

**Agreement:
Renewable
energy de-
pends upon
subsidies /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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Fed Probe Urged of U.S. Attorney's Office

CJ reporting prompts U.S. Attorney group's call for investigation

By RICK HENDERSON
Managing Editor

RALEIGH

Citing reporting from *Carolina Journal*, the National Association of Assistant U. S. Attorneys has asked U.S. Attorney General Loretta Lynch to launch a formal investigation into the handling by the U.S. Attorney's office in Raleigh of the prosecution of gang leader and contract killer Reynaldo Calderon, a Mexican national who was in the United States illegally and unlawfully.



**U.S. Attorney
Thomas Walker**

"We are writing to express our grave concern about information that has come to our attention regarding



It was near the Summerlins Crossroads intersection in Duplin County that Reynaldo Calderon and members of his gang took Geniro Jamis to Calderon's Duplin County home, indicated by arrow above, and then dragged him into the woods behind the house, where they tortured and then killed him. (CJ photo by Don Carrington)

the manner in which a recent death threat against then Assistant United States Attorney Denise Walker was handled by United States Attorney Thomas Walker and First Assistant U.S. Attorney John Bruce in the Eastern District of North Carolina," wrote Steven Cook, president of the National

Association of Assistant United States Attorneys.

Denise Walker resigned her position in March 2015 after learning that her superiors intended to seek less than a life sentence for Calderon. She described her experiences as a victim of Calderon in a letter to U.S. District

Court Judge David Faber and asked to testify at Calderon's sentencing hearing as a victim. Faber granted the request.

Cook's letter to Lynch, dated Sept. 8, said, "We have corroborated much of what is contained in [the *CJ*] article," and called "on the Department [of Justice] to expeditiously conduct a full investigation into this case, gather the facts, and proceed appropriately." Cook is an assistant U.S. attorney in the Eastern District of Tennessee.



Reynaldo Calderon's mug shot

In an interview with *CJ*, Cook said, "We had an ethical and legal obligation to report this. We will defer to the Justice Department for what an investigation reveals."

Relying on court records, *CJ* reported in August that Calderon, who lived in Duplin County, had threatened to kill former Assistant U.S. At-

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Budget Includes Tax Cuts, Teacher Bonuses

Governor signs \$21.735 billion plan in mid-September

By BARRY SMITH AND DAN WAY
Associate Editors

RALEIGH

State taxpayers will pay \$400 million less over the next two years under the \$21.735 billion General Fund state budget signed into law Sept. 18 by Gov. Pat McCrory. The 2015-17 state budget also expands the sales tax base to include more repair and service work to help offset the tax rate reductions.

In a statement, McCrory said:



Gov. Pat McCrory signing the 2015-17 budget into law on Sept. 18. (Governor's Office photo)

"The budget submitted to me by the General Assembly includes many of the goals and ideas we put forward to provide the tools North Carolina needs to continue what we have accomplished during the past three

years. Now we can work together to implement a common-sense vision for our great state that includes job creation, education, health care, and transportation."

The budget builds on a series of rate cuts and tax streamlining put into effect two years ago. It cuts the personal income tax rate to 5.499 percent beginning in 2017, a dip from the current 5.75 percent rate.

The budget will increase the standard deduction in 2016, "ensuring taxpayers married filing jointly pay no state personal income tax on their first \$15,500 of income," said Senate leader Phil Berger, R-Rockingham, when announcing the budget agreement. That

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Agreement: Renewable Energy Depends on Subsidies

By DAN WAY
Associate Editor

RALEIGH

An environmental group lauding North Carolina for ranking No. 4 nationally in solar energy capacity agrees with foes of renewable energy mandates — the state's purported boom in clean energy mostly results from the government forcing utilities to purchase the higher-cost energy, along with incentive deals that shift costs to taxpayers.

"Specifically, the state's Renewable Energy Portfolio Standards and the renewable energy tax credits have set the stage for solar businesses ... to soar," said Rachel Morales with Environment North Carolina, a state-based environmental advocacy group, at a Sept. 10 news conference unveiling a report titled "Lighting the Way: The Top States that Helped Drive America's Solar Energy Boom in 2014."

"Strong public policies at the local, state, and federal level are necessary for North Carolina to achieve its true solar potential," Morales said.

