'Argo' Has Gripping Suspense Even Though You Know the Outcome

• "Argo," directed by Ben Affleck, Warner Bros., 120 min., DVD released Feb. 19.

BY SAM A. HIEB
Contributor

I hate to say it, considering the phrase has been used so much on both sides of the political aisle recently, but here goes: "Those who forget history are doomed to repeat it."

The phrase kept going through my mind as I watched "Argo," the gripping film directed by and starring Ben Affleck. As you may know, "Argo" deservedly won both the Golden Globe Award and the Academy Award for best picture. Affleck also won the best director award from the Directors Guild of America, but was inexplicably shut out by the Oscars.

It's really good filmmaking when you know how a movie is going to end yet you're still on the edge of your seat. The problem is, how many of us actually know the story behind "Argo" or, for that matter, the Iranian hostage crisis?

People of a certain age — I was 16 at the time — remember well the dark days at the end of 1979, when revolutionary Iranians, enraged that America admitted the deposed Shah to seek cancer treatment, stormed the U.S. embassy in Tehran.

"Argo" opens with the fateful

day of Nov. 4, 1979, when U.S. embassy employees began nervously noting that the protest outside was growing increasingly volatile.

Suddenly the mob was over the wall and raiding the building, taking 52 Americans hostage. But six Americans got out and made their way to the Canadian Embassy, where they hid out for several months.

Even by today's standards — more than a decade into a war on terror that's left us pretty much surprised at nothing — it's still interesting to note the organization and tenacity of revolutionary Iran. An initial document check revealed that indeed more Americans worked at the embassy than were held hostage; Iranian children were immediately put to the task of piecing together shredded documents in an effort to identify the escaped Americans. They could not leave Iran undetected, and their presence in the country had to be justified.

Enter Affleck as CIA operative Tony Mendez. His life's not going well right now — he's separated from his wife, he misses his son. When we first meet him we get a pan shot of his

apartment littered with beer bottles and empty Chinese takeout containers.

Perhaps a difficult assignment from his boss Jack O'Donnell (Bryan Cranston) is just what Mendez needs to take his mind off his personal problems.

But all the ideas related to a rescue are bad ones; Mendez is charged with selling the best bad idea to the frazzled Carter administration.

Mendez then crafts the unlikeliest of all bad ideas — the Americans are actually a Canadian

film crew shooting a science fiction movie on location in Iran. But the vast Iranian intelligence network requires this scheme to look completely plausible.

Mendez has two contacts in Hollywood — veteran makeup man John Chambers (John Goodman) and producer Leonard Siegal (Alan Arkin) — who see it as their patriotic duty (in their own weird Hollywood way) to sell a movie that never will be made.

The fake movie is named "Argo," based on a sci-fi screenplay picked from Siegal's slush pile. Considering

the fact that Iran might well be another planet, it was the best available option.

Press releases were sent out, casting calls were made, posters were printed, and a production office was established. Word spread that a production crew was going to Iran to scout locations. Fake names, fake titles, fake passports were created.

The level of bureaucracy in revolutionary Iran is surprising, making it uncertain Mendez could get inside the country. Once he arrived at the Canadian embassy, he had to gain the trust of the Americans, which was not easy.

As you can imagine, if it could go wrong, it did. During a "scouting" trip through Tehran's downtown market, the "crew" attracted unwanted attention. At one point, the U.S. government called off the mission. Last but not least, one of the Americans was identified just as the crew passed every nail-biting checkpoint and boarded the airplane to freedom.

There's little debate that terrorists are taking advantage of all available 21st-century technology. But when watching "Argo," as you note the level of organization by Iranian revolutionaries 30 years ago, it is of little comfort to imagine the level of organization today, aided by that technology. With that in mind, we only can hope that our commander in chief is committed to combating Islamic terrorism with equal tenacity. CJ



Director and star Ben Affleck in a scene from the movie "Argo."

Book review

Spero Urges Conservatives to Push Back Against the Hard Left

• Rabbi Aryeh Spero, *Push Back: Reclaiming the American Judeo-Christian Spirit*, Evergreen Press, 2012, 237 pages, \$24.99.

BY MELISSA MITCHELL
Contributor

Rabbi Aryeh Spero opens *Push Back: Reclaiming the American Judeo-Christian Spirit*, by relating a conversation with a woman who was surprised to learn that the rabbi was a conservative. She wrongly assumed that he would be a liberal Democrat. She also revealed that she too was a conservative, but that she was reluctant to reveal her conservative beliefs to friends and family.

In this book, Spero, a pulpit rabbi and radio host, addresses conservatives' fear of defending their beliefs publicly. He also sees the assault on Judeo-Christian beliefs as an assault on the U. S. Constitution. "You see, our Founders were religious men who had abiding respect for the broad themes of the Bible," Spero states. He states five

biblical principles that were prominent in our nation's founding: personal responsibility; seeing man as an individual as opposed to a member of a group; rights originating from God; moral conduct; and finally, the right of an individual to choose how he makes a living, keep what he owns, and aspire to be the best he can be. "This outlook is called the Judeo-Christian ethos," states Spero.

