

**Expert says
renewable
energy costs
consumers
billions/2**



CAROLINA JOURNAL

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

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May 2014 Vol. 23 No. 5

STATEWIDE EDITION

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Illegals Get Jail Time in IRS Tax Fraud Scheme

Fake name 'Eli Valle' also found on Wake voter registration rolls

BY DON CARRINGTON
Executive Editor

RALEIGH

Two Honduran men living in eastern North Carolina each will spend more than four years in federal prison for their roles in a scheme to collect millions of dollars in federal income tax refunds filed under fictitious identities, one of which was used to register to vote in Wake County.

The pair filed fraudulent tax returns in excess of \$2.5 million. One of their aliases, "Eli Valle," is listed as a registered unaffiliated voter in Wake County and was put on the voting rolls a few weeks before the Honduran illegal immigrants were arrested.

Arrested in March

The men were arrested in March 2013, pleaded guilty in November, and were sentenced April 1 in federal court in Raleigh. Their scheme, often



Both men convicted of tax fraud had connections to this house on Valparaiso Street in Wallace, N.C. One lived there, and the other used the address and a fake name on his voter registration form. (CJ photo by Don Carrington)

referred to as stolen identity refund fraud, or SIRF, is similar to others reported by *Carolina Journal*.

U.S. District Court Judge Earl Britt sentenced Mardoqueo Mejia Fajardo, 34, to 51 months in prison and Jorge Ernesto Tinoco, 27, to 52 months. Both Fajardo and Tinoco are residing in the United States illegally and will be turned over to immigration officials when their prison terms are over. Britt

also required each to make \$1,467,117 in restitution payments to the Internal Revenue Service.

Appearing disturbed at the nature of the crimes, Britt said in court, "See what damage he [Fajardo] has done to the United States government with this scheme." Britt cited two concerns: the men's status as illegal immigrants and their theft of federal tax dollars.

Each defendant relied on a court-supplied interpreter to communicate with Britt. Fajardo declined to comment when given the opportunity, but Tinoco spoke about his religious faith, citing his relationship with God on at least eight occasions.

Court documents stated each defendant used other primary names. Fajardo also was known as Diego Jesus Cruz Godoy or Carlos Roberto Mejia. Tinoco also was known as Eli Valle. "Eli Valle" showed up as a newly registered voter in Wake County a month before Tinoco was arrested.

The investigation involved the Department of Homeland Security, the U.S. Postal Service, and the IRS Criminal Investigation Division. Assistant U.S. Attorney Susan Menzer prosecuted the case.

Scheme details

According to court documents, Fajardo, Tinoco, and other unnamed conspirators created numerous fictitious identities by using forged documents. They used those documents to obtain an Individual Taxpayer Identification Number for each fake identity. They also obtained ITINs for children

Continued as "Illegal," Page 14

General Assembly Staff Rips Film Credit Study

N.C. State professor's work error-filled, says legislative memo

BY DAN WAY
Associate Editor

RALEIGH

North Carolina loses 54 cents for every dollar it allocates to the state film production credit, and the actual return on investment might be even worse, concluded a memorandum from the General Assembly's Fiscal Research Division.

The memo, dated April 3, summarizes findings of a preliminary re-



view requested by state Rep. Rick Catlin, R-New Hanover, who sits on the House Commerce and Job Development and Appropriations committees.

At issue is a battle over a 25 percent refundable tax credit on film pro-

duction expenses, which is scheduled to expire at the end of the year. The film industry claims the credit more than pays for itself and should be renewed to protect film-production jobs and maintain the positive publicity Hollywood productions can bring to North Carolina. State Commerce Secretary Sharon Decker has said she wants to preserve subsidies in some form.

Critics have argued that the credits are a loser for taxpayers and the industry has wildly exaggerated any benefits to the state. Some key lawmakers have taken a more skeptical look at the way the credit is structured.

"My reading [of] the tea leaves as best I can, I don't think the support is

Continued as "General," Page 14

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

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Carolina Journal is
a monthly journal of news,
analysis, and commentary on
state and local government
and public policy issues in
North Carolina.



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Expert: Renewables Add Billions to Energy Prices

By DAN WAY
Associate Editor

North Carolina consumers would have saved \$4.2 billion since 2007 if mandates on electric power utilities to purchase expensive renewable energy had not driven costs well above the U.S. average, said a nationally recognized energy and environmental policy analyst.

James Taylor, senior fellow at The Heartland Institute and managing editor of the monthly publication *Environment & Climate News*, added that the limited potential for a North Carolina commercial wind and solar industry does not justify the exorbitant costs of renewable subsidies.

The U.S. Energy Information Administration reports that electricity prices have risen 10.8 percent nationally since 2007, but 17.8 percent in North Carolina over the same time period, or 65 percent faster, Taylor said. Taylor made his presentation March 29 in Raleigh at the Civitas Institute's Conservative Leadership Conference.

"North Carolinians are paying the price. We can measure this in our pocketbooks," Taylor said.

Even with the higher costs, there seems to be little appetite in the General Assembly to roll back the 2007 law, known commonly as Senate Bill 3, which set the mandates in place.

State Rep. Marilyn Avila, R-Wake, who was on the panel with Taylor, noted that in 2007, "my first year in the House, I voted against the renewable bill, and in the last session I was one of the co-sponsors for repeal" of the mandates under House Bill 298.

When H.B. 298 came up last year, co-sponsor Rep. Mike Hager, R-Rutherford, said the GOP leadership was less conservative than the caucus, and the leaders did not allow the bill to reach a floor vote before the long session adjourned.

House Speaker Thom Tillis, R-Mecklenburg, has been a steadfast supporter of the mandates. Asked by an audience member at the forum if Tillis has changed his mind, Avila said, "I haven't checked with him lately. It's not something that's going to be coming up ... in the short session" of the General Assembly, which opens May 7.

"Had North Carolina electricity prices risen at merely the national average since 2007, North Carolina electricity consumers would now be \$4.2 billion richer," Taylor said. "The average household pays \$190 every year in extra electricity costs than would be the case if prices rose at merely the national average."

North Carolina and 29 other states with renewable mandates are feeling the "real-world consequences" of granting lucrative and preferential subsidies to renewable energy projects with requirements that the volume of renewable power purchases escalate over time, he said.

"It's not that North Carolina is particularly well-suited for solar power or wind power [to justify] these mandates," despite claims to the contrary from those reaping the subsidies, Taylor said.

"Anything that we produce here is going to be more expensive" than the energy mix that is available without renewables.

The potential for wind power across the vast majority of North Carolina is nonexistent, he said. It would require

RALEIGH

300 to 600 square miles of wind turbines to generate the same amount of power as a conventional, coal-fired power plant, he said.

"Offshore, [the potential is] OK. It's marginal to fair, and high cost for very little wind power production," Taylor said. "So if you're going to the shore, you have sight blight and you have the beaches ruined," he said.

Showing a slide of the beach surrounding the Cape Hatteras lighthouse, Taylor said: "Just imagine what it would look like if we had giant wind turbines bigger than the Statue of Liberty littered offshore, which is what some renewable power groups want to see. I don't think most people in North Carolina want that."

The potential for productive wind farms is "a little better if we wanted to spoil the Smoky Mountains, if we wanted to spoil our wonderful ridge lines," Taylor said.

To replace the electricity output of a coal-fired plant with solar power would require a solar farm of 30 to 40 square miles in size, Taylor said.

So-called net metering mandates in North Carolina and elsewhere require utilities to buy excess electricity generated by small solar facilities and home rooftop panels, but at retail prices. Taylor compared that to telling Wal-Mart it must pay wholesalers \$1 for socks that the store must sell for \$1. That would put a store out of business.

"People like you and I who don't have these facilities, who don't have the money to have solar panels on our house, end up subsidizing those people who do," Taylor said.

While President Obama has railed against fossil fuel subsidies, Taylor said, coal

production receives "less than a buck, less than 50 cents" per megawatt hour of electricity. Nuclear receives \$2.44 per mwh. Solar gets nearly \$24, and wind \$23.

Solar power facilities also receive a 30 percent cash-back federal tax credit and 35 percent cash-back tax credit from North Carolina, not available to fossil fuels.

Then there is environmental damage aside from sight blight and sprawling land use caused by wind and solar facilities in the name of environmentalism, Taylor said.

"We don't have people that are looking out for the environment, we have people who are looking out for their pet power projects," Taylor said.

In the "once-in-a-generation oil production catastrophe" of the 2010 BP spill in the Gulf of Mexico, only 6,000 marine birds, mammals, and reptiles were killed, according to the U.S. Fish and Wildlife Service, Taylor said. New technology that allows oil rig blowouts to be capped within 24 to 48 hours should prevent such future disasters.

"Each and every year wind power kills 1.5 million birds and bats, including bald eagles and California condors," he said. The loss of these predators has been accompanied by a growth in insect swarms and vermin infestations, which can be a nuisance to humans and damage agricultural crops.

Solar thermal power requires twice as much water as coal, and four times as much water as natural gas, he said, yet it is most effective in sunny, arid climates with the least water.

"People who fight for affordable energy hope in states like North Carolina, the states like Kansas, states like Ohio, will take the next step and roll back the renewable mandates," Taylor said.



Critics of the renewable energy push envision offshore wind turbines will become eyesores in some of North Carolina's most scenic areas, resulting in scenes such as the created image above. (CJ photo illustration)

Insurance Mandate in NCGA Could Pile More Costs on Employees

BY DAN WAY
Associate Editor

RALEIGH

If state lawmakers pass bills in this year's legislative session adding further mandates on insurance coverage, the higher costs could make insurance coverage unaffordable for small businesses, and workers could lose their employer-paid policies, opponents of the mandates say. Mandates force insurers to cover specific treatments or services in every policy, making coverage cost more.

"North Carolina has 55 mandates already, just one behind California, 13th most in the country," said Blue Cross Blue Shield of North Carolina spokesman Lew Borman. "Passing the mandates currently under consideration would move us into the Top 10 in the country," Borman said, past California, Massachusetts, New Jersey, and Vermont, "driving premiums even higher."

The General Assembly is still considering 10 insurance mandate bills this session. Senate Bills 477 and 644 and House Bill 511 deal with vision services. Senate Bills 364 and 570 address rules covering electronic prescriptions. House Bill 740 covers athletic and sports trainers, Senate Bill 561 sets co-payment standards for chiropractic treatment, Senate Bill 572 would require insurers to cover screening newborns for Krabbe Disease, House Bill 498 targets autism, and House Bill 609 addresses oral chemotherapy treatment.

If all those mandates were passed into law, "We would see the majority of small businesses that are covering employees with health care coverage probably drop their insurance because the insurance companies would have

to absorb some of that [cost] and pass some of it on," said Gregg Thompson, state director of the National Federation of Independent Business/North Carolina.

If insurers passed along all of the added costs, "they would probably lose all of their small business [clients] because it is such an expense," Thompson said.

In a letter he distributed to lawmakers, Thompson said the average annual family premium for covered employees in small businesses has increased from \$7,781 in 2002 to \$15,253 in 2012 — a 96-percent rise. Small businesses, on average, pay 18 percent more than large employers pay for the same level of coverage in a health insurance plan.

"There's a lot of pressure from outside groups for them to pass the mandates," Thompson said.

"If you're the Autism Society ... vision, or chiropractic, or whatever, each bill has [its] own constituency at the Legislative Building fighting for that bill to be passed, and we're fighting [for] no additional mandates," Thompson said.

"It's a difficult, emotional issue for both the proponents of the bill and for the opponents," Thompson said.

"I want to stress that the health issues that are being proposed to be covered are certainly not the target of the opposition. It is the mandate of additional coverage."

"I am very accustomed to the NFIB opposition and arguments against it everywhere I've worked on the bill, so this is not new for me," said

Lorrie Unumb, vice president for state government affairs at Autism Speaks, who works from her Lexington, S.C., home for the New York-based organization. She is the mother of an autistic child.

While she understands NFIB's concerns about the cumulative cost effect of so many health insurance mandates, she said the autism bill has an opt-out provision

"especially for small businesses," so any business that could demonstrate the added coverage would increase insurance costs by 1 percent or more could forego the mandate.

"I'm not going to stand here and say there's no price tag. It's about 31 cents per member per month," Unumb said, drawing that number from analysis of costs in South Carolina, which in 2007 became one of the first states to pass the model legislation being considered in North Carolina, and other early states that enacted the law.

"We've got no reason to believe it would be any different in North Carolina," she said.

The model bill passed the Nebraska legislature on April 9 and Gov. Dave Heineman signed it into law April 21, making the Cornhusker State would be the 36th to adopt it.

The raft of insurance mandate bills have a host of Republican primary sponsors, even though the GOP-controlled General Assembly has made reducing mandates and regulations a top priority to relieve small businesses from burdensome regulations and stimulate the economy.

Carolina Journal contacted numer-

ous Republican sponsors of mandate bills; none responded to requests for comment.

"A lot of conservative Republicans support the autism bill in particular," Unumb said. "There is tremendous support from conservatives all over the country," and Republican presidential aspirants Gov. Bobby Jindal of Louisiana and Gov. Rick Perry of Texas signed autism bills into law, and later signed expansions.

There is a solid reason for that, Unumb said: "It's a classic long-term investment."

Just-released statistics from the federal Centers for Disease Control and Prevention say one of every 68 children nationally is born with some level of autism. The number is one in 58 in North Carolina.

"There's an economic tsunami that's going to hit the state of North Carolina unless the autism issue is dealt with," Unumb said. "It just makes sense" from a cost-benefit perspective.

"When you've got a child with autism who can't function, a lot of these children are headed to a lifetime of institutionalization, and will become wards of the state at taxpayer expense unless we get in there and give them the intervention and treatment that they need," Unumb said. Even if the care does not allow autistic adults to become taxpaying, productive members of society, she added, at least their continuing care would be less expensive.

"It's an emotional issue with parents with autistic children, or cancer patients that need oral chemo,"

Thompson said.

But small business owners with thin profit margins are faced with the choice of discontinuing health care insurance for their employees entirely, or eliminating employer coverage and implementing a defined-contribution system, providing employees a set

amount of money to offset the costs of purchasing individual health plans, Thompson said.

Companies also face less-desirable alternatives, including raising the costs of their products, making them less competitive, or shedding jobs so that the company has fewer workers than the 50-employee trigger under which Obamacare forces employers to provide coverage, Thompson said. Business owners can do this either by shifting some employees to part-time status or laying off enough to fall below the threshold.

CJ



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If all mandate bills in the legislature were passed, half of small businesses would drop insurance, it's estimated

State Briefs

• Newly revised employment data show that 2013 was the strongest year for job growth in North Carolina since the Great Recession. Those numbers contradict liberal arguments about the impact of policies adopted by the conservative-led General Assembly, according to a recent analysis from the John Locke Foundation's president.

JLF President John Hood noted with interest revisions in establishment-survey data the U.S. Bureau of Labor Statistics collects to help compute unemployment rates.

"From December 2012 to December 2013, North Carolina employers added 85,600 positions, a 2.1 percent increase, compared with 73,200 net new jobs in 2012 (1.9 percent) and 49,600 jobs net new jobs in 2011 (1.3 percent)," Hood said.

Those numbers contrast sharply with arguments from left-of-center pundits, who contend that North Carolina's economy suffered in comparison to other states during the first year of Republican Gov. Pat McCrory's administration.

"Since the legislature began implementing conservative fiscal and regulatory reforms in mid-2011, North Carolina has added 180,000 net new jobs, a growth rate of 4.6 percent," Hood said. "That's higher than the national average of 4.3 percent job growth during the same period (June 2011 to January 2014)."

The revised establishment-survey data arrived less than a month after BLS released revised household-employment survey data. Those revisions also poked holes in liberal activists' arguments about the state's employment picture. A key argument from the left contended that North Carolina's economy suffered after state officials allowed federal extended unemployment insurance benefits to go away in July 2013.

Preliminary household-survey numbers suggested North Carolina's labor force declined by 111,000 in 2013, while the number of employed people grew by 13,000. The revised numbers showed that the labor force declined by 67,000, while the employment number grew by 33,000.

"What's clear from the revised data is that North Carolina's jobs picture enjoyed more improvement in 2013 than in 2012, with more of that improvement taking place after July 2013 — when extended federal unemployment benefits ended in North Carolina," Hood said. *CJ*

Lawmakers Enhance Absentee Ballot Security

Standard application form, voter ID rules address concerns

By BARRY SMITH
Associate Editor

RALEIGH

Tucked inside the 49 pages of broad changes to the state's election laws approved by the General Assembly last year is a section dealing with absentee voting modifications. Lawmakers attempted to standardize and simplify the application process while making absentee voting more secure.

The changes make the absentee ballot application more accessible. They allow a voter to print out an absentee ballot application from the State Board of Elections and county elections board websites.

"In the voter guide we just sent out, there's an absentee ballot request form," said Don Wright, general counsel to the State Board of Elections. Wright noted that the guide was sent to 4.2 million North Carolina households.

Previously, a voter had to submit either a handwritten request to the local elections board or a form generated by the county board of elections.

Brent Laurenz, executive director of the N.C. Center for Voter Education, said the streamlined rules should help expedite the absentee ballot process. "With the standardized form, it would allow political parties to get a list of people they want to vote and mail it to them," Laurenz said.

"I think it's just largely a wash," said Rep. David Lewis, R-Harnett, a chief architect of the new election law, on whether the changes make casting an absentee ballot easier or more difficult.

Lewis noted that opponents of establishing a voter identification requirement to cast a ballot were critical that lawmakers weren't doing anything to prevent absentee ballot fraud.

Absentee balloting allows voters to cast their ballots through the mail, as opposed to voting in person on Election Day, or voting in person during the early-voting period.

The absentee ballot application also has its own ID requirement. Applicants must provide their N.C. driver's license number or DMV-issued ID card number, or provide the last four digits of their Social Security number.

Voters who don't have either of those must provide a copy of a current and valid photo identification, or a copy of a document showing their name and residential address, such as a current utility bill, a bank statement, a paycheck, a government check, or another government document.

There's also a change in the num-

SUBCHAPTER VII. ABSENTEE VOTING.

Article 20.

Absentee Ballot.

§ 163-226. Who may vote an absentee ballot.

(a) Who May Vote Absentee Ballot; Generally. - Any qualified voter of the State may vote by absentee ballot in a statewide primary, general, or special election on constitutional amendments, referenda or bond proposals, and any qualified voter of a county is authorized to vote by absentee ballot in any primary or election conducted by the county board of elections, in the manner provided in this Article.

(a1) Repealed by Session Laws 2001-337, s. 1, effective January 1, 2002.

(a2) Annual Request by Person With Sickness or Physical Disability. - If the applicant so requests and reports in the application that the voter has a sickness or physical disability that is expected to last the remainder of the calendar year, the application shall constitute a request for an absentee ballot for all of the primaries and elections held during the calendar year when the application is received.

(b) Absentee Ballots; Exceptions. - Notwithstanding the authority contained in G.S. 163-226(a), absentee ballots shall not be permitted in fire district elections.

(c) The Term "Election". - As used in this Subchapter, unless the context clearly requires otherwise, the term "election" includes a general, primary, second primary, runoff election, bond election, referendum, or special election.

(d) The Term "Verifiable Legal Guardian." - An individual appointed guardian under

Changes to the state's absentee ballot laws standardize the application process and make applications more accessible.

ber of witnesses required. Previously, a voter had to complete the absentee ballot in the presence of one witness. The new law requires either two witnesses or a notary public.

"I don't think any of the requirements are onerous," Lewis said. "I just think they're used to improve the overall integrity of the whole process."