"North Carolina has become a national leader in clean energy technology, and it's largely a result of Senate Bill 3," said state Rep. Pricey Harrison, D-Guilford. S.B. 3, passed by the General Assembly in 2007, requires electric utilities to buy increasingly larger volumes of renewable energy and provides 35 percent state tax credits for solar investment.

"What amazes me about this is it basically acknowledges everything that the opponents of solar subsidies have been saying ... that the solar industry is a creature of the state," said Roy Cordato, the John Locke Foundation's vice president for research and resident scholar.

The state has issued \$224,508,181 in renewable tax credits since 2010, mostly to large banks and insurance companies, according to the state Department of Revenue.

North Carolina's solar industry "is not a creature in any way, shape, or form of the market," Cordato said, "which means it's not the low-cost, reliable energy that some people make it out to be."

He cited an Environment North Carolina press release that "says it's the public policies" responsible for solar growth, "which basically puts a gun to ratepayers' heads and says you must buy this. Well, any industry can survive if people have to buy your product."

"We talk about mandates. We talk about subsidies. We talk about all these other things. But polio vaccines are mandates. Anybody here think that's a bad idea?" state Rep. Charles Jeter, R-Mecklenburg, said during the news conference.

"We have to understand that just because it's a mandate, just because it's a subsidy, just because it's a tax credit doesn't mean it's bad," Jeter said.

State Rep. Michael Wray, D-Northampton, said solar projects "are delivering much-needed investment, jobs, business opportunities, and new tax revenues to our local and state governments."

There are five large-scale solar projects valued at \$135

million in his district. The renewable energy tax credit that entices investors to such projects is supposed to expire at the end of the year, but Wray said extending it was "a top priority."

The budget signed by Gov. Pat McCrory did not extend the tax credit, but that provision could be inserted in separate legislation before the General Assembly adjourns for the year.

Carson Harkrader, project manager at Carolina Solar Energy in Durham, thanked state Reps. Jeter, John Szoka, R-Cumberland, Jason Saine, R-Lincoln, and Sens. Jerry Tillman, R-Randolph, and Brent Jackson, R-Sampson, for their support of the solar industry.

Harkrader said a solar farm project she is working on in eastern North Carolina would raise county property tax revenue on the site from \$3,800 annually to \$170,000. If a nearby small town annexes the site, its yearly revenues would rise from \$500,000 to \$625,000.

Responding to a reporter's question about the cost of disposing of spent solar panels and other equipment at the end of their useful lives, Harkrader downplayed any environmental concerns.

"There's no toxic materials," she said, though experts say solar panels contain materials that can pose health hazards.

"I'm not suggesting there's not a cost" to the state through the tax credit giveaways, Jeter said. "What I'm saying is: The benefit is greater than the cost."

Cordato said he knows of no cost-benefit analysis to validate Jeter's claim.

While the speakers hailed the 23,000 jobs purportedly created by the clean energy sector, none could answer a reporter's question seeking a breakdown of the jobs by category, or say whether the jobs were full-time, year-round, or temporary, part-time positions.

Cordato said the number is somewhat irrelevant because any industry receiving subsidies would create jobs.

Solar supporters "assume that money's going to stay in somebody's mattress" if it doesn't get used by renewable energy interests, Cordato said. "It's terrible economics," because it doesn't consider how many jobs the private sector might have created had the government not diverted money to the favored green-energy industry.

At a Sept. 9 panel discussion hosted by the American Energy Alliance, state Rep. Mike Hager, R-Rutherford, said the renewable tax subsidies are hurting the state budget.

"If you've been subsidized for eight years, and you think you have a business, you probably have a charity instead," Hager said.

Bob Luddy, CEO of CaptiveAire Systems, a privately held company building ventilation systems for kitchens, issued a statement saying green energy may be a noble goal, but makes sense only if it's cost-effective and market-driven.

"Subsidies are often sold as near-term, but they are perverse incentives and most often become permanent," stifling incentive to compete in the market through innovations, Luddy said.

CJ



Bill Easing Rules Could Aid Struggling Rural Hospitals

BY DAN WAY
Associate Editor

RALEIGH

Two rural hospitals could be reopened under state legislation that includes the first substantive reform of North Carolina's certificate-of-need regulation.