In describing his book, he says, "This book is for all those who wish to learn about how America was constituted, not those who are holding off their 'love' until America becomes socialist Europe."

Spero takes conservatives, including prominent Republicans, to task for not speaking up against the socialist left. He notes that today's leftists are not John F. Kennedy liberals; they

are radical socialists.

Like many conservatives who are afraid to defend their beliefs, Spero notes that even the last two Republican candidates for president, John McCain and Mitt Romney, seemed timid and lacked confidence in taking the fight to Barack Obama.

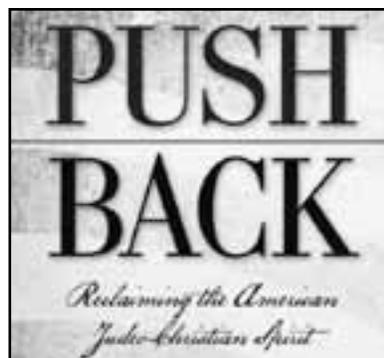
Spero understands the reluctance of individuals to defend conservative values. He illustrates how the left, lacking valid arguments, resorts to labeling conservatives who do not agree with them as bigoted, racist, mean-spirited, or uneducated. He then shows how liberal elitists are the true bigots. They see themselves as more intelligent and capable of dictating to a "lower" class of people.

Throughout the book, Spero challenges conservatives to stand up to the dangers of the beliefs of liberal social-

ism, radical Islam, and multiculturalism within the American educational system, and challenges conservatives to speak up when Americans fail to appreciate the unique freedoms our country embraces. He points to places like Saudi Arabia, where Bibles are forbidden, and notes the lack of freedom and rights for women and Christians in Islamic nations.

One of the first admonitions in *Push Back* is the parental responsibility of teaching our children about the tenets of the Judeo-Christian ethos and the Constitution. They won't learn these principles in school. In the last chapter, "Let's Roll," he lays out a plan that begins at the local level and initiates the process of defeating those who would destroy the American Constitution and the Judeo-Christian ethos.

"Many conservatives think that articles, books, blogs, talk radio, and watching Fox News can win the battle for us," he says. "They cannot! It is being on the ground in the streets, at meeting halls, and at school board meetings that works." CJ



Book review

Gelles' 'Blueprint for Change' Would Bulk Up Big Government

• Richard Gelles, *The Third Lie: Why Government Programs Don't Work — and a Blueprint for Change*, Left Coast Press, 2011, 151 pages, \$22.95.

BY LLOYD BILLINGSLEY
Contributor

RALEIGH

"I'm from the government, and I'm here to help you."

That's the "third lie" that concerns Richard Gelles, dean of the School of Social Policy and Practice at the University of Pennsylvania. (The first two: I will respect you in the morning and the check is in the mail.)

While Gelles cites numerous examples of government programs that don't work, he's no advocate of limited government: His main beef with programs that don't work appears to be that they block the enactment of new ones he prefers.

Gelles observes that once an individual problem receives the imprimatur of a government remedy, the definition of the problem will expand so that the remedy never goes away. For example, the Felix consent decree emerged from a class-action suit charging that Hawaii had not complied with federal disability law. A case starting with one child soon affected more than 12,000, offering local mental health agencies "a new and seemingly limitless revenue stream."

Psychologists were the gatekeepers, and it took little time for them to determine that each child in the Felix class must receive services from the psychologist or his agency. The gate was in effect welded open, and before long the case spawned an open-ended

entitlement. By 2001, the consent decree consumed one-eighth of Hawaii's general fund, more than the state spent on higher education, with compliance costs of more than \$1 billion.

Gelles' own investigation concluded that all the effort and money did little to improve the education and lives of the 6,000 children who benefited from it. The incentives were for the clients "not to improve," and the self-serving and self-protecting bureaucracy conspired to make "something of a joke out of so many government efforts."

True to form, the head of Hawaii's department of adolescent mental health hired her husband to run the program. A project coordinator with a salary of \$170,000 had been a hula dancer and involved in an affair with the school superintendent. Beyond Felix, Gelles does a decent job of explaining why government programs perform poorly.

Aid to Families With Dependent Children (now known as Temporary Aid to Needy Families), he says, discourages work and fails to lift recipients from poverty. Any gains under Head Start, a program with an appropriation of \$8 billion and deploying 250,000 government employees, disappear by the fourth grade.

The "inviolable rule" of government is to spend your agency's allocation, which is "never enough." The response to crisis or criticisms is "more money is believed to be the cure for

all ills," and of course more staff are always needed, along with more training. When those approaches fail to solve the problem, form a blue ribbon panel, explain that some clients "fell through the cracks," and that things are better now. And, by all means, "kill the messenger" by attacking critics as "anti-child," and so on.

"The social service emperor has no clothes," says Gelles, and "once government programs are established, it is extremely difficult to change them, irrespective of whether they help or harm."

