

**State may
end Yakdin
River dam
fight with
Alcoa /2**



CAROLINA JOURNAL

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

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STATEWIDE EDITION

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Amazon's Wind Farm Links Nonexistent

Energy still will come from local utilities using fossil fuels

BY DON CARRINGTON
Executive Editor

RALEIGH

When Amazon Web Services, a division of online retailer Amazon, announced in July its involvement in North Carolina's first major wind farm, the company stated the power would be used for its data centers in Northern Virginia, but the centers will continue to purchase electricity entirely from Dominion Virginia Power, the public utility that currently supplies the Amazon data centers.

While AWS has agreed to buy all the power from the 208-megawatt wind farm being built and operated in Pasquotank and Perquimans counties by Iberdrola Renewables, the power will be connected to the grid locally and cannot be plugged into the data centers, which are 200 miles away.

Dominion Power spokesman Dan Genest confirmed to *Carolina Jour-*



These three buildings, totaling approximately 400,000 square feet, house computers and other equipment for Amazon Web Services. This complex is located near Dulles Airport in Ashburn, Va. (CJ photo by Don Carrington)

nal that Dominion is not involved in any arrangement giving AWS credit on its power usage at its Virginia data centers for electricity that is generated by the Amazon Wind Farm in North Carolina. Instead, the wind farm will be connected to a grid operated by PJM Interconnection, a regional transmission organization, allowing AWS to resell the power.

"This venture by Amazon does not involve us," Genest told *CJ*. Amazon is allowed to have "a wind farm [built] for them that will provide energy directly onto the ... grid system," he added. "Sorry I cannot be of more help, but this is not our project."

The centers will continue to operate with the same mix of fuel types that power other Dominion customers; in

2013, that mix was 41 percent nuclear, 37 percent coal, and 20 percent natural gas. Renewables including solar, wind, hydro, and biomass constituted the remaining 2 percent.

"Amazon is one of many companies making misleading claims about how their facilities and operations are powered," said Travis Fisher, an economist with the nonprofit Institute for Energy Research in Washington, D.C. "These companies are connected to the grid, which receives 86 percent of its power from coal, natural gas, and nuclear. Wind and solar power are expensive and unreliable energy sources and can't be counted on to supply on-demand electricity. That's why these sources require costly mandates and subsidies to prop them up. It's fortunate for Amazon's customers that they're connected to reliable sources of electricity and aren't subject to wind energy's fickle output."

Amazon's contention that the wind farm will make its data center operations "green" also may run afoul of Federal Trade Commission guidelines governing the use of such claims in corporate promotions. "It is deceptive to misrepresent, directly or by im-

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FTC: Green Misrepresentations a Problem

Complaint filed about renewable project in Vermont

BY DON CARRINGTON
Executive Editor

RALEIGH

Amazon's statement that its wind farm in northeastern North Carolina will provide electricity for data centers located near Washington Dulles International Airport, nearly 200 miles away, could be a problem for the federal regulators that police corporate advertising and promotion.

"Sometimes what companies



think their green claims mean and what consumers really understand are two different things," states a press release from the Federal Trade Commission,

which has the authority to sue businesses that make fraudulent or deceptive advertising claims. Since 1992, the FTC has issued "Guides for the Use of Environmental Marketing Claims," or Green Guides, as an attempt to monitor the truthfulness of advertising to U.S. consumers interested in environmentally friendly or "green" products.

The Green Guides "are not agency rules or regulations" but instead "describe the types of environmental claims the FTC may or may not find deceptive under Section 5 of the FTC Act" and "are designed to help marketers ensure that the claims they make about the environmental attributes of their products are truthful and

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State May End Yadkin River Dam Fight Against Alcoa

Water quality permit at dams could pave way to relicensing

By RICK HENDERSON
Managing Editor

A nearly eight-year-long legal battle between the state of North Carolina and Alcoa Power Generating Inc. over four hydroelectric dams the company owns and operates on the Yadkin River may be coming to an end.

The state in late October issued a water quality permit to Alcoa, one of the final impediments preventing the company from receiving a new license from the Federal Energy Regulatory Commission to continue operating the dams, known collectively as the Yadkin Project. In recent weeks, the state had lost rulings in state Superior Court and U.S. District Court over the relicensing process.

"We are pleased the state of North Carolina has issued a water quality certificate for the Yadkin Project and are in the process of reviewing it. The certificate clears the way to a FERC license that will allow us to implement enhanced water quality technology and additional environmental and recreational benefits promised by the Relicensing Settlement Agreement. We have been good stewards of the watershed for nearly 100 years and remain committed to meeting North Carolina water quality standards," said Ray Barham, Yadkin relicensing manager, in a statement.

Alcoa has operated the dams since 1917, and its federal license expired in 2008. The company is operating the dams under a temporary license. It began the relicensing process in 2002, but in 2008 state officials began throwing obstacles in Alcoa's way. Democratic Govs. Mike Easley and Bev Perdue and Republican Gov. Pat McCrory each had opposed the relicensing. They wanted the state to take over the dams and operate the hydroelectric facilities. (See earlier *Carolina Journal* news reports at <http://bit.ly/1O1YQNU>.)

After clearing several hurdles, in September 2012 Alcoa submitted an application for a water quality certification to the North Carolina Department of Environment and Natural Resources, which recently was renamed the Department of Environmental Quality. The certification is required under the Clean Water Act before the Federal Energy Regulatory Commission can renew a license to operate the dams.

RALEIGH



The Falls Dam is one of four comprising Alcoa's Yadkin River hydroelectric facilities. (CJ file photo)

DENR was prepared to issue the license in July 2013 until a last-minute intervention by the North Carolina Department of Administration caused a problem. DOA claimed that the riverbed belonged to the state rather than Alcoa.

Alcoa filed a complaint against DENR within the Office of Administrative Hearings. Administrative Law Judge Selina Brooks ruled in May 2015 that DENR was wrong to deny Alcoa's water quality certificate based on the state's new claim to ownership. She ordered DENR/DEQ to reconsider the application.

DEQ appealed the Brooks decision to the state Superior Court, where in September Judge Bryan Collins affirmed her ruling and gave DEQ 30 days to process Alcoa's application for the license.

"We're pleased the court has reaffirmed what we've known all along: the state had no legal reason to deny our application. We urge the state to follow the judge's order and quickly issue a water quality certificate for the Yadkin Project," Barham told *CJ* after Collins' ruling.

DOA initiated a separate legal action in N.C. Superior Court in August 2013 over ownership of the riverbed. The following month, Alcoa successfully had the case moved to federal court.

Boyle ruled in May that the state failed to prove the Yadkin River was navigable for commerce in 1789, a claim the state believed would help it gain ownership of the "Relevant Segment" of the riverbed.

On Sept. 28, Boyle ruled on the remaining issues in federal court.

"It is impossible not to notice the timing of this lawsuit. The state did not file suit immediately upon learning that Alcoa claimed ownership of the property. Instead, it waited over seven years, until after Alcoa closed the Baden Works aluminum smelting plant, to file suit. ... The evidence, even viewed in the light most favorable to the state, overwhelmingly demonstrates that Alcoa has title to the bed of the Relevant Segment," Boyle concluded.

Initially, the state suggested it would appeal Boyle's ruling. "We are disappointed and disagree with the court's decision. We believe that these waters are vital to the state of North Carolina, and we are going to pursue all available remedies," DOA spokesman Chris Mears told *CJ* at the time.

Issuing the water quality permit, however, may indicate that the state's pursuit of the Yadkin Project is over. *CJ*

Executive Editor Don Carrington contributed additional reporting to this story.

Some Changes Coming to Carolina Journal

As *Carolina Journal* enters its second quarter century, you'll be seeing some changes — some subtle, others more significant — making our print and online materials more current and more relevant.

The initial change is reflected in this month's print edition. We are ending two features — Cherokee to Currituck and Town and County — that summarized materials from other news sources. They were appropriate to carry in a statewide publication

before local newspapers offered their content online, but readers can get that information much more quickly than we can provide it.

We will maintain our commitment to providing in-depth investigative reporting on state and local government, but we also are committing more of our efforts to real-time coverage of breaking stories. Within the next few months, we will launch a significantly improved *CarolinaJournal.com* website. This new site will

present our news, analysis, and commentary in a manner that is easier to read, easier to share via email or social media, and easier to search the thousands of stories we have covered over the past quarter century.

We hope you'll continue to find *Carolina Journal* and *CarolinaJournal.com* indispensable sources of insights and information on North Carolina politics and policy, and look forward to the exciting changes ahead.

— The editors

Wind Farm Officials Differ on Need for Taxpayer Subsidies

BY DAN WAY
Associate Editor

RALEIGH

Despite earlier claims by Iberdrola Renewables officials that the \$400 million Amazon Wind Farm that will cover 22 acres near Elizabeth City would be built totally from company funds, another Iberdrola official says the project requires some tax incentives to be viable economically for the company.

At a recent meeting of the North Carolina Energy Policy Council, Eric Thumma, Iberdrola Renewables director of policy and regulatory affairs, told members that wind power is becoming increasingly competitive with traditional electricity sources.

"If wind is so competitive today, do you still need the federal, state, and local tax subsidies that you're getting? Would you build this project without them?" asked council member John Brodman, an economist who is a retired deputy assistant secretary at the U.S. Energy Department.

"This project clearly would not happen without those support mechanisms. We're not at a point yet where we don't need subsidies," Thumma responded.

That conflicts with a statement Iberdrola Renewables spokesman Art Sasse previously made to *Carolina Journal* that "there are no incentives at any level" for project development.

Craig Poff, Iberdrola Renewables director of business development for the Mid-Atlantic and Southeastern U.S., was quick to add: "There is no state subsidy there. That project does not qualify for the state [renewable] in-



Craig Poff, a director of business development for Iberdrola Renewables, addresses a Sept. 16 meeting of the N.C. Energy Policy Council. (CJ photo by Dan Way)

vestment tax credit."

However, if the project, being built in Perquimans and Pasquotank counties, is operational by the end of 2016, it could qualify for a 30 percent federal tax credit.

Poff added that local tax abatement agreements "would be necessary for any wind project in the state of North Carolina based on the way the business personal property taxes are assessed in North Carolina." Poff said the state's property tax structure makes the state less competitive with other states in the region and nationwide.

Poff argued that the financial inducement was more of "a tax issue than a renewable energy or project-level issue."

Due to an economic development incentive grant, Iberdrola Renewables' property taxes "will be about \$500,000 per year, split between both Pasquo-

tank and Perquimans counties, and that will make us the largest taxpayer in both of those counties by a pretty good margin," Poff said.

Tommy Harrell, a Perquimans County farmer who opposes the wind farm, asked Poff the amount of financial benefits Iberdrola Renewables would receive from his county.

After refunds for investment and job creation, Iberdrola Renewables would pay about \$5,000 per turbine per year, or about \$250,000 in year one, Poff said. "We will be the largest taxpayer in Perquimans County by a factor of three."

In light of the tax rebates, Harrell asked how much existing power capacity production would be replaced by renewable energy from the wind farm. Online retailer Amazon is purchasing the power for its data center in northern Virginia.

"I don't know that anyone on Earth could respond to that accurately," Poff said.

Pasquotank County Commissioner Lloyd Griffin said at the current tax value, the property on which the wind farm will be located normally would generate about \$1,001,500 in tax revenues per year. But the tax rebate would reduce the county's tax collections from the site to about \$209,000 annually over 30 years.

Griffin said he's also troubled that North Carolina and Pasquotank and Perquimans counties "get zero opportunity for any sales tax or use tax off of this" because the power that the wind farm would generate will be placed on the electric grid in the Northeast. Site work companies and other contractors are coming from out of state, he said.

Griffin said the Energy Policy Council should provide more assistance and guidance to local governments for these large-scale renewable projects.

"As we moved through the process, the county commissioners, I feel,

did not have a support staff in Raleigh," Griffin said.

"When our staff would call [the Department of Environmental Quality] for help, nobody on staff could help," Griffin said. County officials got the same lack of assistance from other state agencies, he said.

"I think the policy has listened to the industry instead of going out into the communities to find out actual needs," Griffin said. "There's something wrong with the system here."

DEQ Secretary Donald van der Vaart said current law requires his agency to issue permits for wind projects, but this project predated the law and was grandfathered out of the process.

"We didn't have any authority to provide input. We would be going forward with a new project," van der Vaart said.

Excavation has started for construction on the 300-megawatt project, Poff said.

"Late this year we'll be focusing on road construction. Foundations will begin in January of 2016" for substation infrastructure in a 208 MW first phase, Poff said. Six to eight wind turbines will arrive in late May, with construction commencing in late June. Their rotor diameter is 374 feet, and at their tip the turbines will be 492 feet tall.

"We will be commissioned and fully operational by the end of 2016," he said.

The project involves about 60 landowners who will receive some \$600,000 in lease payments annually.

Thumma said availability of long-term contracts with fixed prices and access to markets through long-term contracts make wind energy attractive to consumers, though Western states are more likely to provide such long-term contracts.

He said wind "is increasingly competitive with other resources," and as a free fuel source it would not get more expensive, unlike natural gas or fossil fuels, with prices that rise and fall unpredictably on the market.

Amazon "was driven by some of its environmental goals as well as the competitiveness of the price we are offering" in agreeing to buy the power produced at the facility, Thumma said.

"But lastly, the main driver has been renewable energy requirements in states," he said.

Of Iberdrola Renewables' 14 projects in the eastern United States, Thumma said, 11 "are built primarily to serve renewable energy requirements" such as North Carolina's Renewable Energy Portfolio Standard mandating, among other things, that electric utilities purchase set percentages of renewable electricity. CJ

Keep Up With State Government

Be sure to visit **CarolinaJournal.com** often for the latest on what's going on in state government. CJ writers are posting several news stories daily. And for real-time coverage of breaking events, be sure to follow us on Twitter (addresses below).

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Experts: Government Slowing Innovation in Medical Technology

BY DAN WAY
Associate Editor

GRAND RAPIDS, Mich. Medical technology that seemed relegated to science fiction is at hand, but fast-moving innovations are threatened by established interests and government regulations, said a panel of medical and academic experts at the State Policy Network's recent annual meeting in Grand Rapids, Mich.

Health care in America is the classic case of the fortress and the frontier, said Robert Graboyes, senior research fellow with the Mercatus Center at George Mason University in Arlington, Va., who made the same case earlier this year during a presentation at the John Locke Foundation.

The "fortress" is paternalism and protectionism, as those blocking reform "imagine every terrible thing that could ever happen ... and focus all of [their] efforts on protection," Graboyes said. The "frontier" mentality says, "If you want innovation, you've got to let people take risks," and don't protect insiders against revolutionary thinkers.

"The question is: How do we get health care out of the fortress and into the frontier?" Graboyes asked.

Doing so will require looking beyond the system of third-party payment by health insurers, Graboyes said. Replacing Obamacare with conservative ideas about high-risk insurance pools and selling insurance across state lines "is about as useful a device as buying and selling haircuts across state lines," he said.

"We need to get away from the debate about insurance, because for 70 years that's all we've talked about," Graboyes said. Responding to insurers' interests simply redistributes resources and attention from one patient to another.

One concept Graboyes finds promising is a compact of nine (and potentially 11) states that has asked the federal government to release them from some regulations of the Affordable Care Act, Medicare, and Medicaid.

And yet all of those states, except Utah, have "absolutely terrible state restrictions on the practice of medicine" that limit consumer options, Graboyes said.

These states limit personal choices and individual liberty by denying competition in telemedicine and forbidding nurse practitioners and other nonphysicians to perform some functions that state law limits to doctors. They also have restrictive certificate-of-need laws that impede the opening of new specialty hospitals or purchasing medical equipment.

Dr. Jason Hwang, chief medical officer of Icebreaker Health, a San Francisco-based company, said the current health care model continues to pack all of the expertise and tech-



Medical technology and policy experts wonder what the iPhone equivalent is for health care, and when it will be developed.

nology into hospitals and insurance providers. These institutions stand as hurdles to less expensive technological advances, he said, thwarting "the democratization of health care" seen in consumer-driven products and services — including Uber, TurboTax, consumer banking, online trip booking, car sales, and real estate purchases.