Pungo District Hospital in Belhaven could be the first beneficiary of the legislative change to the state CON law contained in an amended version of House Bill 20, which passed the Senate and was awaiting a final vote in the House at press time. Yadkin Valley Community Hospital in Yadkinville stands to benefit from a separate provision in the bill.

Announcing the amended version of H.B. 20 at a Sept. 16 press conference organized by Belhaven Mayor Adam O'Neal, Sen. Bill Cook, R-Beaufort, said CON laws harm rural hospitals.

A certificate of need basically amounts to a government grant of permission to operate and purchase various health care facilities and equipment. According to a study by the Mercatus Center at George Mason University, only three other states have CON laws more restrictive than North Carolina's.

The amendment would "reduce the overly burdensome regulation required of financially challenged rural hospitals. It will allow small rural hospitals more easily to change management with less disruption of health care in their communities," Cook said.

Existing hospitals can forgo the lengthy certificate-of-need review when changing hands. That exemption would expand to include hospitals that have closed, so long as the state Division of Health Regulation receives



written notice that the hospital would reopen within 36 months.

State Rep. Garland Pierce, D-Scotland, representing the Legislative Black Caucus, and House Minority Leader Larry Hall, D-Durham, spoke at the rally in favor of the measure.

"You know that the system is broke when we as elected officials and citizens have to petition our government in this manner to get something that we are entitled to in any free economy," said Beaufort County Commissioner Hood Richardson.

"The system is run on money right now, and the system in North Carolina is concentrating money into mega-hospitals" when it should allow free-market competition in the health care arena, Richardson said. "The certificate-of-need law is a protection racket for the big boys."

Connie Wilson, a lobbyist working for CON reform to allow orthopedic and ophthalmology ambulatory surgery centers to open, said H.B. 20 is

a small bite of the apple.

"But it's an important bite because for years the large hospitals have been hiding behind the skirts of the rural hospitals, saying, 'You're going to hurt the rural hospitals if you change CON.' Now we have one example that shows where CON really does hurt rural hospitals, and we've been saying that for years," Wilson said.

Vidant Health took over management of Pungo, the investor-owned hospital serving Beaufort and Hyde counties, two of the state's geographically largest and poorest, in 2011. It closed the facility in July 2014.

"Vidant Health believes that a new facility, which delivers a new ambulatory model of care, is the best path forward for the health care needs in the Belhaven area," said spokeswoman Christine Mackey.

"Continuing to operate an out-of-date facility under a traditional inpatient model of care is not a sustainable model of health care for the broader community. Our board reached this conclusion more than two years ago, and Vidant Health worked with the mayor and the town during mediation to assist them in taking over the hospital, yet they did not take the steps necessary to do so," Mackey said.

Vidant broke ground in April on a new 12,000-square-foot, multispecialty health facility scheduled to open next summer.

Shalanda Satterthwaite, 27, of Belhaven, wants Pungo District Hospital to reopen. She credits it for saving her life from a stroke when she was 4 years old.

"I would be dead" if the Belhaven hospital were not open then, she said. Her mother, who suffers various medical ailments, now must drive a long

distance for hospital care.

Billie Mackey, a senior citizen, attended the Sept. 16 rally in a wheelchair. She said she and her friends in Belhaven have been affected by the hospital closure.

"Several of them had to be transported all the way into Washington to get emergency care," she said. "If I had a medical emergency, I would have to depend on a helicopter or an ambulance to get me to a medical center, and the first hour is the critical one."

Dr. Charles Boyette, a family practice physician in Belhaven for 50 years who covered the hospital's emergency room by himself for more than three decades, said without the hospital doctors no longer can evaluate, diagnose, treat, stabilize, admit, or transfer a patient.

"We are losing a lot of patients in increase in morbidity as well as mortality by not having accessibility to an acute-care type of hospital which can handle emergencies that we used to handle," Boyette said.

"We're turning into one big transport unit and not being capable of handling the people who have real medical emergencies," he said. People are experiencing increased and prolonged illnesses that could be treated early at

the hospital, which cut down recovery time significantly.

H.B. 20 includes a provision outside of CON law that would assist Yadkin County in finding a new management group to operate the county-owned hospital. HMC-CAH Consolidated Inc. of Missouri closed the hospital in late May without warning, Yadkin County manager Lisa Hughes said.