Patients in hospitals, clinics, nursing homes, and rest homes still can use absentee ballots to vote. However, patients no longer can get the assistance of owners or employees of the facility where the voter resides. Others who will be barred from assisting patients from casting absentee ballots include officeholders, candidates, campaign managers, and campaign treasurers.

"That's just to make sure there's no coercion used or undue influence to get folks to vote in any way other than the way their heart says they should vote," Lewis said.

That change came after a 2012 report from *Carolina Journal* that group

home staff members had helped patients vote without consulting parents or legal guardians before the ballots were cast. In one case, the parents of an adult child who lived in a group home said their child did not have the mental capacity to make an informed choice to vote.

Absentee ballot request forms must arrive at the voter's county board of elections no later than 5 p.m. on the Tuesday before the date of the election. For the May 6 primary, they needed to be at the local board of elections by 5 p.m. April 29.

The completed absentee ballot must be returned to the county board of elections no later than 5 p.m. on the date of the election. Ballots received after 5 p.m. on election day will be considered timely only if they have a postmark dated on or before the date of the election, and if they are received no later than 5 p.m. on the third day following the election. *CJ*

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McCrory Uses Date of Tax Filing Deadline to Tout Tax Reforms

By BARRY SMITH
Associate Editor

RALEIGH Gov. Pat McCrory used the deadline for filing income tax returns to tout the historic tax reform package that he signed into law last year.

"Ultimately, it's about North Carolinians keeping more of their hard-earned money for their paychecks, so they can buy, save, and invest more for their families," McCrory said during an April 15 news conference at the DoubleTree Brownstone Inn in Raleigh sponsored by the John Locke Foundation.

McCrory, a Republican, was joined by state Sen. Bill Rabon, R-Brunswick, state Rep. David Lewis, R-Harnett, JLF President John Hood, state director of the National Federation of Independent Businesses Gregg Thompson, and Jonathan Williams, director of the American Legislative Exchange Council's Center for State Fiscal Reform.

McCrory said that April 15 is a good date to remind people of the benefits of tax reform. "It's about providing tax stability for business owners, so they can grow and put more people to work building North Carolina's economy," McCrory said.

"Today marks the last time that North Carolinians will be compelled to comply with an outdated, outmoded, anti-competitive tax code," Hood said. Most of the tax reforms passed last year took effect Jan. 1 and will be reflected on the 2014 state tax returns filed next year.

Hood noted that analysis by the John Locke Foundation and N.C. General Assembly staff showed that most households would pay lower taxes be-



N.C. Gov. Pat McCrory speaks at an April 15 news conference at the DoubleTree Brownstone Inn in Raleigh. (CJ photo by Don Carrington)

cause of the tax reforms. He also cited a survey conducted by JLF of peer-reviewed studies in academic and professional journals showing that higher overall tax burdens are associated with lower economic performance.

The findings show that the state needed to reduce its high marginal income tax rates to allow employers to compete effectively, Hood said.

"Tax reform is a long-term investment," Hood said. "It's not just a short-term stimulus. It will take years for its

benefits to fully manifest themselves in higher employment and income growth in North Carolina."

Hood noted that a Tax Foundation analysis showed the state was about to leap from 44th to 17th in business tax climate.

Williams said the changes allowed the state to climb within one year nationally from No. 22 to

No. 6 in an ALEC analysis of economic competitiveness, gains that were higher than any other state in the nation.

Thompson said the changes put

more money in consumers' pockets to spend and allow business owners to invest more in jobs. He said the elimination of the estate tax allows business owners not to worry about what could happen to their businesses after they die.

After the press conference, McCrory told reporters he didn't think that the General Assembly would make many changes in the tax code, such as further broadening of the sales tax base, until the effects of the tax reform are known.

When pressed on whether the earned income tax credit at the state level should be restored, McCrory said he wanted to focus on the positive effects that the tax reforms could have, such as providing better jobs for North Carolina workers.

Lewis said that the General Assembly, during its upcoming short session, would do a few things to tweak the law, but he doesn't see any major changes.

Examples of fine-tuning the new law include better defining a service contract, which is taxable in the new code. He also said there would be some tweaking of the law to help new farmers just starting their operations.

The highlights of the tax reform package included establishing a flat rate for personal income tax. That rate dropped to 5.8 percent on Jan. 1 and will drop to 5.75 percent in 2015 and thereafter. Previously, the tax rate ranged from 6 percent to 7.75 percent, depending on income.

The corporate tax rate, which was at 6.9 percent, dropped to 6 percent at the beginning of the year. It will drop to 5 percent next year, and will decrease further if certain tax collection triggers are met. CJ

Cites JLF survey of research showing higher taxes correlate with lower economic output

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JLF: Academic Research Backs N.C. Tax, Regulatory Reforms

By CJ STAFF

RALEIGH
The past quarter-century of academic scholarship suggests state and local officials can promote economic growth by keeping overall tax and regulatory burdens as low as possible, investing effectively in public safety and the courts, and increasing productivity of spending on infrastructure and education.

John Locke Foundation President John Hood highlights those three recommendations in a new Spotlight report. It's based on Hood's analysis of 681 peer-reviewed academic journal articles published since 1990.

"As it happens, these implications of academic research on economic growth closely track with recent public policies adopted in North Carolina," Hood said. "State lawmakers and the McCrory administration have adopted a Flat Tax, reduced the overall tax burden for most households and businesses, adopted regulatory reforms, and instituted changes in highway funding and school management that promise to increase the productivity of public spending."

"Judging from the available empirical evidence, North Carolina's new policy mix is likely to result in stronger economic growth in the coming years," he added.

Hood's work addresses one of the key points of contention in recent North Carolina public policy debates: the impact of state fiscal policy on economic growth.

Fiscal liberals have argued that higher taxes fund public services that boost economic performance. Fiscal conservatives argue instead that higher taxes cause more harm than good by discouraging work, savings, and investment, Hood said.

"Obviously, this disagreement

reflects a fundamental difference in political philosophy that may make each side impervious to persuasion by the other," Hood said. "But the claims made by the two sides are, in fact, empirically testable."

Surveying 25 years of scholarly studies, Hood reaches a clear conclusion. "The policy preferences of fiscal conservatives have strong empirical support," he said. "Most studies find that lower levels of taxes and spending, less-intrusive regulation, and lower energy prices correlate with stronger economic performance."

Most studies also find that the quantity and quality of infrastructure such as roads and bridges are linked to economic performance. The same is true for the level of educational attainment, Hood said. "That doesn't necessarily mean that raising taxes to fund more spending on infrastructure and education will prove to be a good investment, since the relationship between government spending and outcomes is not particularly strong."

Among the 115 studies that focused on state and local tax burdens, 63 percent showed "tax burdens were negatively associated with economic performance," Hood said. Just three of the 115 studies showed a positive link between taxes and economic performance.

Most studies also showed negative associations between economic performance and specific tax policies: property taxes (61 percent), sales taxes (65 percent), corporate-income or other

business taxes (67 percent), and marginal income tax rates (70 percent).

The news was not good for those who believe government can promote economic growth by offering tax credits or other targeted tax incentives, Hood said. "More than two-thirds of the studies found no link between tax incentives and economic performance."

The data cast doubt on a popular argument among fiscal liberals, Hood said. They contend that cutting taxes means cutting spending on public services that also have the potential to boost economic growth.

"According to the preponderance of academic research published over the past quarter century, most states and localities already have exceeded

the point at which additional government spending would deliver more economic benefits than costs," he said. "In the 61 studies that examined overall spending levels, measured either as expenditures per capita or expenditures as a share of income, higher spending was associated with higher economic growth in only 15 percent of the cases. A plurality of studies found no relationship between spending and economic performance, while more than a third found a negative relationship."

It's important to look beyond the overall level of government spending, Hood said. For instance, public assistance programs "are strongly and negatively associated with economic performance."

"Those who argue that using Medicaid, welfare, or other transfer programs to redistribute income can serve as an effective economic stimulus are clearly incorrect, at least when transfers are funded with state or local revenue," Hood said. "Public assistance programs may be justified on other grounds, but they do not fit the definition of 'public investment.'"

In most other categories, the relationship between government spending and economic growth is "muddled," with one exception, Hood said. "Most studies find a positive correlation between spending on public safety — police protection, fire protection, corrections, and the court system — and economic performance."

Of the 160 studies addressing regulation, more than two-thirds showed that higher levels of regulation were associated with lower levels of economic performance. Hood also found that 76 percent of peer-reviewed studies on state economic freedom indexes found a "positive, statistically significant association" between a high ranking in economic freedom and state economic performance.

The research supports arguments in favor of recent North Carolina reforms, Hood said. "State policy is far from the most important factor influencing economic growth — market conditions and federal policy play significant roles," he said. "But when it comes to factors over which state policymakers can exercise direct control, state lawmakers and the McCrory administration are pursuing policies consistent with a significant majority of findings in recent academic scholarship."

To download a copy of the Spotlight report, visit <http://bit.ly/1hV3xEQ>. CJ



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Burr: CARE Act a 'Patient-Centric' Obamacare Alternative

BY DAN WAY
Associate Editor

RALEIGH

Even though he lacks the blessing of the GOP leadership in Congress, U.S. Sen. Richard Burr, R-N.C., is pushing a national health care reform that he says would do precisely what the GOP establishment has pushed for — repeal and replace government-driven Obamacare with a system allowing more patient choice and fewer mandates.

Burr, along with U.S. Sens. Tom Coburn, R-Okla., and Orrin Hatch, R-Utah, say their Patient Choice, Affordability, Responsibility, and Empowerment (CARE) Act would reduce health care costs while improving the quality of care. They will continue working to refine and strengthen the proposal while seeking consensus to introduce legislation.

'Patient-centric'

"We repeal Obamacare, and we replace it with a patient-centric health care plan that empowers states and individuals, one that creates a robust market of competition," Burr said during a March 31 luncheon in Raleigh sponsored by the John Locke Foundation.

"In short, we allow the American people — based upon their age, their income, and their health condition — to buy a plan that meets their needs," and uses tax credits instead of subsidies to provide coverage for individuals and small employers, Burr said.

Burr conceded there was pushback to making the CARE Act plan public prior to the Nov. 4 midterm elections.

"The Republican leadership has talked about trying to find consensus



U.S. Sen. Richard Burr discusses the CARE Act replacement for Obamacare at a March 31 luncheon in Raleigh sponsored by the John Locke Foundation. (CJ photo by Don Carrington)

around one direction" before promoting alternative proposals, he said. "It's important that we have an understanding that we're not going to get consensus in the next six months in Washington. We're not going to find one plan that all Republicans get behind," and it's vital to begin advancing alternatives to Obamacare now.

Incentivizing plans

"We do exactly opposite of what the White House does. We don't tell you this is the only plan you can have," Burr said. "We actually incentivize the industry to create plans that meet every possibility that might exist in the marketplace, and we move 100 percent of the jurisdiction of health care away from the federal government, and we put it back where it should be, [in] the states," Burr said.

Burr and his CARE Act colleagues say their proposal, unlike Obamacare, would reduce rising health insurance

premiums, offer Medicaid beneficiaries an option to purchase private coverage, grant tax credits to patients rather than insurers, and protect individuals' rights of conscience. Nor does it affect Medicare, from which Obamacare is estimated to divert hundreds of billions of dollars.

In another divergence from Obamacare, the CARE Act imposes no new taxes on medical devices or prescription drugs, does not create a government website portal for enrollment, does not implement federally run health exchanges in the states, has no federally mandated health benefits, does not create a board of unelected officials to regulate payments, and does not expand Medicaid.

Like Obamacare, the CARE Act covers people with pre-existing conditions, provides coverage for dependents up to age 26, and eliminates lifetime limits on benefits.

'Unwilling to accept changes'

Burr said that while President Obama has issued a "constant, public proclamation that if you've got a great idea, let me see it," he and Coburn "are now in year four of offering the president plans, tweaks, proposals," and making no progress. "I've met individually with the president. Tom and I have had dinner with the president. We've spoken to every person in the administration. Nobody's willing to accept any changes."

Due to Obamacare, "We anticipate the [insurance premium] increases for 2015 to exceed 40 percent. If you live in California, your increase will probably be over 100 percent," Burr said.

Those on subsidized Obamacare plans will begin to notice the Affordable Care Act is not so affordable when they begin paying high out-of-pocket expenses, Burr said.

"If we had to pay for their premium, who's going to pay for their deductibles?" Burr asked.

Obamacare has 12 taxes and nu-

merous other costs associated with its reforms. By some accounts, it is expected to cost as much as \$2 trillion in its first 10 years.

In contrast, Burr said the CARE Act would save \$1.1 trillion, and add just one tax — on what are known as "Cadillac plans" featuring high premiums paid by employers that are a tax-free benefit for employees.

They include union-negotiated plans with rich coverage, and company platinum plans for CEOs and executive managers. The tax would be assessed as ordinary income, dollar-for-dollar, for every benefit offered that exceeds 65 percent of the plan's cost. The threshold for making additional medical benefits taxable income would be in the neighborhood of \$17,000 to \$19,000 per plan.

Michael Cannon, director of health policy studies at the free-market Cato Institute, is among those who believe it is unwise to coalesce around a single plan, or to offer a detailed bill prior to the November election, "because opponents of repeal will try to shift the focus of debate to your replacement plan" and nitpick it.

Obama repeal 'necessary'

"I don't want to distract attention from Obamacare by criticizing Burr's proposal, even though I do have some criticisms with it," Cannon said. "I would just hope the senator spends more time on Obamacare than on his own replacement plan because his replacement plan won't mean anything until Obamacare is repealed."

Instead, Republicans should "talk about principles, and how markets make health care better, and more affordable, and more abundant, especially for people with low incomes, the most vulnerable people in society. And then you turn the conversation right back to how Obamacare is the exact opposite of all those things," Cannon said.

Burr said his plan does that by using tax credits to expand private insurance coverage choices instead of limiting the credits to government-approved plans. The credits would extend to Medicaid.

Currently, only 40 percent of doctors accept Medicaid patients, he said. With a tax credit, Medicaid-eligible individuals could purchase private insurance and have broader physician options.

"We've even designed it in a way where [any state could add a subsidy of] \$1,000, or \$2,000, or \$3,000 in their transition out of Medicaid into private insurance" without the difficulty of getting a federal waiver, Burr said.

Making "massive changes" in tort reform could generate cost savings, he said, but "we don't prescribe what" aspects of tort law should be reformed at the federal level. *CJ*

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COMMENTARY

When Homework Becomes Overwork

Chronic homework overload is producing stressed-out, sleep-deprived teens too burned out to learn. So say disgruntled parents, who increasingly are leveraging public platforms to share anecdotal homework horrors, from *The Atlantic Monthly* article, "My Daughter's Homework is Killing Me," to the long-running documentary, "Race to Nowhere." Has homework morphed into a second job — a bleary-eyed slog through problem sets and papers that seldom ends before midnight?

For some high school students it has; for others, it hasn't. The answer depends on whom (and how) you ask. Several new but conflicting studies shed light on how much homework teens really do, and how they fare when it all stacks up.

Some data show claims of overwork are much ado about nothing. A 2014 report from the Brookings Institution reveals no uptick in homework for 13- and 17-year-olds between 1984 and 2012. In 2012 only 13 percent of 17-year-olds spent "more than two hours" on nightly homework.

These findings are at odds with a new survey from the University of Phoenix College of Education that queried 1,000 K-12 public and private school teachers. Teacher responses show high schoolers taking five classes averaging 3.5 hours of daily homework; middle schoolers, around three hours.

What gives? One explanation is that an increase in homework has occurred but primarily among high achievers who have always led on homework. Such a shift wouldn't be captured by the federal trend data Brookings used, which unfortunately capped total homework reporting at "more than two hours." So a student who faced slightly more than two hours of nightly homework 30 years ago would look the same as one with four hours today.

Researchers who ask open-ended questions about homework say students at competitive high schools face an oppressive workload. And it's making some of them sick. Stanford University's Denise Pope and colleagues evaluated 4,317 students at 10

top-performing California high schools, public and private. Pope's 2013 study, published in *The Journal of Experimental Education*, found many students were experiencing "stress, compromised health, or lack of balance." Students averaged 3.1 hours daily on homework; some did much more. High school juniors logged the longest hours of all.

These kids were frazzled, anxious, and oh, so tired. Some characterized their workload as "overwhelming" and "unmanageable." Seventy-two percent said they were "often or always" stressed about schoolwork. A majority had sacrificed outside interests to make time for schoolwork. Sixty-eight percent said homework "often or always" short-changed sleep. Students averaged 6.8 hours of sleep on weeknights, far short of the nine hours their adolescent bodies need.

Such a workload is rigorous all right, but in all the wrong ways. As the mother of a hard-working high school junior, I know these hefty homework averages are on the mark. In our house right now, the days are long, and sleep is scarce.

Still, the remedy isn't to forgo homework altogether. Meaningful, reasonable homework is beneficial for learning. There is a key caveat, however: two to two-and-a-half hours of nightly homework is the maximum amount linked to positive academic outcomes for high schoolers, according to Duke University scholar Harris Cooper. More than that is "counterproductive."

Certainly, many kids are right where they should be in terms of homework. And some, especially at poor-performing schools, aren't assigned enough homework (and lack the support to complete it). But for other kids, homework has become a Sisyphean task they must tackle night after night, collapsing into bed only to get up and do it all over again. Instead of training their minds, we're exhausting their bodies.

So goodnight, homework overload: It's time for lights out. *CJ*

Kristen Blair is a Chapel Hill-based education writer.



KRISTEN BLAIR

Pro-Voucher Group Lets Parents Tell Their Stories

By BARRY SMITH
Associate Editor

RALEIGH

A group arguing on behalf of low-income families who support education vouchers is taking to the Internet and social media to tell the stories of parents who want to take advantage of the voucher program, which is now tied up in court.

"The clock is ticking here," said Darrell Allison, president of Parents for Educational Freedom in North Carolina, a group backing educational alternatives and reform efforts. He said the YouTube videos posted by the group at oneof4500.com will give a voice to parents who have "gone the extra mile" to get an alternative education for their children. In the video series, 25 parents located in all of the state's geographic regions are telling their stories, Allison said.

The Opportunity Scholarships, or vouchers, would provide as much as \$4,200 in scholarships for children from lower-income families to offset the cost of attending private schools. To be eligible in the first year, the children receiving the vouchers must have been enrolled in a public school the previous year and qualify for free- or reduced-price lunches under the federal school-lunch program.

In February, Superior Court Judge Robert Hobgood issued a preliminary injunction against the vouchers. Parents who have intervened in the lawsuit and are represented by the public-interest law firm the Institute for Justice are attempting to get the injunction overturned at the N.C. Supreme Court after the N.C. Court of Appeals refused to do so.

Plaintiffs challenging the program claim that the vouchers violate a provision in the N.C. Constitution that requires the state's public school fund to be used exclusively for public schools. Supporters of the vouchers argue that the opponents are misapplying and misreading that provision of the N.C. Constitution.

Meanwhile, in a video released by PEFNC to promote its series, Allison argues that alternatives are needed for children from lower-income families who are not being served by the state's public schools.

"In North Carolina, if you're a student from a low-income family, here are the statistics that we're faced with," Allison said. "Less than 30 percent of low-income students currently

enrolled in public schools are proficient in reading and math," Allison said. "North Carolina, we're better than that."

Allison said that earlier this year, over a 25-day period the Opportunity Scholarships program received more than 4,500 applications from low-income families from 95 counties across the state.

"We were experiencing tremendous momentum, but then the bottom fell out," Allison said, referring to Hobgood's injunction.

In addition to preventing scholarships from being awarded to low-income students, the order halts administrative actions by the state to implement the program. For example, the N.C.

State Education Assistance Authority, which is charged with administering the scholarships, is prohibited by the order from even conducting a lottery to whittle the 4,500 applicants down to 2,400, which is the number of scholarships the General Assembly funded for the first year.