Even so, the author, who is not an economist, thinks some government programs work very well. Gelles quotes Daniel Mitchell, formerly of the Heritage Foundation, saying the Social Security Trust Fund is a "hoax."

Gelles thought he had a Social Security account and that the taxes he had paid belonged to him. That said, Gelles proclaims that "Social Security works as a government policy and has worked for more than 70 years. The tax structure appears fair, the benefits, while not huge, are sufficient to keep 90 percent of the elderly out of poverty, and the bureaucracy that supports Social Security never has to invest people and time to determine who should or should not receive the benefit."

The author acknowledges rising costs and perverse incentives in Medicare, but the huge program "works" for him because it provides single-payer health insurance for 22 million

Americans over 65. Gelles also is fond of the GI Bill, and some readers will be surprised to learn of opposition to the plan from ivory tower academics. Harvard president James Conant predicted it would be a disaster, and Robert Hutchins of the University of Chicago said it would turn colleges into "hobo jungles." He acknowledges the voucher approach of the GI Bill as part of a "market approach" to social policy.

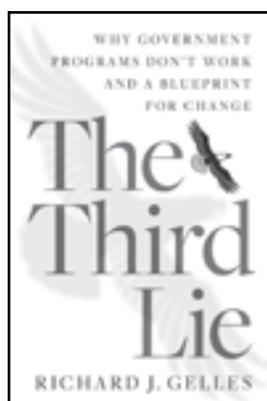
In his new "blueprint," programs must be consistent with the values and principles of a market economy. They must encourage asset building, incentivize, reward delayed gratification, not support harmful behaviors, and promote a better-prepared work force.

He wants a "futures account," like Hillary Clinton's "Baby Bond," for every child born in the United States, with no disqualifying factors. Unlike Social Security, the government would deposit \$3,000 a year for 18 years into a real account under the individual's sole control.

That grandiose scheme gives new meaning to *in loco parentis* and certainly would bulk up an already bloated Leviathan. A plan based on market principles and incentives would — unlike the futures account — empower parents, not government, to save for children's future. Where, exactly, the money would come from Gelles does not say, but he knows what the deal is.

"The traditional battle between a market-based economy and socialism still lurks beneath the surface of any social legislation," he explains.

Despite his book's title, his criticism of bad programs, and his nod toward market principles, it's clear which side Richard Gelles is on. *CJ*



BOOKS AUTHORED BY JLF STAFFERS



By John Hood
President of the
John Locke Foundation

Selling the Dream

Why Advertising is Good Business



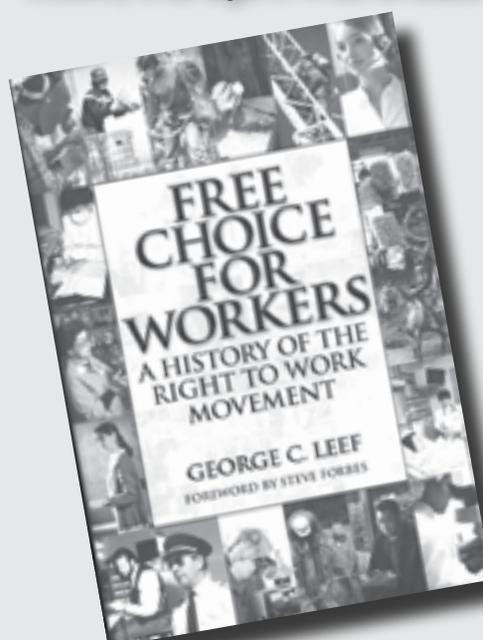
"[Selling the Dream] provides a fascinating look into the world of advertising and beyond ... Highly recommended."

Choice
April 2006

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Free Choice for Workers:

A History of the Right to Work Movement



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

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

Robert Huberty
Capital Research Center

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COMMENTARY

If It's Broke, Fix it

Gov. Pat McCrory and the General Assembly talk about a broken North Carolina.

The left talks about expanding government entitlement programs. I suggest we fix what's broken before we even think about expanding.

Let's start with Medicaid and the Earned Income Tax Credit.

Medicaid began in 1965 as an entitlement program and serves as the nation's primary health insurance source for low-income people. States provide a share of the funding and manage their own programs. Currently, one in 10 North Carolinians receive health care through Medicaid. We spend 15 percent of our General Fund budget — more than \$3 billion — on Medicaid, and it is the fastest growing part of the state budget.

Under Obamacare, states have the option of expanding Medicaid coverage to thousands of people who do not qualify. As an enticement, the feds offer to pay most of the costs for the first few years. In North Carolina, that expansion would allow an additional 568,000 people to enroll in Medicaid, and it could cost taxpayers \$3.1 billion over the first 10 years. An expansion of that size calls for careful consideration even if the current

program were working well. But North Carolina's is not.

Two recent state audits disclose real problems. The administrative costs to run Medicaid in North Carolina are too high. North Carolina spends \$180 million on Medicaid administrative costs — 38 percent more than in comparable states.