The county solicited contract offers from management companies, Hughes said, but there was concern whether the law required the county to reopen its request-for-proposal process every time a negotiation fell through.

"This is every bit as cumbersome as the certificate of need," said Sen. Joyce Krawiec, R-Forsyth. "It can take years if you have to start over every single time."

Her bill clarifies statutory language to avoid that scenario, Krawiec said.

As for the CON law, "I think it should be repealed completely," she said.

"I think it's just a matter of time until the certificate of need is gone, so folks need to start preparing for that," Krawiec said.

**Vidant Health
took over
Pungo Hospital
in 2011, closed
it in 2014**

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).

CAROLINA JOURNAL: <http://www.twitter.com/CarolinaJournal>

JOHN LOCKE FOUNDATION: <http://www.twitter.com/JohnLockeNC>

State Briefs

Land owners who sued the N.C. Department of Transportation over proposed highway corridors and won at the N.C. Court of Appeals will have to wait at least a few more months for their case to be settled.

In August, the N.C. Supreme Court agreed to hear NCDOT's appeal of the case involving North Carolina's Map Act.

"We understand that this is an important case," said Matthew Bryant, a Winston-Salem attorney handling the case for the plaintiffs. "It began in September 2010. We sit here five years later, close to a resolution."

The Map Act allows NCDOT to prevent building permits from being issued on property listed in highway corridors.

The case on appeal involves a lawsuit filed by property owners in Forsyth County. However, similar lawsuits regarding the Map Act have been filed in Guilford, Wake, Cleveland, Cumberland, and Pender counties.

Chief Judge Linda McGee wrote an opinion for a unanimous three-judge Court of Appeals panel. McGee said that by recording a corridor map, NCDOT foreshadows which properties eventually will be taken to build a road.

"We conclude that the Map Act empowers NCDOT with the right to exercise the state's power of eminent domain and take private property of property owners affected by, and properly noticed of, a transportation corridor map that was recorded in accordance with the procedures set forth in [state law]," McGee wrote. That power, "when exercised, requires the payment of just compensation," she said.

Bryant said that time is the enemy of the plaintiffs and the friend of the DOT.

"The vast majority are old," Bryant said of his clients. "They're getting less and less able to take care of themselves. ... They shouldn't have to be stressed out about this in their golden years."

"Mr. [Everette] Kirby is 82, and his wife is 85," Bryant said. The Kirbys are the lead plaintiffs in the case. Another elderly plaintiff has died, Bryant added.

"We always knew we would be at the Supreme Court," Bryant said.

Bryant said that attorneys would likely file their briefs this fall, and hopes the Supreme Court will hear the case early next year. CJ

— BARRY SMITH

Budget Provision Could Delay Corporate Tax Cut

Forecasts show state collecting less revenue than previous General Assembly target

By DAN WAY
Associate Editor

RALEIGH

A new round of tax cuts in the \$21.735 billion General Fund budget for 2015-16 may prevent the state from lowering the corporate income tax rate to 3 percent in 2017 because tax collections are projected to be \$74.7 million lower than a revenue target set two years ago.

But a provision of the budget, which was signed into law Sept. 16 by Gov. Pat McCrory, would allow the rate to fall to 3 percent if that tax-collection mark is reached in a future budget year.

Even so, legislative leaders say they are confident that tax collections will surpass the projections and the state will collect enough revenues to trigger a second cut in the corporate income tax that would take effect Jan. 1, 2017.

As part of the 2013 budget bill, the General Assembly inserted a trigger that — if General Fund tax revenues grew as projected — would reduce the corporate tax rate by 1 percent in two consecutive years. The trigger was inserted as a safeguard to protect state revenues in case of a recession or some other economic drain on tax collections.

The corporate income tax rate will drop to 4 percent on Jan. 1, 2016, because General Fund tax collections surpassed \$20.2 billion at the end of the 2014-15 budget year, which ended June 30. For the rate to slip to 3 percent, General Fund tax collections for the current fiscal year ending June 30, 2016, would need to reach \$20.975 billion. Failure to hit the target would leave the corporate tax rate at 4 percent.