That order, Allison said, "yanked the rug out from under them."

The N.C. Association of Educators and the N.C. School Boards Association brought the legal challenge to the voucher program. The two lawsuits have been combined in Wake County Superior Court.

"We aim to fight for this program legally," Allison said. "And I am confident that ultimately we will prevail."

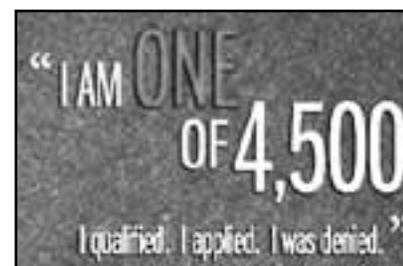
Allison noted that officials have heard from supporters and opponents of the program, legislators on both sides, and lawyers litigating the program.

"But guess whose voice has been missing in this debate? Parents," Allison said.

He said the "One of 4,500" campaign will allow viewers to hear directly from the parents who stand to benefit from the program.

The two parents who have intervened in the lawsuit — Cynthia Perry of Wake Forest and Gennell Curry of Creedmoor — are among the parents who will tell their stories in the videos, Allison said.

Allison said that while the sheer number of parents who signed up for the program makes a powerful statement, so do the stories from individuals who hope to benefit from the scholarships. *CJ*



Teacher Pay Will Headline 2014 Short Session of General Assembly

By BARRY SMITH
Associate Editor

RALEIGH
Education issues should headline the “budget adjustment” or “short” session of the General Assembly that convenes May 14. A promise by Gov. Pat McCrory and GOP legislative leaders to increase pay for early-career teachers tops the brief list of legislative priorities for the session. Lawmakers also may decide to allocate funding for Opportunity Scholarships — tuition vouchers for low-income K-12 students — if a lawsuit now stuck in state court is resolved. Meantime, a task force reviewing overall teacher compensation decided to punt any recommendations to the State Board of Education.

Education issues

Education issues should headline the session, after last year’s General Assembly enacted historic tax and regulatory reforms, along with broad changes in election laws.

“I don’t think you’ll see many major new legislative initiatives,” said Rep. David Lewis, D-Harnett, who co-chairs both the House Finance Committee and the House Elections Committee. He said the upcoming session might become just a budget adjustment session and a time to make technical fixes to laws already passed.

What will the session be like? “Short,” said Sen. Jerry Tillman, R-Randolph, who co-chairs the Senate Education and Higher Education committees. “I think that the dynamics are still there for a short session.”

Teacher pay has been a hot topic since the General Assembly adjourned last summer. Although the public school appropriation increased by 4.8



Education issues will dominate the 2014 General Assembly short session, but thorny environmental and auto insurance issues also could be addressed. (CJ file photo)

percent over the previous year’s figure, the budget did not include across-the-board pay raises for teachers.

Earlier this year, McCrory and top legislative leaders outlined a pay increase plan for early career teachers that would amount to a 14 percent base pay increase over the next two years. New and early-career teachers would get a \$2,200 pay increase the first year, and a \$2,000 pay increase the second year.

However, a legislative task force looking into the structure of teacher compensation failed to offer any recommendations on restructuring teacher pay for the 2014 session. Instead, the task force recommended legislation directing the State Board of Education to conduct its own study.

“This task force really isn’t making any express recommendations,” said Rep. Rob Bryan, R-Mecklenburg, who co-chaired the task force.

The report left some task force members frustrated. Rep. Tricia Cotham, D-Mecklenburg, noted that when she asked her history students to write a report, she would on occasion tell them that their reports contained “a bunch of fluff.”

“And that’s what I thought of this report when I read it,” Cotham said.

Cotham said she’d heard phrases like “it’s a long-term study” and “we can’t do this now” from both Democrats and Republicans.

“As I said to them at the time, that’s a bunch of fluff, so I repeat the message again,” Cotham said. This is a disappointing report.”

Last year, lawmakers passed a two-year General Fund budget, appropriating \$20.6 billion for the current (2013-14) fiscal year and \$21 billion for the next (2014-15) fiscal year.

The primary work of the 2014 General Assembly will be to tweak that 2014-15 fiscal year budget.

One issue lawmakers will have to deal with is the budget unpredictability of Medicaid, the joint federal-state health program for the poor. State officials say that Medicaid is running about \$140 million over budget.

Coal ash

McCrory also plans to ask for 19 new positions in the Department of Environment and Natural Resources to increase regulation and monitor the closing of some coal ash ponds near coal-powered electricity plants. The move comes after an earlier coal ash spill from a Duke Energy coal ash pond leaked into the Dan River.

“Since taking office in January 2013, my administration has discovered a number of longstanding shortcomings in state law that hamper our ability to adequately protect public health and the environment in addition to dealing with emergencies when they happen,” McCrory said in a statement. “We need to close these loopholes and give our regulators the

tools they need to solve this more than 60-year-old coal ash problem.”

Environmental groups are critical of the plan and have issued a statement critical of McCrory.

“This proposed bill does not require a cleanup and asks the Legislature and the public to trust DENR and Duke to decide what to do with Duke’s polluting coal ash pits,” said Frank Holleman, senior attorney at the Southern Environmental Law Center.

Opportunity Scholarships

Voucher supporters could be taking a wait-and-see approach before deciding what to do about the Opportunity Scholarships program, which is tied up in state courts.

In February, Superior Court Judge Robert Hobgood issued a preliminary injunction preventing the state from awarding scholarships worth as much as \$4,200 for up to 2,400 students from lower-income families to attend private schools. Parents who have intervened as defendants, along with legislative leaders, have asked higher courts to lift that injunction.

“In my opinion, we need to wait until the courts rule and to see if they’ll lift the injunction, so we’ll know what to do,” Tillman said. “The money is set aside.” Tillman was referring to \$10 million placed in the N.C. State Education Assistance Authority budget for the scholarships.

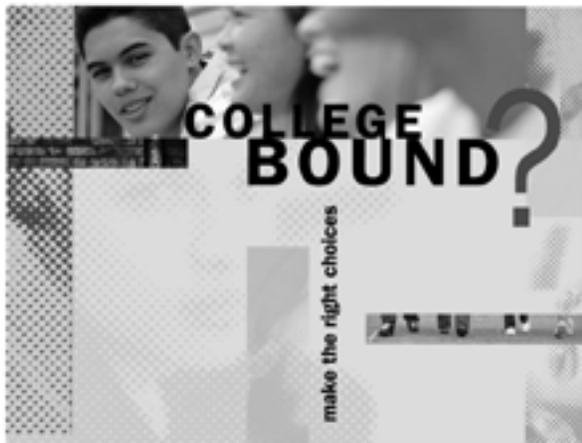
Lewis said there could be some tweaking of the tax reform package passed last year. He said one item to look at is providing a clearer definition of a service contract, which is taxable under the new tax system. Also, Lewis said, lawmakers will decide whether to extend film tax credits, which expire at the end of 2014. He said support for film tax credits is waning.

Auto insurance

The FAIR NC Coalition, a group of auto insurers and trade organizations, is pushing for a change in the state’s auto insurance laws that would allow companies to offer discount programs that are available in other states, but not North Carolina. Those programs include State Farm’s Steer Clear program for teen drivers, Progressive’s Snapshot program, and Allstate’s accident forgiveness program.

The fate of some bills left hanging from last year’s session also could be decided. They include deciding whether to let voters see a proposed constitutional amendment preventing eminent domain abuse, addressing a plan from the McCrory administration privatizing economic development functions of the Commerce Department, and establishing state regulation of dog-breeding operations also known as puppy mills. CJ

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Town and County

Beach nourishment tax

New Hanover County beach towns continue to search for additional funding sources to pay for beach renourishment. One option, reports the *Wilmington Star-News*, is a tax on prepared food and beverages.

"People stay in facilities that don't charge room occupancy tax — condos, friends' houses," said Carolina Beach Mayor Dan Wilcox. "These visitors are using our beach, and they're stopping at restaurants."

The local Tourism Development Authority board rejected a proposal to allocate more revenue from the existing room occupancy tax for beach projects. By law, a set percentage of the funds from the hotel-motel tax pays for beach renourishment. The towns of Carolina Beach, Kure Beach, and Wrightsville Beach would like to see a higher percentage spent to renourish beaches at the expense of marketing.

"The one thing any smart business would never do is cut their marketing budget," said New Hanover County Commissioner Jonathan Barfield, who sits on the TDA board and voted against the proposal.

A prepared food tax or changes to the TDA allocation formula would require approval from the General Assembly.

Red-light cameras

The Fayetteville City Council has approved a plan that could return red-light cameras to the city. The General Assembly must pass legislation making the cameras financially viable, reports the *Fayetteville Observer*.

Along with most of the state's major population centers, Fayetteville used the cameras for traffic enforcement until a 2006 court ruling undermined the viability of the systems. Localities entered an agreement with a company to provide and operate the cameras. In exchange, the company kept most of the money from the fines assessed to those caught running red lights.

Under state law, however, local schools are entitled to the "clear proceeds" of fines — and the courts held that the company's share of the money was an enforcement expense. Thus, most cities with red-light cameras were losing money.

Fayetteville will ask the General Assembly to pass a local bill stating that schools will receive any proceeds after the camera company gets its share. It remains to be seen if the legislature will go along. CJ

Feds May Give Muni Broadbands Second Look

By BARRY SMITH
Associate Editor

RALEIGH

Federal Communications Commission Chairman Tom Wheeler recently said he may revisit state restrictions on municipalities' involvement in the broadband business. Those comments have raised some eyebrows, both in the broadband industry and among public policy analysts.

A 2011 North Carolina law placed new limits on city-owned communications service providers. The intent of the measure was to prevent municipalities from building and offering broadband service and using taxpayer subsidies to undercut private competitors. It's unclear whether a move by the FCC to overrule state law would survive challenges in the courts, but observers are wary.

Wheeler based his comments on a dissenting opinion from a D.C. Circuit Court of Appeals decision. The dissent raised the possibility that the FCC could remove legal restrictions imposed by states that limit or prohibit municipalities from offering competitive broadband services.

David Williams, president of the Alexandria, Va.-based Taxpayers Protection Alliance, compared Wheeler's reasoning to that of a football team that trails by 21 points

in the fourth quarter doing a celebratory dance when its defense sacks the opposing team's quarterback.

"This commissioner and previous commissioners have a fascination with broadband," Williams said. "They will latch onto anything to give the government reason to spend more money on broadband."

Lawrence Spiwak, president of the Washington, D.C.-based Phoenix Center for Advanced Legal and Economic Public Policy Studies, questions whether such a move by the FCC would be successful. "The legal question is, can the FCC pre-empt [state] law?" Spiwak asked. "The answer, my reading is, no." Spiwak continued, "If the FCC tried to do it, you can be assured of a court challenge."

The North Carolina law requires cities to get a vote of the people before they can borrow money to build municipal broadband ventures. It prohibited municipalities from using revenues from noncommunications sources to pay for broadband service expenses and banned the practice of charging subscribers less than the actual cost of providing the service.

The legislation, which became law without the signature of then-Gov. Bev Perdue, also required cities operating broadband services to pay counties the amount of money a private broadband provider would have paid in property taxes. The city-owned entity also must pay the state an amount equal to a private provider's obligations in income, franchise, vehicle, motor fuel, and other similar taxes.

Former state Sen. David Hoyle, D-Gaston, supported

similar legislation before he left the Senate in 2010. He said he was concerned about cities running up large debts in the same way several North Carolina municipalities that own their electricity utilities had amassed debt by owning nuclear power plants.

"If [the cities] didn't pay it back, the state probably would have to," Hoyle said of the debt. The intent was to create a level playing field. "What I didn't want to see happen was, they'd borrow all this money and then five or 10 years from now ask for a bailout," Hoyle said.

If cities weren't required to pay taxes, they'd have an unfair advantage over private providers, Hoyle said. "They need to pay the same taxes," Hoyle said. "Right's right, and wrong's wrong."

Paul Meyer, executive director of the N.C. League of Municipalities, said the state's cities and towns haven't discussed whether they might be affected by the comments of the FCC chairman.

"I think we're just really early in that conversation," Meyer said.

The League of Municipalities opposed placing restrictions on cities seeking to provide broadband service, noting that several now are in the broadband business. Six North Carolina municipalities — Wilson, Salisbury, Laurinburg, Morganton, Davidson, and Mooresville — established municipal broadband service before

the 2011 law was enacted. The current law largely exempts those cities from the new restrictions, but it does limit coverage to areas inside corporate limits.

"It's in everybody's interest that [cities with broadband] succeed," Meyer said, adding that some areas in the state are not being served by incumbent providers. The law provides cities with a process of providing broadband to areas of the cities that don't receive such service.

"We wanted to make sure that those opportunities weren't jeopardized," Meyer said.

John Jones, a CenturyLink vice president, said the North Carolina law protects consumers and taxpayers.

"It requires a vote of the people before they move forward," Jones said. "Our philosophical view is that it only makes sure that the people who are going to be footing the bill have a vote."

Jones said that across the nation, many municipalities' entry plans are not based on the viability of the city to support a profitable service. "[The cities] wouldn't do the same thing that a regular provider would do to see if it's viable."

Williams said he is not opposed to cities going into areas that have no high-speed Internet service. "There is a very, very limited potential for them to provide broadband for places that are not served at all," Williams said.

Williams added that some major commercial providers of broadband look to buy up failing broadband ventures, including municipally owned ones, for pennies on the dollar, calling it a back-door form of corporate welfare. CJ



Volunteer Numbers Dwindling For State's Fire Departments

By MICHAEL LOWREY
Associate Editor

RALEIGH
Many fire departments are struggling to attract enough volunteers. This reflects both more demanding training standards and changes in local employment patterns, says the Asheville *Citizen-Times*.

Of the nation's 1.1 million firefighters in 2012, just under 800,000 — 69 percent — were volunteers. That reflects a drop of more than 100,000 volunteers since 1984, when volunteers comprised more than 80 percent of all firefighters. The ranks of volunteers are expected to dwindle over time; a quarter of them today are 50 or older.

When Reems Creek Volunteer Fire Department Chief Jeff Justice first trained to become a firefighter in 1980, only 36 hours of instruction were required. Today it's 250 hours.

"They have to do the same training as a paid professional, but without pay," Justice said. "It winds up taking so much time from their families."

Black Mountain Fire Department deputy chief Craig Bannerman agrees.

"It's getting harder and harder for those folks to play the role they have in the past," he said. "The requirements are much more time-restrictive. In my experience in traveling to conferences and talking with people, the problem is pretty universal."

Compounding the problem is the changing nature of the economy, with more people commuting from small towns to cities for work, reducing the number of people available to volunteer near home.

"When I first started, there was a lot of farmland," Justice said. "We had a lot of farmers, and they would just leave their fields to respond. As far as volunteers in the fire district during the day, there aren't very many."

Winston-Salem streetcar?

The Winston-Salem City Council has approved the route for a future streetcar line. What's unclear is whether the city can find the money to build it, reports the *Winston-Salem Journal*.

Officials admit the most likely potential source of funding for the \$179 million streetcar line is Washington, D.C.

"The federal government has [money] for transit systems, but it is a very competitive process," notes Win-

ston-Salem City Manager Lee Garrity. "We don't have local financing, so we would have to get federal funding."

City officials see a streetcar line as a possible economic development tool.

"Some cities around the country are going to get it, so it might as well be Winston-Salem," council member Derwin Montgomery said.

By selecting a mode of transportation — streetcar instead of enhanced bus service — and a route, the city has put itself in the mix for federal funding. City staff members are developing

a list of next steps the city should take. High on the list is finding between \$1.4 million and \$1.5 million in local money for preliminary design work, which may be repaid by the

federal government if federal officials decide to fund the project in the future.

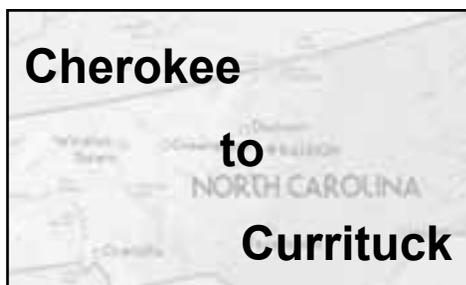
Asheville housing policy

The city of Asheville may require developers to include affordable units in any future housing projects they build. It's unclear whether the city will adopt such "inclusive zoning" as part of its regulations, and if so, to what degree, reports the Asheville *Citizen-Times*.

Currently, three municipalities in the state — Chapel Hill, Carrboro, and Davidson — require developers to incorporate a percentage of units that are sold or leased at below-market rates in any new project. Many more cities impose a "density bonus" — allowing a greater number of housing units per acre — if a development includes "affordable" units.

Assistant city attorney Jannice Ashley told a committee of the city council that requiring affordable units may be the more desirable policy, as it "can be applied to the broadest number of developments and produce a predictable quantity of affordable units at a level that remains in step with overall growth." She said that an inclusive zoning policy likely would result in a "slight" increase in prices for other units and that there is some question as to whether state law allows such a provision.

Councilman Gordon Smith, who chairs the committee, expects the city council to be ready to act on a policy to increase affordable housing by the fall. He said that while mandatory inclusive zoning is a possibility, the city was more likely to try less restrictive options first. CJ



COMMENTARY

Questions Surround Cannon Indictment

North Carolina's reputation as a "clean government" state has suffered in recent years, with a host of high-profile arrests of public officials on corruption charges. The latest came March 26, when Charlotte Mayor Patrick Cannon was arrested for allegedly taking a bribe from a federal agent. Cannon resigned the same day.

There's a significant difference between this and other recent major public corruption scandals in North Carolina, though. The cases involving former House Speaker Jim Black and former Gov. Mike Easley were well-reported beforehand. That isn't so with Cannon. No one was expecting him to be arrested that Wednesday in late March.

At this stage, about all we know comes from what's in the former mayor's indictment:

This investigation was initiated in August 2010 based on a tip and information received from local law enforcement. A local law enforcement officer was working in an undercover capacity on other criminal matters and learned of information that would be helpful to the FBI regarding public corruption. Although the FBI was originally investigating other individuals and other potential criminal activities, the investigators learned that Cannon was potentially involved in illegal activity.

Beginning in 2011, the FBI used undercover agents to target Cannon, who allegedly accepted bribes from them beginning in January 2013. He's alleged eventually to have taken \$48,500, along with the use of a luxury apartment in Charlotte. He also allegedly took an all-expense-paid trip to Las Vegas with his wife. The FBI claims that Cannon demanded substantially more, including "a point" — 1 percent of the value — of a \$125 million potential investment along Charlotte's proposed streetcar line.

The indictment raises a number of questions. What law enforcement agency employed the undercover cop who initially tipped off the FBI? What sort of possible corruption did the tip involve? And what of that apparently ongoing

investigation into "other individuals and other potential criminal activities?"

Why did the FBI target Cannon? And why did agents think he would take a bribe? That's important, because as of now, Cannon only faces charges related to the money he allegedly took from the FBI — from what we know, the agency is not alleging that Cannon had participated in any other corrupt activities.

The obvious answer, according to the indictment, is that the FBI heard credible stories that Cannon might be willing to take a bribe. But is he the only official who might have been tempted? Is that the next step in the investigation? Or might Cannon cut a deal to testify against others?

Moreover, Cannon's service as an elected official was not continuous.

Cannon served on the city council from 1993 through 2005 and then again from 2009-13, when he was elected mayor. So did Cannon seem willing to take a bribe during his first stint on the council, or was it a failing he developed only after he returned to the board? Put another way: The statute of limitations regarding any public corruption-related charges connected to Cannon's previous council tenure probably has expired. Did anything that happened during those 12 years on the board shape the FBI's investigation? Or did Cannon suddenly become so obviously corrupt that he attracted the FBI's attention when he returned?