The audit cites "insufficient monitoring," "inadequate oversight," and "consistently exceeded budgeted amounts" for contracted services, and incomplete financial projections resulting in budget shortfalls of more than \$153 million. Cost management is not a priority, leading to fraud. Hundreds of millions of dollars are being mismanaged and wasted. Another recent audit found more than \$580,000 was paid out in unapproved overtime to high-level salaried employees of the

Department of Health and Human Services.

Senate Bill 4 wisely calls for no Medicaid expansion in North Carolina. It has passed both chambers of the General Assembly and at press time awaits McCrory's signature.

The Earned Income Tax Credit is a federal program that subsidizes low-income working people by refunding the taxes they have paid during the year. North Carolina created a state-based EITC in 2007 to piggyback with the federal program, offering 3.5 percent of the federal credit. North Carolina is one of 25 states with an EITC. With refundable credits (as ours are), the government often "refunds" more money than recipients paid in taxes. The General Assembly in 2008 increased the state EITC to 5 percent of the federal amount.

North Carolina paid more than \$110 million in EITC claims last year, issuing checks ranging from \$225 to \$400. Almost 63 percent of EITC claimants get their money early with a refund anticipation loan, which carries a fee ranging from \$65 to more than \$115. The loan and the fee are deducted from the credit. Moreover, the IRS estimates that nearly one-third of EITC claims are fraudulent.

The left claims EITC lifts people out of poverty. In reality, the amount of the credit (particularly with the early loan fee deducted) is not enough to make a difference, and the program is wrought with fraud.

House Bill 82, in the Senate at press time, would sunset the state's EITC in 2014.

Republicans have been accused falsely of waging a war on the poor for not expanding these programs. It would be foolhardy and irresponsible to spend more on programs that are wrought with fraud, waste, and mismanagement. Let's get our house in order so scant resources are utilized wisely and those who need help get it. Wasting money doesn't help anyone. CJ

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



**BECKI
GRAY**

**Medicaid is the
fastest growing
part of the
state budget**



EDITORIAL

Educational Opportunities

As this issue went to press, the General Assembly was wrapping up Education Week, an occasion for lawmakers to discuss school reforms with superintendents, principals, and teachers from across North Carolina.

These conversations are important, but what's more encouraging is that legislative leaders seem poised to build on the consequential K-12 reforms enacted in the previous legislative session. To its credit, the 2011-12 General Assembly ended the state's arbitrary cap on public charter schools and created a tuition tax credit allowing parents of children with special needs more financial freedom to pursue options outside of traditional district schools, including private schools and homeschooling.

Additional legislation was introduced but did not pass that, among other things, would have ended teacher tenure and created a tax-credit scholarship program allowing businesses to donate, tax-free, to nonprofit organizations that provide scholarships to low-income students.

These proposals should be the starting point for more extensive reforms. That agenda should include:

- Performance pay for teachers and — if ending tenure entirely is not possible — limiting "career status" to the top-performing teachers.
- Additional flexibility for charter schools, letting school districts and universities establish charter schools; allowing districts to go all-charter (as Winston-Salem/Forsyth County Schools would like to do); guaranteeing full, per-pupil funding for charter schools, as the law requires; permitting charter operators to gain access to capital funding; and letting nonprofit and for-profit virtual charter schools

compete with the state's monopoly online charter school.

- Expanded tax benefits for investments in education. These could take the form of tax-free education savings accounts, tax-credit scholarships, or refundable tuition tax credits, for starters.

North Carolina public schools are not starved for funding. A recent report by John Locke Foundation director of research and education studies Terry Stoops found that in 2008, the most recent year data are available, the per-pupil expenditure for elementary school students in North Carolina was the sixth-highest in the world and spending on secondary students was fifth-highest. Even so, nations with the highest per-pupil expenditures did no better on measures of student performance than countries spending less.

That money has not translated into better performance by North Carolina students. National Assessment of Educational Progress test results show fourth-grade and eighth-grade reading scale scores were higher in 2002 than they were in 2011.

And though high-school graduation rates are improving, diplomas are declining in value. The remediation rate for North Carolina community college students — the percentage of high-school graduates who need makeup courses to perform at college level when enrolling — is on the rise.

The North Carolina Constitution promises "a general and uniform system of free public schools ... wherein equal opportunities shall be provided for all students." None of the reforms before the General Assembly would undermine that basic guarantee, and any would improve those opportunities for aspiring youngsters. CJ

EDITORIALS

A Freedom Agenda

Living up to our old license plate's motto

North Carolina's license plates used to say "First in Freedom" rather than "First in Flight." So the John Locke Foundation chose the title *First in Freedom* for our just-published book of policy ideas for the new administration in Raleigh.

The "First in Freedom" license plate commemorated two events. In May 1775, a group of Mecklenburg County leaders met in Charlotte to fashion a response to escalating tensions with Britain. In a document later published as the Mecklenburg Resolves, they stated, "all laws and commissions confirmed by or derived from the authority of the king and Parliament are annulled and vacated, and the former civil constitution of these colonies for the present wholly suspended."