The "money report" attached to the new budget bill projects net General Fund tax revenues, after applying newly enacted tax cuts, will be \$20,900,300 — \$74.7 million short of the target. On page 413 of the budget document, a provision repeals the June 30, 2016, trigger, so the 3 percent rate could take effect in a later year when revenues hit the target.

Legislative leaders insist that this year's General Fund revenues will exceed the \$20.975 billion threshold.

"The changes to the corporate rate trigger only repeal the sunset date on the trigger," said Jason Soper, policy adviser for House Speaker Tim Moore, R-Cleveland.

"Nothing in the changes made in this year's budget would allow for a corporate rate reduction without hitting the trigger first. It was important to the House Finance [committee] chairs that our agreement with the people of North Carolina be kept," Soper said.

Shelly Carver, spokesman for Senate leader Phil Berger, R-Rockingham, agreed.

"Under current law, the only opportunity for the rate to go down to 3 percent is in tax year 2017. Under the new language, the opportunity is not constrained to that year only," Carver said.

Berger's staff believes that "the consensus revenue forecast will continue to include a corporate tax rate decrease next year, just as it does now," Carver said.

"The current forecast and projected revenues next year have us on a path to hit the trigger in 2016," Soper said.

Even so, the budget bill appears to show a different scenario.

It projects \$20.981 billion in General Fund tax collections, or \$6 million more than required to trigger the rate cut. Still, that forecast was made before the new tax cuts were inserted in the budget. Those tax cuts are projected to leave total General Fund tax collections \$74.7 million short of the target.

The state would gain \$6 million by modifying the corporate income tax rate, expanding the corporate tax base, and repealing the bank privilege tax. Another \$44.5 million would be gained by expanding

the sales tax base.

However, the report shows, the state would forgo \$7.9 million by phasing in a single sales factor apportionment for corporate taxes, and another \$117.3 million by reducing the individual income tax rate, restoring medical tax deductions for everyone, and raising the standard deduction.

"I don't dispute" that the budget numbers show tax collections below the mandatory trigger level, said Greg Gebhardt, policy adviser for House Rules Committee Chairman Rep. David Lewis, R-Harnett, acknowledging the projected \$74.7 million gap.

"[The] Fiscal Research [Division] felt as long as that number was [less than] \$125 million" below the target, legislative leaders continued to think "we would hit the triggers" for the 3 percent rate, Gebhardt said. CJ