"The question is what is that iPhone equivalent in health care," Hwang said. Sophisticated tools with diagnostic software can be built into a cell phone to conduct an electrocardiogram or ultrasound. Qualcomm is offering a \$10 million prize to the first company that designs a device that can diagnose 12 different conditions simultaneously, similar to a tricorder that "Star Trek" fans would be familiar with.

Hwang compares the current "synchronous" mode of telemedicine of talking to a doctor on the computer screen to having to go through a bank teller to use an ATM.

His company developed the "asynchronous" LEMONAID app that asks a health care consumer to answer all of the questions a doctor would ask, and puts the answers into a software program that guides the patient through the interview process.

"The heavy lifting is done by the computer program" with such self-directed care, and allows the physician to

spend more quality time with the patient, Hwang said. In the United Kingdom, doctors can see 300 patients' orders per hour. "We actually have aims to see 1,000 patients an hour" at far less cost using that technology.

Aaron Dallek, CEO and co-founder of Opternative, created a smart phone application that allows consumers needing eyeglasses or contact lenses to perform eye examinations at home using a computer and a phone.

"These systems won't forget to ask the right questions," which are based on accumulated health science data, Dallek said. "I think that this can be replicated across health care."

Doctors will continue to have a role in providing health care "long into the future," he said, but inexpensive, home-based technology frees a doctor to provide higher-quality care by cutting down on paperwork.

"The doctor shouldn't be your secretary," Dallek said.

"We know that we're going to have a fight on our hands" from legacy providers, Dallek said.

Consumers should "challenge your legislatures to open up the frontier" by removing regulations and controls that protect incumbent interests, Dallek said. "This is what health care needs."

Dr. Darcy Nikol Bryan, a practic-

ing obstetrician/gynecologist, said it is imperative to innovate in medicine, and technology is expanding access, lowering costs, and treating and curing diseases.

As an example, she said, a do-it-yourself finger stick is being developed that can run blood through a machine to analyze personal risk factors for things such as diabetes and heart disease.

Advances in science allow personalized health care instead of government-regulated, one-size-fits-all, population health delivery models, Bryan said.

"There is a huge disjunction where science is taking us and where policy seems to be taking us," she said.

She said public policy should include a safe harbor against devastating legal repercussions for entrepreneurs and innovators developing medical devices that wind up having problems in use, so long as the developers performed due diligence, followed published standards and procedures, and were not negligent.

While there are amazing advances with bionic prostheses, biochips, and bio-implants, Bryan cautioned about "pretty scary" movements to expand definitions of disease to include people who are unhappy with their DNA or the body that they were born with. Other concerns include a possible resurgence of eugenics and the nonreproductive manipulation of genes.

"Let's not give up on the idea that human beings are worth something regardless of their deficits and flaws," Bryan said. CJ

**'Frontier' approach
said better suited to
medical progress
than 'fortress'
approach**

Conservatives Push For Reforms In the Criminal Justice System

Age of adulthood, civil asset forfeiture head their concerns

BY DAN WAY
Associate Editor

GRAND RAPIDS, Mich.

A nationally recognized criminal justice reformer is confident North Carolina eventually will overturn a state law allowing 16- and 17-year-olds to be charged as adults, but acknowledges political resistance to the proposal remains.

"We're continuing to work on raising the age of juvenile jurisdiction," said Marc Levin, director of the Center for Effective Justice and Right on Crime, a project of the Texas Public Policy Foundation, the American Conservative Union Foundation, and the Prison Fellowship, at the State Policy Network's annual meeting in Grand Rapids, Mich, in September.

"I would feel fairly safe in predicting that it will pass in the next few years, but we just haven't quite gotten there yet," he said.

Levin noted the "great support" of lead House sponsor Rep. Marilyn Avila, R-Wake, but added that Senate leader Phil Berger, R-Rockingham, has been skeptical of proposals introduced in recent sessions.

Levin, who has written a report for the John Locke Foundation on juvenile justice reform, said North Carolina is one of only two states that treat 16- and 17-year-old offenders as adults in the criminal justice system. Eight states allow 17-year-old minors to be charged as adults.

"It produces terrible results to put 16-year-olds in the adult criminal



Marc Levin, director of the Center for Effective Justice and Right on Crime, a project of the Texas Public Policy Foundation, the American Conservative Union Foundation, and the Prison Fellowship, during a 2012 interview at the John Locke Foundation. (CJ file photo)

justice system. They get a permanent record for stealing even a candy bar," Levin said. Raising the age to 18 would not prevent minors who commit rape, murder, and other serious crimes from being charged as an adult.

Some prosecutors oppose raising the age, but Levin said it would benefit sheriffs. The federal Prison Rape Elimination Act requires county jails to provide separate quarters and programs for 16- and 17-year-old inmates because statistically they are far more likely to be sexually molested by other inmates and staff.

"So that's very costly to have all these separate facilities and programs," Levin said.

Currently, a 16- or 17-year-old in-

mate can borrow money to post bail, or get released on his own recognizance, and parents might never know their child was arrested.

"It's beneficial for a parent to know their 16-year-old has been arrested," said Levin.

North Carolinians are unaffected by another concern featured by the session: civil asset forfeiture.

Civil asset forfeiture occurs when a law enforcement agency seizes property it claims is "ill-gotten gains" of criminal activity even though the person whose property was taken has not been charged with or convicted of a crime. In many states, the property never has to be returned. Criminal asset forfeiture occurs when a person has been convicted and the property is considered part of the proceeds of the crime.

"The big problem is pretty much in every state law enforcement can confiscate your property, your money, if you're pulled over for speeding, if you're going through an airport," Levin said. New Mexico banned civil asset forfeiture this year, and lawmakers in Oklahoma are considering a ban.

There ought to be protection against "the whole idea that police can seize your property not only before you're convicted, but then it's the burden of proof on you to get it back even if you're exonerated or you're never charged," Levin said.

In most states, half of the proceeds from asset forfeiture goes to the prosecutors, and half goes to the police. North Carolina does not allow civil asset forfeiture, and the proceeds collected from criminal fines go to the public school district in the county where the case was prosecuted, reducing the incentive for local police to be overly aggressive.

"It's a gravy train, and many of

them use it to take trips and so forth so they're just very reluctant to give up an inch on this," said Levin.

Former Virginia attorney general Ken Cuccinelli also spoke at the event, and his comments mirrored Levin's on civil asset forfeiture.

"I hate civil asset forfeiture," Cuccinelli said. "I'm a rabid property rights guy," which puts him at odds with law enforcement, with which he enjoys a close relationship.

"You talk about violations of the principles of liberty. It's hard to find too many in the criminal justice arena that are so badly abusive of individuals with so little basis as civil asset forfeiture," he said.

The best way to end the abuse is to place civil asset forfeiture proceeds in a state's general fund instead of allowing law enforcement to use it. Police "are going to lose enthusiasm very quickly" for confiscating property under that scenario, he said.

Cuccinelli said "government is out of control in many ways" and took aim at the rapid increase of federal laws.

He said he was "particularly incensed about" criminal offenses that are established by regulatory agencies. "Literally, bureaucrats are turning us into criminals without the accountability of an elected official of any kind," Cuccinelli said.

"I actually think it would be better not to allow agencies to establish federal law. It is trampling individual liberties," he said.

He advocates a *mens rea* requirement in state statutes, providing those charged to use as a defense that they did not intend to commit a crime. Ignorance of the law is no defense, he noted, but with the rise of so many laws on the books, in some cases, perhaps it should be.

"It undermines the constitutional republic that we have here, because it takes away accountability if unnamed, unseen elements of government can turn you into a criminal, and that can't be allowed to happen in America, but it is happening," Cuccinelli said.

"There's enormous swaths of Virginia law that I will never know" after two decades as a lawyer and serving as the attorney general, so the average citizen would never know all the laws.

While he believes public safety "is the first priority of government, whether it be national or state," and "we need prisons to protect ourselves," he said criminal justice reform is needed.

"Medicaid is the only part of state budgets that has grown faster and more out of control than corrections," Cuccinelli said.

"High recidivism means failure. We are failing" to protect society, budgets, "and individuals who come into this system ... because of their choices," he said. CJ

Lawmakers Consider Moves Easing Retiree Health Debt

Proposals include consolidating insurance plans

BY BARRY SMITH
Associate Editor

RALEIGH
A legislative oversight committee on Oct. 7 voted to consider measures aimed at reducing the \$25.5 billion unfunded liability in the state retiree health benefit fund, including shifting retirees to Medicare Advantage plans and increasing taxpayer subsidies or employee contributions to the fund.

The Legislative Program Evaluation Oversight Committee learned that moving to Medicare Advantage plans could save up to \$64 million a year.

Sen. Louis Pate, R-Wayne, noted, at that pace, it would take many years to cover the entire unfunded liability, which is the amount of money state taxpayers are obligated to pay in future employee benefits that exceeds the cash on hand.

Retiring that liability would require "a lot of bake sales coming up," Pate quipped.

Kiernan McGorty, principal program evaluator for the legislature's Program Evaluation Division, told the committee that other options to reduce the liability include boosting annual tax payments to the fund, hiking premiums for active employees, or increasing the amount of money retirees pay for their insurance.

McGorty cautioned that before lawmakers take any action, legal issues must be taken into account.



Sens. Jeff Tarte, R-Mecklenburg, at left, and Don Davis, D-Greene, discuss supplemental insurance plans for state employees. (CJ photo by Barry Smith)

"The issue of whether retiree health benefits are entitled to the same legal protections as the [state Supreme Court] has found for state pension benefits is the subject of a pending lawsuit referred to as the *Lake* lawsuit," McGorty said. The state's highest court has concluded that benefits promised to state employees when they are hired are similar to entitlements and cannot be reduced so long as employees continue working at the same jobs.

Moving forward, McGorty said, "these changes could be made for new hires without a threat of a lawsuit."

McGorty said the state accumulated this liability by adopting a "pay-as-you-go model," paying for retiree health benefits in the year costs occurred rather than building reserves. In addition, she said the state has offered other perks, such as not requiring employees to pay premiums or copayments for some benefit plans, along with making benefits available to employees who retire before age 65 or accept work outside state government.

The committee asked its staff to

draft legislation with different options to reduce the liability.

The committee also took looked at supplemental insurance benefits, such as dental, vision disability, cancer, legal, and pet insurance. Employees pay for these supplemental plans through payroll deductions.

Jeff Grimes, senior program evaluator for the division, recommended that the state scrap its current program of allowing various state agency insurance committees to decide what supplemental plans are available for employees.

Instead, he recommended that a single committee oversee all supplemental insurance, providing a uniform system statewide.

"The employee insurance committees are ineffective and have failed to manage the selection of supplemental insurance products," Grimes said.

Grimes said more than half of state agencies and universities do not have employee insurance committees, some committees did not meet last year, and many allow vendors to offer

insurance without a contract or without a competitive bidding process.

He said setting up a vendor account to make automatic payroll deductions and to pay vendors costs about \$1,080 per employee, with all those costs borne by taxpayers. Some vendors have only one state employee enrolled in their program.

"This report is tremendously scary," said Sen. Jeff Tarte, R-Mecklenburg. "This is embarrassing."

Sen. Don Davis, D-Greene, asked if there would be any cost associated with moving the state to one supplemental insurance committee. Grimes responded that the state could make the move with the staff that is already in place.

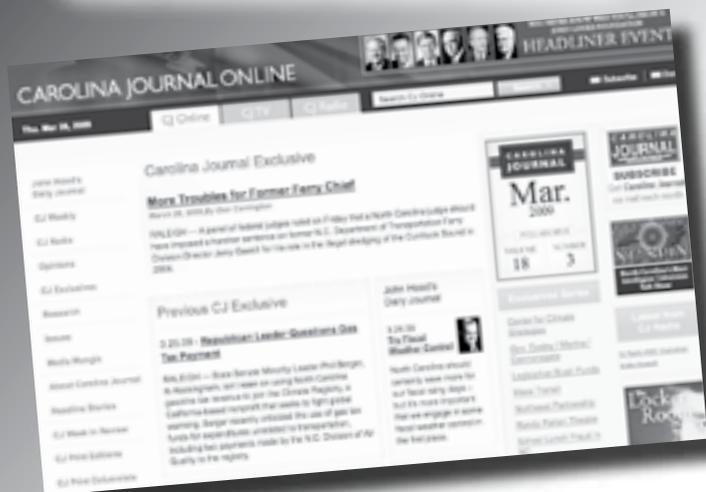
Rep. Nelson Dollar, R-Wake, questioned the wisdom of moving to a central committee. "What do we lose when we centralize?" Dollar asked, rhetorically. He said employees could lose benefits to match specific needs.

Employees working in an office may want different types of supplemental insurance than Department of Transportation workers on highway crews, Dollar said.

Ardis Watkins, legislative affairs director for the State Employees Association of North Carolina, also questioned the move to a central committee.

"At the end of the day, we have never been able to figure out how not having the employees choose the companies that have the products that would uniquely suit their needs is the thing that makes sense," Watkins said after the meeting. She said the proposed alternative would allow bureaucrats in Raleigh to make supplemental insurance decisions for correctional workers in Ashe County. CJ

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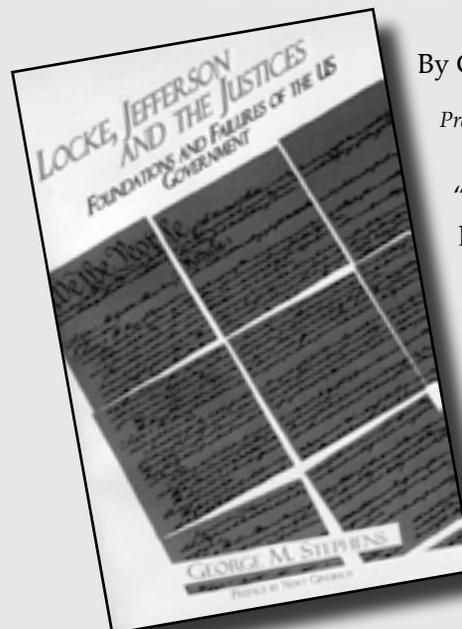


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Locke, Jefferson and the Justices: Foundations and Failures of the U.S. Government

By George M. Stephens

Preface by Newt Gingrich



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

Newt Gingrich
Former Speaker
U.S. House
of Representatives

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Wake Newspaper Editor Finds State Payment System Hackable

BY DAN WAY
Associate Editor

WAKE FOREST

A Wake County small-business owner attempting to pay her employees' withholding tax bill discovered that the state Department of Revenue website was vulnerable to hackers.

A cybersecurity engineer said that vulnerability could have exposed the users of multiple state websites to identity and credit card theft.

"Me as a taxpayer, I'm very concerned about this," Clellie Allen said after identifying the agency's inadequate security protocols. She is editor of *The Wake Weekly* in Wake Forest, which she and her husband run.

She raised several alarms with DOR in September after confirming through an online diagnostic tool that the agency's website got an "F" rating for security protection against a variety of potential hack attacks.

Among the potential attacks Allen found were Logjam, which has been identified since May, and Poodle, which was identified in 2014.

"Why these things are not fixed is just unbelievable," she said. "If this were a corporation ... you could expect [customers] to jump ship."

Even if none of the data has been breached, "it's just irresponsible on the part of our state government" not to upgrade protocols and warn customers they were at risk, Allen said.

She said the state Division of Employment Security website also receives an "F" grade from SSL Labs for the level of protection it provides users.

In mid-October she demonstrated for *Carolina Journal* that SSL Labs still assessed both agency websites as



Clellie Allen, editor of *The Wake Weekly* newspaper, checks the N.C. Department of Revenue payment site's latest rating. (CJ photo by Dan Way)

vulnerable, and the state had not posted warnings to site users that their sensitive information could be imperiled.

SSL Labs has a free online diagnostic tool that flags vulnerabilities in a web address. SSL is an acronym for secure socket layer. That is the encryption protocol through which two computers negotiate a secure connection, making information unreadable to others.

A secure connection is identified with "https" in the web address window. Attacks against SSL still show the https security indicator. But they fool a server into thinking it is negotiating the most secure setting, when the security level actually is being downgraded to make it easier to infiltrate.

Michelle Vaught, a state Department of Information Technology spokeswoman, disputed that the state websites are vulnerable, and said, "We are not aware of any data being compromised."