This was a courageous act of resistance against tyrannical government and deserves the veneration still evident on North Carolina's state flag and state seal.

By April 1776, political leaders met in Halifax to decide what North Carolina's position should be at the upcoming Continental Congress. The resulting Halifax Resolves instructed the North Carolina delegation in Philadelphia to pursue formal independence from Britain — the first such decision in America. The date of the Halifax Resolves, April 12, is the other date honored on our seal and flag.

Now, in the early 21st century, North Carolinians face new challenges to their economic vitality, their families, their liberty, and their tradition of constitutional government. In *First in Freedom*, our colleagues in JLF's Research Division offer the following action plan:

- Replace North Carolina's uncompetitive and unfair tax code with a new pro-growth system that targets consumption and encourages investment, business formation, and job creation.

- Place stronger constitutional limits on budget growth and public debt.

- Continue removing costly regulations that inhibit job creation and raise the cost of energy, food, medical care, and other goods and services.

- Enhance North Carolina's long-term rate of economic growth by investing more wisely in infrastructure and bringing more academic rigor, accountability, flexibility, competition, and parental choice to the delivery of educational services.

- Reorganize the operating system of state government to reduce the number of Council of State and Cabinet agencies, sort out the state's convoluted governance system for education, and promote competitive elections.

In short, let's be "First in Freedom" once more. *CJ*

Saying No Is a Start

Rejecting exchanges is N.C.'s due diligence

North Carolina Republicans long have opposed Obamacare. After Chief Justice John Roberts waffled on the constitutional question and President Obama won re-election, GOP leaders recognized that immediate repeal of the legislation was impossible. But that doesn't mean they've accepted it as a permanent fixture of American life.

Legislation rejecting the creation of a state-based insurance exchange under Obamacare was introduced. At press time, it was on the verge of becoming law.

Due to Obamacare, parts of the private insurance market are about to blow up. It is likely that in a few months North Carolina health insurers will release eye-popping rate increases for 2014. In the small group and individual market, the proposal will be to hike rates 100 percent or more for some customers, and maybe half that for many customers.

At the state level, conservative governors and lawmakers have had to

learn that one reason the Obama administration desperately wants states to create insurance exchanges is that it will give voters multiple levels of government to blame for an unpopular policy likely to become even more unpopular.

State officials also have had to learn that the Obama administration isn't prepared to set up dozens of new federal exchanges this fall. By defaulting to a federally run exchange, they may well shield their state's households and businesses from mandates and taxes, if current litigation by Oklahoma and other states is successful in the federal courts.

None of this constitutes nullification. It constitutes North Carolina officials exercising their due diligence to put pressure on Congress to take remedial action. Repeal is impossible while Obama is president. But Congress may find it necessary to revisit key provisions of what soon will be revealed as an unworkable law. *CJ*

COMMENTARY

Seasons of Change In North Carolina

Now is the winter of our discontent.

Or so said Shakespeare's Richard III, a fictional villain who may share some resemblance to the fellow just found buried under a parking lot in Leicester. The phrase opens the play, as Richard proclaims that the winter of discontent will be "made glorious summer by this sun of York" — not a reference to the Yorkshire climate but a metaphor for his brother Edward assuming the throne of England.

I'm far from an expert on the Bard. But I've always thought this line to be one of his best, because of its ambiguity. In context, it is optimistic — a winter of discontent yielding to a summer of promise. But most people remember only the first line, which sounds like a complaint. And Richard is, after all, far from satisfied about his brother's good fortune and seeks to overthrow him.

The current moment in North Carolina politics contains a similar ambiguity. Weeks into their new role as majority party, Republicans see a long, barren winter — not just for the GOP but for the state as a whole — coming to an end. They expect their new ideas on taxes, regulatory policy, education, and entitlement reform to create new growth and opportunity in the coming months and years.

Democrats see no glorious summer ahead for North Carolina. They see those new ideas as a significant departure from the state's traditional public policies, which is certainly the case.

This is, at least in the short term, an unbridgeable partisan divide. Although the disagreement need not be bitter, or expressed as personal attacks, it will be passionate. Republicans should expect every mistake or piece of bad news to be elevated to the level of Shakespearean comedy or tragedy. Democrats should expect to fight doggedly, to rally thousands of people to their cause — and lose. Republicans and conservatives did the same thing for many years. They survived. Democrats and liberals will, too.

The matter will be settled by

the outcome, not the buildup. If the McCrory administration and the Republican legislature enact much of their agenda, it will take several years to evaluate the results. For example:

- If they enact conservative tax and regulatory reforms, will the economy become more competitive? Will North Carolina's unemployment rate and growth in per-capita income move closer to the regional average over the next four years?

- If they enact conservative education reforms based on higher standards, greater accountability, and broader choice and competition, will the next generation of North Carolina students have higher levels of educational attainment and achievement?