General Assembly Of North Carolina		Session 2015
1	SECTION 32.3(c) Subsection (a) of this section becomes effective January 1,	
2	2016, and applies to qualified rehabilitation expenditures and rehabilitation expenses incurred	
3	on or after that date. The remainder of the section is effective when this act becomes law.	
4	CORPORATE INCOME TAX RATE REDUCTION AND TAX BASE EXPANSION	
5	SECTION 32.13.(a) G.S. 105-130.3 reads as rewritten:	
6	"§ 105-130.3. Corporations.	
7	A tax is imposed on the State net income of every C Corporation doing business in this	
8	State at the rate of five percent (5%)—four percent (4%). An S Corporation is not subject to the	
9	tax levied in this section."	
10	SECTION 32.13.(b) G.S. 105-130.3C reads as rewritten:	
11	"§ 105-130.3C. Rate reduction trigger.	
12	(a) Trigger. —If When the amount of net General Fund tax collected in a fiscal year	
13	2014-2015 or fiscal year 2015-2016 exceeds twenty billion nine hundred seventy-five million	
14	dollars (\$20,975,000), the targeted amount for that fiscal year, the rate of tax set in	
15	G.S. 105-130.3 may not be decreased in accordance with this section to three percent (3%)	
16	effective for the taxable year that begins on the following January 1. The Secretary must notify	
17	taxpayers if the rate decreases under this section. The rate is decreased by one percent (1%) if	
18	net General Fund tax collections for fiscal year 2014-2015 exceed the targeted amount of	
19	twenty billion two hundred million dollars (\$20,200,000,000). The rate is decreased by one	
20	percent (1%) if net General Fund tax collections for fiscal year 2015-2016 exceed the targeted	
21	amount of twenty billion nine hundred seventy-five million dollars (\$20,975,000,000).	
22	Effective for taxable years beginning on or after January 1, 2017, the rate of tax set in	
23	G.S. 105-130.3 is the rate determined in accordance with this section.	
24	(b) Tax Collections. — For purposes of this section, the amount of net General Fund tax	
25	collected for a fiscal year is the amount of net revenue as reported by the Department of	
26	Revenue's June Statement of Collection as "Total General Fund Revenue" for the 12-month	
27	period that ended the previous June 30, modified as follows:	
28	(1) Less any large one-time, nonrecurring revenue as reported to the Fiscal	
29	Research Division of the General Assembly by the Department and verified	
30	by the Fiscal Research Division of the General Assembly.	
31	(2) Adjusted by any changes in net collections resulting from the suspension or	
32	termination of transfers out of General Fund tax collections."	
33	SECTION 32.13.(c) G.S. 105-130.5(b)(6), (7), (12), (13), (15), (18), (19), and	
34	(22), G.S. 105-130.5(c)(5), and G.S. 105-130.10 are repealed.	
35	SECTION 32.13.(d) G.S. 105-130.5 reads as rewritten:	
36	"§ 105-130.5. Adjustments to federal taxable income in determining State net income.	
37	(a) The following additions to federal taxable income shall be made in determining	
38	State net income:	
39	...	
40	(25) The amount of net interest expense to a related member as determined under	
41	G.S. 105-130.7(i).	
42	(b) The following deductions from federal taxable income shall be made in determining	
43	State net income:	
44	...	
45	(3a) Dividends treated as received from sources outside the United States as	
46	determined under section 862 of the Code, net of related expenses, to the	
47	extent included in federal taxable income. Notwithstanding the proviso in	
48	subdivision (c)(3) of this section, the netting of related expenses shall be	
49	calculated in accordance with subdivision (c)(3) of this section—and	
50	G.S. 105-130.6A section.	
51	...	
52	(11) If a deduction for an ordinary and necessary business expense was required	
53	to be reduced or was not allowed under the Code because the corporation	
54	claimed a federal tax credit against its federal income tax liability for the	
55	income year in lieu of a deduction, the amount by which the deduction was	
56	reduced and the amount of the deduction that was disallowed.—This	
57	deduction is allowed only to the extent that a similar credit is not allowed by	
58	this Chapter for the amount.	
59		

N.C. Reinstating Work Requirement for Food Stamp Eligibility

By DAN WAY
Associate Editor

RALEIGH

Reversing eight years of state policy, the McCrory administration is restoring a requirement that able-bodied adults without dependent children must work to continue receiving food stamps in North Carolina.

About 50 percent of the more than 200,000 recipients of the federal benefit will be affected beginning Jan. 1, primarily residents of more urbanized counties with larger social service agencies. Recipients in the remaining counties will be subjected to the new rules in subsequent months, according to the state Department of Health and Human Services.

North Carolina submitted the necessary federal paperwork to begin reinstating the work requirements, said Sherry Bradsher, DHHS deputy secretary.

"We do not anticipate that it will take a full year to get the full implementation," she said.

The federal 1996 welfare reform law requires childless, able-bodied adults to work, participate in a job-training program, or a combination of the two at least 20 hours weekly to receive food stamps. The Obama administration granted states permission to disregard the mandates.

By 2013, 40 states received full waivers, and six other states were granted partial waivers, contributing to a record rise nationally in the food stamp program, which is now called the Supplemental Nutrition Assistance Program, or SNAP. Despite the improving economy, 42 states still operate under waivers.

High unemployment from the loss of manufacturing, textile, and furniture jobs prompted North Carolina

to seek the work waiver in 2008, Bradsher said.

"I think everybody thinks work is the right thing for these individuals, and we want to be successful in our implementation," Bradsher said.

"Work is important to individuals because it's a feeling of success, it's a feeling of contributing to our society, and being responsible for oneself," Bradsher said.

"And we know through the data that's available to us when you work you tend to be healthier," have more dignity and self-respect, and can contribute to the economy, tax base, and communities, Bradsher said.

State Rep. Jean Farmer-Butterfield, D-Wilson, vice chairwoman of the House Appropriations Committee on Health and Human Services and a member of the General Assembly's budget conference committee, was caught by surprise when asked about the program changes.

"I'm disappointed," she said. "I haven't heard a thing."