And if Cannon was on the take, were other recent Charlotte city actions influenced by money passed out in designer briefcases? Are other Charlotte city or Mecklenburg County officials, whether elected or on staff, on the take?

There are a lot of unanswered questions. Hopefully, we'll soon have answers — because until we know the extent of the ethical rot, the Queen City, and by extension, the state, can't begin to rebuild its reputation. CJ

Michael Lowrey is an associate editor of Carolina Journal.



MICHAEL LOWREY

Court: Private Property Parking Subject to Zoning Ordinance

By MICHAEL LOWREY
Associate Editor

RALEIGH

In a recent decision, the state's second-highest court ruled that a local regulation limiting the number of cars that can park legally on a residential lot is not a parking ordinance but a zoning ordinance. The case, which originated in Chapel Hill, could affect the property rights of property owners who rent space in single-family homes anywhere in the state.

The town of Chapel Hill established the Northside Neighborhood Conservation District to address issues associated with students who rent houses in the Northside neighborhood near the UNC-Chapel Hill campus. In particular, the town sought to reduce the number of students living in the area by limiting the number of tenants in a house to the number of bedrooms in it.

In practice, this proved difficult to enforce, so in 2012 the town took a different tack: limiting to four the number of cars that could park on residential lots — both owner-occupied and rental properties — in the conservation district. If the town found too many cars on a lot, it could cite and fine the property owner, rather than the tenants or the owners of the cars.

Several property owners who rented to students were cited by the town; they challenged the legality of the new ordinance. After a Superior Court judge ruled against the property owners, they brought the issue before the N.C. Court of Appeals.

Before the appeals court, the property owners raised two arguments against the town's new parking rule: that the regulation violates due process

protections in the N.C. Constitution and that the state had not given localities the authority to regulate parking on private property.

Article I, Section 19 of the N.C. Constitution provides protections against improper government actions, including the recognition of substantive due process, "a guaranty against arbitrary legislation, demanding that the law be substantially related to the valid object sought to be obtained."

For their part, the property owners contended that enforcing the parking limit against them, rather than the owners of the vehicles or the tenants, was "entirely irrational, arbitrary, and capricious."

The Court of Appeals was not swayed by this argument.

"Where defendant enforced a zoning amendment by citing the owners of rental properties rather than their

tenants because it was a more effective method of enforcement, their enforcement against property owners was rationally related to the purpose of the zoning restriction and did not violate plaintiffs' right to substantive due process," wrote Judge Sanford Steelman for the appeals court.

Steelman noted that Chapel Hill had submitted affidavits from a planner and a code enforcement official stating

that the parking regulations were a more effective manner of addressing over capacity in housing units and that the property owners had not challenged the town's contention that overcrowded housing was a problem.

Next, the property owners argued that the town didn't have the au-

thority to regulate parking on private property. N.C. General Statute § 160A-301 gives cities the authority to regulate parking on public streets and com-

mercial properties. Because the law doesn't mention residential property, the property owners claimed Chapel Hill doesn't have the power to limit parking at the houses they own.

The appeals court also rejected this line of reasoning.

"We conclude that, although the parties have referred to the zoning amendment as a 'parking' regulation, the context establishes that the amendment was intended to regulate the ratio of bedrooms to tenants in rental properties in the NNC District by restricting the number of vehicles parked in the yard," wrote Steelman.

"We hold that regulation of parking in public vehicular areas is fundamentally different from zoning restrictions on the number of cars that may be parked on a private lot by tenants of a house, and that there is no basis for assuming that our General Assembly intended legislation allowing a city to regulate parking in public vehicular areas to diminish a town's authority to adopt land use zoning regulations that deal with population density or over-occupancy of rental homes. The fact that defendant chose to restrict the number of cars parked on a lawn as a rough proxy for the number of tenants does not transform this into a 'parking' ordinance. ..."

Court of Appeals rulings are binding interpretations of state law unless overruled by the N.C. Supreme Court. Since the three-judge panel of the Court of Appeals issued a unanimous decision, the high court is not required to hear the case if the property owners appeal.

The case is *Patmore v. Town Of Chapel Hill*, (13-1049). CJ

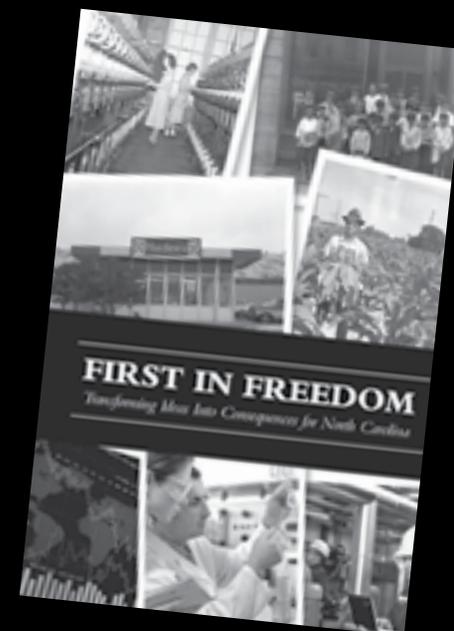


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Justices Reject Class-Action Status for Map Act Lawsuit

More than 800 property owners affected in case

BY MITCH KOKAI
Associate Editor

Most of the more than 800 property owners potentially affected by a lawsuit challenging use of the state Map Act in Winston-Salem will not benefit from any victory for plaintiffs in the case.

A 5-2 ruling from the N.C. Supreme Court on April 11 upheld a lower court's ruling denying "class certification" in the case — four individuals, a couple, and two businesses — will be allowed to proceed with the suit when it heads back to Forsyth County Superior Court.

Dissenting justices Paul Newby and Mark Martin argued that the original 2011 trial court ruling in the case relied on the wrong legal analysis in denying class certification. The dissenters argued that the trial judge should consider that issue again.

Plaintiffs contest the N.C. Department of Transportation's use of the Map Act to limit development of property targeted for Winston-Salem's Northern Beltway. First recorded in 1997 and amended in 2008, official "corridor maps" for that project limit building permits and approval of new subdivisions on affected properties.

N.C. DOT has purchased more than 450 properties for the highway project, but a federal court order

blocked any action on the properties from 1999 to 2010. Since 2010 the state has purchased at least six properties.

Plaintiffs filed suit in September 2010 in the case now known as *Beroth Oil Co. v. NCDOT*. They contend DOT's actions in continuing to limit development within the highway corridor "have placed a 'cloud' upon all real property in the Northern Beltway by 'destroying and nullifying [the] properties' value," according to a quotation of plaintiffs' legal arguments in Justice Barbara Jackson's majority opinion. The suit contends the state's "conduct constitutes a taking of their properties without just compensation."

While arguing against the DOT's continued use of Map Act restrictions, plaintiffs proposed extending their case to more than 800 property owners within the Northern Beltway.

Jackson and four colleagues agreed with the trial court and a unanimous three-judge panel of the N.C.

Court of Appeals that the plaintiffs had not met the legal standard to proceed with a class-action suit.

"We acknowledge that some property owners have suffered significant adverse effects as a result of the filing of the corridor maps and the long delay in any subsequent action by NCDOT," Jackson wrote. "Nevertheless, plaintiffs have not shown that all 800 owners within the corridor are affected in the same way and to the same extent."

The high court's majority ruled against the trial court and Appeals Court on the merits of the original plaintiffs' claims against N.C. DOT. The case will head back to Forsyth County Superior Court to address those claims.

Newby and Martin argued the trial court should have used a different standard to

determine whether the suit could proceed with class-action status affecting the additional hundreds of property owners.

"[T]he trial court should have weighed whether plaintiffs collectively

alleged a common substantial interference with certain property rights of all owners in the Northern Beltway corridor and whether that issue predominates," Newby wrote.

Unlike the Supreme Court's majority, Newby and Martin did not buy the argument that each case would be too distinct to join them together in one suit.

"Regardless of the past, present, or planned use of each parcel, certain rights to improve and sell associated with each allegedly have been impaired in the same manner by the same uniform restrictions," Newby wrote. "The monetary values eventually placed on the rights to improve and sell property do not affect the core question of whether the owners may still exercise those rights. ... If one owner suffered a taking of certain fundamental property rights based upon the corridor maps' blanket restrictions, all owners suffered a taking."

The Winston-Salem Northern Beltway project served as the "poster child" for a March John Locke Foundation Spotlight report calling for reform of the state's Map Act.

Pointing to 17 years of restrictions tied to the Winston-Salem corridor maps, the JLF report recommended repeal of North Carolina's Map Act. Only 13 states have map acts, and North Carolina's is one of the nation's most restrictive versions.

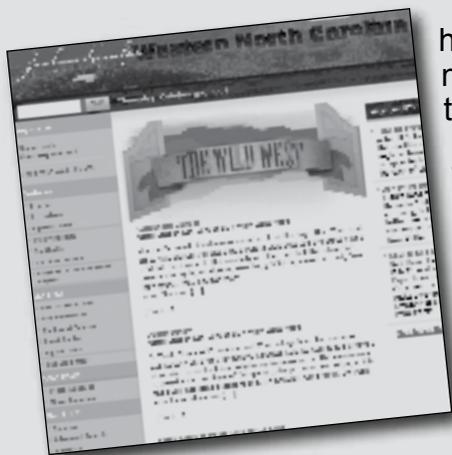
If state lawmakers reject outright repeal of the Map Act, the JLF report recommends new time limits for Map Act development restrictions and clearer rules restraining the governments that acquire property for Map Act projects. *CJ*



Ruling means that only the original plaintiffs are allowed to proceed with case

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It also features the blog *Right Angles*, featuring commentary on issues confronting Triangle residents.

Illegal Honduran Immigrants Get Jail Time In Tax Fraud Scheme

Continued from Page 1

who didn't exist or didn't live in North Carolina. Instead of a Social Security Number, the IRS issues an ITIN to non-citizen taxpayers and each of their dependents to process individual income tax returns.

Using fictitious names and identification documents, they rented U.S. Postal Service boxes in the eastern North Carolina towns of Wallace, Burgaw, Beulaville, Albertson, Willard, Roseboro, Aden, and Winterville.

Created false W-2s

They then obtained the Employer Identification Numbers from legitimate companies and created false W-2 earnings statements "making it appear that the purported taxpayers were employed by the legitimate companies, earning wages and paying federal income taxes through withholdings," a court document states. Pork producer Murphy Farms was listed frequently as the employer.

They filed a tax return for each fictitious identity and enclosed the false W-2 earnings statement. Each typically resulted in a refund of \$7,000 to \$8,000, as they listed several phony children as dependents.

Sent the money to Honduras

They directed the refunds to go to the mailboxes they had rented under fictitious names. When the checks arrived, they cashed them and trans-

NORTH CAROLINA VOTER REGISTRATION APPLICATION

QUALIFICATIONS:
 - You must be a US citizen by birth or naturalization.
 - You may register to vote only in the county in which you reside.
 - You must be at least 18 years of age by general election day, or at least 16 years of age to pre-register and understand that you must be 18 years of age on or before election day to vote.
 - If convicted of a felony, you may register to vote only after you have completed your sentence, including probation or parole. Once you have done that, North Carolina automatically restores your citizenship rights including your right to vote. No special document is needed.

SPECIAL NOTICE:
 The location where you received this form will remain confidential and will be used only for registration administration purposes. If you decline to register to vote, the fact that you so declined will remain confidential.
 IF YOU DO NOT WISH TO REGISTER TO VOTE AT THIS TIME, INITIAL HERE AND CHECK THE BOX BELOW:
 I DO NOT WISH TO REGISTER TO VOTE AT THIS TIME.

Are you a citizen of the United States of America? Yes No
 Will you be at least 18 years of age on or before election day? Yes No
 Are you at least 16 years of age and understand that you must be 18 years of age on or before election day to vote? Yes No

MR. ELI VALLE
 Name: [REDACTED] Drivers License #: [REDACTED] Party Affiliation: [REDACTED]
 3009 LAKE WOODARD DR APT B
 Residential Address: [REDACTED] Date of Birth: [REDACTED]
 RALEIGH, N.C. 27604-3258
 City/State/Zip: [REDACTED] State of Birth: [REDACTED] Ethnicity: [REDACTED] Race/Gender: [REDACTED]
 Previous Name: [REDACTED] WAKE County of Residence Phone (Optional): 910-443-8857
 Mailing Address (if different from your residential address): [REDACTED]
 City/State/Zip: [REDACTED]
 709 VALPARAISO ST
 Previous Address: [REDACTED]
 WALLACE, NC 28466-2057
 City/State/Zip: [REDACTED] Precinct/County/CD Code: [REDACTED]

WARNING!
 If you sign this form and know it to be false, you can be convicted of a Class 1 felony.

I Attest, under penalty of perjury, that in addition to having read and understood the contents of this form, that: (1) I am a United States citizen, as indicated above; (2) I am at least 18 years old, or will be at the time of the next general election, or I am at least 16 years old and understand that I must be at least 18 years old on Election Day of the general election in order to vote; (3) I shall have been a resident of North Carolina, this county, precinct, or other election district for 30 days before the election in which I intend to vote; (4) I will not vote in any other county or state after submission of this form and if I am registered elsewhere, I am canceling that registration at this time; and (5) I have not been convicted of a felony, or if I have been convicted of a felony, I have completed my sentence, including any probation or parole. (Citizenship and voting rights are automatically restored upon completion of the sentence. No special document is needed).

X [REDACTED] Signature
 2/1/2013 Date

A voter registration form with the fake name of Eli Valle shows a previous home address identical to the address of one of the men convicted of tax fraud.

ferred most of the money electronically to Honduras.

The Eli Valle registered to vote

in North Carolina appears to be an illegal alien using a fabricated identity, based on voter registration documents

and records obtained by prosecutors. Documents show that Fajardo was arrested at 709 Valparaiso St., Wallace, N.C. Tinoco also used the name Eli Valle, but *CJ* was unable to determine where he was arrested or where he lived when he was arrested.

Fake name on driver's license

Tinoco possessed a valid North Carolina driver license under the name Eli Valle that he obtained using a fraudulent birth certificate and Social Security card, according to court documents.

State Board of Elections records show that only one registered voter in North Carolina uses the name Eli Valle and that he lives on Lake Woodard Drive in Raleigh. He is an unaffiliated Hispanic or Latino male who registered to vote Feb. 1, 2013, by way of the N.C. Division of Motor Vehicles, most likely using the mechanisms of the "motor-voter" law. The sequence of events indicates that Valle moved to Raleigh and went to DMV to have his address changed.

Wake County Elections Board Deputy Director Gary Sims provided *CJ* with a copy of Eli Valle's voter registration application. Sims said state law requires him to redact three items: Valle's driver's license number, his date of birth, and his actual signature.

One item that remains public information is the applicant's previous address, which Valle listed as 709 Valparaiso Street, Wallace — the location where Fajardo was arrested. *CJ*

General Assembly Staff Rips Professor's Study On Film Tax Credits

Continued from Page 1

there for [continuing] it," Rep. David Lewis, R-Harnett, told *Carolina Journal* when asked how this year's short session of the General Assembly might deal with the film credit. "I think the data we've seen brings into question if it's a good value for the taxpayers of this state."

Lewis said lawmakers have a fiduciary responsibility to account for tax dollars.

"As hard as they've tried and as many good people — North Carolinians — that do work for the [film] industry, they simply have not been able to make the economic case that it's a good investment of the taxpayer dollar," Lewis said.

Industry-backed study

A group of North Carolina film commissions and the Motion Picture Association of America commissioned "A Supply Chain Study of the Economic Impact of the North Carolina Motion Picture and Television Industry" from Robert Handfield, distinguished pro-

fessor of supply chain management in N.C. State University's Poole College of Management. The industry-funded study hailed the benefits of maintaining the credit.

The Handfield report estimates the state gains a net \$5.2 million impact from the incentive, or \$1.09 in benefits for every \$1 it gives out in credits. When combining state and local fiscal impacts, the net benefit is \$25.4 million, or a \$1.42 return on a \$1 investment.

Blistering rebuttal

But in a blistering rebuttal, Fiscal Research staff found the state actually loses \$45.3 million, which amounts to 54 cents for each \$1 invested. Even after adding local tax collections, the net loss is \$33.1 million, or a 39-cent loss for each dollar invested.

"[Fiscal Research] concludes that the reported positive return on investment is based on a series of misunderstandings of the state's tax laws, invalid or overstated assumptions, and errors in accounting," the memo stated.

Memo authors Patrick McHugh and Barry Boardman of Fiscal Research noted in several parts of the memo that glaring errors and mistaken assumptions were brought to Handfield's attention prior to publication of his report, but he did not change his findings.

"We have not, to date, received satisfactory responses from the author on many of the questions related to the methodology and assumptions used in the report," the memo stated.

Author defends work

In an email requesting comment on the memo, Handfield told *CJ*, "I stand by my work, which is thoroughly documented."

The Fiscal Research authors noted that it was unusual for the Handfield report to project gains in local tax revenues. Typically, local gains are not included in an analysis of a state-level tax credit, they said. But Fiscal Research included local gains in their review of the Handfield report for consistency and comparative purposes.

Among methodological missteps is a nearly \$24 million understatement of what the film credit costs taxpayers. Handfield used a \$60.1 million figure provided by the state Department of Revenue for fiscal year 2012-13. The actual cost was \$84.2 million, which the authors said they pointed out to Handfield before he published his report.

The difference occurs because the lower number reflects only checks cut during that fiscal year. Due to the lag between the completion of production filming, the filing of credit applications, and the payment of refunds, some credits earned during fiscal year 2012-13 were not paid until the next year, thus the higher number is more precise.

Figures disputed

While Handfield's study said the film credit generates \$19.6 million in state personal income taxes, Fiscal Research said it is closer to \$9.67 million.

Handfield arrived at his figure by using a 6.25 percent effective tax rate.

Continued as "General," Page 15

General Assembly Staff Rips Professor's Study On Film Tax Credits

Continued from Page 14

Historical analysis of tax filings by Fiscal Research determined the rate paid normally is closer to 4.75 percent after deductions and exemptions are included.

To generate \$19.6 million in personal income at 6.25 percent would require wages paid of \$313 million, and wages of \$412 million at the 4.75 percent rate. But the Handfield report stated that total industry payroll was estimated at just \$224.8 million in 2012. Using apportionment formulas from Handfield's report, payroll probably was even lower — between \$175 million and \$203 million.

Sales taxes overstated

The Handfield report overstates the sales tax revenue from film production purchases because, in part, it assumes sales taxes were paid on services, which was not the case in 2012.

"Based on [Revenue Department] reports from 2010 through 2012, roughly 26 percent of all film production expenditures went to purchase goods," the Fiscal Research memo stated.

Applying that percentage to total direct spending reported by Handfield yields \$4.8 million in state sales taxes and \$2 million in local sales taxes. Those numbers may be high because not all goods are subject to the sales tax. Yet Handfield concluded that the sales tax generated \$5.3 million at the state level and \$3.4 million at the local level.

"The Handfield report significantly overstates the tax revenue generated when film workers spend their earnings," the Fiscal Research memo stated.

The report estimates half of the 4,200 film workers are married to a spouse earning the same wage. If the film worker loses employment due to discontinuation of the film credit, the report assumes, both spouses would leave the state, "which is extremely questionable if film workers are married to a spouse who earns the same yearly income," the memo stated.

Uncorrected error

The Handfield report determined that both state and local governments receive \$3.3 million in property taxes. Yet the state does not collect property



The EUE Screen Gems Studios in Wilmington are billed as the largest studio east of California. (CJ photo by Don Carrington)

taxes, marking another instance when the authors noted an error to Handfield that he did not correct.