Although it is not publicized, Vaught said the state "partners routinely with the FBI, [Department of] Homeland Security, and the U.S. Department of Defense, and is well aware of security issues and vulnerabilities."

She said the state first became aware of the browser compatibility issue in June 2014, "at which time a plan was put in place to remediate the vulnerabilities."

However, Vaught said, there was "an extreme negative response" from people who could no longer use certain state applications because of their outdated systems, such as the Internet Explorer browser or Windows XP, which many people continue to use.

"This is why a revised plan was developed by the state," she said. "Otherwise, people who still use these systems would not be able to pay taxes or use other tools on state websites."

The state conducted a risk assessment, "and because the level of difficulty to exploit was extremely high, the vulnerability was deemed a lower risk," Vaught said.

"In fact, the National Vulnerability Database [from the U.S. Department of Homeland Security] rated it as medium severity [not high] because a person would have to have specialized knowledge and understanding in order to exploit the vulnerability," Vaught said.

In addition, the hack would have to occur in an extremely narrow time frame, she said.

As part of the state's action plan,

"this industrywide issue will be permanently resolved" on Nov. 1, Vaught said. "The permanent solution has been thoroughly tested, so there should be no negative response as there was with the earlier rollout."

"The state absolutely has a responsibility to be aware ... and should have been aware" that its system had security weaknesses, said Bren Briggs, a network and security engineer for a company in Florida and former Raleigh resident who is familiar with the situation at the DOR website.

"There [are] websites, forums, the U.S. Cyber Emergency Response Team does a pretty good job of publishing that sort of data," as do LWN.net, the SANS Internet Storm Center watchdog organization, and any number of Twitter feeds, among other sites, Briggs said.

The fact that Allen appears to be the first person to discover the problem "means they weren't really paying attention, were they?" he said.

The state, he said, must be extremely vigilant about watching for vulnerabilities such as those Allen's research has exposed because the security protocol "is the front door to your house, and the Internet is a bad neighborhood. Would you leave your front door open in a bad neighborhood?"

A lot of state agencies might not even be aware that it was an issue, he said. State governments "have a long history of that problem."

What's most at risk "is probably the individual user's communication up to the server," Briggs said. He doubts widespread state government data would be vulnerable via SSL attack.

Hackers could watch an individual session "as though it was unencrypted" and steal names, addresses, Social Security numbers, and credit cards, Briggs said.

Encryption protocols or algorithms that are not changed frequently become weaker as advances in technology make it easier for hackers to break the codes.

The SSL protocol, among the most widely used to manage private data transmission, is one that has been identified as vulnerable to attack, but it is quick and easy to fix, Briggs said.

If the state system had been compromised, a user might not know until unapproved purchases started showing up on a credit card.

And that might not happen immediately. Identity theft is now "a commercial enterprise" for crime organizations, especially in Eastern Europe and Russia, Briggs said. So a hacker might pull information on many credit cards from a site and sell them at some later date.

Since at least two North Carolina agencies were identified as being prone to attack, it is conceivable others were, too, Briggs said. CJ

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JLF: REINS Act Could Help Restrain Regulation Costs

Separate report says rules could cost N.C. \$25 billion annually

BY CJ STAFF

RALEIGH

Regulation costs already reach at least \$3.1 billion annually in North Carolina and might stretch to as much as \$25 billion. A new John Locke Foundation Policy Report focuses on a tool designed to “rein in” state regulatory overreach.

That tool is a state-level Regulations from the Executive In Need of Scrutiny, or REINS, Act. It’s an idea approved in the U.S. House of Representatives for the federal government three times since 2011, including a vote this summer.

“Like the federal proposal, a REINS Act for North Carolina should increase accountability for and transparency in the regulatory process, return improperly delegated legislative authority, and bring about more carefully crafted legislation and rules,” said report author Jon Sanders, JLF director of regulatory studies. “Those outcomes should produce a less exuberant regulatory environment, which the bulk of peer-reviewed economic literature suggests would encourage a more exuberant rate of economic growth.”

The regulatory cost estimates come from the Beacon Hill Institute, the research arm of the Department of Economics at Suffolk University in Boston. In an economic analysis released in conjunction with Sanders’ report, BHI researchers identified roughly 25,000 individual regulations in the 30 Titles of North Carolina’s Administrative Code. They narrowed their focus to 10,000 rules applying to the private sector, then tried to gauge those rules’

costs in three categories: fees paid to the state, spending in the state budget, and private-sector compliance costs.

The \$3.1 billion figure represented a “starting-point estimation,” according to BHI research. The analysis also found that compliance costs for the private sector were 44 percent higher than fees and budget appropriations.

Researchers urge caution in using that \$3.1 billion total. They consider it a “baseline” and suggest that it is “likely extremely low,” largely because their analysis includes no cost estimates for several titles in the administrative code. Nor was the BHI team able to estimate the “opportunity cost” of complying with regulations instead of devoting money to investment, research and development, and production of good and services.

“Using one research method, North Carolina’s state regulations cost the state economy over \$25 billion annually,” the BHI economists note. “For this reason, we believe the actual total costs of North Carolina’s state regulations run far higher than the figures presented here.”

Regardless of the actual figure, a REINS Act would help North Carolina leaders avoid adding to them unnecessarily, Sanders said.

“REINS would offer extra scrutiny to proposed state rules that would

have a ‘substantial’ economic impact,” he said. “Rather than go through the existing state rules review process, those major rules would require a vote from the General Assembly and the governor’s signature. Without that approval, the proposed rule would die.”

Proposed rules that fall short of the REINS threshold would continue to move through the existing state

rules review process, Sanders said. That means legislators would keep their power to kill smaller rules but would not be forced to address every new rule proposed for state government.

“It’s important to note that North Carolina’s Supreme Court warned back in 1978 that the delegation of legislative rule-making power to state agencies should be ‘closely monitored,’” Sanders said. “Justices wanted to ensure that state agency decisions were

not arbitrary and unreasoned. They also wanted to ensure that state agencies were not asked to make important policy choices which might just as easily be made by elected representatives in the legislature.”

Sanders’ report highlights multiple academic studies that point to the negative economic impact of overly burdensome regulation. One study estimated that federal regulation cost American consumers and businesses \$1.88 trillion in 2014 in lost economic productivity and higher prices. Another

study authored by researchers from North Carolina State and Appalachian State universities suggests that the U.S. economy is about one-fourth the size of its potential because of overly burdensome regulations.

“Costs imposed by regulation are especially burdensome on small businesses, which typically lack in-house legal and compliance staff to help them navigate them all,” Sanders said. “One study estimated that federal regulations cost large firms \$7,755 per employee, while the same rules cost smaller firms \$10,585 per employee.”

The John Locke Foundation’s First In Freedom Index ranks North Carolina 36th among the 50 states, and No. 8 among 12 Southeastern states, in regulatory freedom. “Over the past 15 years, the number of pages added to the North Carolina Register each fiscal year averaged 2,405,” Sanders said. “In the 1990s, the average was 2,282 pages.”

Legislators have enacted a series of regulatory reforms since 2011, including a valuable “sunset” provision in 2013 that subjects state rules to a periodic review, Sanders said. That review determines whether rules should be maintained or repealed.

More work remains. The REINS Act is one of a number of “sunrise” provisions that would limit overly burdensome regulations before they’re adopted, Sanders said. “Legislators also should consider such reforms as strong cost/benefit analysis, full consideration of alternatives to regulation, and a rule requiring that two old rules should be retired for every new one enacted.”

A state-level REINS Act should be the top priority. “The underlying aim of REINS is a regulatory process that is more transparent, more circumspect, and more accountable to the people, who are the ultimate authority,” Sanders said. CJ

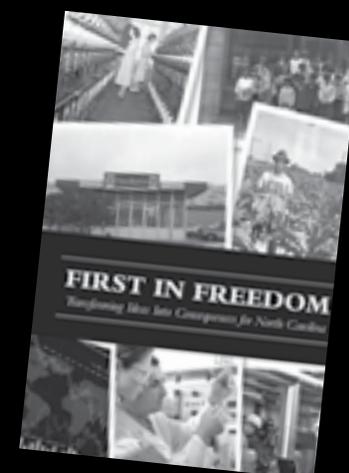


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Reformers Urge More Decentralized Immigration Model

By BARRY SMITH
Associate Editor

GRAND RAPIDS, Mich. The frustration with the failure of Congress to tackle immigration reform has prompted some observers to suggest that states look north for an example.

At the recent annual meeting of the State Policy Network, experts from Americans for Tax Reform, the Reason Foundation, and the Niskanen Center suggested that states push for adopting a Canadian model, which shifts authority for some immigration policies to the state level.

Under the program, the U.S. federal government would still set some basic immigration policy, such as running background checks on applicants. But states would be given leeway in issuing visas and determining how many immigrants would qualify for work permits over certain time periods.

N.C. Rep. Harry Warren, R-Rowan, who has sponsored a number of pieces of immigration-related bills in the N.C. House, was unaware of the proposal but intrigued by it.

"I'd sure like to look into it a little further to see if there's something I can

glean [from] it that might be helpful," Warren said.

Shikha Dalmia, senior analyst at the libertarian Reason Foundation, said that comprehensive immigration reform at the federal level is dead for the foreseeable future. "Basically, the reason is, no one trusts Washington," she said during the meeting of SPN, an association of nonprofit think tanks and advocacy groups that work for policy changes at the state level. The John Locke Foundation is a member of SPN.

"We've messed up for the last 15 years at the federal level on immigration," said Alex Nowrasteh, immigration policy analyst at the Center for Global Liberty and Prosperity at the Cato Institute.

Dalmia said that currently the federal government isn't issuing enough visas to meet the demand for workers from other countries, leaving a gap. The gap breeds shortages, re-

sulting in lawlessness at the U.S.-Mexican border, she said.

While the United States has focused on combating illegal immigration, Canada instead has emphasized the methods used by its provinces (analogous to U.S. states) to recruit the immigrants with skills that they want to recruit.

"We have started regarding immigrants as enemies," Dalmia said, noting that federal and state governments have instituted or called for programs requiring electronic verification

of employee immigration status at hiring, border fences, and other security measures.

In Canada, provinces that don't want immigrants can turn them away, Dalmia said. But doing so comes with risks; companies may not wish to locate in provinces that restrict immigration, she said. Controlling the number of immigrants admitted at the province level allows those units of government to guard against unexpected drains on public services.

Dalmia suggested that if the United States adopted a similar policy, it would turn "states into laboratories of democracy." States might tend to offer similar immigration policies, but making such a move would be voluntary, based on incentives. A shift in policy toward a local direction would put Uncle Sam in a limited but defined space, she said.

David Bier, immigration policy analyst with the Niskanen Center, another libertarian think tank, agreed the

federal government would retain important roles in a decentralized system, such as doing background checks on people applying for visas and deciding when applicants are eligible to become citizens. He said legislation would be necessary at the federal level to authorize states to bring in foreign workers.

Originally, Bier suggested states could have a low cap, perhaps 5,000 a year, with the number growing over time. Under a model he discussed, states would have the option to expand the number of visas they issue by 10 percent a year so long as they could verify that at least 97 percent of the workers who received permits complied with all the legal requirements of their visas.

Bier said he is attempting to recruit a sponsor to introduce such a program at the federal level, and is approaching officials at the state level to garner interest.

Warren said he did not think the federal government is capable of getting a handle on the 11 million to 12 million people in the United States illegally.

"You're going to have to break it down into bite-sized steps," Warren said. He said that governments would have to get a handle on how many unauthorized immigrants are in each state, where they live.

Warren said the immigration debate has become emotional, noting that he's faced opposition to attempts to allow such immigrants the opportunity to get a restricted identity document cards or limited work permits.

Warren added that he expects any new federal policies on immigration are likely to come with enforcement and implementation requirements that will fall to the states. *CJ*

Canadian system,
which shifts
authority to
state level,
seen as model

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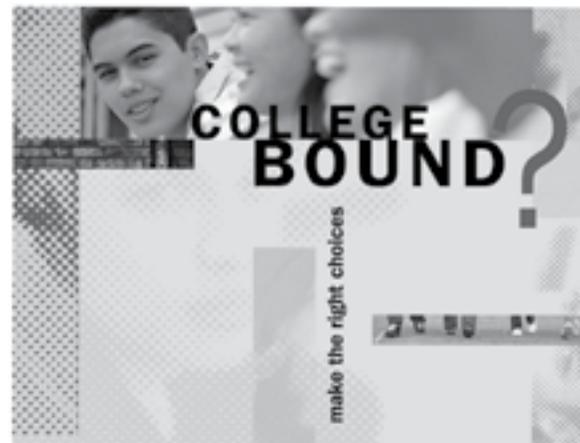
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After 'A Lot of Nothingness,' Raleigh May Address Airbnb Soon

By KARI TRAVIS
Associate Editor

After months of discussion about how to legalize and regulate Airbnb and similar services in Raleigh, the full city council soon may decide to move the short-term rental service out of legal limbo, based on a rule change passed Oct. 27 by the city's Planning Commission.

Short-term lodging services currently are illegal under Raleigh's bed-and-breakfast zoning rules, a fact that has led to confusion because it hasn't been reported correctly in some media outlets, said Eric Braun, chairman of the Planning Commission's Text Change Committee.

Zoning loopholes were brought to the city's attention last year following an anonymous complaint lodged against Raleigh homeowner and Airbnb host Gregg Stebben. Stebben and his wife joined the online rental network just for fun and looked into the city's zoning regulations prior to listing their room on Airbnb's website.

"I called the city Planning Department," Stebben said. "I spent a long time on the phone with them, and what they said was, 'We don't know if it's legal or not. Go ahead and do it, because we're not going to pull people's listings and find them. We would only show up at your door if someone complained.'"

The complaint filed against Stebben and his wife — which assistant planning administrator Eric Hodge and assistant zoning administrator Robert Pearce said is one of only three Airbnb violations on record — triggered what has now been almost a yearlong discussion among city officials.



Raleigh Airbnb host Gregg Stebben says the city's lengthy deliberations over the legality of Airbnb have been "a lot of nothingness." (CJ photo by Kari Travis)

The issue initially was heard by the city council Dec. 2, 2014, and the Airbnb discussion cycled through many revisions before reaching the Planning Department.

Stebben, who has been to every meeting since the start of the discussion, says the process is taking longer than it should.

"It's been a lot of nothingness," Stebben said of the majority of Law and Public Safety, Planning Committee, and Text Change Committee meetings. "Going to meetings. Nothing

happened. Going to meetings. Nothing happened."

Though the process has been slow, Council member Russ Stephenson — who says he uses Airbnb often when he travels — thinks it is necessary to take more time while making these new rules.

"I don't think anybody's dragging their feet," Stephenson said. "I hope they're not dragging their feet. ... I am a proponent of Airbnb. But there is no advantage to us in walking into a situation where we've not thought it through."

Tensions inside city government about how to deal with Airbnb have slowed progress in completing the rules. Not all council members have been open to the idea of legalizing Airbnb. Council member Kay Crowder voiced strong opposition to Airbnb's presence in Raleigh during the council's first discussion about the issue.

"This would be an absolute nightmare," Crowder said at the Dec. 2 meeting. "I don't know how else to put it. In District D, where such as it is I already have issues going on, it just wouldn't be a win for the district."

Carolina Journal asked Crowder if she had changed her opinion of Airbnb. She declined to comment or answer questions.

Stephenson, who said on Dec. 2 that Raleigh should legalize short-term rentals like Airbnb, initially joined Council member John Odom in calling for swift enforcement of existing city code while new regulations were formed.

Stephenson now says that the city attorney's proposal to notify short-term lodging owners through media — and enforce the code only when

complaints are filed — is the most logical solution to managing Airbnb use while the city works to put new rules in place.

The proposed rules that were approved by the Planning Commission include: distinctions between residential home and nonresidential home rentals, occupancy limits, parking regulations, use restrictions that ban special events or business transactions from taking place in Airbnb rental spaces, and specific permit requirements for what the city now terms "short-term residential lodgings," rather than "short-term residential rentals."

Those wanting to rent two rooms or fewer will have to fill out a zoning application with the city. Those seeking to rent three or more rooms — or their entire homes — will have to get a special-use permit from the city's Board of Adjustment.