- If they reform Medicaid and other entitlement programs, will rates of work force participation and self-sufficiency rise? Will rates of government dependency and self-destructive behavior fall?

Political partisans often ascribe the worst motives to their rivals because of their own ideological certainty. They are sure their ideas are the only ones supported by evidence and proven by experience. So anyone with different ideas must have ulterior motives.

My own philosophical system, however, teaches me that one can intend to do good and instead do evil. Or one can intend only to pursue self-interest and, as an unintended but welcome consequence, advance the interests of others.

I do not assume that those who favor higher taxes, bigger budgets, and more governmental control over our lives are "determined to prove a villain," as Shakespeare has his Richard III admit. I assume they mean well but are mistaken. It makes for better rebuttals, better moods, and better analysis. But it also requires patience.

The great political drama that is Republican rule in Raleigh has only just begun its first act. It's a bit early to start writing reviews of it. *CJ*

John Hood is president of the John Locke Foundation.



JOHN HOOD

EDITORIAL BRIEFS

Government
On the Dole

After Hurricane Sandy, New York and New Jersey officials asked the federal government to cover at least 90 percent of cleanup costs. These calls for federal aid highlight the shift over the past four decades from state and local autonomy to federal subsidy control, writes Veronique de Rugy in *Reason*.

In fiscal year 2011, the federal government doled out 1,724 grants-in-aid, totaling \$515 billion, about 80 percent of which went to state and local governments. Nonprofits got the rest. This was the third-largest type of federal spending, behind only Social Security and defense. Federal grants made up 34.1 percent of state spending in 2011, up from 25.7 percent a decade earlier.

"Grants are not merely a substantial part of the federal budget. They have become like a drug for the states," says de Rugy.

All this federal money has strings attached. Federal education grants, for example, allow bureaucrats in Washington to micromanage schools across the country, even though education is a state and local function. Politics also plays a huge role in obtaining grants, with a disproportionate amount of grant money finding its way to swing states.

"Instead of lobbying for this massive growth in federal spending, states and local communities should reassert responsibility for most of their preparedness efforts," writes de Rugy.

"If police officers feel they need more equipment to do their jobs, or firefighters need more training and gym memberships, they should turn to their local and state officials for funding."

Climate-change misdirection

During his second inaugural address, President Obama highlighted the dangers of climate change. In doing so, the president described the threat — "devastating impact of raging fires, and crippling drought, and more powerful storms" in a manner that suggests he's inclined toward poor policy solutions, writes Bjorn Lomborg of the Copenhagen Consensus Center in *The Wall Street Journal*.

Lomborg notes that the scientific evidence doesn't show a recent increase in the threats Obama highlighted. Wildfires are down 15 percent globally compared to 1950, their peak year.

Nor has the incidence of drought increased. A study published in *Nature* last year found that "there has been little change in drought over the past 60 years." The United Nations Climate Panel has come to much the same conclusion. Total (Accumulated Cyclone Energy) hurricane activity, meanwhile, is at its lowest level in 40 years.

Exaggerating threats lead to misallocating resources. The European Union has chosen to confront the threat posed by hurricanes by spending hundreds of billions of dollars a year on green energy.

Stricter building codes, ending subsidized flood insurance, and better infrastructure would do much more to minimize the threat hurricanes pose at far lower cost, Lomborg says. *CJ*

Gary Varvel
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What's the Best 'COLA'?

A COLA war is going on. It hit the headlines a couple of months ago, has subsided, but is threatening to come back. It's a war that not only can affect those who enjoy liquid refreshments, but potentially everyone!

So is this a war between the big-name soda manufacturers? No. Instead, I'm referring to the best "cost-of-living-adjuster!"

The front where the war will be waged is Social Security, and 90 percent of us are in the Social Security system. Thus, virtually all of us have some skin in this fight.

But just what is this COLA war? It's a debate about the best index to use to adjust future Social Security payments received by retirees.

When Social Security was introduced in the 1930s, payments to retirees were not changed periodically to keep up with the cost of living. But by the 1970s, price inflation started to be a big problem. Now, each year, retirees receiving Social Security get an increase in the amount they receive based on how some broad increase in average prices has changed.

This annual adjustment in Social Security payments is a big help to retirees. Even small annual changes can accumulate to an impressive gain over time. For example, if a 3 percent increase is received annually for 10 years, then after a decade the Social Security recipient's check will be over one-third (with compounding) higher.

But what method is used to make the annual adjustments to Social Security payments? Currently the government uses its main inflation gauge — the Consumer Price Index, or CPI — to make these adjustments.

The CPI tracks prices in a "market basket" of products and services bought by typical households. The prices are weighted by their relative importance to households' overall spending — meaning, for example, gasoline gets a larger weight than a can of peas. Then the weighted prices are averaged and converted to an index for ease of comparison.

So the CPI sounds reasonable — right? Not everyone agrees. Households with retirees long have complained their spending patterns differ markedly from the general population's due to the larger proportion of income seniors spend on medical care. This has led to calls for a special "senior citizen CPI" to adjust Social Security pensions.