Further, it is faulty accounting to say property values would be affected if the film credit were discontinued and film workers moved out of state, according to the memo. Whoever owns the property would continue to pay taxes. Claiming property taxes as a benefit of the film credit overstates the case by more than \$6.6 million, the memo stated.

Among other Fiscal Research findings:

- Handfield claims economic activity from the film incentive generates \$3.8 million in gas tax revenues. That figure probably is closer to \$2.5 million, because some miles traveled by film workers are out of state and North Carolina would not collect fuel taxes on gas purchased in other states. The average vehicle fuel economy used by Handfield probably is too low, meaning less gas actually would be purchased than the study suggests.

- Handfield asserts a \$5.3 million corporate income tax gain through apportioning 5 percent of national film industry proceeds to North Carolina. The number is closer to \$900,000 because production companies and film distribution companies are separate. Distribution entities are not impacted by the production companies' investment and employ-

ment.

- Handfield's claims of \$9.7 million in sales taxes and \$5.7 million in local sales and occupancy taxes induced by film-related tourism "result from the untested and unsubstantiated assumption that 1 percent of all tourism in the state was a direct result of film activities taking place in North Carolina," the memo stated.

That figure derives from a study commissioned by film credit proponents in Georgia, and there is no basis to prove it could be applied properly to North Carolina. Fiscal Research said the numbers are probably closer to \$4.8 million at the state level and \$2.9 million at the local level.

- The Handfield study does not include opportunity costs — the ways money spent on the film credit could have been used for other purposes in the general economy or to reduce public-sector spending.

Commerce Department officials have not responded to repeated requests for comment on the Handfield study and the Fiscal Research memo. CJ

Associate Editor Barry Smith provided additional reporting for this story.

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Structure, Civic Virtue, Self-Restraint Required to Prevent Tyranny

BY CJ STAFF

RALEIGH

Good constitutional structures are necessary, but not sufficient, to protect the American system of government. The nation needs civic virtue as well. That's the argument Robert George put forward in the 2014 John W. Pope Lecture at N.C. State University. George is McCormick professor of jurisprudence and founder and director of the James Madison Program in American Ideals and Institutions at Princeton University. He discussed the importance of civic virtue with Mitch Kokai for Carolina Journal Radio. (Head to <http://www.carolina-journal.com/cjradio/> to find a station near you or to learn about the weekly CJ Radio podcast.)

Kokai: Those are some very big items: constitutional structures, limited government, civic virtue — why tie them all together in this speech?

George: How does our constitution preserve liberty and prevent tyranny? The issue faced the founders of our country quite squarely. They knew what tyranny was. They'd experienced it under the old regime. But when they successfully liberated themselves from domination, from England, they then faced the question, "Well, how do we avoid creating the same problem on a homegrown basis?"

And so their answer was to create constitutional structures that would preserve liberty and prevent tyranny by limiting the size and scope and intrusiveness of, in particular, the national government, the federal government, ensuring that they wouldn't slip back into the situation they had under a strong central power when that power was in Westminster.

But our founders recognized that constitutional structures, as important as they are for the preservation of liberty and the prevention of tyranny, are not by themselves sufficient to achieve those goals. More is needed. And among the things that are needed is what we call civic virtue. That is, the understanding, the self-restraint, the principled conviction in the people themselves that would allow them to function as the true guardians of their own freedom.

Constitutional structures are, as I said, terribly vital. But if all we had to rely on were the formal mechanics of the Constitution, our liberty would pretty quickly disappear. It takes a certain kind of people, a certain kind of culture, a certain kind of civic culture in which people exercise and exhibit a certain kind of virtue to make liberty actually flourish — to sustain it, to secure it.

... I address the different ways in which civic virtue helps to support constitutional structures and the ways in which constitutional structures help to encourage civic virtue with the goal

"[O]ur founders recognized that constitutional structures, as important as they are for the preservation of liberty and the prevention of tyranny, are not by themselves sufficient to achieve those goals. More is needed. And among the things that are needed is what we call civic virtue."

Robert George
Director, James Madison Program
in American Ideals and Institutions
Princeton University



of establishing and maintaining and securing the blessings of liberty.

Kokai: You mentioned that the founders understood the importance of having both the structures and the civic virtue. Do we understand that as well today in America?

George: I'm afraid we don't, and I think that's a failing really, at the pedagogical level, at the educational level. We're failing to transmit to each new generation of young people the importance of leading virtuous lives if I can be very candid about it. Unfortunately, there's a view of freedom that's abroad in the culture, which detaches it from virtue, detaches it from morality, detaches it from any moral ordering. This is quite alien to the thought of our founders. Our founders easily distinguished license from liberty. And they were for liberty, but they were against license. In part they were against license because they knew that it was toxic for liberty.

We need to be able to govern ourselves, exercise self-restraint, be concerned for our own communities and not just for our narrow self-interests. We need to do all those things if we are to preserve liberty itself. So the slogan of the so-called "Me" generation — "if it feels good, do it" — which has been now internalized by successive generations after the generation of the '60s and '70s, is a real danger to the long-term preservation of liberty.

And that's why I think we need to redouble our efforts at the educational level. Parents, teachers at the school level, and also university teachers like myself, reminding people of what Washington perfectly well understood. We hear him say it in his farewell address. What Adams, the second president, Washington's successor, so well understood. What so many of our founders themselves articulated. And that is that a free people to be permanently free, to be securely free, must

be, at the same time, a virtuous people.

Now does that mean everybody's got to be perfect? No, nobody's perfect, nobody will be perfect. The founders also understood that old Christian concept of original sin. And in part as Madison reminds us in Federalist No. 10, in part the reason we have government is because we have weakness of the will. We have selfishness.

Kokai: We're not angels.

George: We're not angels. That's right. We're sinners. But we're still capable of exercising the virtues on which liberty ultimately depends, and we need to encourage those, inculcate those in our children. Teach them to each new generation, and make sure that each new generation understands their importance. We will not continue to be a self-governing people in the political sense if we lose the capacity to govern ourselves, our own desires, our own appetites, our own passions, in the personal sense.

Kokai: If we do a better job of inculcating this idea of civic virtue among the population, what sorts of benefits are we going to see in our society?

George: One thing I think we would see is a rebuilding of the institution of the family and a strengthening of the other institutions of civil society, which along with the family must play the primary roles in inculcating virtue and helping people to understand their responsibilities as well as their rights and so forth.

We're suffering now because of the collapse of our institutions of civil society — families, religious institutions, civic associations of every description, fraternal organizations — that, as Tocqueville reminded us as far back as the 1830s, really are essential to the good functioning of the American scheme of ordered liberty, morally or-

dered liberty.

If the institutions of civil society fail, if they collapse, if they are eroded, what will happen? Well, we know perfectly well what will happen. Government will step in to play the role that should be played by the family, to play the role of father to the orphan, provider to the mother of the child with no father in the picture. And when government moves in, government grows. It becomes more intrusive. The tax burden increases.

There are some people, Mitch, who think that there's some kind of tension or conflict between economic conservatism, as they call it, and social conservatism, as they call it. My heavens, the opposite is true. I have a new book out called *Conscience and Its Enemies*, and in the very first chapter I try to explain why economic and social conservatives, far from being adversaries, are singing from the same hymn book.

A social conservative needs to be an economic conservative. A social conservative has a big stake in limited government. And the same goes in the other direction: An economic conservative should be a social conservative. An economic conservative has a big stake in the health of the institutions of civil society, beginning with the intact marriage-based family and with the institutions of religion and other civic associations, nongovernmental associations, that really should have the primary role in caring for those who are in need, in educating our children and inculcating virtue and so forth.

So it's time for economic and social conservatives to stop being suspicious of each other and to work together, realizing that they have common goals. What is ironic, Mitch, is that the left understands this perfectly well. It's amazing. Socialists always attack two things. What are they? The free-market economy and the family. They know the connection. Why can't those of us on the conservative side see what they see?

'Gainful Employment' Rules Target For-Profit Colleges

By JENNA ASHLEY ROBINSON
Contributor

RALEIGH

The U.S. Department of Education on released earlier this year its latest draft of new gainful employment regulations.

"Gainful employment in a recognized occupation" originated with the passage of the federal Higher Education Act of 1965, and it is the term used for the department's standards for vocational programs. Under the new rules, for-profit institutions and community colleges will become ineligible for federal funds if a large percentage of their students fail to find jobs after graduation.

But vocational programs at for-profit schools and community colleges are held to a different standard than the vast majority of programs at four-year nonprofit institutions. Only vocational

programs leading to certificates at nonprofit schools are subject to the gainful employment rules. The paralegal and nutrition certificate programs at Meredith College in Raleigh are examples of such programs.

Using the latest Department of Education data, New America Foundation, a nonprofit organization that focuses on public policy issues, calculated what the new regulations would mean for 7,934 for-profit and community college programs. If the rules were applied today, the foundation concluded that 5,969 of the programs measured would pass, 665 would be in the "zone" of concern, and 1,300 — 16 percent — would fail.

The new standards are intended to root out bad programs that fail their students on at least one of two measures.

First, for a program to pass, its graduates must have an annual debt-to-earnings ratio at or below 8 percent, or a discretionary rate at or below 20 percent. That means a recent graduate making \$35,000 per year must have student loan payments of less than either \$233 a month or less than 20 percent of his or her government-calculated "discretionary" income.

Second, the school's cohort default rate — which follows graduates and nongraduates for three years after they begin repaying student loans — must be below 30 percent. In other words, a program or school would lose

eligibility for federal funds if its graduates' average student debt exceeded a certain percentage of their income or if 30 percent or more of its former students defaulted on their student loans within three years.

Failing to meet those standards can cost schools federal Title IV funding, which includes student loans, Pell grants, and work study programs. However, Title IV funding can be rescinded only after the school or program has failed on a measure for at least two years or has been in the "zone" (that is, close to failing) of the debt-to-income measure for four consecutive years.

These standards do not appear to be difficult to attain. The thresholds are generous, consequences kick in only after several years of failure, and programs that become ineligible for federal funds can re-enter Title IV with a clean slate after

three years. Therefore, most programs offering beneficial education and training will survive. Those that are simply skimming federal money from credulous students will not.

But those standards are not applied to four-year nonprofit schools. If they were, some schools in North Carolina would not pass.

Two schools now would run afoul of the default rate limits. The National Student Loan Data System shows that Livingstone College, a historically black college in Salisbury, had a cohort default rate of 32.4 in 2010. Saint Augustine's College, an HBCU in Raleigh, had a default rate of 30.6. Both schools would fail the default rate standard.

It's difficult to know whether any North Carolina universities would fail the standards based on debt-to-income ratios because reliable income data are not publicly available. And for many North Carolina schools, information on average debt is not published. Among schools that do provide it, students at two schools have debt that's well above the national average. At Chowan University, average debt is \$38,932. At Mid-Atlantic Christian, it's \$37,108.

Nationally, the average student debt is \$29,000. CJ

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



COMMENTARY

Caving To Censorship Pressure

There is a growing trend on American college campuses, a trend that augurs badly for free speech and robust debate.

I refer to the way various groups of people use expressions of their hurt feelings to trump speakers with whom they disagree. A recent manifestation of this was at Brandeis University.

Brandeis had invited the Somalia-born Ayaan Hirsi Ali to receive an honorary doctorate and speak at the university's commencement exercises. Her remarkable story is certainly worth honoring.

She fled her native Africa to avoid one of those "arranged marriages," finding asylum in the Netherlands. While living there, she was elected to the Dutch Parliament and became an outspoken critic of the way females are treated under Islamic law.

She wrote the screenplay for a short film titled "Submission" in 2004. The film's director, Theo Van Gogh, was stabbed to death in Amsterdam by an Islamic zealot in 2006, as retribution for his role in the film. For a year, Hirsi Ali continued living in the Netherlands, under heavy security, since she was also a target. In 2007, she left for the United States.

Brandeis thought that she was worth honoring for her work on women's rights around the world — but then came the opposition. An online petition excoriated Brandeis, stating that Hirsi Ali had engaged in "hate speech" against Islam because she denies that it is "a religion of peace."

The pressure was too much for Brandeis officials. On April 8, the university announced its cancellation of the honorary degree and revoked her invitation to speak. Brandeis said that although Ayaan Hirsi Ali is a "compelling public figure and advocate for women's rights," it could not grant the honorary degree because some of her statements "are inconsistent with Brandeis University's core values."

Since when is saying controversial things inconsistent with the "core values" of Brandeis (or any other university)? Hirsi Ali's

views about Islam are no doubt debatable, but having said debatable things in the past should not preclude anyone from speaking in the future.

She wrote in a sharp rejoinder to Brandeis, saying, "Neither Brandeis nor my critics know or even inquired as to what I might say. They simply wanted me to be silenced."

Exactly.

America always has had groups of people who are so absolutely certain of their righteousness that they boil over with anger at anyone who disagrees with them. We have seen zealotry over religion, alcoholic beverages, racial policies, unions, communism, schooling, abortion, and many other issues.

In the past, however, our educational institutions mostly held to John Stuart Mill's belief that free and open debate was the only proper approach to the clash of ideas. No one should be censored merely because others might find his or her thoughts to be upsetting.

Brandeis' treatment of Ayaan Hirsi Ali shows that a new and dangerous approach to intellectual conflict is setting in among our colleges and universities — the idea that if a speaker's statements (or mere presence) sufficiently outrage some opponents, that's reason to say, "No, we don't want you here." This is worse than allowing the "heckler's veto," because merely asserting hurt feelings or the threat of conflict now suffices to silence someone.

Educational leaders should reply to all such protests, "If you think you'll disagree with a speaker, first hear what he or she has to say, then make the best counterarguments you can." That should be a universally applicable rule.

University officials should have enough backbone not to cave in to attempted intimidation by groups that want free speech for themselves but not for anyone who disagrees with them. CJ

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



GEORGE
LEEF

Campus Briefs

Debating HBCUs

North Carolina Central University's College of Behavioral and Social Sciences recently held its second annual "Great Debate" in front of a packed audience of students and professors. "HBCUs: Can They Survive?" was the topic of this year's debate, which featured student teams from several university departments.

The students from N.C. Central, one of North Carolina's five public historically black universities, discussed profound issues affecting not just their school, but all 106 of the private and public HBCUs across the country.

Moderator Brandon Robinson of the UNC system's General Administration asked tough questions, including: Are HBCUs necessary for black students? Would the great civil rights leaders of the 1950s and 1960s still support HBCUs given the major societal changes that have occurred since the Higher Education Act of 1965 made "HBCU" an official designation?

Students argued "pro" and "con" positions for the sake of the debate; their responses may not have reflected their actual views. In fact, the dean of the College of Behavioral and Social Sciences told me that a couple of student groups had dropped out of the debate because they didn't want to talk negatively about HBCUs.

At any rate, one team correctly noted that more than 90 percent of black students attend non-HBCUs, and blacks are being accepted in large numbers by both community colleges and "predominantly white" universities. Closing struggling HBCUs (many have been set back by low enrollment numbers and declining academic standards) would not impair blacks' collegiate access, the students argued.

Another team said that since we live in a diverse and "post-racial" society, maintaining HBCUs is a form of segregation. "We would like to be inclusive of all persons rather than simply target minorities or low-income populations," said one student.

Watching the debate, I picked up strong hints of political progressivism based more on emotion than critical thinking. Nevertheless, I commend N.C. Central for sponsoring this event and for being willing to pose challenging questions. Such debates should be more common in higher education. *CJ*

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

UNC-CH Struggles With Issue of Campus Sex Crimes

By HARRY PAINTER
Contributor

RALEIGH

There is a tough question that all universities must answer, from a legal if not moral perspective: How much of our limited resources should we spend to ensure that the next victim of a sex crime is given the treatment he or she deserves?

The University of North Carolina at Chapel Hill has spent the past year, and will spend hundreds of thousands of dollars, trying to answer that question.

About a year ago, the university began assembling a full-time team for compliance with Title IX, the 1972 federal law that prohibits discrimination on the basis of sex in educational institutions receiving federal funds. While the law is best known for mandating more athletic programs for women, it has other ramifications.

UNC-Chapel Hill had at least one huge incentive to implement a new Title IX compliance system: a public relations nightmare. In January 2013, three students, an alumnus, and former dean of students Melinda Manning sent a 34-page complaint to the Office of Civil Rights in the U.S. Department of Education, charging that UNC-Chapel Hill violated the rights of sexual assault victims.

The alleged violations included university officials treating accusers unfairly, failing to train Honor Court members who presided over sexual assault hearings, and failing to provide information to victims. Another grievance was that the university's legal staff pressured Manning to underreport sexual assault cases. If the allegations are true, the administration had violated Title IX and the Clery Act, a 1990 law dictating campus crime disclosures, among other laws.

The university still is addressing the problem a year later. It has created six full-time positions solely for Title IX compliance, housing them under a new division of the Equal Opportunity/ADA office. The number of full-time Title IX employees at N.C. State University? Zero. At Duke University? Also zero.

UNC-Chapel Hill administrators involved in the process of hiring the team declined to be interviewed by phone or in person for this story after repeated phone and email requests.

In May 2013, the university also put together a 22-member task force to devise a new campus policy for responding to Title IX complaints, ranging from sexual assault to discrimination. Membership on the task force was voluntary and did not require any new funding.

The six-member compliance team, meanwhile, will cost the university at least \$479,000 per year. The university also hired attorney Gina Smith; her salary would bring that total to at least \$639,000 per year to bolster its



The UNC-Chapel Hill website contains a frequently-asked-questions page on the subject of sexual assaults on campus.

Title IX compliance, as long as she remains in that position.

Title IX compliance coordinator Howard Kallem told the Pope Center that the lack of full-time Title IX positions at other schools is a problem. In his experience observing part-time Title IX coordinators, he said, "very often this was a position that was somebody who ... wouldn't have the authority to do anything if they suspected that there wasn't [Title IX] compliance because they were low down in the hierarchy."

Furthermore, he indicated that people often do not know who their school's Title IX coordinators are, including the coordinators themselves.

UNC-Chapel Hill is far from alone in facing criticism of its response to claims of sexual assault. In 2011, the federal Office of Civil Rights mandated through a "Dear Colleague" letter that universities revisit their sexual assault policies. UNC-Chapel Hill responded by drafting a new policy in 2012, notably reducing the burden of proof for assault charges. The 22-member task force convened to update it yet again last May.

Kallem said, "When the OCR tells you that your policies and procedures

are different and inadequate," the university must comply.

The Daily Tar Heel gave an alternate explanation, reporting that while the 2012 policy was in response to the "Dear Colleague" letter, the current revisions are a response to feedback from the campus community. It is not clear that the university's policies were inadequate prior to the university acting on its own accord.

Kallem justified the Title IX hirings on the grounds that sexual harassment is against the law and has a disruptive effect on students' lives. "Regardless of what statistics you read, any sexual assault is too much sexual assault," he added.

But how much Title IX compliance is too much compliance?

Kallem could not estimate how many Title IX grievances the team has received, but called it "an issue that's terribly underreported," and added that "we're not getting enough" complaints. "I think success for us will be seeing an increase," Kallem said. *CJ*

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



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Opinion

A Sickness in the Soul of the UNC System Is Increasingly Apparent

I recently spoke with a philosophy professor at an Ivy League university. We discussed some issues in higher education, including such depressing topics as the increasing rejection of long-accepted standards of objectivity and a growing contempt for traditional perspectives.

The deep sense of privilege and arrogance demonstrated by many in academia also came up. The professor paused and said solemnly, "There is a sickness in the soul of academia."

It is increasingly apparent that there is indeed a sickness in the soul of the University of North Carolina system.