The pending legalization of Airbnb is a step that will make a strong statement about Raleigh's vision for the future, Stebben said.

"If they don't pass this, if they keep Airbnb illegal, what message do you think that's going to send companies who come here?" Stebben said. "Especially tech companies? You're going to be a tech CEO. You're going to book your flight. And then you're going to get your Uber. And then you're going to go book your Airbnb, and there's not going to be any Airbnb. What message does that send? Not good for business."

The ordinance was scheduled to be considered at the Nov. 2 city council meeting, after press time. If the council does not approve the ordinance, it will return to the Law and Public Safety Committee for further revisions. CJ

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Court OKs NCGA Transfer Of Asheville Water System

BY MICHAEL LOWREY
Associate Editor

RALEIGH

The city of Asheville and customers living outside the city who rely on Asheville for their drinking water long have had a contentious relationship. The issue was again before the state's second-highest court in October, this time over whether a law passed in 2013 taking control of the water system away from Asheville could pass muster under the state's constitution.

Though Asheville currently operates a water system, it does not provide sewer services.

That instead is the responsibility of the Metropolitan Sewerage District of Buncombe County. In 2013, the General Assembly passed a local bill shifting control of the water authority from the city to the MSD.

The city sued to block the transfer, and in June 2014, Superior Court Judge Howard Manning held that the statute violated three provisions of the state constitution:

- It is a "local law" relating to "health," "sanitation," and "non-navigable streams," in violation of Article II, Section 24.
- It constitutes an unlawful taking of Asheville's property without just compensation in violation of Article I, Sections 19 and 35.
- It violates Asheville's rights under the "law of the land" clause found in Article I, Section 19.

The state appealed Manning's ruling, which a three-judge panel of the N.C. Court of Appeals overturned.

"We disagree and hold that the Transfer Provision does not violate these constitutional provisions," wrote Judge Chris Dillon for a unanimous Appeals Court.

Under North Carolina law, localities are creations of the state, and the General Assembly retains the authority to regulate towns and counties except to the degree that it conflicts with the state or federal constitutions.

Since 1917, the N.C. Constitution has prohibited the General Assembly from enacting so-called "local" laws that touch on any of 14 subjects, including laws "relating to health [or] sanitation" and laws "relating to non-navigable streams." Asheville contended that the transfer, because it was in a local bill and related to both those topics, was invalid.

The Court of Appeals came to a

different conclusion. "[I]n the present case, we need not reach whether the Transfer Provision constitutes a 'local law,'" wrote Dillon.

"Rather, we hold that it is not plain and clear and beyond reasonable doubt that the Transfer Provision falls within the ambit of either prohibited subject identified by the trial court." (Emphasis in decision.)

Dillon noted that litigation over Asheville's water system had established that "the mere implication of water or a water system in a legislative enactment does not necessitate a conclusion that it relates to health and sanitation in violation of the Constitution."

Examining the new law's stated purpose and text, the appeals court found that the law appeared to prioritize concerns about govern-

ernance and the quality of services rendered over health and sanitation issues. Nor did the law "fall within the ambit of the phrase 'relating to non-navigable streams.'" The city also claimed that the transfer violated the "law of the land" clause of the N.C. Constitution, in that there was no "rational basis" to treat Asheville differently from other municipalities that operate water systems and that there was no "rational basis" to transfer the water system from the city to the MSD.

The Appeals Court disagreed. "Asheville contends, and the trial court agreed, that the General Assembly had no 'rational' basis for singling out Asheville in the Transfer Provision," wrote Dillon.

"Assuming that the Transfer Provision has this effect, we believe that the fact that the General Assembly irrationally singles out one municipality in legislation merely means that the legislation is a 'local' law; it does not render the legislation unconstitutional, per se."

The city also claimed that it was entitled to compensation from the state for the value of the water system. The Court of Appeals again disagreed, noting that in the 1923 case *Trenton v. New Jersey*, the U.S. Supreme Court held that compensation in such circumstances was not necessary. The Appeals Court also noted that cases from the Minnesota and Pennsylvania supreme courts had reached the same conclusion.

The case is *City of Asheville v State of North Carolina*, (14-1255).

CJ



COMMENTARY

Charlotte Hipsters Make Their Demands

It was a protest that absolutely no one in Charlotte saw coming. A dive bar in a hip neighborhood was to be replaced with an apartment building with more retail space. Such redevelopment plans usually aren't very controversial in Charlotte — but this one turned out to be. And though the redevelopment project went forward, the protest suggests a new type of millennial issue activism that could have far-reaching impacts in the state's rapidly growing urban areas.

Charlotte, the state's largest city, is adding population rapidly — nearly 80,000 people between 2010 and 2014 alone. In response, the city has seen a wave of new apartment construction. Most of the new apartment buildings popping up in the Queen City look very much like condos, featuring high-end finishes like granite countertops, and carrying high monthly rents. They aren't being sold as condos, though, because the financing for condos dried up after the housing bust. So for now, at least, apartments they shall be.

Unsurprisingly, the city of Charlotte really likes the idea of such infill redevelopment. The city can't expand out any more, so it must expand up if it wishes to grow its tax base. And that means tearing down old buildings and replacing them with newer, bigger, more expensive structures.

This building spree of high-end apartments is especially noticeable in trendy, eclectic neighborhoods such as Southend, NoDa, and Plaza Midwood, which are located near but not in the city's central business district. These structures are not occupying vacant lots. Whatever goes up in these areas replaces an existing building that's being torn down, a building which might contain some elements that have made the area popular.

This very dynamic is upsetting some people who frequent these neighborhoods. A proposal to tear down an old two-story commercial building best known for housing Tommy's Pub in Plaza Midwood, a venerable dive bar along a main thoroughfare, set off

a firestorm of criticism earlier this year.

"You won't be able to tell it from any other neighborhood in Charlotte," said resident Caroline Hall to WCNC-TV. "The only reason I come here on a daily basis is because of the uniqueness of the neighborhood."

Complaining on Facebook about something is easy. Translating that into action is more difficult, but that's what's happened and continues to happen in this case. People actually did speak against the proposal before the Charlotte City Council. A workshop held several months after the council approved the rezoning on how to preserve locally owned businesses that rent space in old buildings drew more than 50 people and generated considerable press attention.

This is different from the usual rezoning protest, in that it involves a commercial, not residential, property and most of the people objecting don't actually own houses nearby. At the same time, it is reminiscent of more traditional restrictions on growth, involving a group that "got theirs," found its niche, and wants to block any changes.

At some level, it's difficult to take Hall and others like her too seriously. Essentially, this amounts to people who hang out in trendy areas asserting that they are entitled to prevent actual property owners from doing things differently. That's difficult to defend economically or philosophically.

As Bismarck said, though, "politics is the art of the possible." If millennials continue having difficulty making the transition from renters to homeowners, and can't really afford to have kids, either, then we could see the rise of a new sort of urban politics, one catering to specific concerns such as this. And in such a world, for better — or likely worse — addressing the strong aversion to change by those who don't have skin in the game may become a political imperative. CJ

Michael Lowrey is an associate editor of Carolina Journal.



MICHAEL LOWREY

Amazon Not Linked At All to Its N.C. Wind Farm Output

Continued from Page 1

plication, that a product or package is made with renewable energy or that a service uses renewable energy," the FTC's Green Guides state. (See related story.)

Amazon not talking

CJ attempted to discuss the wind farm project with Amazon's Global Communications operations manager, Mary Camarata, who asked for written questions. Among the questions *CJ* submitted include: How much power is currently consumed at the Virginia data centers? How much would AWS be paying Iberdrola for power? And what is the net cost to AWS for the project?

"We don't disclose that level of detail. Sorry," Camarata responded.

The environmental organization Greenpeace called out Amazon in an April 2014 report about electricity consumption at large data centers. "Among the major cloud providers, only Amazon refuses to provide any details on the energy performance and environmental impact associated with its operations," stated the report.

In November 2014, seven months after the Greenpeace report, AWS announced a "commitment to achieve 100 percent renewable energy usage for the global AWS infrastructure footprint," according to the company's website.

"As of April 2015, approximately 25 percent of the power consumed by our global infrastructure comes from renewable energy sources. By the end of 2016, we intend to reach 40 percent," states the website. The AWS website also states that a wind farm in Indiana, a solar farm on Virginia's Eastern Shore, and the North Carolina project will be completed by the end of 2016.

Others repeat Amazon claim

After the N.C. project was announced in July, Amazon's statements about its "commitment" to renewables spread when other organizations repeated the claim that the wind farm will supply the data center or centers.

"The power generated by the wind farm, enough to power more than 61,000 U.S. homes, will be supplied exclusively to an Amazon data center," stated a July press release from Gamesa, the wind turbine manufacturer that will produce 104 turbines for the project.

"The Amazon Wind Farm U.S. East, to be built in Perquimans and Pasquotank counties, will power the online retailer's cloud-computing division, Amazon Web Services, as part of a corporate goal of achieving energy sustainability," wrote *The News & Observer* of Raleigh.

"Amazon Web Services, itself a



Construction workers prepare the site off Swamp Road near Hertford, N.C., for a substation to serve the Amazon Wind Farm. (CJ photo by Don Carrington)

multibillion-dollar enterprise, plans to hit a target of 40 percent renewable usage before 2017, a milestone toward its goal of one day operating solely on renewable power," wrote the *Daily Advance* of Elizabeth City.

"The project is expected to open in December 2016 when it will supply power to Amazon Web Service data centers," wrote Bloomberg Business.

Amazon's project is part of a national push to power data centers with renewable energy sources. The online news source Data Center Knowledge summed up the situation after the project was announced: "It has become common practice for operators of data centers at Amazon's scale to invest in renewable energy projects on utility grids that supply their facilities. Since environmentalists started drawing public attention to the fact that the ubiquitous 'cloud' is powered mostly by coal, Facebook, Microsoft, Apple, and now also Amazon followed Google's lead in making huge investments in clean-energy supply."

IER, which analyzes the global energy market, also has studied renewable energy claims.

In March, IER's Fisher published an analysis titled "Busting the '100 Percent Renewable' Myth." Fisher, a former intern with the John Locke Foundation, spent seven years as an economist with the Federal Energy Regulatory Commission before joining IER.

"Many companies such as Apple and Google claim that they get their

electricity from 100 percent renewable sources. At best, this claim is misleading and deceptive. We cannot find a single instance of a large company actually going '100 percent renewable.' The reality is that as long as these companies are connected to the electric grid, they still get the vast majority of their electricity from conventional sources such as coal, natural gas, and nuclear power, and are therefore not 100 percent renewable," wrote Fisher.

(See the report at <http://bit.ly/1LZZdbg>.)

The project

Iberdrola Renewables LLC is the U.S. division of corporate parent Iberdrola, a multinational energy company headquartered in Spain. The first phase of the Amazon Wind Farm will comprise 104 turbines, each with a 2 MW capacity, nearly 500 feet tall including the blades. The company may add as many as 46 additional turbines later.

The turbines will be spread over about 20,000 acres in Pasquotank and Perquimans counties, west of Elizabeth City in northeastern North Carolina.

Iberdrola Renewables' effort to develop a wind farm at this location began in 2009. The project came to a halt in late 2011 when three public utilities — Duke Energy, Dominion Energy, and Progress Energy — said they would not purchase power from the facility because the rates Iberdrola would charge would be too high.

While the maximum output of

the wind farm is 208 megawatts, that amount of power will be available only when the wind is blowing from between 9 mph and 23 mph, based on technical data from the turbine manufacturer. Wind speeds outside those ranges cause the output to drop significantly.

Iberdrola estimates the annual output of the wind farm to be 670,000 megawatt hours, which it says will power more than 61,000 homes for one year (10,983 kilowatt-hours per home). Since there are 8,760 hours in a year, a facility operating at 100 percent capacity would generate 1,822,080 MWh. Because the wind is variable, the company thus expects the wind farm to operate at 37 percent of capacity (1,822,080 divided by 670,000).

PJM grid

PJM Interconnection is a regional transmission organization that coordinates the movement of wholesale electricity in all or part of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. The North Carolina area is limited to the northeastern portion of the state and is served by Dominion Power, electrical cooperatives, and municipal utilities in the region.

PJM's members include more than 900 companies involved in the generation and transmission of elec-

Continued as "Amazon," Page 13

Amazon Not Linked At All to Its N.C. Wind Farm Output

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tricity, serving 61 million people in those states, according to its website.

PJM, Iberdrola, and Dominion Power in July 2012 signed an interconnection service agreement — required by the Federal Energy Regulatory Commission — outlining the details of how electricity will be connected to PJM through transmission lines owned by Dominion. Federal law requires Dominion to cooperate with companies that want to generate electricity and sell it.

Greenpeace report

Greenpeace's mission statement says the organization "is openly opposed to nuclear, coal, and natural gas as sources for electricity generation." It released a report in April 2014 titled "Clicking Clean: How Companies are Creating the Green Internet." The report noted the explosive growth in the use of the Internet and the significant amount of electricity required to run the data centers that support it.

"Clicking Clean" notes that a 2012 Greenpeace report — "How Clean is Your Cloud?" — concluded that many companies were continuing to rely on "dirty" energy to operate data centers. Greenpeace claims that publicity resulting from the report led a number of companies to commit to use 100 percent renewable energy to operate their data centers.

Amazon received an "F" grade in the 2012 report's sections on energy transparency, infrastructure and siting, and renewables and advocacy.

The 2014 report stated that "Amazon's adoption of a 100 percent renewable energy goal, while potentially significant, lacks basic transparency and, unlike similar commitments from Apple, Facebook, or Google, does not yet appear to be guiding Amazon's investment decisions toward renewable energy and away from coal."

In the more recent report, Amazon received another "F" grade for energy transparency, a "C" for renewable energy commitment and siting, and a "D" for renewable energy deployment and advocacy. Meantime, Apple, Facebook, and Google, which have data centers in North Carolina, received "A" or "B" grades in all those categories.

Perquimans moratorium

While half of the Amazon Wind Farm project will be in Perquimans County, area residents have expressed concerns about another wind farm project. On Oct. 5, the Perquimans County Board of Commissioners approved a temporary moratorium on large-scale wind energy facilities. County Manager Frank Heath told *CJ* the purpose



of the moratorium was to allow the planning board to receive citizen comments and review the

existing ordinance that governs wind facilities. Apex Clean Energy, based in Charlottesville, Va., is considering the construction of a 300 MW project to be named Timbermill Wind that would be located in Perquimans and Chowan counties.

D.C. to get N.C. solar?

In June 2014, George Washington University, American University, and George Washington University Hospital announced a renewable energy project named Capital Partners Solar Project "that brings solar power from North Carolina to the D. C. institutions, showing that large organizations in an urban setting can meet energy needs while significantly reducing their carbon footprints by directly tapping off-site solar energy," a press release from George Washington University stated.

The solar project, comprising three solar installations, is being constructed and operated by Duke Energy even though it is located outside Duke's North Carolina service area. One location is complete, and the other two are scheduled for completion by the end of the year. Duke has an agreement to put the power on the PJM grid. The three sites are in Pasquotank

County, east of Elizabeth City, not far from the Amazon Wind Farm.

The total generating capacity of the solar project is 52 MW, and the total annual output is expected to be 123,000 MWh, enough to power more than 8,200 homes for one year (15,000 kWh per home). Operating at a 100 percent capacity, the project would generate 455,520 MWh. So Capital Partners expects the solar project to operate at full capacity 27 percent of capacity (455,520 divided by 123,000).

Under the agreement, GWU will receive approximately 86,000 MWh, AU will receive 30,000 MWh, and GWU Hospital will receive approximately 6,300 MWh. That would be enough to provide half of GWU's and AU's electricity demand and more than a third of the hospital's needs.

But those claims may be deceptive, as the institutions will continue to receive power from their current supplier using a mix of conventional and renewable sources. Because Washington, D.C., is a deregulated electricity market, the institutions will get credit on their electric bills for megawatt-hours generated in North Carolina and actually added to the PJM grid.

None of this will be done in real time, and none of the institutions could operate on a power source that was at capacity roughly 27 percent of the time. *CJ*

FTC Concerned About Companies Misrepresenting 'Green' Claims

Continued from Page 1

nondeceptive."

The guides were revised in 1996, 1998, and 2012.