But the new COLA conflict is over a different issue. It has to do with how frequently the "market basket" is updated. The current CPI assumes what we buy changes infrequently, or approximately every two years.

Of course, this is unrealistic. Therefore, a revised CPI, the "chained CPI," has been developed. It is designed to reflect changes in household buying over time due to two factors: as new products are introduced or buying preferences change, and as we shift away from products and services with rising prices to products and services where prices have fallen or remained stable.

It's the last factor that has created the controversy. Say the price of gasoline jumps. The traditional CPI would assume we would continue buying the same gallons of gasoline, so the full impact of the gas price increase would be reflected in the CPI.

Yet under the new chained CPI, there would be an assumption we would purchase slightly fewer gallons, so the "weight" in the gasoline component of the CPI wouldn't be as large as with the traditional method.

This means inflation with the chained CPI will be more modest, and so programs like Social Security will save money by letting pensions to retirees rise at a slower pace. Indeed, calculations suggest Social Security could save more than \$100 billion over the next decade if the chained CPI is used to adjust future payments.

This has led some to claim using the chained CPI for the Social Security COLA would mean a cut in payments for retirees. Others disagree, saying it's merely a more realistic COLA that will extend the life of Social Security.

So, pick your side in this COLA war!

CJ

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



MICHAEL
WALDEN

Tea Party Helps and Harms GOP

In early February, Karl Rove, the architect of President George W. Bush's 2000 and 2004 campaigns, announced a new endeavor, the Conservative Victory Project, designed to recruit and support Republican candidates for Congress.

Many Tea Party supporters have interpreted the initiative as an effort to defeat their candidates in party primaries. Indeed, some see it as the opening salvo in a Republican civil war. President Obama's State of the Union address was met with dueling rebuttals — the formal opposition party's, given by



**ANDY
TAYLOR**

Sen. Marco Rubio of Florida, and one by the Tea Party presented by Sen. Rand Paul of Kentucky.

The resulting commotion has begged the question: Is the Tea Party good for the medium-to-long-term electoral prospects of the GOP? The outcomes of recent federal elections are mixed. Tea Party-backed candidates like Sharron Angle (Nevada), Joe Miller (Alaska), and Christine O'Donnell (Delaware) in 2010 and Todd Akin (Missouri) and Richard Mourdock (Indiana) in 2012 lost Senate general elections they should have won.

But in 2010, Paul won one the party well could have lost, and "es-

tablishment candidates" like Rick Berg (North Dakota), Denny Rehberg (Montana), Tommy Thompson (Wisconsin), and Heather Wilson (New Mexico) failed to grab seats in 2012 that Republicans, desperate to take control of the Senate, should have captured.

Perhaps a better approach is to ask what a Tea Party-dominated GOP would look like. What would its positions on policy issues be? What would its general reputation be like?

The Tea Party has many parts — including the Tea Party Express, Tea Party Patriots, Tea Party Nation, Americans for Prosperity, FreedomWorks, and a caucus of members of Congress. It is heterogeneous and amorphous. It is, however, clear on economic issues and places great emphasis on fiscal responsibility and free markets.

These positions undoubtedly help the GOP. Americans recently have been in a populist mood, and polls show them supporting additional taxes on wealthier citizens. However, they are deeply concerned with the deficit, and a majority understands current spending on entitlements is unsustainable and that structural, rather than incremental, changes to Social Security and Medicare are necessary.

Most realize Obama is not serious enough about deficit reduction. Americans still want limited government — 62 percent in a recent Rasmussen poll say they prefer a "smaller government with fewer services" to a "larger government with more services."

Once they stray from this strictly economic argument, however, Tea Party principles sometimes display faulty logic and can be at odds with conservative orthodoxy. Perhaps the most egregious example emanates from the first item on the important, unofficial Tea Party manifesto called the "Contract from America" — a commitment to prevent Congress from exercising illegal powers by requiring it to state formally the specific provision of the Constitution that allows it to enact legislation under consideration. This is at the heart of the "constitutional conservatism" argument, but unfortunately the Constitution is not self-executing. To have force, the document requires a human agent.

As we have known since 1803 when Chief Justice John Marshall penned the decision in *Marbury v. Madison*, judges provide this service. Many in the Tea Party would have Congress seek explicit permission from the courts before it could act. Subordination of legislative power like this is precisely what conservatives fought against in the 1960s and 1970s. We generally should defer to legislative bodies, not promote judicial activism.

A Tea Party takeover also would alter the fundamental temperament of the Republican Party. The GOP is used to governing and, as a result, has developed a character suitable to the responsibility. There are times when it has become complacent and has breached the public trust — Watergate, for in-

stance — but the party and many of those within it have a sensibility suited to national political leadership. In fact, this has often been an electoral advantage — Democrats, at the time viewed as impetuous and irascible, furnished a stark contrast to Republicans in the 1970s and 1980s.