How else does one explain a situation that occurred in 2012 at UNC-Wilmington? The English department hired an assistant professor, Alessandro Porco, whose literary output consisted of obscene odes to pornographic actresses and infantile rhyming patterns barely worthy of an 8-year-old. It appears that he was selected over 100 other applicants, not in spite of his disturbing and anti-intellectual tendencies, but because of them. If that is not sickness, then, pray tell, what is?

And that hiring is hardly an isolated case. If we tally up the events of recent years in North Carolina, it seems that some major scandal at a UNC school is always in the news, including: the massive cluster of

scandals at UNC-Chapel Hill that first surfaced in the athletic department in the summer of 2010; the Mary Easley affair at N.C. State University, in which the administration hired Gov. Mike Easley's wife

as a political favor and then tried to cover up the collusion; and two high-ranking administrators at N.C. Central University diverting more than \$1 million from a program intended to study K-12 schools.

At times, the university system — an institution created for high and noble purposes — seems to behave with contempt toward its constituents. Many within the UNC system clearly do not feel accountable to taxpayers; when a government agency loses its sense of accountability, it stands in opposition to the taxpayers.

Especially disconcerting has been the frequent and persistent withholding of public information. *The News and Observer* has been forced to sue UNC-Chapel Hill on several occasions for information that is legislatively deemed to be public records. Other organizations in need of public information are too small to go to court, and cannot access key information.

Issues in Higher Education



included school-sanctioned cheating in groups and moving failing students into special sections where they were given high marks. Consequently, a WSSU professor who corroborated the staff member's story was suspended for a minor questionable detail on her curriculum vitae — clearly an act of intimidation.

Many in the UNC system clearly do not feel accountable to taxpayers

At Winston-Salem State University, a staff member was fired for asking too many questions about the school's unseemly methods of boosting graduation and retention rates. These

The cure for this sickness will not come from within, but from those outside the system's administration. The first step is for the state's leaders and citizens to recognize the problem. The pursuit of truth must replace

the current culture of self-preservation and politicization, no matter how many oxen are gored and careers are dashed. The alternative to openness and objectivity is corruption.

The way to start is by ending the system's tight control of information. If there is any hope for the UNC system, it will be through greater transparency and awareness.

One idea for ending this cor-

rupting control of information is for the UNC Board of Governors to hire its own executive director, answerable only to the board. Right now, the governors, who are the final word in university governance, depend upon the system's General Administration for information; it is only natural that the administration uses that control for its own self-interest and preservation.

An executive director of the Board of Governors also could defend potential whistle-blowers who are likely to receive poor treatment on their own campuses and make sure that campuses process public records requests in a timely and organized fashion.

But it is not just up to those in positions of power — legislators, trustees, and governors — to effect change. Alumni and other donors should stop giving money without stipulating — contractually — the purpose for which it is intended. Otherwise, administrators may use their money in ways contrary to the donors' beliefs. Concerned alumni should form their own organizations rather than supporting official alumni groups, which often are little more than cheerleaders for the administration.

And everybody should ask more from their schools and question what is being taught there. This sickness in the Ivory Tower must be acknowledged, fought, and defeated, or it will continue to spread and poison our society. CJ

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



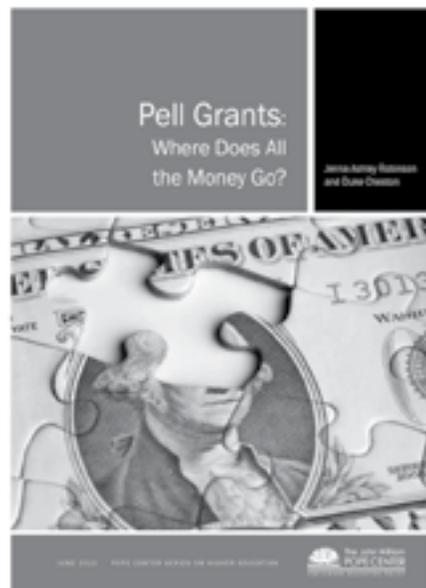
JAY SCHALIN

Are Pell grants going to those who need them?

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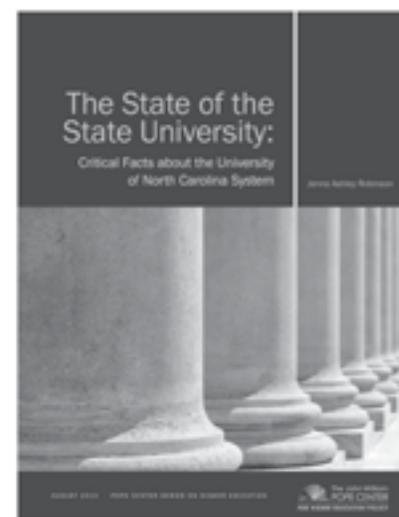


Critical Facts about the University of North Carolina System

Jenna Ashley Robinson has compiled publicly available data about the UNC system to reveal facts including faculty salaries, state appropriations, and more.

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From the Liberty Library

• *The D-Day Encyclopedia* provides detailed entries for everything you ever wanted to know about the invasion of Normandy, which occurred 70 years ago, June 6, 1944. Organized alphabetically, the entries give detailed descriptions of weapons, equipment, divisions, air and naval units, geography, terminology, personalities, and more. Every Allied division that crossed the English Channel has its own listing, as do the major Axis divisions that fought them. The book also includes entries for related popular culture: G.I. slang, the best movies about D-Day, and major writers such as Stephen Ambrose and Cornelius Ryan. With hundreds of entries, *The D-Day Encyclopedia* is an indispensable reference tool and offers great browsing for readers who want to know more about World War II. More at www.regnery.com.

• Visiting Martin Luther King Jr. at the peak of the Montgomery, Ala., bus boycott, journalist William Worthly almost sat on a loaded pistol. "Just for self-defense," King assured him. It was not the only weapon King kept for such a purpose; one of his advisers remembered the reverend's Montgomery home as "an arsenal." Like King, many ostensibly "non-violent" civil rights activists embraced their constitutional right to self-protection. In *This Nonviolent Stuff'll Get You Killed: How Guns Made the Civil Rights Movement Possible*, civil rights scholar Charles E. Cobb Jr. describes the vital role that armed self-defense played in the survival and liberation of black communities in the American South during the 1960s. Learn more at www.basicbooks.com.

• Many cities have struggled with the decline of key industries, from Philadelphia's shipyards to New York's textile industry, but Detroit — which is now in bankruptcy — is both a victim of the decline of the Michigan automobile industry and a cause of it. Once the fourth-largest city in the country, it is today smaller than Fort Worth, Texas. Once the nation's most prosperous city, it is today the poorest. In *What Doomed Detroit*, Kevin D. Williamson notes that the imbalance between public-sector consumption and private-sector production that helped make Detroit what it is today is by no means limited to the Motor City — in fact, four large U.S. cities arguably are in worse shape. For more information, visit www.encounterbooks.com. CJ

Book review

Book Reveals All Mass Murderers Not Created Equal

• Nicholas Kulish and Souad Mekhennet, *The Eternal Nazi: From Mauthausen to Cairo, the Relentless Pursuit of SS Doctor Aribert Heim*, Doubleday, 2014, 301 pages, \$27.95.

BY LLOYD BILLINGSLEY
Contributor

Back in the day, movies such as "Marathon Man" and "The Boys from Brazil" led one critic to quip that if a few dozen octogenarian Nazis hiding in Paraguay could wield so much influence, maybe they really were the master race. *The Eternal Nazi* authors Nicholas Kulish and Souad Mekhennet acknowledge the "superhuman Nazi of popular imagination" while focusing on Aribert Heim, once the world's most wanted Nazi war criminal. He died more than 20 years ago, but his story remains instructive.

Born in 1914, the strapping Austrian excelled at ice hockey and easily mastered foreign languages. He completed his medical studies in Vienna at the age of 25 and was drafted into the SS, meaning he faced automatic arrest after World War II. Heim served nearly three years as a POW and during that stint worked as a doctor treating fellow prisoners. Missing from Heim's file was his 1941 service in Mauthausen. Survivors of the concentration camp there charge that Heim killed inmates by injecting gasoline into their hearts and used their skulls to decorate his desk.

That evidence failed to emerge when Heim was released in 1947, and soon he was living the good life in West Germany. He practiced medicine as a gynecologist, acquired property, and in 1953 moved to a villa in Baden-Baden with his wife Friedl. Heim fathered two sons and an illegitimate daughter, Waltraut Boser, who inherited her father's athleticism and language skill.

Heim's story confirms that what Clausewitz called the "fog of war" endures long after the conflict ends. Even so, the hunt was on for Nazi war criminals, and in 1961 the Israelis bagged Adolf Eichmann, an architect of the Holocaust. He was tried and executed, and as other inquiries mounted, Heim began to get nervous. He finally decamped for Tangier, then moved on to Egypt, where German military officers received a warm welcome, a legacy of support for the Axis powers in World War II. The authors also observe that the Grand Mufti of Jerusalem, Haj al-Husseini, worked with the Nazis and even visited concentration camps.

In Egypt, Heim was able to maintain his properties in Europe remotely. He eventually converted to Islam and adopted the name Tarek Hussein Farid. In 1979, he had been on the cover of *Der Spiegel*, but sleuths such as German policeman Alfred Aedtner were unable to reel him in.

The Eternal Nazi also shows how celebrity Nazi hunter Simon Wiesenthal was unable to see through United Nations Secretary-General Kurt Waldheim's lies about his wartime service in areas where Jews were being deported to concentration camps. The U.N. boss, as one wag had it, suffered

from "Waldheimer's Disease," which made him forget he was a Nazi. The authors note that some in the World Jewish Congress called Wiesenthal "Sleazenthal." He also feuded with Elie Wiesel and tagged him a "superchauvinist."

No private Nazi hunter or government agency was able to bag "Angel of Death" Josef Mengele, the big prize, and Treblinka guard John Demjanjuk turned out not to be "Ivan the Terrible." Likewise, nobody was able to pry Heim out of Egypt where, he wrote, "I became in the last days of my life a beggar."

Aribert Heim died in 1992, and in recent years the authors tracked down his briefcase, filled with documents, and put together the story. They are doubtless right that Heim's 30 years of exile are harsher than any sentence he would have received in 1960s Germany, and that the exile inflicted more suffering on his family.

"The pursuit of Nazi war criminals is not just a dwindling exercise," say the authors. "It has also set a precedent for genocide victims everywhere." That is something of a stretch, given the authors' oversights regarding the Nazis' greatest collaborators — the Soviets.

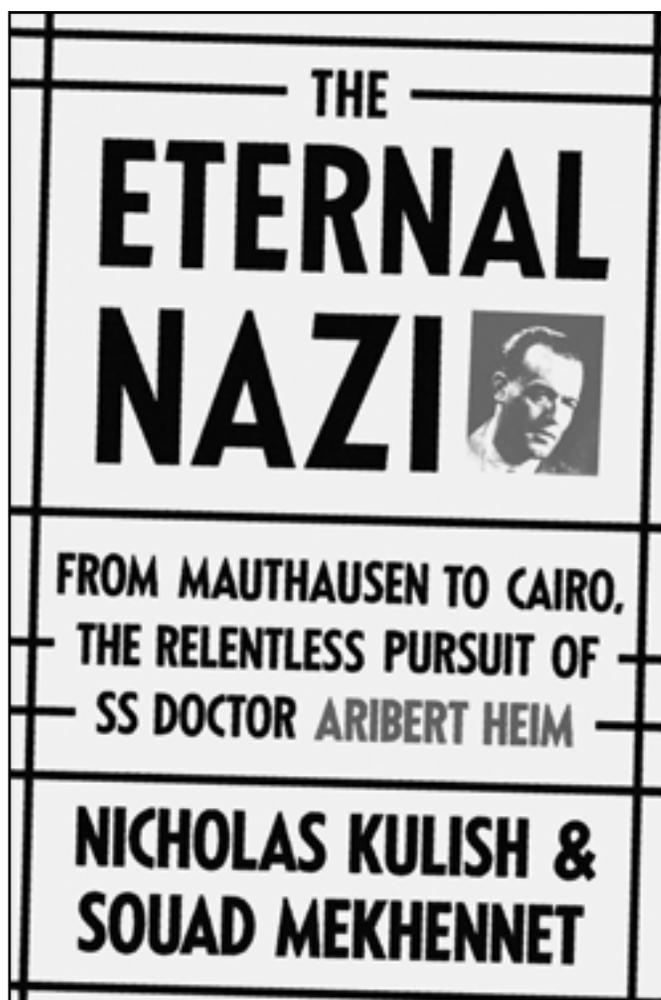
During the 1939-41 Molotov-Ribbentrop pact, the authors note that Adolf Hitler and Josef Stalin agreed to divide up Poland. The authors fail to note that during the pact the Soviets also handed over German Jewish communists to Hitler's Gestapo.

After World War II, "the focus of American enmity was rapidly shifting away from the defeated Nazis and toward the Soviets' rising ambitions in Europe." So the Americans had "enmity," but the Soviets only "ambitions." Further, Eastern Europe was "slipping into the Communist camp" and Western Europe "gravitating toward the Americans." Actually, Stalin invaded and occupied half of Europe, and many eastern Europeans, if they could, fled to the West.

The authors cite a "rivalry" between the USA and USSR, which is how they refer to the Cold War, a half-century-long conflict between free democracies and Communist totalitarianism. Kulish, once the Berlin correspondent for *The New York Times*, should know that. But maybe Kulish and Souad Mekhennet, who also worked for the *Times*, are getting their history from back issues.

In 1932-33, Stalin starved to death millions of Ukrainians, a mass atrocity recently chronicled in Timothy Snyder's *Bloodlands: Europe Between Hitler and Stalin*. Walter Duranty, *The New York Times'* Moscow correspondent at the time, denied that any such thing had taken place and claimed that under Stalin's wise leadership, Ukraine flowed with milk and honey. Duranty's articles played a role in U.S. recognition of the Soviet state.

No Nuremberg trials ever took place over the forced famine in Ukraine or the Gulag system of Soviet labor camps. Nobody tracked down those who ran the totalitarian system and brought them to trial. But the search for old Nazis is eternal.



Book Uses Unusual Arguments to Warn of 'Elective Monarchy'

F. H. Buckley, a law professor at George Mason University, recently has published a timely and comparative study: *The Once and Future King: The Rise of Crown Government in America* (Encounter Books). In it, Buckley compares and examines past and current political systems in the United States, Great Britain, and Canada.

The book points out that American Framers preferred a more congressional, or parliamentary, form of government rather than today's executive-dominated presidential system. The Constitution, writes Buckley, has led to the unexpected consequence of an "elective monarchy," as George Mason predicted. Buckley contends that during the colonial period a monarchical government existed, and during the Founding Era, a congressional polity was championed.

During the early to mid-1800s, an unintended emphasis on separation of powers between the executive and legislative branches evolved, as



**TROY
KICKLER**

a product of the democratization of America. Over time, a strong executive has emerged to break governmental gridlock. This series of events has returned America to Crown government. This return, Buckley writes, is in great part because Americans misunderstood the Framers' original intent and erroneously emphasized separation of powers.

Although Americans boast that they live in the world's freest country, Buckley continues, presidential regimes are more prevalent in less free societies. Unlike the Canadian and British forms of government, the American head of state is also the head of the government. The executive has gained more power by increasing regulation via the administrative state — to name only one example.

A prime minister's authority, however, is more precarious. He or she can be removed whenever Parliament is dissatisfied enough to take action. And a prime minister's message cannot be as orchestrated as a president's; for instance, the British prime minister must withstand rigorous, unpredictable, and televised question-and-answer sessions before Parliament.

Americans' adherence to a sep-

aration-of-powers doctrine, Buckley argues, tends to increase presidential power. To limit what will be a constant growth of executive power, Buckley contends, congressional power must expand. He suggests, for instance, a willingness to allow national referendums, frequent congressional impeachments, the cessation of congressional earmarks, and the return of a congressional concern for the public good as the Founders defined it. Congress would need to have some backbone.

Buckley seems to assert that many of the Framers preferred a more parliamentary system, such as the Virginia Plan, which would have made Congress the pre-eminent branch of the federal government. It must be remembered, however, that those Founders negotiated, as Buckley acknowledges, with Founders from other colonies and made compromises at the 1787 Constitutional Convention in Philadelphia. Shortly after the delegates drafted a document, proponents of the Constitution — known today as Federalists — and opponents of the Constitution — known nowadays as Anti-Federalists — started political conversations in broadsides and in newspaper essays. Literate and semiliterate Americans read Anti-

Federalist and Federalist perspectives, and politically aware yet illiterate Americans overheard these arguments, read aloud in public spaces.

Meanwhile, the Constitution was submitted to state ratification conventions for approval. Delegates debated the meanings of various phrases, and their respective conventions gave the document its authority. Buckley's work dismisses these conventions, but James Madison, known by many as the "Father of the Constitution," remarked later in congressional speeches and in personal correspondence that the state ratification conventions provided the "key" to understanding the Constitution.

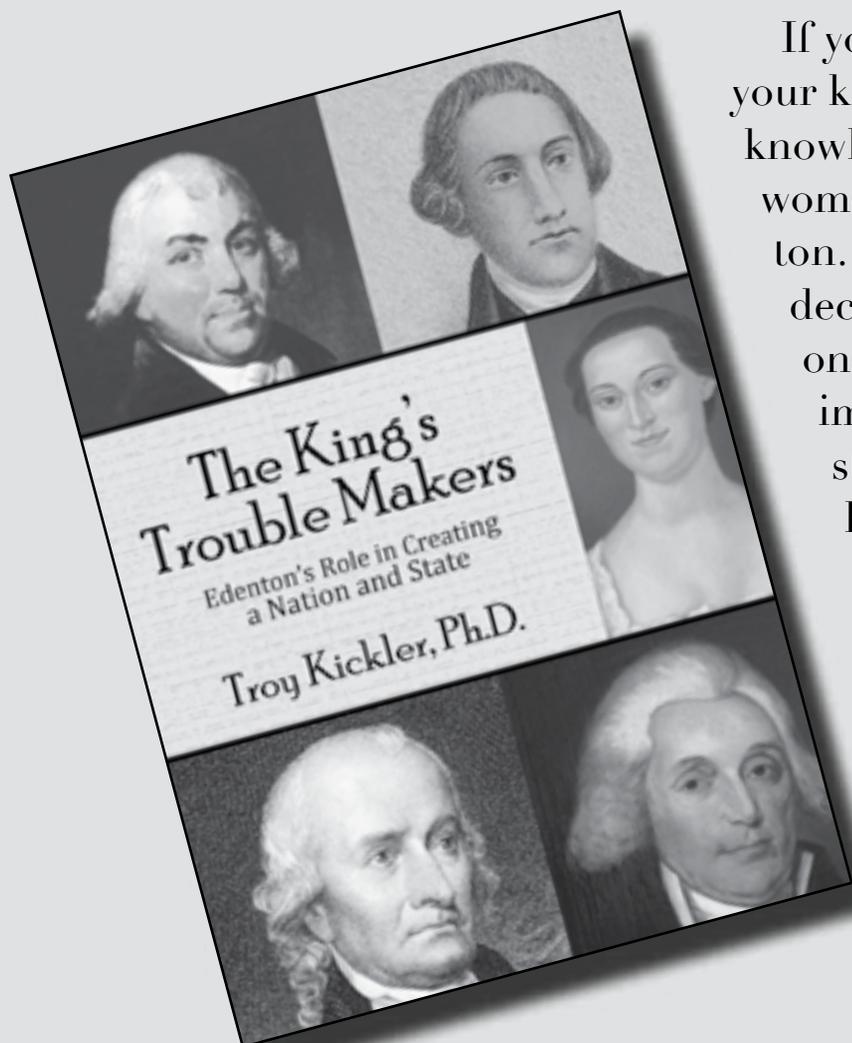
A study of the ratification conventions also reveals the reasons for the creation of the Bill of Rights, and is a reminder that the separation of powers adopted in the Constitution included actual physical space and divided authority between the national and state governments.