The guides include a separate section for the use of renewable energy claims. According to the guides, "It is deceptive to misrepresent, directly or by implication, that a product or package is made with renewable energy or that a service uses renewable energy. A marketer should not make unqualified renewable energy claims, directly or by implication, if fossil fuel, or electricity derived from fossil fuel, is used to power any part of the advertised service, unless the marketer has matched such nonrenewable energy use with renewable energy certificates."

As *Carolina Journal* reported in a related story, even after the Amazon Wind Farm becomes fully operational, the Amazon data centers in Virginia will continue receiving their electricity from Dominion Power and the mix of fuels Dominion uses now — in 2013, that was 41 percent nuclear, 37 percent coal, 20 percent natural gas, and 2 percent renewable — making Amazon's inferences that the data centers will be

"green" questionable if not misleading.

FTC spokesman Mitchell Katz said his agency could not comment on the Amazon Wind Farm at this time.

Recent FTC complaint

Claiming that Green Mountain Power Company was using deceptive trade practices in the marketing of renewable energy to Vermont consumers, the Environmental and Natural Resources Law Clinic at the Vermont Law School filed a petition in September 2014 with the FTC, asking the agency to investigate the company.

"GMP is representing to its customers and to the public, through its promotional materials, public statements, and other communications that it is providing its customers with electricity from renewable sources such as commercial wind and solar projects, thereby reducing the customer's carbon footprint and protecting the environment," stated the complaint. It further explained that GMP was selling the Renewable Energy Certificates generated by those sources to out of state utilities and essentially double counting the renewable energy.

The petition stated that GMP was in violation of the FTC's Green Guide for Renewable Energy Claims.

GMP responded that the company was in compliance with Vermont's energy and environmental laws, its statements were not deceptive, and the Green Guides do not apply to GMP and other public utilities.

In February 2015 the FTC wrote GMP and stated that the agency was still concerned about how GMP communicates to the public about its renewable energy generation facilities. "Although no findings have been made that these claims violate the law, we urge GMP in the future to prevent any confusion by clearly communicating the implications of its REC sales for Vermont customers and REC purchasers," wrote Enforcement Division associate director James A. Kohm.

Procter & Gamble

Based on a press release from the household products company Procter & Gamble, an Oct. 15 *New York Times* report stated that P&G planned to operate a group of its factories using wind power. "The global consumer products giant is teaming up with EDF

Renewable Energy to build a wind farm in Texas that it says will power all of its North American plants that manufacture home care and fabric care products. Those facilities make some of the company's best-known household items, including Tide, Febreze, and Mr. Clean," wrote the *Times*.

The wind farm is estimated to produce 370,000 MWh of electricity annually. P&G's North American facilities use about 300,000 megawatt-hours annually.

On Oct. 21, the Institute for Energy Research published "Cleaning Up Procter & Gamble's Dirty PR Campaign," an analysis of the *Times* story. Author Travis Fisher stated the company's claim that one group of plants would be powered fully by renewable energy was false for two reasons: "First, the wind does not blow all the time and cannot be counted on to power Procter & Gamble's plants. Second, Procter & Gamble is buying electricity from a wind facility in Texas that is on a completely different interconnection than Procter & Gamble's plants. This means that the electricity almost certainly will not reach Procter & Gamble's plants." *CJ*

COMMENTARY

Money Can't Buy Teachers' Love

If you watch the evening news broadcasts or read the local paper, you have been told that more educators than ever are leaving North Carolina to teach elsewhere because the N.C. General Assembly "slashed" public school funding. Most of these stories, however, omit key facts and research findings that would otherwise undermine their ideologically motivated tales of woe.

The state legislature recently approved an \$8.5 billion K-12 education budget. Compared to the amount of state funds spent by public North Carolina schools last year, the current budget represents an increase of nearly \$470 million. Public schools will use those additional dollars to add personnel, invest in instructional materials and programs, and increase salaries, particularly for classroom teachers.

For example, it has been reported widely that the budget provides a \$750 compensation bonus to state agency personnel, employees of the University of North Carolina and community college systems, public school staff, and approximately 94,000 state-paid educators.

Fewer have acknowledged that tens of thousands of teachers will receive the bonus and a permanent pay increase this year. The legislature's Fiscal Research Division estimates that 29,000 educators, nearly a third of the state's teacher work force, are in this group.

All early-career educators will enjoy a \$2,000 annual salary boost. Experienced educators who move from one salary tier to another will receive a permanent salary increase of between \$3,000 and \$3,500 annually. None of these figures accounts for higher pay supplements provided by school districts, such as the imprudent one granted to Wake County educators this year.

State funds for employee benefits also are rising. Over the last five years, the state's average Social Security contribution increased by 4 percent per teacher, while health insurance received an 11 percent boost. Teachers' retirement contributions surged by over 50 percent. Overall, teachers received a 24 percent increase in their compensation package during this period. The average teacher will receive over \$15,600 in benefits during the current school year.

All told, the average salary and compensation package for a teacher on a 10-month contract will near \$60,000 this year, nearly \$5,000 higher than the year before.

Despite the facts about educator salary and benefits in North Carolina, news outlets continue to claim that the state's supposedly meager compensation has triggered a mass "teacher exodus." Unfortunately, the typical consumer of mainstream news and opinion often hears only those unbalanced, uninformed, and largely anecdotal claims.



TERRY STOOPS

While lawmakers should not disregard concerns about compensation, research suggests that retaining high-quality educators and curbing turnover demands school leaders to implement policies and practices that improve teacher working conditions.

In her 2009 UNC-Chapel Hill doctoral dissertation, "A Study of the Impact of Salary Supplements on Teacher

Turnover in North Carolina School Districts," Lillie Cox found a statistically significant relationship between teacher turnover and salary changes for schools in western North Carolina but nowhere else in the state. When she surveyed teachers who left one North Carolina school district, only around 20 percent of them cited salary and benefits as their motivation. The remaining 80 percent identified other reasons, including the need for advancement, poor relationships with their supervisors and colleagues, the school's distance from home, and various other factors.

A 2015 Pardee RAND Graduate School dissertation, "Hello, Goodbye: Three Perspectives on Public School District Staff Turnover," agreed. Susan Burkhauser concluded that North Carolina teachers are more likely to remain in school if the principal has "a proven track record of improvements in teacher working conditions."

Lawmakers would be wise to stick to the facts, ignore the noise, develop budgets that make incremental improvements to compensation, and advance policies that ensure North Carolina classrooms are great places for public school teachers. CJ

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

Report: Needless Burdens On N.C. For-Profit Schools

By JESSE SAFFRON
Contributor

Raleigh

North Carolina is one of several states called out in a new American Enterprise Institute report for imposing a cumbersome, ineffective process on the approval of for-profit, vocational, and online schools.

"Inputs, Outcomes, Quality Assurance: A Closer Look at State Oversight of Higher Education" reveals that state policymakers have adopted burdensome rules that may be restricting market entry, stifling innovation, and inadequately protecting consumers.

For instance, the University of North Carolina system's Board of Governors has the following rules for schools seeking to establish a physical presence in the state:

Space assigned for library usage should convey a pleasant and inviting atmosphere and give a feeling of spaciousness and quietness conducive to study. A central and single location is desirable. The library should have good lighting, adequate ventilation, and proper temperature and humidity control.

In addition, the BOG requires prospective for-profit colleges to provide extensive documentation regarding faculty, course requirements, finances, boards of trustees, health care offerings, and student counseling programs. Institutions pay for such paperwork and data analysis, as well as for site visits and other evaluations conducted by the Board of Governors and a review team.

But the monetary costs may be less onerous than the time it takes for a program to be approved; it takes between six and 12 months for an application to be reviewed, and up to 18 months for an institution to receive the go-ahead.

The rules can impose substantial costs on colleges and universities that want to build satellite campuses or offer distance education programs in the Tar Heel State. That's why, according to the AEI report, North Carolina should instead adopt a "risk-based approach" focusing on "cases that pose the most risk to consumers, specifically new market entrants or existing [institutions] that raise red flags."

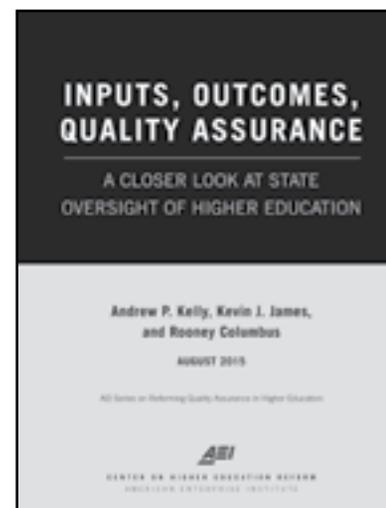
Under such an approach, schools that have good track records in other states would be exempt from most of the current rules. As for new, unproven institutions, AEI authors Andrew Kelly, Kevin James, and Rooney Columbus suggest that they post guaranty bonds, giving them "skin in the game." The authors also say that states should provide a system for students to make formal complaints. (North Carolina already has both policies in place.)

Once a new program has been authorized, the authors say, "a variety of general outcomes measures — retention and graduation rates, placement and earnings data for program graduates, [and] loan default or repayment rates, to name a few examples — could serve as early warning signs of an institution failing to serve its students well."

That suggestion, however, would be problematic in North Carolina, where control of state authorization by the UNC system presents a serious conflict-of-interest issue. There is already evidence of a tendency on the part of UNC officials to be not only skeptical of for-profit schools' quality (in some cases, for good reason), but also to be concerned about such schools' impact on state universities' enrollment. Giving the UNC system's Board of Governors, all political appointees with strong incentives to promote the state's public universities, the authority to, for instance, determine whether a for-profit school's graduation rates are high enough would be ill-advised.

At any rate, "Incomes, Outcomes, Quality Assurance: A Closer Look at State Oversight of Higher Education" offers several solid proposals that would reduce for-profit schools' regulatory burden and open the door for new participants. When in doubt, however, the guide for policymakers should be transparency over regulation, and innovation over protectionism. As the UNC rules about lighting in libraries show, regulatory bodies rarely know when to limit their own power. CJ

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



Spellings Says She's Ready to Tackle UNC System Challenges

BY KARI TRAVIS
Associate Editor

CHAPEL HILL

Higher education is changing rapidly, and the University of North Carolina system must adapt accordingly, said former U.S. Secretary of Education Margaret Spellings, who was elected Oct. 23 to be the sixth president of the consolidated UNC system.

Spellings, who served in the George W. Bush administration, is known best for leading the education department's implementation of the No Child Left Behind Act in K-12 schools. She has less experience in higher education — and doesn't hold an advanced degree — but says she is well-equipped for the new job and says she expects the faculty and staff of UNC to respond well to her background.

"I'm someone who understands public policy," Spellings said at an Oct. 23 press conference immediately following her election. "I understand advocacy, I understand how to bring people together around a shared mission, and I have a track record of doing that in my career. So I think there's plenty of work for everybody, and I look forward to working with the faculty and the state to move toward a shared cause."

Spellings' more than three decades of experience in the education field should provide the tools to help her navigate the complexities of the UNC system, several analysts say.

During Spellings' tenure as secretary of education, she led the president's Commission on Higher Education, a bipartisan group that included former North Carolina Gov. Jim Hunt. The commission, which opened dis-



UNC System President-elect Margaret Spellings speaks at a board meeting on Oct. 23 shortly after being elected to head the 17-campus consolidated UNC system. (CJ photo by Kari Travis)

cussions about reform, was an important step for higher education in the U.S., said Frederick Hess, director of education studies at the American Enterprise Institute.

"Secretaries of education should be leading that conversation [about cost reform and accreditation], but there is a difference between leading that conversation and trying to get people focused on it, and trying to write federal regulations," Hess said. "I thought Margaret was on the right side of that line."

In contrast, Terry Stoops, director of research and education studies at the John Locke Foundation, believes Spellings' commission was largely unsuccessful — despite the values it touted.

"While billed as 'a blueprint for a 21st-century higher education system,' the commission's final report is a footnote in a decades-long effort to make higher education widely attainable and relevant," Stoops said.

Even so, Stoops said, Spellings could be a formidable champion for advocating new directions at the 17-campus system.

"Spellings clearly understands the strengths and weaknesses of higher education in the United States," Stoops said. "The question is whether she can persuade faculty, administrators, and the legislature to embrace and advance her vision for the UNC system."

There have been several challenges along the way to Spellings' election, led by an intense protest from board and faculty members who said they were excluded from the presidential selection process. Former Board of Governors chairman John Fennesque, who stepped down on from the board Oct. 26 following an uproar over his handling of the presidential search, worked diligently to ensure Spellings' election.

Reporters at Spellings' press conference asked her if the controversy would put a damper on her introduction to UNC's board, faculty, and staff. Spellings responded that she didn't think the situation put her at a disadvantage.

"I would ask [the faculty] to give me a chance," Spellings said. "And as I said, I'm thrilled to be working with them. We have much more in common than we do things that separate us — including serving every single student and citizen in the state to the best of our ability."

The call to common ground and collaboration is not uncommon for Spellings, said Hess, citing her bipartisan record in the education department. The former secretary also excels in developing shared goals and in fighting the status quo, qualities that were sought by UNC board members since the presidential search began.

"It seems to me that the president or chancellor of the university is somebody who generally leads internally at the table, taking the university in a new direction," said Hess. "Spellings is

someone who has thought a lot about how universities can position themselves going forward, and I would think that would be pretty welcome leadership."

Last year, in a *Wall Street Journal* op-ed column, Spellings outlined some of her thoughts about the future of higher education. She emphasized the role of data and technology in American schools, and pointed out that education can be tailored to individual students better when those tools are used properly.

"The only reason we will not reach this better place is if the status quo prevails," Spellings wrote. "But the market-oriented forces that have changed so much of our world — competition, customization, technology, modern management, and customer focus — are too powerful for even an entrenched educational establishment to resist."

"These principles also will change our education systems," Spellings continued. "In turn, those systems will well serve America's diverse student body, preparing each student for a world that will require them to think creatively, reason through problems, and respond to fast-changing circumstances."

That evolution of the education system is fast becoming reality for UNC, Spellings said at her introductory press conference. And given time, she hopes that learning the needs of UNC's students, faculty, administrators, and board will help determine the new direction the university should take.

"I suspect the biggest challenges to this state are like those we're seeing in other states — affordability, access, and completion," Spellings said. "Let's agree what our goals are. Let's find out how we're going to keep track of that progress. How are we going to use data, how are we going to use people, how are we going to use time? Students want good value propositions and want convenience. And we are going to meet those challenges." CJ

Keep Up With the General Assembly

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Opinion

Defenders of the Humanities Make the Wrong Appeals at Conference

The opening message was cheered roundly — it was exactly what the crowd of roughly 150 professors and alumni came to hear on Oct. 10 at the “Public Universities, the Humanities, and Education in North Carolina” event on the campus of the University of North Carolina at Chapel Hill.

In a more enlightened era, history professor and event moderator Lloyd Kramer said in his introduction, policymakers were committed to the liberal arts, as evidenced by Congress’ creation of the National Endowments for the Arts and Humanities in 1965. But today, he continued, higher education officials “must constantly defend the arts, creativity, [and the] humanities” against powerful outside forces who conflate university education with vocational training.

While such remarks may receive ringing endorsements when preaching to the academic “choir,” they do not do justice to the opposition’s argument. Heightened skepticism regarding the value of the humanities and liberal arts is not just the result of external factors that are outside of higher education’s control, such as economic malaise or policymakers’ focus on work force training. Internal problems related to debased curricula and hyperpoliticization, for instance, may be more harmful to the future of the humanities.



JESSE SAFFRON

Unfortunately, at the event, sponsored by UNC-Chapel Hill’s Program in the Humanities and Human Values of the College of Arts and Sciences, university leaders failed to acknowledge those problems, much less take ownership of them.

There is some truth in the picture presented at the conference, however. Panelists spoke passionately and knowledgeably about the ability of art and literature to increase empathy and human understanding and to improve students’ critical thinking and writing skills.

“From my experience, it is not possible to develop those skills without a liberal arts education,” said UNC system president Thomas Ross. Michael Tiemann, vice president of open source affairs at the software company Red Hat and vice chair of the UNC School of the Arts Board of Trustees, said that the convergence of art and science “creates possibilities in a somewhat organic and magical way that leads to discoveries of things entirely unknown.”