Some high-profile Tea Party politicians rail against this. They repudiate deliberation and debate and behave as if policy is everything. They seem ignorant of process and the Framers' system of checks and balances. They seem not to understand Americans' desire for judicious leadership. I believe it is this temperament — more than its positions — that explains the Tea Party's fading popularity. In November 2010, 27 percent of Americans supported the Tea Party; today only 18 percent do.

The Tea Party has performed an invaluable service by refocusing the GOP on economic principles from which it had strayed. The movement has a committed and often well-informed group of supporters. But it would be wise to note that since Ronald Reagan resurrected it, the Republican brand has stood for more than just personal liberty and fiscal constraint. As president, Reagan realized it had been built on 126 years of responsible leadership, national strength, and strategic pragmatism as well. *CJ*

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Obama's Imperial Presidency

Several years ago, I wrote that President Obama wanted to transform America.

With his re-election and his first-term policy "victories" — Obamacare, the stimulus package, and the bailouts of the banks and auto industry — one would have to conclude that from a purely Machiavellian perspective, Obama and his team are transforming America.



**MARC
ROTTERMAN**

And Obama is off to a fast start in his second term. During the so-called "fiscal cliff crisis," he managed to ram through Congress a tax increase on those he deemed "rich" while he and his allies maintained they were protecting the middle class.

What Obama neglected to mention was that, as part of the fiscal cliff deal, he and Congress allowed a

temporary cut in payroll taxes for Social Security and Medicare to expire, and the middle class got a paycheck surprise in mid-January, resulting in lower take-home pay.

The payroll tax increase comes at a time when workers' paychecks already are under fire from rising health care premiums and energy costs. For many in the middle class, the payroll tax increase is big enough to offset any recent pay raise.

And make no mistake about it, what Obama can't get done legislatively in Congress he will attempt to accomplish by executive order or recess appointment. Case in point: the Obama administration's memorandum from the Department of Homeland Security last June telling United States immigration officials how they should "enforce the nation's immigration laws against certain young people who were brought to this country as children and know only this country as home."

What the Obama administration managed to do by executive fiat was implement major elements of the

DREAM Act, a bill giving legal status to illegal immigrants who entered the United States as children and are nearing adulthood. Versions of the bill have been introduced in both Democratic and Republican-controlled Congresses, but never had the votes to be passed into law.

Obama himself has admitted that he doesn't have the constitutional authority to implement the DREAM Act: "The idea of doing things on my own is very tempting, I promise you, not just on immigration reform. But that's not how our system works. That's not how our democracy functions," he told a group of Hispanic activists July 25, 2011.

But when you get past the Obama rhetoric, the long and short of it is Obama is trying to use executive orders to implement laws that Congress hasn't passed.

In other words, the Obama administration is circumventing Congress and, in the opinion of many, the Constitution. Unfortunately, this is not an isolated incident when it comes to Obama's executive branch power

grab.

Late last year, the Obama administration issued waivers of the No Child Left Behind Act if states would implement national education standards not authorized by Congress. "Congress hasn't been able to do it, so I will," Obama announced.

Then, of course, there are the president's recess appointments to his administration when the Senate wasn't actually in recess — some of which have backfired.

Recently, a three-judge panel ruled the recess appointments Obama made to the National Labor Relations Board are illegal, leaving the board without a quorum to let it operate. The ruling must have been a major shock to Obama's "imperial presidency."

Will this setback stop Obama's attempt to place more power in the executive branch?

I doubt it. *CJ*

Marc Rotterman is a senior fellow at the John Locke Foundation.

Order of The Loblolly Pine

(a CJ Parody)

By CJ STAFF

RALEIGH

The Order of the Long Leaf Pine, once a rare and prestigious award, has been so devalued by governors in the past decade that seemingly the only requirements are a pulse and the ability to give generously to campaign funds.

That being the case, the *Carolina Journal* Parting Shot staff has created a more exclusive award, The Order of the Loblolly Pine.

The award was named in honor of the tree that also is known as the North Carolina Pine, and which has provided jobs to the pulp and paper industry for decades.

A mere 70,000 of the awards are being made available in this month's *CJ*, and no more will be created. Simply print your name in the award certificate at right, date it, cut along the dotted line, and frame or laminate it for posterity.

Impress your friends and neighbors, and feel comfort in the fact that only you and 69,999 others can be members of this select order. *CJ*

The Order of the Loblolly Pine



is hereby bestowed upon

by the Carolina Journal Parting Shot staff for believing that a purely ceremonial award, suitable for framing, enhances the bestowee's self-esteem, impresses business associates, and serves as a substitute for any and all similar honorary awards which the bestowee may have been denied.

Know ye that the above-named recipient enjoys all the honors, rights, privileges, responsibilities, and ridicule thereunto appertaining.



Be it known that the Great Seal of Parting Shot was affixed, and this worthy award conferred by my hand, on this date, _____.

E. Geaux Stroker
E. Geaux Stroker, Awards Chairman

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