Although I have my criticisms, anyone interested in reversing, or at least containing, what Buckley calls "Crown government" should read this important book.

CJ

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

BOOKS BY JOHN LOCKE FOUNDATION AUTHORS



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

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

Go to northcarolinahistory.org for more information.

Book review

Multifaceted Eddie Rickenbacker's Recklessness Fueled His Genius

• John F. Ross, *Enduring Courage: Ace Pilot Eddie Rickenbacker and the Dawn of the Age of Speed*, St. Martin's Press, 2014, 400 pages, \$27.99.

BY HAL YOUNG
Contributor

THE top flier in America's first air war was an abrasive, largely self-taught young pilot with a German surname. Former American Heritage editor John Ross offers this new biography, *Enduring Courage: Ace Pilot Eddie Rickenbacker and the Dawn of the Age of Speed*, as an introduction to a life lived at high velocity. More importantly, though, it is a history of one man's efforts to overcome his personal obstacles and setbacks, and in the process, initiate the age of American aviation, both military and civil.

These days the name Rickenbacker might be better known for the guitar company founded by a distant cousin, but in 1916 "Fast Eddie" Rickenbacker was a race car driver who had entered his first cockpit — as the 16-year-old mechanic of a Frayer-Miller vehicle — 10 years earlier.

The son of an abusive Swiss-German father, Eddie had grown up scrounging coal along the railroad tracks and engaging in mild hooliganism in the immigrant slums of Columbus, Ohio. When his father died after picking a fight with an African-American co-worker in 1904, Eddie dropped out of the seventh grade; the day after the funeral, he took a job in a glass factory to help support his mother and siblings.

Fascinated by the new horseless carriages arriving in the streets, Eddie found his way into a job with a garage, where he could study the contraptions close up (and occasionally damage them, trying to operate them when the boss wasn't around). Hampered but undeterred by his lack of high school education, Eddie found a correspondence course on "automotive engineering" and enrolled so he could learn to read the mechanical diagrams. The dependable, predictable, and controllable machines were "a world of order and purpose" to the young man. Ross notes, "in a household often upended by the unpredictable outbursts of an angry father and the silent disappointments of a loving mother, it was a haven."

The opportunity to race came quickly. Starting as the ride-along "mechanician" who accompanied the early drivers, Rickenbacker moved to the driver's seat and ultimately to four appearances at the Indianapolis Motor Speedway, racing at one time or another for Maxwell, Duesenberg, and Peugeot teams.

When war broke out in Europe, Rickenbacker was struck by the idea of recruiting pilots from his racing col-

leagues. A trip to Britain to visit the maker of Sunbeam race cars nearly got him interned as a spy; his German-sounding name, then spelled "Rickenbacher," and Teutonic accent led Scotland Yard to take seriously fanciful tales spun by American race promoters. Months later, Rickenbacker discovered he still had an English detective tailing him across North America as a possible enemy of the Crown.

But the sight of England's own Indy, the Brooklands race course, then converted to an aerodrome, thrilled him with possibilities. "Mature men of proven and swift reflexes developed at high speeds in competitive racing — what flyers they would make!" he wrote. "We are experts in judging speed and in motor knowledge. ... I expect to get up a body of not less than 50 of us who will volunteer if war is declared," he said on another occasion.

The Army not only was unimpressed by Rickenbacker's proposal, it also wasn't particularly interested in him. Eager to become a flier, Rickenbacker was told he didn't meet the educational requirements, and after a stint as Gen. John "Black Jack" Pershing's driver, he wangled an assignment as the engineering officer for the 3rd Aviation Instruction Center in France. There he learned to fly, and after convincing his superiors that a qualified replacement was on hand, was finally transferred to the "Hat In The Ring" squadron, the 94th Aero Squadron.

Much of the book describes the unbelievably hazardous life of World War I pilots, who invented the new tactics of three-dimensional warfare day by day, while suffering from oxygen deprivation, hypothermia, and the constant danger of bursting into flame or simply coming to pieces thousands of feet in the air. The French equipped the just-arrived Americans with the troublesome Nieuport aircraft their own pilots rejected, and part of Rickenbacker's contributions to the war involved solving problems with the airplanes' design.

Because of his careful attention to tactics, and the airplane's quirks that could be exploited for surprise or advantage, Rickenbacker managed to shoot down his first German in April 1918, scoring his fifth to become an ace a month later. Upgraded to the SPAD XII, he brought down 13 of the Fokker D.VIIs which were tested by the infamous "Red Baron" himself, and with a total of 26 confirmed "kills" in less than six months of active flying, finished the war as the squadron commander.

"The squadron," reported one

pilot, "had begun to love him. I don't know how to explain it. At first he was just an uneducated tough bastard who threw his weight around the wrong way. ... But he developed into the most natural born leader I ever saw."

Rickenbacker returned to racing and automotive design after the war, founding the short-lived Rickenbacker Motor Co., which went bust in 1927. He owned and managed the Indianapolis Motor Speedway for nearly 20 years and ended up working for General Motors, which bought out an engine manufacturer Rickenbacker had invested in. Ironically, he found himself as the general manager of Fokker's American subsidiary, which had been acquired by GM.

From inside GM's aviation division, he rose to become the general manager of the fledgling Eastern Air Lines, which he purchased from the automaker in 1938, and retired from the air carrier 25 years later.

Rickenbacker was a man of some contradictions. He never admitted the truth about his pugnacious father's end, claiming he was a construction manager killed by a falling timber, rather than a workplace brawler who was overmatched. Instead, "he buried humiliation and guilt by brushing the facts away. He would survive with dignity, even if that meant falsifying the record."

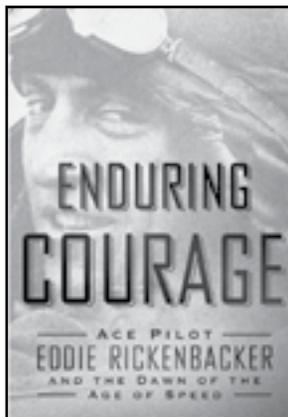
Yet one of his enduring contributions to both automotive design and aviation was a serious concern for mitigating unneeded risk. In a time

when race drivers and airplane jockeys were celebrated for recklessness, Rickenbacker put serious thought into the limitations of machine and operator and how to get maximum performance without self-destruction. "Being dashing wouldn't brush aside the Reaper, but approaching risk in a businesslike spirit just might," Ross writes. "Eddie and a handful of other early risk takers ... sought radically new techniques of managing risk, inventing and perfecting tactical and strategic responses to extreme danger that clearly shape those of their rational successors today."

Truth did matter, but mostly in the things he found important.

He was also a man of remarkable resilience. Not only did he overcome poverty, a truncated education, and ethnic suspicions, Rickenbacker survived numerous accidents that might have killed him. He was horribly injured in a 1941 airline crash near Atlanta, and before fully recovered, was ditched in the South Pacific on a secret mission from the Secretary of War to Gen. Douglas McArthur. The five survivors drifted in life rafts without food or communication for nearly a month, and all credited the tough 51-year-old for encouraging and browbeating them to hang on until they were found and rescued. Even then, the emaciated Rickenbacker completed the mission and carried the message — undisclosed to this day, but described by Ross as "a stinging rebuke" — to the charismatic general.

As an introduction, or reintroduction, to America's first ace and one of the country's escorts from fabric wings to commercial air travel, *Enduring Courage* may be just the ticket. *CJ*



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Book Review

Media, Pa., FBI Heist a Compelling Story Worthy of Movie Version

• Betty Medsger, *The Burglary: The Discovery of J. Edgar Hoover's Secret FBI*, Knopf, 2014, 596 pages, \$29.95.

BY LLOYD BILLINGSLEY
Contributor

On Monday, March 8, 1971, at Madison Square Garden, Muhammad Ali fought Joe Frazier for the heavyweight championship of the world. While the world watched the bout, an unusual group of burglars broke into an FBI office in Media, Pa. They were anti-war activists who carted off files from the office.

In due time the Citizens Commission to Investigate the FBI, as the burglars called themselves, parceled out the information to journalists. One of them was Betty Medsger, then a reporter at *The Washington Post*. More than four decades later, Medsger tells the ripping tale of the heist and its fallout, with due attention to context.

At that time the United States was still drafting young men to fight in Vietnam, and protests were raging. As Medsger notes, more than 200,000 men were charged with violating draft laws. Activists raided draft board offices, sometimes by slipping in and posting a note such as, "Please don't lock this door tonight." The raid on an FBI office was a more serious caper.

The burglars were not professionals, but their preparations were thorough. They cased the joint endlessly, sending Bonnie Raines to the office posing as a college student researching job prospects for women at the bureau; she discovered the office had no alarm and that files were easily accessible.

But that left the lock on the front door. Burglar Keith Forsyth simply en-

rolled in a correspondence school for lock picking and mastered the craft.

The group operated in secrecy and used an attic to rehearse the break-in, which posed other problems. The FBI office shared a building with tenants and stood across the street from the Delaware County courthouse, constantly guarded. So the burglars would need a diversion and wisely picked the night of the Ali-Frazier fight.

With all the celebrities in attendance, the start of the fight was delayed and the major action took place as the burglars made their move. It wasn't exactly a walkover, but they got in. Unsure which files to take, they simply grabbed them all and made the getaway. In the aftermath, Medsger's narrative takes on a tinge of Alfred Hitchcock as Raines wonders: Did I take my gloves off inside the FBI office?

But they had the files, a first in more ways than one.

J. Edgar Hoover, FBI boss since 1924 and the villain of this tale, prized the secrecy of his files above all else, even if charges against spies had to be dropped in some criminal cases to prevent portions of Hoover's files from being entered as evidence.

Hoover went ballistic over the Media burglary, which revealed a great deal about him. One file gave instructions about how FBI agents were to celebrate Hoover's birthday. Others showed his rigid dress code and distaste for agents with "pear-shaped heads." More important, the files were

the first public revelations of COINTELPRO, Hoover's dirty-tricks program against a wide range of groups and individuals.

As Medsger shows, COINTELPRO succeeded in harassing, embarrassing, and violating the rights of Americans, particularly blacks, but came up short in other ways. For example, FBI spying operations did not prevent any bombings by the Weather Underground or other groups and produced few arrests after the bombs detonated. So Hoover "lacked the capacity to shape an approach to either law enforcement or intelligence gathering that safeguarded civil liberties or protected Americans from violence."

William Sullivan, the No. 3 official in the FBI at the time of the burglary, said "the FBI was investigating students as if they were criminals."

Neil Welch, the FBI agent who played a major role in solving the Ku Klux Klan murder cases in Mississippi, said, "I feel that what has developed at our FBI headquarters over the years is a ponderous, ineffectual, costly bureaucracy which does not contribute substantially or materially to the essential work of the FBI."

The Burglary is a veritable encyclopedia of misconduct by Hoover's secret FBI. To her great credit, the author connects the dots to current National Security Agency surveillance of Americans, which failed to stop Fort Hood terrorist Maj. Nidal Hasan and others. Barack Obama "promised un-

paralleled transparency," but his administration has "prosecuted more government whistleblowers than all previous presidents combined."

For their part, the burglars stayed under the radar, and their lives took different turns. Social worker Bob Williamson, for example, discovered F.A. Hayek and Thomas Sowell and wound up voting twice for Ronald Reagan.

But he had few regrets about 1971. "I acted with a clear conscience," Williamson explained. "On balance, the Media burglary produced more good than harm."

Medsger, meanwhile, took off her own gloves and left some telltale fingerprints. Not all participants in the anti-war movement had the same motives and aversion to violence as the Media burglars. But Medsger appears to accord a moral symmetry to everybody who opposed the war in Vietnam. The author mentions Angela Davis without informing readers that she twice ran for vice president on the Communist Party USA ticket. Weather Underground co-founder Bernadine Dohrn gets off easy, and left-wing celebrities Noam Chomsky and Howard Zinn are simply referred to as "scholars."

Even so, on balance *The Burglary* serves up more good than harm and doubtless will be made into a movie. The account is also a reminder that for all his "I am the greatest" bluster, Muhammad Ali was a gracious loser.

"We all have defeats in life," he said after the 1971 bout. "All kinds of things set us back, but life goes on." And when someone addressed him as champ, he said: "Don't call me champ. Joe's the champ now." CJ



BOOKS AUTHORED BY JLF STAFFERS



By John Hood
President of the
John Locke Foundation

Selling the Dream Why Advertising is Good Business



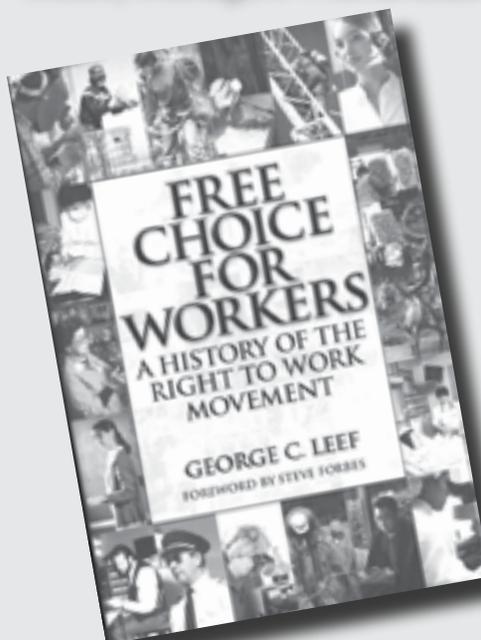
"[Selling the Dream] provides a fascinating look into the world of advertising and beyond ... Highly recommended."

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COMMENTARY

Short Session, Meaningful Agenda

The N.C. General Assembly's biennial short session opens May 14. North Carolina does not have statutory session limits, so the session will last as long as necessary to finish business. All indications are that the session will be short, with a continued focus on economic growth, job creation, and wise investments.

There will be tweaks and adjustments to state spending for the second year of the two-year state budget. Those tweaks depend on revenue, and unlike previous administrations, they will not include tax increases or additional debt. Any increase in spending will come from existing revenue.

How to make the math work and keep promises will be the biggest challenges of the 2014 short session.

It appears that revenue is slightly ahead of projections, which is a sign that North Carolina's economy is recovering. On the other hand, a chronic shortfall in Medicaid could soak up any additional revenue. The latest report from the Department of Health and Human Services puts this year's shortfall as high as \$140 million.

Teacher pay increases top the to-do list. The governor and some legislative leaders are looking at pay increases for beginning teachers to attract more highly qualified professionals. They promise pay increases for veteran teachers as soon as additional revenue is available. The first step of increasing starting teachers' pay to \$35,000 by the 2015-16 school year would cost \$175 million.

An interim study committee has been looking at real concerns about Common Core and what is best for North Carolina. Expect a bill repealing the requirement to adopt Common Core; in its place, look for the creation of a commission of experts, economists, parents, and others outside the education establishment charged with recommending educational standards that will put North Carolina students first in the nation, with tests that mean something and assessments based on student performance.

While the Opportunity Scholarships are tied up in litigation,

more than 4,000 low-income families who applied for a voucher to attend a private school this fall are in limbo. Legislative leaders may change the funding source for the scholarships to ensure North Carolina parents have choices in their children's education.

North Carolina's 25 percent tax credit for film production costs is due to expire in December. For every dollar that North Carolina taxpayers give to the film industry, we get back 19 cents in "benefits."



**BECKI
GRAY**

It's time to pull the plug on this bad deal. If corporate welfare must continue, taxpayers would be better served with a simpler, more transparent system that eliminates incentives targeted to specific industries. Let filmmakers compete with other industries for money from the Job Development Investment Grant and One North Carolina funds.

The General Assembly will address the recent coal ash spill into the Dan River, which has prompted concerns about water pollution, waste disposal, and cleanup costs. Duke Energy, the Department of Environment and Natural Resources, and environmentalists are weighing in. Initial ideas include moving all coal ash basins to lined containment areas away from water supplies, boosting monitoring, and reusing coal ash for commercial fill-in and grading. The General Assembly should take the time to gather the facts, appraise the actual threat to public safety, and consider all the costs and benefits before moving forward. Duke Energy is a monopoly, and any actions could impose higher costs on ratepayers, retarding economic growth. Legislative action should be appropriate and not reactionary.

The latest unemployment numbers and other economic indicators are positive. Lower taxes, fewer regulations, and better investments have North Carolina on the right track. Wise decisions in the short session will keep the momentum going and the economy growing. CJ

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



EDITORIAL

Left Behind In Policy Debate

What's the best formula for enhancing economic growth and opportunity in North Carolina? The debate largely falls into three categories, philosophically speaking.

The Left says spending on consumption is the way to increase demand, leading to more employment and higher wages. Raising taxes on wealthy people and redistributing it down the income scale through government entitlements or earned income tax credits will boost consumer spending and economic growth.

The Center instead blames inadequate investment in government infrastructure — primarily transportation (highways) and education. Increasing broad-based taxes, such as sales taxes, and investing the proceeds into roads, schools, and other forms of physical and human capital will make businesses and workers more productive, leading to higher wages and a growing economy.

The Right says inadequate investment is a problem, but the solution primarily depends on the ability of entrepreneurs and workers to build private capital. Reducing tax rates on incomes and investments will leave individuals more money to seek the most productive returns. The money government must spend should be directed to the public assets that deliver the highest payback — to highways where new lanes of traffic would reduce congestion, or toward education policies that consistently produce the best-prepared graduates, for instance.

Who has the best argument? John Locke Foundation President John Hood surveyed 25 years of scholarly, peer-reviewed studies — he found 681 studies published in academic or

professional journals — and concluded that the Right has the upper hand. "The policy preferences of fiscal conservatives have strong empirical support," he said. "Most studies find that lower levels of taxes and spending, less-intrusive regulation, and lower energy prices correlate with stronger economic performance."

Among the 115 studies that focused on state and local tax burdens, 63 percent showed "tax burdens were negatively associated with economic performance," Hood said.

The news was not as good for fiscal centrists who believe government can promote economic growth by offering tax credits or other targeted tax incentives, Hood said. "More than two-thirds of the studies found no link between tax incentives and economic performance."

And while the Center is correct to raise concerns over investment in public assets, most studies show that simply throwing more money at transportation and education without regard to quality or productivity has a negligible or even negative effect on economic growth.

The data also cast doubt on the well-worn liberal argument that cutting taxes leads to spending cuts on public services that can boost economic growth.

The preponderance of research concludes public assistance programs "are strongly and negatively associated with economic performance," Hood says.

Hood's review of recent academic literature concludes that reforms from the McCrory administration and the Republican-led General Assembly have placed North Carolina on the right path. You can look it up. CJ

EDITORIALS

Let Markets Work

FCC, keep your hands off of North Carolina

In February, Federal Communications Commission Chairman Tom Wheeler declared that the North Carolina General Assembly had no authority to determine telecommunications policy in North Carolina.

Well, OK, Wheeler didn't single out North Carolina. But he did say that in the coming months, the FCC might decide to challenge state laws, like the one the North Carolina legislature enacted in 2011, that govern the ability of cities and counties to create their own broadband networks to compete with cable, telephone, and satellite providers.

You'll get no argument from us about the potential economic and social benefits from enhancing telecom access and competition — and from bringing new super-high-speed broadband service to North Carolina communities. A 2007 study by the Brookings Institution, for example, found that broadband access was one of two statewide variables (the other was tax climate) exhibiting a consistent relationship to private job creation.

The next generation of broadband — operating at the gigabit-per-second range and above — may be revolutionary for industry and attractive to consumers. But past experience and common sense argue against governments leaping into areas best left for competitive markets and private

enterprises to sort out.