But, as suggested above, there is serious criticism that is not based solely on the humanities’ lack of vo-

Issues in Higher Education

educational promise. That criticism corresponds to Ross’ and Tiemann’s arguments about the intangible benefits of the humanities and raises the issue of defining those subjects in a more meaningful manner. For instance,

are liberal arts curricula to include topics of minimal intellectual interest or significance and, for instance, treat comic books as literature, or are they to focus on the best and most important that has been written or said?

Such concerns received scant attention — and when they were mentioned, the panelists came down solidly on the side of current trends. Asked about how course-work can be changed to meet the needs of

students, Claude Clegg, an African-American and diaspora studies professor at UNC-Chapel Hill, said, “The curriculum of the future is one that builds on the synergies that can be amassed in a single place to take on [issues] facing humanity,” such

as climate change. In other words, education should be used to advance a progressive political agenda.

Other panelists were less overtly ideological but nevertheless expressed an unrestrained vision of the curricu-

lum. UNC-Chapel Hill’s chancellor, Carol Folt, said that the liberal arts curriculum should adapt according to our “changing and evolving world.” Referencing issues such as campus sexual assault, she said that students are “facing a radically charged world” and that a “liberal arts education that is tailored to the way they think and act is more important now than ever before.”

Folt’s comments reveal a substantial misunderstanding of what an education should be. Education exists to pass on the wisdom, methods of inquiry, and knowledge of the ages to new generations. Her plea for a liberal arts education tailored to pop culture-devouring millennials, who read and study less than any previous college generation and who frequently push for “trigger warnings” and “safe spaces” to avoid hearing multiple views, seems more like a call for educational devolution.

Chasing cultural “relevancy” to cater to students would further erode academic quality. The curriculum needs to be reined in, not expanded.

The failure of the event participants — Kramer, Ross, Tiemann, Clegg, Folt, English professor Marianne Gingher, and finance professor Bill Moore — to go beyond the narrow establishment view of the humanities was disappointing. The audience — indeed, the entire state of North Carolina — needed to hear the hard truths about the current state of the humanities, not idealized accounts of it.

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

Chasing cultural ‘relevancy’ will further erode academic quality

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Rev. Wright, Obama's Former Pastor, Maintains Fiery Rhetoric

By DAN WAY
Associate Editor

CHAPEL HILL

The Rev. Jeremiah Wright told attendees of a Sept. 19 event at a progressive church in Chapel Hill that he is "giddily happy" with the rise of the Black Lives Matter movement, blamed U.S. foreign policy for the rise of ISIS, and took swipes at President Obama for failing to push racial reparations and at Donald Trump for his stance on illegal immigration.

Richard Edens, pastor of United Church of Chapel Hill, said Wright, pastor emeritus of Trinity United Church of Christ in Chicago, where Obama attended regularly for two decades, was invited to deliver "a transformative response to the latest call to be an anti-racism church, racial justice church."

Wright sang, played the piano, danced, drew peals of laughter with a series of humorous remarks, called Israel an "illegal" nation, and mocked devotion to UNC basketball.

Asked by an audience member for his views on immigration, Wright ridiculed Trump, the Republican presidential front-runner.

"I've heard Donald Trump saying if you're here illegally you need to go back. Let's start at the 1400s. We're all immigrants," Wright said. "Georgia was founded as a colony for criminals, so let's talk about immigration holistically," and "stop the B.S. about Hispanics."

Native Americans "have the same kind of theological questions," Wright said, as one of his Palestinian Christian friends who is pastor of a church in Bethlehem. Wright said that Bethlehem is "not in the illegal state of



The Rev. Jeremiah Wright greets 94-year-old Hillsborough resident Marie Clarke Torian at a Sept. 19 event at United Church of Chapel Hill. (CJ photo by Dan Way)

Israel," but in the "Palestinian territory. ... What kind of God have you got that would promise your ass my land?" He neglected to point out that Israel won the land where Bethlehem is located in the 1967 Six-Day War and gave it back to the Palestinian Authority in 1995, as part of the Oslo peace accord.

Wright also addressed "the geopolitical problems of this whole Syrian problem that [the United States] started, had it not been for what we did in attacking Iraq, which had nothing to do with 9/11. We created ISIS. We created the whole Syrian refugee problem, the Sudanese refugee problem," similar to problems created in this country, he said.

"Hard, honest dialogue" is needed to bring about racial justice, he said. "Let's talk about white-on-white crime" instead of focusing on black-on-black crime.

"I am giddily happy" with the rise of the Black Lives [Matter] movement," Wright said of the activist organization.

The movement has been linked to violent unrest and widespread vandalism in Ferguson, Mo., disrupting several Democratic presidential campaign speeches, and anti-police marchers chanting "Pigs in a blanket, fry 'em like bacon" at the Minnesota State Fair.

Some critics have blamed the movement for inciting urban violence and assassinations against police officers.

"A lot of us forget ... that the civil rights movement was young people just like these young people, and if you think their language is harsh, y'all ought to hear" the rhetoric of the Student Nonviolent Coordinating Committee of the 1960s, which was led by current Georgia Democratic U.S. Rep. John Lewis, Wright said.

"Let's go back to what started that movement," he said of SNCC. "Young people saying, 'Hell, no.'" So while the older generation scoffs at Black Lives Matter, Wright said, "They know exactly what they're doing. You [middle-age and older Americans] don't know what you're doing."

Wilma Liverpool of Durham asked Wright about his view on financial reparations for slavery. She said that "300-plus years of free labor" created "forced poverty," and "until that can be eradicated, I don't see us being one."

"Without reparations there can be no reconciliation," Wright said.

America won't confess to the sins of slavery because "confession means repentance, but if you repent you've got to repay," Wright said.

Financial reparations should come not as a check to individuals, but in "structural things for generations to come" such as eradicating slums created by restrictive covenants and busi-

ness flight, he said.

But "that's where the conversation breaks down most of the time starting with ... the African-American president. Half African. He don't talk about reparations," said Wright. Under the media glare and political liability created by Wright's inflammatory rhetoric, after Obama was elected, he distanced himself from his pastor.

Wright contended racism in America is rooted in the nation's founding, and its founding documents. The first Africans disembarked in Williamsburg, Va., in 1619, he said. By the 1630s, colonies were dealing with how to classify and restrict babies born to interracial couples.

"The laws of the colonies of England were not based on legal precedents, were not based on English Common Law, were not based on any related jurisprudence," Wright said. Racism was inserted into "the legal structure of all 13 colonies."

As a result, he said, "The Constitution of the United States of America has sewn into it legally the fabric of racism."

The 14th Amendment granted citizenship to blacks, and the 15th Amendment "gave them the right to vote that North Carolina has undone," Wright said, an apparent reference to 2013 election law changes that have been challenged in federal court.

"I submit another world is possible" than the one viewed through "the distorted lenses we are handed" through education and value systems of the dominant culture that cause people to see differences in others as deficiencies, Wright said.

"We need to learn the cultures of those we walk beside. We need to learn the faith traditions of others," he said, citing a 2002 controversy at UNC-Chapel Hill in the wake of the 9/11 terrorist attacks, when incoming freshmen were required to read the book *Approaching the Qur'an: The Early Revelations* by author Michael Sells.

Then-UNC-Chapel Hill Chancellor James Moeser wanted to address the situation that "most Christians in North Carolina had not a clue about Islam, and the Christians had a stroke," Wright said.

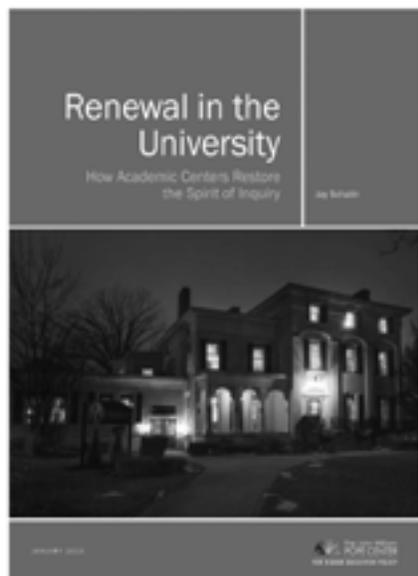
"The [chancellor] after one year was proud to report that there was not one conversion to Islam," Wright said, "and the primary faith at UNC was still basketball."

Marie Clarke Torian of Hillsborough was representative of audience reaction.

"I thought it was great," the 94-year-old said.

"I see what he was talking about in building another world," Torian said. "I'm puzzled at how it's going to happen ... but I think we're approaching it." CJ

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North Carolina Has Long History of Being a 'Battleground' State

During the past several presidential elections, North Carolina has been described as a "purple" or battleground state. As more people move to The Old North State for work or retirement, pundits often are unsure if the state will lean to the left or to the right in an upcoming election.

However, as Ecclesiastes 1:9 states, "There is nothing new under the sun."

North Carolina many times has been a battleground state and a determining factor in national debates. A study of the Philadelphia Constitutional Convention, and in particular what has become known as the "Connecticut Compromise," provides an example of how North Carolina politics was divided during the debate over ratifying the Constitution and how North Carolinians provided key votes in the budding new union.

The Connecticut Compromise was a result of much deliberation and political maneuvering. Modern-day



**TROY
KICKLER**

patriots forget that the Founders disagreed on many issues at the convention and worked assiduously and sometimes cunningly for compromise. They were not of one political mind, agreeing with all the proposed passages in the Constitution. Some even chose not to attend. Patrick Henry, for example, a staunch federalist, believed he "smelled a rat."

Convention delegates were divided concerning such things as the length of terms, the frequency of elections, and where power should be placed. Heated debates continued after the Philadelphia Convention, as evidenced by the ratification process that prompted Founders, using pseudonyms, to argue publicly whether the United States should adopt the Constitution. At one point, disagreements concerning government structure and the representation issue almost disbanded the convention.

To make a detailed and long history short, let me explain it as follows: the "Connecticut Compromise" evolved from the "Virginia Plan" and the "New Jersey Plan." The former based representation in the legislative branch on population and called for a bicameral (two-chamber) legislature. Many opponents argued that it favored

the most populous states, letting them dominate American politics. The "New Jersey" plan proposed a unicameral legislature and equal representation for all states. To no one's surprise, "Virginia Plan" proponents had problems with a governmental structure so closely resembling the Articles of Confederation favoring small states.

The convention seemed to be at an impasse, but the Connecticut Compromise proposed an overall structure that still exists today: a bicameral legislature, with representation in one house based on population and the other with each state having equal representation.

The Connecticut Compromise required political acumen and planning and what historian Forrest McDonald calls "backstage maneuvering" that recruited the North Carolina delegation — in particular, Hugh Williamson's support. The representation issue involved much more, including approval of treaties, the budget, the origination of taxation legislation, the western land issue, slavery, and exports. In other words, Founders disagreed over which powers should belong in which chamber and other lingering questions. The issues reflected regional, demographic, and

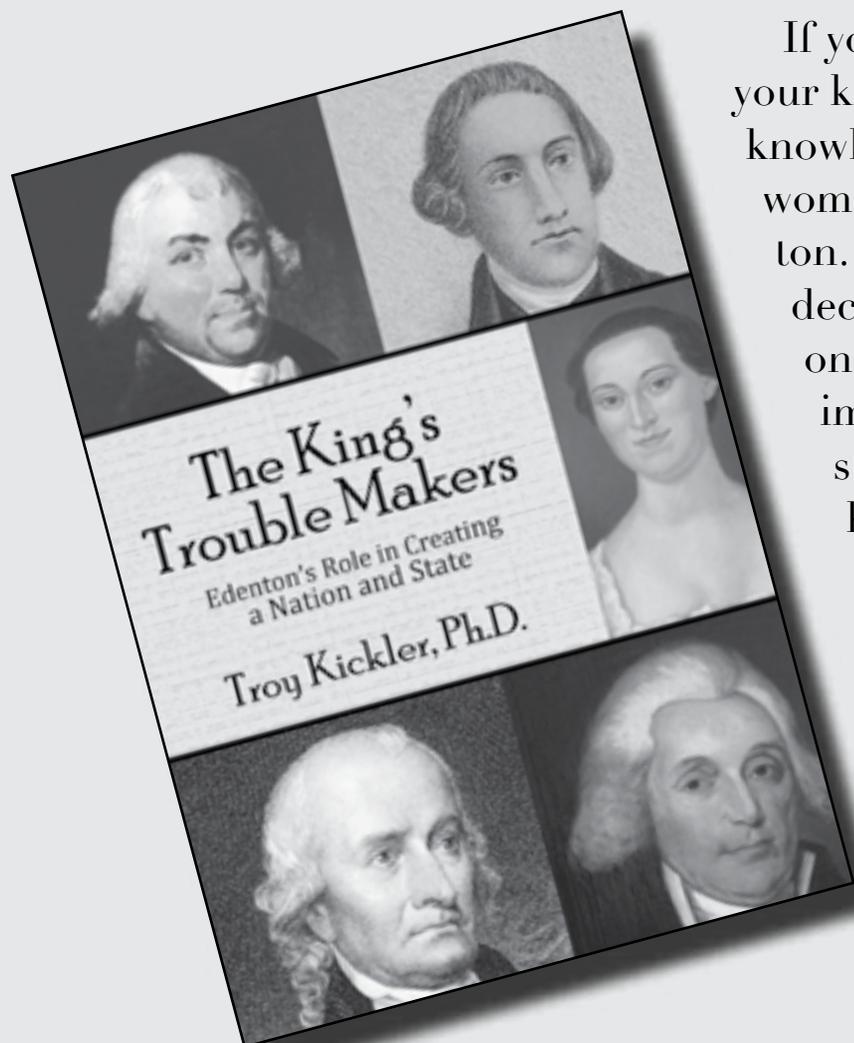
economic concerns that affected the balance of power and the preservation of liberty. Williamson reportedly had criticized the plan, but eventually he was persuaded to alter his opinion.

Regarding the representation and population, North Carolina's delegates had been divided: Williamson, William Blount, and Richard Dobbs Spaight voted for proportional representation while Alexander Martin and William Davie opposed it. Initially, North Carolina was a "large state." Blount soon left to serve briefly in Congress, and, meanwhile, John Rutledge of South Carolina discussed the compromise with Williamson, among others, in informal meetings and dinners.

Eventually, Williamson, Martin, and Davie voted for states to get equal representation in the Senate. Historian William Powell said, "North Carolina's vote contributed toward keeping the convention in session, as the small states' delegates might have left if their cause had been lost." As evidenced by Williamson's role, North Carolina was a battleground state during the nation's founding years. *CJ*

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.

Tucker: Conservative Founders' Concepts Just as Valid Today

BY CJ STAFF

RALEIGH
 Ask a conservative to list his political heroes, and you are likely to hear names such as Ronald Reagan, Barry Goldwater, and William F. Buckley. Those looking further back in time might list Thomas Jefferson and James Madison. Fewer people are likely to mention Nathaniel Macon or Josiah Bailey, unless they have read the latest book from Raleigh author Garland Tucker. Tucker, chairman and chief executive officer of Triangle Capital Corporation, profiles important figures from American history in the book *Conservative Heroes: Fourteen Leaders Who Shaped America, From Jefferson to Reagan*. Tucker discussed the book with Mitch Kokai for Carolina Journal Radio. (Head to <http://www.carolinajournal.com/cjradio/> to find a station near you or to learn about the weekly CJ Radio podcast.)

Kokai: You have written another book that was spotlighted on this show a few years back, *The High Tide of American Conservatism*, but this time, spotlighting some conservative heroes. Why?

Tucker: Well, I think the book is really written for conservatives about conservatism, and it's my hope that it will help conservatives sharpen up their thinking a little bit on what the basic principles of conservatism really are. And in looking at the lives of these 14 leaders, we'll get a feel for what it's like to live out those principles, in a historical context.

Kokai: We're going to get into some of the leaders in just a bit, but first, you mentioned conservative principles, and your opening chapter really sets out a handful of principles that all these leaders relied upon. What are some of those principles?

Tucker: I lay out five that I suggest are very basic. The first one is a basic conservative view of human nature. Liberals would hold that human beings are getting better and better. Conservatives aren't that optimistic but think that a government can properly set some limits within which human beings can flourish.

Another key concept is the importance of private property. Limited government is another very important concept. The conservatives would argue that there are really only two basic roles for government: to establish order and then to preserve liberty.

And finally, conservatives would say that the basis on which any society or country rests are really individual or private virtues, and those private virtues in case of the American Republic are very much [based] on Judeo-Christian traditions.

Kokai: We're going to have a chance to get into some of the leaders.

"Conservatives would say that the basis on which any society or country rests are really individual or private virtues, and those private virtues in case of the American Republic are very much [based] on Judeo-Christian traditions."

Garland Tucker
 Author
 CEO of Triangle Capital Corporation



I don't think we're going to hit all 14 in the time that we have. So because of that, let's focus on a couple of the lesser-known people, who may be of interest to a North Carolina audience. One of the names we mentioned at the top of the interview — Nathaniel Macon. Who was he, and why is he a conservative leader?

Tucker: To get a little overall context, as I developed the book, the 14 leaders, it goes chronologically through American history over 200 years, and starts with Jefferson and Madison at the very beginning of the Republic. But the second chapter is devoted to Nathaniel Macon and John Randolph. These were two very early Jeffersonians, and Nathaniel Macon was from North Carolina.

He was speaker of the House of Representatives under Jefferson and one of Jefferson's closest political associates, particularly leading up to Jefferson's election in 1800. And it's, I think, pretty well-known — at least among historians — that once Jefferson and Madison were elected president in their own right, they became a little bit more expansive in their views of limited government.

But Nathaniel Macon and John Randolph never did. They held very firmly to those original Jeffersonian concepts and were an important link in Jefferson's limited government views, between 1800 and the Civil War.

Kokai: And for those who think that Jesse Helms was "Senator No," Macon had a reputation for voting no quite a bit, didn't he?

Tucker: Yeah, that's right. There's evidence that Jesse Helms was very envious of Nathaniel Macon's record of no votes.

Kokai: There's another North Carolina figure who might not be par-

ticularly well-known, especially outside of the Tar Heel State or even outside Raleigh, and that's Josiah Bailey. Who was he?

Tucker: Josiah Bailey was the Democratic senator from North Carolina in the 1930s and '40s, and he was a leader in the conservative movement within the Democratic Party and within Congress that began to push back against [Franklin] Roosevelt and the New Deal, beginning — well, primarily, in 1937.

He led the successful fight to block Roosevelt's court-packing scheme, and then shortly after that, he led an effort that was not successful, but it was the development of something that he called the Conservative Manifesto, which was the first attempt to create a bipartisan coalition of conservative members of Congress.

And this was also in 1937. Bailey was regarded as one of the best speakers in the Senate, a very intelligent individual, and someone that North Carolina, I think, can be very proud of.

Kokai: This is the second time that you've written a book that highlights someone who doesn't get a lot of attention, and that is a fellow named John W. Davis. Why is he one of your conservative heroes?

Tucker: Davis was the Democratic nominee for president in 1924, and was arguably, I think, the last conservative that the Democrats nominated. He's included in this book because of his contribution in the 1930s, '40s, and even into the 1950s, of successfully challenging New Deal and Fair Deal legislation before the court, primarily the Supreme Court.

He was very successful in securing the overturning of a lot of legislation. In fact, he earned Roosevelt's nickname as Public Enemy No. 1, which Davis very much cherished that

nickname.

Kokai: Your book starts with basically the start of the American Republic, with Jefferson and Madison. You go up through Ronald Reagan, and, of course, it's been more than a quarter century now since Reagan left office. Is this a bad sign, that we don't yet have someone else to add to this list?

Tucker: The last chapter deals with William F. Buckley, Barry Goldwater, and Reagan, which covers a good bit of the last half of the 20th century. But I would certainly want to make it clear that I don't, in any way, view this as the final chapter of conservatism.

I think there will be, hopefully, many additional chapters, and hopefully some soon. One of the premises on which the book is written is that conservatism is as old as the Republic itself, and it's based on truths that have been around since before the Republic. So I think it's just as current today as it was when Reagan was president or Coolidge or Cleveland, or some of these other leaders.

Kokai: In the brief time that we have left, do you think that a leader who espoused and actually followed those five principles that you set out would be leading us in the direction we need to go?

Tucker: Absolutely. That's what I hope will be apparent to anyone reading the book, is once you've read the introductory material on the five concepts behind conservatism, I think you can see those concepts were lived out by these 14 leaders, and, admittedly, they had to address different issues in their different eras, and there will be different issues in the future, but I think the five concepts will be just as applicable in the future as they have been in the past.

COMMENTARY

More Renewable Subsidies Need to Go

For decades, energy costs have been manipulated by state government subsidies. Just like other subsidies, whether for the film industry, automobile manufacturers, or even specific companies, special treatments transfer the tax burden from the recipients of the subsidies to others, creating unfair advantages, interference in free markets, and barriers to prosperity. There is some good news from recent legislative action, but still much work to be done.

After 38 years, North Carolina will stop one solar industry subsidy by ending a 35 percent tax credit for construction costs. Decades ago, renewable energy advocates swore a temporary “boost” was all they needed to get their industry started, but the industry has not ended its significant dependence on taxpayers and ratepayers.

Subsidizing renewables has driven up energy costs for North Carolina citizens: \$224 million in tax giveaways and special treatment, 3,600 jobs lost because of higher energy costs, and \$556 million in increased energy costs and money taken out of the economy this year. High energy costs deter business startups and expansions, particularly manufacturing industries that long have been the backbone of the state’s economy. Higher energy costs affect all energy consumers. Low-income families are hit hardest.

Although the solar industry and its beneficiaries fought tooth and nail to keep the credit, spending millions on high-powered lobbyists, the General Assembly and the governor agreed it was time to allow the 35 percent state tax credit for renewable, to sunset at the end of 2015.

But the special treatment won’t end when the tax credit sunsets. A mandate forcing North Carolinians to buy renewable energy remains in place. “Renewables” include solar, wind, hydropower, geothermal, and biomass — but in reality, the beneficiaries are wind and particularly solar. The state renewable portfolio standard, enacted in 2007, requires 12.5 percent of our energy by 2021 to come from a mix of renewable sources and

conservation measures. The mandate was phased in. It’s at 6 percent until 2018, when it is scheduled to increase to 10 percent, and finally reaching the full 12.5 percent level in 2021. North Carolina is the only state in the South that imposes a mandate for energy consumption on its citizens. Electricity prices are 38 percent higher in states with mandates requiring consumers to purchase these more expensive forms of energy.

The special treatments don’t end with the RPS. North Carolina has 111 different financial incentives and policies that favor renewables. Renewable projects get an 80 percent property tax abatement, accelerated depreciation allowance, and a selling advantage called net metering, which allows renewables to avoid the costs of using the power grid. All of these special treatments subsidize renewables even more at the expense of energy consumers, aka taxpayers.

Environmental concerns also arise when spent solar panels must be decommissioned. The panels contain dangerous toxins and pollutants. There are potential sedimentation and erosion control issues associated with solar facilities. And as solar farms expand onto native scrubland and former farmland, we lose natural ecosystems and open space.

Legislation repealing or phasing out the state mandate has been introduced in 2011, 2013, and again this year. House Bill 760, freezing the RPS at its current rate of 6 percent, passed the House 77-32 but never made it through the Senate. It is eligible for consideration during the short session.

So we have large giveaway programs to lure new businesses to North Carolina while we mandate higher energy costs for existing businesses. Isn’t it time to eliminate the special treatments and instead lower costs for everyone? After all, that’s what free markets are all about, and they work pretty well. Let’s give it a shot. Repeal the RPS and other special treatment for renewables. CJ

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



BECKI GRAY



EDITORIAL

A BRAC For UNC?

As the University of North Carolina system prepares to welcome Margaret Spellings as its sixth president, the former U.S. education secretary will lead a 17-campus system (including 16 traditional four-year colleges) that, according to UNC’s website, “houses two medical schools and one teaching hospital, 10 nursing programs, two schools of dentistry, and a school of pharmacy, as well as two law schools, 15 schools of education, [and] three schools of engineering.”

Are all these necessary, especially considering the growth of distance learning and the state constitution’s mandate for “the benefits of the University of North Carolina and other public institutions of higher education, as far as practicable, [to] be extended to the people of the state free of expense”?

We think not, and as Spellings begins her tenure, she would do well to consider a concept that could move the UNC system into the 21st century while honoring its historic mission: a realignment commission for UNC’s campuses.

Five rounds of military base consolidations under the Base Realignment and Closure process slimmed down the U.S. military as the Cold War ended. Under BRAC, an independent commission appointed by the president heard testimony from interested parties and visited bases that were considered to be redundant or candidates for consolidation. The commission submitted a list to Congress, which then voted to accept or reject the entire list. More than 350 installations have been closed or consolidated since 1988.

The UNC system — and all North Carolinians — would benefit

if the university were subjected to a similar independent review. Ten of the 16 UNC campuses were founded in the 18th or 19th centuries, and many are operating under the same form of governance that was set in place when the system was consolidated in 1971.

Distance learning and other innovations are making those 1970s institutions into white elephants. President-elect Spellings, with the approval of the state’s political and educational leaders, may be the right person to lead a realignment of one of our state’s most important and most popular public institutions.

Much like military bases, independent education schools and nursing departments on university campuses develop powerful local advocates. Once established, these entities become nearly impossible to shrink or eliminate, even if they don’t serve the best interests of the public at large.

Spellings, who led a presidential Commission on the Future of Higher Education which had as a member former Gov. Jim Hunt, has expressed concerns about bloat and redundancy on university campuses.

“We have to get beyond this idea that we’re going to have a veterinary school or an education school or a medical school or a law school or a Spanish program on every street corner in America,” she said during a 2010 debate at the National Press Club. “We can’t do it like that anymore. We’ve got to use technology and be economically sensible about how we offer coursework.”

President-elect Spellings, Gov. Pat McCrory, and legislative leaders should consider UNC consolidation as a responsible approach to bolster the reputation and accountability of this essential \$9 billion public institution. CJ

EDITORIALS

A Win For Freedom

Accomplishments not reflected in the media

Much of the traditional media coverage of the recent legislative session was presented to leave a clear impression that elected officials toiled for months on end with little to show when they adjourned.

Fact is, North Carolina's Freedom Movement won the session. Here are several tangible ways the principles of freedom and limited government advanced in 2015:

- **Spending growth restrained.**

The \$21.7 billion General Fund budget for fiscal year 2015-16 increases spending by just 3.1 percent — less than the rate of inflation and population growth. Despite a \$450 million surplus in revenue, legislators and the governor resisted powerful groups urging them to spend more. Instead they exercised fiscal discipline that respects the hard work of taxpayers.

- **Solar subsidy ended.** Nearly four decades of taxpayer-subsidized special treatment for Big Solar ends Dec. 31. From 2010 to 2014, these credits amounted to \$224

million. Dozens of lobbyists and advocates applied tremendous pressure to save big business' sweet deal. But fairness won the day, and the 35 percent state tax credit will not be extended.

- **Saving a priority.** It's vital to put money aside for a rainy day. And that sound principle is part of the new budget. More than \$600 million is being deposited into savings accounts, building toward reserves of \$1.6 billion to deal with natural disasters, a downturn in the economy, or other expenses that couldn't be foreseen.

- **Spending easier to find.** No longer will citizens be forced into a maze of websites and documents to find out what state agencies, local governments, and local education agencies are spending. A new Internet portal will function as one-stop information shopping, featuring monthly updates on budgets and expenditures.

- **More money staying with taxpayers.** Building on transformational tax reforms from 2011 and 2013, the third round of tax fairness reduces the personal income tax rate from 5.75 percent to 5.499 percent, and reduces the corporate income tax rate to 4 percent. In addition, the standard deduction increases by \$500, and deductions

for medical expenses are unlimited. Overall, taxpayers will keep more than \$2 billion of their own money over the next five years.

- **Highway Fund shell game ended.** No longer will the state divert \$216 million each year from the Highway Fund to the General Fund. Coupled with a long overdue update to Division of Motor Vehicles fees, the state will have a reliable, steady stream of funding to pave roads, shore up bridges, and relieve congestion based on data and need, not political favors.

- **More opportunities to exit failing schools.**

Low-income families in North Carolina have more educational freedom and opportunity, thanks to expansion of the Opportunity Scholarship Program. Through a voucher of up to \$4,200 per year, income-qualified parents of kids whose education needs aren't being met by a traditional classroom can attend the private school of their choice. Funding is available for 4,400 low-income students

next year.

- **School spending focused on classroom.** K-12 education spending is up by \$410 million in the new budget, with funding to be used for digital instructional materials, reading camps, access to broadband, and more. Those entering the teaching profession will make at least \$35,000 per year, a \$2,000 increase in first-year pay. All other teachers received a "step" increase in salary and a \$750 bonus.

- **Medicaid oriented toward better care, lower costs.** Medicaid, the health insurance provider for 1.9 million North Carolinians, long has been plagued by massive cost overruns and concerns about poor health outcomes. Moving to a hybrid of provider-led and managed-care systems encourages quality care with more predictable costs and less risk to taxpayers.

- **Neverending pursuit of liberty.** Every lawmaker and state official offers an opportunity to advance freedom and opportunity, and curtail the smothering forces of too much government. All of the victories featured here can be traced to the ideas, recommendations, and hard work of the John Locke Foundation. *CJ*



COMMENTARY

Conservative Gains Undermined by Distrust

Among conservatives around the country, North Carolina has become a superstar — a place where innovative ideas, sustained investment, diligence, and political acumen have combined to produce an impressive string of hard-won victories.

Within the state, however, some conservatives don't see things that way. It's interesting to consider why that may be.

The facts are clear. Over the past five years, conservative leaders in the General Assembly have enacted a series of tax cuts and tax reforms that will foster entrepreneurship and job creation, reduce the double-taxation of savings and investment, and save taxpayers hundreds of millions of dollars a year. North Carolina is one of the few states ever to have junked an outmoded, Keynesian-era tax system in favor of a modern, pro-growth Flat Tax.

On spending, lawmakers and Gov. Pat McCrory have resisted calls by special-interest groups to "invest" more in ineffective state programs and bureaucracies. Instead, they have maintained fiscal discipline — spending significantly more on high priorities such as upgrading public infrastructure and recruiting new teachers, to be sure, but keeping overall budget growth at or below the combined rates of inflation and population growth.

Fiscal discipline involves preparing for the future, not just indulging the political demands of the present. Instead of blowing this year's \$400 million revenue surplus on new programs, state leaders put every penny of it, and then some, into savings. They are determined not to enter a future recession with inadequate budget reserves, like their predecessors did. Recessionary budget deficits always put tremendous political pressure on governors and legislators to raise taxes.

Conservative achievements in North Carolina extend beyond fiscal policy. In each of the past five years, lawmakers have enacted regulatory reform bills to eliminate counterproductive rules and streamline the process. They have dramatically expanded parental choice and competition in education by ending the

cap on charter schools and creating Opportunity Scholarships for disadvantaged and disabled children whose needs might be met best in private schools. Conservatives have won victories on a host of other fronts as well, including transportation, energy, property rights, election reform, and abortion.

Even in cases where broader free-market reforms have yet to take root, conservatives have made real progress. During this year's legislative session, for example, efforts to abolish or cap North Carolina's mandate on electric utilities to purchase high-cost renewable energy fell short. But lawmakers did allow a longstanding, ridiculously generous tax credit for renewable energy projects to expire.

So why are some North Carolina conservatives grumbling about their "liberal" legislators lately? I think one reason is unrealistic expectations. Having argued against

abusive government subsidies and regulations in Raleigh for a quarter century, I am well aware of just how entrenched many of them are — and how far their beneficiaries will go to protect them. I see incremental steps as strides toward the ultimate goal. Others see them as stumbles or sidesteps.

Still, I think North Carolina's leaders have themselves to blame for much of the disconnect. Process matters. Even good ideas sprung on citizens at the last minute, or stuffed into unrelated bills, can look precipitous or suspicious. Moreover, some of the tools lawmakers have chosen to advance their goals — such as "paying for" income tax cuts with selective expansions of the sales tax base to services — look very different to average North Carolinians than they do on paper. There's a better, broader way for the state to move to a consumption-based tax system, as I have long maintained.