Consider Google and RST Fiber, two private-sector technology companies with differing broadband business models. In Google Fiber's rollout of residential service in Kansas City, entire neighborhoods are opting in or out of the service, which will use existing utility infrastructure to complete the connection to each home. On the other hand, Shelby-based RST is using a 3,100-mile network of fiber-optic cable to carry the signal to within a mile or so of potential residential and business customers in the Asheville, Charlotte, and Raleigh areas. The final connection, however, will be by wireless transmission.

The goal should be facilitating innovation and competition without favoring one model over another. What North Carolina localities should do is remove any unnecessary barriers to competition, allow access to public rights-of-way on equal terms, treat all competitors the same when it comes to taxes and regulations, and otherwise, butt out.

That is essentially the policy stance that the General Assembly adopted in 2011. If the FCC wants to do something constructive about telecom innovation and competition, it should focus on freeing up spectrum for new entrants and investment. That's its job. Pretending to be the North Carolina legislature is not. *CJ*

Down on the Farm

Starting up the rural economy

North Carolina added nearly 100,000 new residents through birth and migration last year. Nearly half, about 45,000, arrived in the two most-populous urban counties, Mecklenburg and Wake.

Their suburbs also experienced rapid growth. If you add the populations of the Charlotte and Triangle metropolitan areas together, you get 4 million people. Add in the Piedmont Triad, Asheville, Fayetteville, and Wilmington metros, and you get 6.5 million, or nearly two-thirds of the state's population.

But plenty of places in the state's fast-growing metropolitan areas still look rural. There are still working farms and small towns in Wake, Buncombe, Forsyth, Union, Gaston, Johnston, Harnett, and other "metro" counties. About a third of North Carolinians live outside major metropolitan areas. They inhabit communities with proud histories, natural

resources, and significant public and private capital.

Rather than simply embarking on a new "buffalo hunt" for industrial prospects, North Carolina's towns and rural communities should focus on cultivating entrepreneurs. People who start their own businesses are more likely than corporate CEOs to value what rural areas offer, including natural amenities and lower costs for land and labor.

The preponderance of academic research suggests that keeping tax burdens and regulatory costs as low as possible raises the likelihood of business starts. So do measures that raise the skill level of local workers through high-school completion, apprenticeships, and employer-led job training.

Modern economies are never static. Free enterprise is both creative and destructive at the same time. Now is the time for creativity. *CJ*

COMMENTARY

Choice Program Deserves Defense

Liberal activists may fume, and left-wing editorialists may grind their teeth, but legislative leaders are going to defend their 2013 opportunity scholarship bill against lawsuits by the teacher union and other special interests.

Senate leader Phil Berger, House Speaker Thom Tillis, House Speaker Pro Tem Skip Stam (the main architect of the program), and other leaders won't be defending school choice because they oppose public education. They won't be defending school choice because some national organization told them to. They won't even be defending school choice because it enrages their political adversaries, though perhaps that's a side benefit.

No, North Carolina's political leaders are defending opportunity scholarships for at-risk and disabled students because it's the right thing to do.

In virtually no other case are recipients of a government-funded service forbidden from choosing providers that best meet their needs. No one tells Medicare patients what hospitals they must visit. No one tells food-stamp recipients where they must shop. In education, both federal and state governments provide financial assistance to children who attend child-care centers and preschools, as well as to students who attend colleges and universities. Their families are free to choose from among public and private providers of these educational services, with nary a peep out of the usual left-wing suspects.

What makes elementary and secondary education a proper exception to this rule? Nothing. The only distinction is that district-run public schools until recently have enjoyed a monopoly. They simply don't want to give it up.

It was no surprise that the North Carolina Association of Educators and other groups filed suit to block implementation of the new voucher program for the 2014-15 school year. They worry that once thousands of low-income children are enrolled in schools of choice, it would be politically disastrous to strip them of their choice later on.

It came as more of a surprise, however, when Superior Court

Judge Robert Hobgood granted the union its desired injunction and issued a poorly reasoned decision about the case, in part because there are few precedents in North Carolina law relating to the controversy.

Indeed, the closest thing to a precedent that anyone has been able to find, a 1979 North Carolina Supreme Court decision in *Hughey v. Cloninger*, should help the school choice cause. The case arose when Gaston County began appropriating local tax dollars to the private Dyslexia School of North Carolina, which served students whose special needs were not being met by their public schools. A plaintiff sued to stop the county subsidy, a position that the Supreme Court ultimately agreed with — but not, the justices concluded, because

taxpayer funding of private education was unconstitutional. Instead, the Court observed that the General Assembly already had authorized "educational expense grants" to North Carolina families of special-needs students attending private schools. Because counties have only the budgetary authority granted to them by the state, Gaston County couldn't initiate a direct subsidy of the school in question, because the legislature already had expressed its preference for a voucher mechanism.

Has anything happened since 1979 that makes "educational expense grants" illegal? If so, why didn't the teacher union and its allies say so in their legal arguments? If not, why wasn't their case, or at least their requested injunction, dismissed outright?

North Carolina's opportunity scholarship program must be defended all the way to the Supreme Court. Its existence doesn't threaten the existence or dominance of public schools, just as legislative tuition grants for private colleges don't threaten the existence of UNC and Smart Start grants for private preschools don't threaten the existence of public ones.

What the program does is give parents more choices. Who's against that — and why? *CJ*

John Hood is president of the John Locke Foundation.



JOHN HOOD

MEDIA MANGLE

Writing News
To Confuse

I first started writing news stories in 1971, and I first started editing the news stories of others in 1973, when I became an assistant city editor. One thing I learned is that every well-written news story has an internal logic that points the reader consistently toward the truth, or to the truth as best as a reporter can relate it in words.

Anything that could confuse issues, point the reader in a wrong direction, or cause a reader to reach wrong conclusions should be expunged, either by an editor or by the reporter editing the story before sending it to an editor.

Two stories regarding the recent settlement of a libel case involving our current attorney general, Roy Cooper, and Dan and Gene Boyce illustrate well how *not* to write such a story. The details of the suit are too complicated to get into here, but suffice it to say that it was Cooper being accused of libel, and the Boyces who said they were libeled.

The case dragged on for 14 years, and right after a judge had ruled that Cooper would have to appear in court in two separate trials, while he simultaneously would have to be running what everyone expects to be his Democratic gubernatorial campaign this year, the two sides reached a settlement.

Keep in mind that this was a story in which Cooper was found to be the guilty party, and that he was forced to give a lengthy apology to both Dan and Gene Boyce, as well as others.

But you'd never know that by reading the statement of Cooper spokesman Morgan Jackson, which ran at the top of both the WRAL and the Associated Press version of the settlement story. Here's what Jackson said: "This is the result we've been trying to achieve for over a decade."

This is a statement so wildly at variance with the facts that any good reporter would scoff openly at the person making it. But WRAL (<http://bit.ly/1jF5I2l>) and the AP (<http://bit.ly/1jF6hjv>) both put that quote at the top of their stories, before any quote from the actual aggrieved parties, the ones who won.

If we are to believe Jackson, Cooper has for years relished the thought of being called on the legal carpet and having to perform a public act of contrition, not to mention pay \$75,000 in a settlement. If used at all, the quote should have been buried at the bottom of a story (as it was in *The News & Observer's* version), not used up high to frame the issue in a confusing way, as it was in the WRAL and AP stories.

The ambiguous headlines ("Cooper settles libel suit from 2000 election" for WRAL's story, and "Cooper, other lawyers resolve North Carolina defamation case" for AP's), also didn't help the reader know immediately and accurately what had transpired. Sometimes the media is its own worst enemy. CJ

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



**JON
HAM**



When's a Cable Company Too Big?

I'm old enough to remember two things about television viewing: a limited number of channels and poor reception quality. Growing up in the 1950s, TV viewers had only three channels to watch, and reception was via "rabbit ears" mounted atop the TV.

The coming of cable TV changed all of this. Now it's possible to receive hundreds of channels, and picture quality is exceptional. The difference between cable TV today and the TV of my youth is like the difference between modern jet aircraft and the Wright Brothers' first plane!

But there's controversy in the cable industry, and it has to do with company size, market power, and the level of competition. Like many new industries, the cable TV industry began with many small companies serving small local regions across the country. Then, following the path seen in many industries, consolidation occurred.

Recently, the largest cable consolidation ever was announced. Comcast and Time Warner, the top two cable companies, have stated they want to merge. If the deal goes through, the combined company will have territories serving just shy of one-third of the cable market. It would be a giant telecommunications company.

Which raises the question: Will the company be too big? Since the start of the modern industrial age more than a century ago, economists and policymakers have worried about company size. Some see benefits from larger companies. Such firms often can take advantage of "economies of scale" and deliver products and services at a lower per-unit cost. Also with size can come a greater ability to develop a wider range of products and services that's simply beyond the scope of smaller firms.

But others see downsides to big companies. The most important may be a lack of competition. If one large company comes to dominate a market area, then customers may have no choice but to purchase from that firm or do without the product. The firm may become a virtual monopoly, allowing it to charge higher prices. Also, economists worry

that monopolies may "rest on their laurels" and be less motivated to innovate and improve the quality of their product or service.

So a big issue with cable service is whether providers are a near monopoly in a local area. If the answer is "yes," then there could be justification for cable firms to have their rates (prices) regulated by the federal government. There also might be reason for the federal government to put up a red light to cable companies trying to get bigger.

It is the case that in most local areas, only one cable firm exists. Sometimes this is because local governments give only one firm the exclusive right to operate within their boundaries. But it can also happen because once the first company lays the lines and signs up customers, other companies don't want to bear the expense of laying their own lines if they can't rely on attracting a sufficient number of customers.

Yet is simply counting how many cable companies operate in a local area the best way to judge competition? Phone companies with wiring into homes also can deliver signals, especially for Internet use. And satellites can beam TV signals to homes for people who have bought or rented receivers. In fact, in evaluating competition in the cable market, the federal government does consider all these alternative modes of receiving service.

However, if there's anything we know from the last 20 years, it's that the telecommunications industry can change quickly. A "game-changer" for the reception of both TV and Internet content would be improvement in the strength, capacity, and reliability of noncable — or wireless — signals. There are companies working on this right now. Also, local governments could change their approach and permit multiple cable firms to provide service in neighborhoods. Both of these factors have the potential to increase competition dramatically in the delivery of TV and Internet signals.

Many of these issues likely will be discussed and argued during the federal examination of the proposed Comcast/Time Warner merger, so stay tuned! CJ

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



**MICHAEL
WALDEN**

Kooky Keynesianism and the Minimum Wage

"Keynesianism is indeed a disease on the body politic in democratic society. An economic doctrine of technocratic arrogance, it ... gives scope to the opportunistic behavior of politicians who become unconstrained by Keynesianism in practice."

George Mason University economist Peter Boettke offered that observation in his book *Living Economics: Yesterday, Today, and Tomorrow*.

The Keynesian disease has found its way into the debate over increasing the minimum wage. In addition to arguments about the need for a livable wage or, in the words of Democratic U.S. Rep. Mike McIntyre, how "those who work full time should be able to make an honest day's pay to provide for their families" — not a problem that can be fixed by a minimum wage — it also is being claimed that a minimum wage increase will stimulate the economy.

That's right. Higher labor costs for businesses actually would be good for those businesses and good for economic growth.

So how does this work? An analyst from a left-of-center policy group

puts it succinctly: "because low-wage workers tend to spend a larger proportion of their income, raising the minimum wage is an important stimulus to the broader economy." This is knee-jerk Keynesianism, pure and simple.

In the basic Keynesian model, spending on consumer goods, as opposed to saving and investment, drives an economy and causes it to grow. It is the same "reasoning" that was used as an excuse for President Obama's failed stimulus package in 2009 and former President George W. Bush's stimulus plan the year before.

So transferring wealth — by increasing the minimum wage — from those who spend a smaller proportion of their income, i.e., business owners/employers, to those who spend a larger proportion of their income, low-wage workers, means the "broader economy will be stimulated." That's the theory.

The problem is the theory's assumption, namely that revenue transferred to low-wage workers and spent on consumption goods would be used more productively than it would be if left in the hands of businesses, where it would be reinvested, saved in the

form of retained earnings, or distributed to shareholders. This assumption is based on a key flaw in Keynesian theory: the notion that saved money is idle money.

In reality, business profits — which, in the absence of increased labor productivity, is where higher wages must come from — do not otherwise reside in a mattress. Without

business profit and individual saving, there could be no economic growth.

It is profit and saving that fuel investment and business expansion. Previously earned profits and personal savings finance all new

factories, new stores, new office buildings, and ultimately new employees.

Economic growth cannot occur without saving and investment, and saving and investment cannot occur without the generation of business profits or the decision on the part of individuals to save, i.e., not consume, some of their income. All consumption spending is dependent on having goods and services available to spend money on, which is the necessary consequence of this previous saving and investment.

Higher wages are the result of

capital accumulation and economic growth, not the cause of it. To argue that new economic growth will be stimulated by a coerced increase in the minimum wage shows an unfortunate ignorance of this fact. It is an ignorance that is embedded in the Keynesian model itself.

All of this assumes that, on net, with a higher minimum wage the wealth transfer from employers to employees actually will occur. This is a tenuous assumption at best.

The fact of the matter is that increases in the minimum wage will cause some people to lose their jobs and make it impossible for some of those looking for work to find it. This is because, as the minimum wage increases, fewer low-skilled workers will qualify for the positions that are available.

So while some people will end up with higher wages, others will end up with no wages at all. Therefore, even from a flawed Keynesian perspective, to argue that there will be a net transfer of wealth from those with a "lower marginal propensity to consume," to invoke Keynesian jargon, to those with a "higher marginal propensity to consume," one would have to factor in all those workers whose wages have fallen to zero as a result of the minimum wage increase. *CJ*

Roy Cordato is vice president for research and resident scholar at the John Locke Foundation.



**ROY
CORDATO**

A key flaw
in Keynesianism
is the belief
that saved money
is idle money

A Premature Coronation

If you listen to the talking heads on cable news or you read the websites that cover politics, Hillary Clinton is already the standard-bearer for the Democratic Party in the 2016 presidential election.

Clearly, Hillary Clinton is the pick of the Democratic establishment and the high-dollar donors, and at this stage has a huge lead in the early horserace surveys.

Nobody in the Democratic Party even comes close. And make no mistake about it — the Clintons' network is second to none.

But remember, at this stage of the campaign in 2007, Hillary was the front-runner until along came a senator from Illinois named Barack Obama. And we all know how that turned out.

So it may be premature for the Clintons to begin measuring the draperies in the White House.

In fact, I suggest that Hillary could be the most problematic candidate the Democratic Party could put forward.

Please indulge me while I outline the potential chinks in Hillary Clinton's armor.

First and foremost is her tenure as secretary of state in Obama's administration. Although MSNBC and other left-wing media outlets repeatedly promote Hillary as a "historic" secretary of state, I am hard-pressed to see the accomplishments. Sure, she got a ton of frequent flyer miles globetrotting around the world on the taxpayer's dime. But what did she actually accomplish?

Did the Israelis and Palestinians break bread? Do the Palestinians recognize Israel's right to exist? Did she bring peace to the Middle East?

Oh, and by the way, how did that "reset button" photo opportunity with the Russian foreign minister work out?

One could argue that she presided over the United States' decline on the world stage, aided and abetted by none other than our apologist-in-chief, Obama.

And let us not forget the attack on Benghazi, resulting in the death of four Americans in Libya. To date, no one in the Obama administration has been held accountable. But what we do know is that it was a calculated terrorist attack and not a mythical, spontaneous reaction to a video.

The video story was a tale, by the way, that the president and Hillary knew on day one was not true. It was perpetuated by Obama and his team for political reasons during the heat of the 2012 presidential campaign, when the mantra by the president and his surrogates was "Bin Laden is dead and al-Qaida is on the run."

Benghazi was a defining moment for Mrs. Clinton as secretary of state, and she failed miserably. Not only did she fail during the actual attack on our outpost, her State Department failed to heed warnings from the folks on the ground that the U.S.

facility in Benghazi had multiple security shortcomings. Credibility and competence are major liabilities for our former secretary of State.

And there is another huge strategic problem for Mrs. Clinton. How does she separate herself from the Obama record of incompetence, regarding both domestic policy and the myriad foreign policy failures that continue to plague the current occupant of the White House?

Does she run promoting an Obama third term? That hardly seems likely.

No one doubts Hillary and Bill's desire to reside again at 1600 Pennsylvania Avenue.

But Hillary Clinton is far from a perfect candidate. And her deficits as potential commander in chief are many.

So take heart, my conservative brethren, President Hillary Clinton is far from a done deal. *CJ*

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



**MARC
ROTTERMAN**

Lawmaker Seeks Incentives for Individual Film Tourists (a CJ parody)

BY MIEUX V. PALACE
Film Correspondent

SOUTHPORT

Rep. Susi Hamilton, a Wilmington Democrat and leading supporter of subsidies for the movie industry, says the state needs to do more to promote the industry. To that end, she wants the state also to offer incentives to promote and reward "film tourism" activities.

Hamilton plans to introduce a bill in the General Assembly that would provide significant refundable tax credits for film tourism spending in North Carolina. Under her bill, families who visit film sites in North Carolina could get as much as half of their spending reimbursed, depending upon where they live.

"Film production is one of North Carolina's most important industries, and we can grow the film-related tourism sector if we provide the right incentives," she told *Carolina Journal*. She expects there will be significant opposition to her plan, but said any critics "just don't understand the economics of the film industry."

Film tourism is generally thought of as travel and spending related to people visiting recognizable locations featured in particular films. For instance, the movie "Safe Haven," released in 2013, had several scenes filmed in Southport. Based on an economic impact study paid for by the



The photo above is part of a promotional campaign from the Commerce Department that would publicize Rep. Susi Hamilton's tourism tax credit if it becomes law. (CJ spoof photo)

film industry, Hamilton says 29 percent of all Southport visitors over the past two years came to the area because of the film.

Under Hamilton's plan, North Carolinians who visit areas where any major studio production had been filmed in the past 10 years would qualify as "resident tourists" and receive a 25 percent refundable tax credit, or refund, for all their spending in the area. "Nonresident tourists" living outside the state would get a 50 percent credit.

"Under my plan, a film tourism family of four from North Carolina,

spending \$1,600 to visit Southport for a week, would receive a \$400 refund. A family from out of state would get an \$800 refund. Once you figure in the various economic multipliers, this is still a big win for the state," she said.

Out-of-state film tourists are given a larger refund, Hamilton explained, because their dollars would have been spent in another state completely if they hadn't visited North Carolina. In-state tourists, in contrast, would have spent their money in state anyway, in their home towns.

State law allows film production

companies a 25 percent refundable tax credit on expenditures made while producing movies in North Carolina. The program is set to expire Jan. 1, unless the General Assembly renews it in this year's short session. Hamilton said she expects the credit program will be renewed.

To qualify under Hamilton's plan, a North Carolina taxpayer must complete a form FT100 from the N.C. Department of Revenue and file it along with his annual state tax return. Each film tourism excursion requires a separate form with receipts attached.

Eligible expenditures include prepared meals, purchased food, lodging, motor fuel, alcoholic beverages, clothing, and souvenirs. The taxpayer would receive a 25 percent refund on the total of all eligible expenditures, with an annual cap on refunds of \$20,000.

Nonresident tourists would be eligible for a 50 percent credit from the Department of Revenue, available immediately by applying through a portal on the department's website.

Hamilton said this instant refund provision should have film tourists flocking to our state. "Basically, we are giving them half-price vacations as long as they claim the trip is related to a particular film. There will be critics, but those people haven't read the studies I have read," she said. *CJ*



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