North Carolina truly deserves its national reputation as a leader of conservative reform. Within the state, however, there's work to be done on renewing relationships and rebuilding trust. *CJ*

John Hood is chairman of the John Locke Foundation.



JOHN HOOD

MEDIA MANGLE

The Media Have No Independent Standards

I used to have the naive idea that journalists based their editorial decisions on independent standards that obtained no matter who was involved in a news story.

If corruption was occurring, I, in my callow youth, thought, journalists would condemn it whether it was Democrats, Republicans, Socialists, or Communists who were involved. I don't believe that anymore, and haven't for some time.

A big turning point for me was the Clinton-Lewinsky affair. At first, the media said, "If he had sex with an intern, he's toast." But, as it became clear that he did have sex with an intern, the media began saying, "If he committed perjury, then he's toast."



**JON
HAM**

When it became clear he had lied to a grand jury, the media decided, "It's just sex. What's the big deal? Let's move on." I knew then that the mainstream media had sold its soul.

The same thing is happening today with, irony of ironies, Bill Clinton's wife. Her travails with Benghazi and her emails have gone through a similar goalpost-lowering process. She and the president at first claimed that four Americans died in a "protest" caused by an anti-Muslim video. United Nations ambassador Susan Rice was sent out to five Sunday talk shows to claim the video was to blame.

Hillary Clinton herself told the parents of the dead Americans that the video was to blame and that she and the president would punish who was responsible. They quickly engineered the jailing of the video's producer, who is still afraid to speak publicly for fear of being jailed again.

When it became evident that Clinton had a separate, personal Web server, and that she used a personal email account, requests were made for those emails. Soon we learned that 30,000 of her emails had been erased and the server destroyed.

When she testified under oath late in October in front of the House Select Committee on Benghazi, all of what had been only suspected was confirmed. She *had* lied about the video, to the nation and to the parents of the dead. She *had* destroyed emails. She *had* jeopardized top-secret information by passing it to political operatives via unsecured channels. She *had* ignored dozens and dozens of pleas from Ambassador Chris Stevens to beef up security in Benghazi.

The media, however, had moved the goalposts so far for Hillary that all of these damaging, incriminating facts became irrelevant to them. What was important was not the lies about the video, the callous disregard for Stevens' concerns, the jailing of an innocent American to protect the meme that global terrorism was on the run, or the lies to the parents of the dead. No, the story the next day was how wonderfully the aging Clinton had done by enduring her 11 hours of testimony before the mean Republicans.

Imagine if those standards had been in play in covering the Watergate scandal. CJ

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*Why Recession Worries Are Growing*

Much of the recent economic news has been worrisome. There have been wild swings in the stock market, with point losses in the triple digits on some days. The Chinese economy may be in freefall, while Europe is dealing with thousands of refugees from the war-torn Middle East. Canada is officially in a recession. The broadest measure of the jobless rate is still above 10 percent.

Does this mean the nation is headed into another recession?

Some say the last recession, which officially began in late 2007, never ended. I understand that attitude, especially for those whose incomes have dropped or are still unemployed.

But we measure changes in the economy by the sum of economic activity for all people and companies. More than 12.5 million jobs nationally and 418,000 jobs in North Carolina have been added since early 2010. The broadest measure of the unemployment rate is down 40 percent during the past five years. Consumer sentiment about the economy has been improving steadily.

So yes, the economy has been improving — albeit slowly compared to previous recoveries from recessions. But just because the economy has been gaining for the last six years doesn't mean it will continue to do so.

Recessions can be caused by a number of factors or events. Among them are a buildup of private debt, the spike in the price of a key commodity in the economy, a move by the Federal Reserve to reduce high inflation, or the emergence of an investment "bubble."

Let's look at the current situation for each of these factors. Private debt today is low, not high. The debt load of households — measured by the percentage of households' after-tax income devoted to loan payments — is at a three-decade low. Business debt is also low. Even government debt — relative to the size of the economy — has stabilized.

Recessions in the 1970s were triggered by big jumps in oil prices. Today, oil prices have gone in the opposite direction: down. Prices of most other commodities — like metals and crops — also have

trended lower. Gold is cheaper today than it was a year ago.

The deep recession in the early 1980s was induced by the Federal Reserve's effort to reduce the double-digit inflation rate prevailing at the time. The Federal Reserve raised interest rates and restricted credit growth. As a result, private-sector spending slowed and a recession resulted. The inflation rate did plunge, but at the cost of higher unemployment and lower incomes.

Again, the situation is entirely different today. All the gauges of inflation — from government and private sources alike — show the average of prices rising at modest rates. The Federal Reserve may raise the interest rates they control, but mainly because they are now effectively zero. Furthermore, the increase in interest rates should be modest — maybe one-quarter of a percent.

This leaves the development of an investment "bubble" as the last potential cause of a new recession, and this is actually the factor that may now have the greatest risk of happening. The attention is on two possible bubbles — in the bond market and in the stock market.

The value of long-term bonds is related to changes in interest rates. Increases in rates lower the value of existing long-term bonds because new bonds then pay more than existing bonds. Thus there's a concern the value of existing bonds is too high (they're in an "investment bubble") because interest rates are so low. So when rates rise, some analysts say to watch for a possible crash in the multitrillion-dollar bond market.

A similar argument is made for stocks. Low interest rates make investments like CDs (certificates of deposit) and money market funds much less attractive than stocks. But some say stock values are artificially high (a "bubble") today because — again — interest rates are artificially low. So — just like bonds — the worry is what happens when rates are raised.

Right now, I worry most about an investment bubble, yet I still don't see a recession as imminent. But guess who has some of the worst records of predicting recessions? Economists! CJ

Michael Walden is Reynolds Distinguished Professor at N.C. State University. He does not speak for the university.

Buckley's Response to Vidal Understandable

The recent movie "Best of Enemies" revisits 1968, one of the most dramatic years in modern American history. Morgan Neville and Robert Gordon have produced a documentary surrounding the 10 televised debates between the conservative intellectual and founder of *National Review*, William F. Buckley Jr., and Gore Vidal, the radical postmodern essayist and political commentator.

The debates were watched by millions and took place against the immediate backdrop of that year's national party conventions, gatherings colored greatly by the ongoing war in Vietnam, the civil rights movement, and broader cultural upheaval, as well as the Martin Luther King Jr. and Robert Kennedy assassinations.

The movie makes the debates' most dramatic moment a central focus. During a heated exchange, Buckley responds to Vidal: "Now listen, you queer, I'll sock you in the goddamned face and you'll stay plastered." Even though Vidal was sneering and antagonistic — he was notoriously nasty to friends and foes alike — he didn't deserve the insult. Buckley had lost his cool and after a few moments stormed off, clearly as



**ANDY
TAYLOR**

annoyed with himself as with Vidal.

Its recent embrace in certain gay circles notwithstanding, the term "queer" grates our contemporary sensibilities. It is undoubtedly a slur, and much of the media coverage of the movie has focused on its utterance and what it revealed about Buckley's politics and temperament.

That Buckley's outburst was provoked by Vidal calling him a "crypto-Nazi" (Vidal later claimed he meant to say "crypto-fascist") has not been given nearly as much attention. Perhaps the oversight is unsurprising since many people on the Left today toss around the term loosely and frequently label their conservative opponents as quite conspicuous Nazis, not worrying to suggest the trait is hidden in some way.

Conservatives also use it to describe their critics — as illustrated by Rush Limbaugh's "Feminazis." I've been called a Nazi before, and in fairly polite conversation, too. The accusation did not hurt, since it was simply untrue and, besides, the epithet has lost most of its meaning through such frequent misuse.

It hurt Buckley, though. It is easy to forget that today we are as close to Bill Clinton's first election as president as 1968 was to the end of World War II. At the time Buckley and Vidal clashed, the long dark shadow of National Socialism and Hitler's destruction of Europe and efforts to eliminate the Jews still fell across the Western world. Nearly everyone who was

watching that night clearly understood what Nazism was. Hitler's co-conspirator in the division of Poland, totalitarianism, and extermination of political opponents, Josef Stalin, had been dead only 15 years. It was outrageous to put Buckley in a camp such as that.

Buckley was a conservative. He understood the idea of obligation, had a deep understanding of history, and respected institutions like the military and organized religion as essential to social cohesion and national greatness. But like most conservatives then and now, he also embraced classically liberal ideas based on a belief that individual liberty should constitute the central organizing principle of societies. He had his differences with people like Friedrich Hayek and Milton Friedman — the latter vigorously debated him on optional but incentivized national civic or philanthropic service — but Buckley was cut from similar cloth.

The connection helps explain Buckley's explosion. The architects of the classical liberal revival that followed World War II — Friedman, Hayek, Henry Hazlitt, Walter Lippmann, Albert Jay Nock, Karl Popper, Ludwig von Mises, among others — were influenced profoundly by their devastating personal experiences with totalitarianism in the 1930s and 1940s. Many were Jews who came to the United States and Britain with a deep suspicion of the state and desire to be free.

The "Nazi" epithet often demonstrates a tremendous ignorance of the origins of the modern center-right in America.

Probably more grating to Buckley personally was Vidal's simplistic assertion — often made today — that any critic of modern liberalism and socialism must be some kind of Nazi. Many of Buckley's writers and editors during the early years of *National Review* had themselves been leftists who opposed fascism and the extreme right in pre-War Europe. But they had come to realize that the Soviet Union and rising communist and socialist movements elsewhere were designed to strangle individual liberty in monstrous bureaucracy that bred conformity, suffocated initiative, smashed opposition, and generally squeezed the hope out of people. Nazis, fascists, and communists were all the same side of the coin. Indeed, just before his outburst Buckley had compared the Viet Cong and its allies to Nazis.

The Buckley-Vidal feud continued after the televised debates and became quite toxic. In a back-and-forth on the pages of national magazines during 1969 and 1970, neither draped himself in glory. On that famous night Buckley certainly contributed to the spitefulness that was to come, but Vidal, we should not forget, played his part just as venomously. *CJ*

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The GOP Revolution's Third Wave?

All I can say is that it was worth the price of admission to be in the nation's capital in October when House Majority Leader Kevin McCarthy, R-Calif., withdrew his name from consideration to become the next speaker of the House.

Two blocks from the Capitol, the scene at the Republican Club was a sight to behold. Lobbyists were on their cell phones, frantically updating their respective clients, and trying to sound as if they knew what just had transpired.

Others were just downright apoplectic. I ran into one lobbyist who was heavily "invested" in McCarthy's rise, and his demeanor and pallor were that of a man who had just received the news that a loved one

had passed. He was in mourning — not for a relative — but for the access he had just lost. He had bet big on McCarthy for speaker, and his horse didn't finish the race.

The media reported that Republicans in the House were in chaos and the "hardliners" were responsible for the mess. The fact is that McCarthy committed a huge unforced error, one that brought about his own downward trajectory — and that was when he stated that the Benghazi committee was primarily a political tool of the GOP.

The legitimate inquiry by Rep. Trey Gowdy's committee to reveal the truth behind the Obama team's response to the terrorist attack in Libya — where four Americans were murdered — was undermined by McCarthy's statement on cable news blatantly politicizing the investigation.

Maybe worst of all for McCarthy's fate was that he was his boss's hand-picked successor, and was viewed by the media as the speaker-

in-waiting. If McCarthy considered the Benghazi investigation to be a partisan weapon, then in the media's eyes, the Republican caucus must think so, too.

Outgoing Speaker John Boehner of Ohio endorsed McCarthy, and to reform-minded conservatives of the legislative Freedom Caucus, that represented business as usual.

Led by Rep. Jim Jordan of Ohio and North Carolina's own Mark Meadows, the Freedom Caucus was concerned less about who the next speaker should be and more about what he or she should do.

Many Freedom Caucus members had been elected in the class of 2010 and were committed to repealing and replacing Obamacare and also reversing President Obama's executive actions on amnesty. They are intent on reducing the size and scope of government and ending crony capitalism.

They also abhor what is transpiring at Planned Parenthood and are committed to keeping their promises

to their constituents back home. They are tired of show votes and legislation that never reaches Obama's desk. And they want to reform the way the House does business.

The Freedom Caucus has a reform agenda. The top-down management style of Boehner and his various committee chairmen was — and is — a centralized process with little room for dissent. The Freedom Caucus wants to decentralize the way Congress works, not to promote chaos, but to advance a conservative agenda.

In my lifetime in politics, I have lived through two major waves or disruptions in the Republican Party: "The Reagan Revolution" of the 1980s and "The Gingrich Revolution" of the 1990s.

Both strengthened the Republican Party and — by the way — were good for the country. The Freedom Caucus could represent the Third Wave. *CJ*

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



**MARC
ROTTERMAN**

'Nothing Compares' Branding Faced Stiff Competition (a CJ parody)

BY DONALD DRAPER
Marketing Correspondent

RALEIGH
The competition selecting "Nothing Compares" as a branding logo for North Carolina commerce was much more heated than the McCrory administration let on, based on documents obtained by *Carolina Journal*.

The phrase, using the initials for North Carolina as a promotional tool for economic developers and state Commerce Department officials, was announced by Gov. Pat McCrory in early September.

"In an increasingly competitive environment, it's crucial for North Carolina to articulate at a glance all we have to offer," McCrory said at the time. "The new look and messaging are reflective of the people and the assets that make this state such an inspiring place to live, work, and play. North Carolina has great momentum and will be even stronger with support of a brand that pulls everything together."

But a number of other phrases using "N.C." also were considered by the Commerce Department, which sponsored a contest soliciting phrases and tested them in focus groups statewide.

Results of the focus group surveys were run through the IMPLAN economic modeling program to learn which phrase would generate the most revenue and create the greatest number of jobs for the state.

Among the phrases that were



The N.C. Commerce Department will distribute postcards urging people from all over the country to come vacation in Nothing Compares. (CJ spoof graphic)

tested and failed to make the cut were:

- Not California
- Naughty Colleges
- Nice Coast
- Never Complacent
- Neo-Conservative
- Nightly Constellations
- NAS CAR
- Notable 'Cue
- Nonpartisan Corruption

Based on the IMPLAN model, using "Nothing Compares" on marketing literature for Commerce is expected to generate \$57.6 million annually in economic impact and lead to the creation of 3,600 jobs, Commerce Department spokeswoman Kim Genardo told *CJ*.

"Of the other phrases we tested, only 'NAS CAR' delivered a positive job-creation number, with \$4.5 million in economic impact and 325 jobs created," Genardo said. "But when we focus-tested the phrase in areas north of Charlotte, among residents who will drive the tolled lanes of Interstate 77, the numbers completely tanked."

"The N.C. Department of Commerce is partnering with UNC's Kenan Institute of Private Enterprise in the Brand N.C. Project," *The Daily Tar Heel* newspaper at UNC-Chapel Hill reported.

The Commerce Department sponsored "two contests" to attract

involvement from North Carolinians, "including a creative expression submission where participants can express what North Carolina means to them with art forms like photography, dancing, poetry and sculpting," according to *The Daily Tar Heel*.

In the second contest, student teams competed in a business case competition for the state's new brand.

To select the winner, state officials used the IMPLAN software package and database, a proprietary modeling program that estimates the regional economic impact of specific projects in terms of jobs created and economic activity generated from the new activity, such as the impact of offering taxpayer subsidies and other corporate welfare to businesses.

Genardo said the use of IMPLAN for the branding project "may signal an innovative way we can justify creating even more phony-baloney economic impact statements that make the governor look good."

With the new branding logo in place, the administration anticipates an economic boom in 2016, when McCrory will run for a second term.

"A well-defined brand will help us consistently tell our story and highlight North Carolina's economic vitality and variety of opportunity," said Commerce Secretary John Skvarla. "This initiative will draw attention to the qualities we know already attract people and investment to North Carolina." *CJ*

E.A. MORRIS

FELLOWSHIP FOR EMERGING LEADERS

The E.A. Morris Fellowship is seeking principled, energetic applicants for the 2016 Fellowship class. Applications available online or at the John Locke Foundation. Application deadline is December 8, 2015.

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

Eligibility

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- Must be willing to complete a special project requiring leadership and innovative thinking on a local level
- Must be willing to attend all program events associated with the fellowship
- Must not be the spouse of a current or past Fellow.

Important Dates to Remember

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Applications Due December 8, 2015



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