Some recipients "don't have a job, and they don't have any money, and they haven't been able to get a job," Farmer-Butterfield said. "If they're getting food stamps, and they're not getting anything else, that's not a lot to get."

The average recipient in North Carolina receives about \$36 per month in food stamps, according to DHHS. The money comes from federal allocations, so any savings would not af-

fect North Carolina's budget, Bradsher said. However, counties — which administer the food stamp program — may experience some savings if fewer employees are needed to handle a lower number of recipients.

The Foundation for Government Accountability, a Florida-based free-market research and advocacy organization, determined that 210,000 childless adults receive food stamps in North Carolina, a 2,933 percent increase since 2001. Overall food stamp enrollment in the state grew by 256 percent from 2000-13.

The FGA study further projected that if Gov. Pat McCrory restored the work requirements, 126,000 to 168,000 able-bodied adults "could be freed from the welfare trap" that keeps people in poverty.

A DHHS county-by-county projection found only 103,276 individuals who "will likely be required to meet the new work requirements." Some already are reporting earned wages, which are tracked. The number of hours is not.

"This means some of the individuals ... may already be meeting the work requirement," DHHS spokeswoman Alexandra Lefebvre said.

Training government workers in all 100 counties to implement the work requirements was scheduled for late September.

There first 23 counties in the phased rollout are: Alamance, Alexander, Buncombe, Cabarrus, Catawba, Davidson, Davie, Durham, Forsyth,

Gaston, Guilford, Haywood, Henderson, Iredell, Lincoln, Mecklenburg, New Hanover, Orange, Randolph, Union, Wake, Watauga, and Yadkin.

"Those are the counties that really have strong infrastructures in place, mostly larger metropolitan areas," Bradsher said. "As we move into the first quarter of next year, and throughout the spring, we'll be implementing in other counties as they are ready and we develop that infrastructure."

Because some counties will have a delayed start, the state had to obtain a partial waiver from the work requirements from the federal government.

"The purpose of the waiver is not to cut folks a break," said McCrory spokesman Rick Martinez. "We believe in work."

Phasing in the new rules will allow a smoother transition, Martinez said.

"The taxpayer isn't served by ... implementing it when we don't have it right, nor is the person receiving benefits," Martinez said.

Bradsher said the work requirements might not be uniform in all counties, depending on the jobs and work programs available.

"Obviously, looking for work and getting a job is the No. 1 priority," Bradsher said. "There are some other activities that one might be engaged in for short periods of time leading to employment. But that also will be county-specific."

She said participants wouldn't be able to game the system.

"The program's a lot more structured than that," Bradsher said. "It's not one that allows people to go back to school and work toward an advanced degree or anything like that. It really is something that's very targeted, short-term, leads to work, gets you there as quick as we can." CJ



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Critic: N.C. Insurance Rate-Setting Rules Bad for Consumers

BY DAN WAY
Associate Editor

RALEIGH

Despite recent legislation easing some restrictions on the marketplace, North Carolina's rate-setting structure for car insurance is little more than a government price-fixing scheme that hits consumers in the wallet while protecting the profits of some insurance companies, a consumer advocate contends.

"North Carolina is the only state that has this unique regulatory system" in which the nonprofit North Carolina Rate Bureau recommends proposed premium rates to the elected state insurance commissioner, said Stephen Pociask, president of the American Consumer Institute Center for Citizen Research in Washington, D.C.

"A few insurers like the current system in North Carolina because it prevents competition. The current Rate Bureau price-fixing system preserves their dominance," Pociask said. "Price competition is a key to getting lower prices and better services. Collusive prices are not the lowest prices. Ask OPEC."

Nationwide is the No. 1 writer of auto insurance in only one state — North Carolina. Pociask says Nationwide prefers the Rate Bureau concept because it does not have to compete for customers when nearly all companies have similar rates and plans, and can maintain its top-dog status year after year as a result.

State Insurance Commissioner Wayne Goodwin takes exception to such contentions.

"We have one of the most competitive markets in the country," with 170 firms writing auto insurance, Goodwin said, conceding that the top 10 firms write about 75 percent to 80 percent of policies. "We were considered the third most stable automobile insurance market, at least as of a few years ago."

Goodwin said "study after study after study, over many years [shows] North Carolina has on average some of the lowest premiums on automobile insurance in the country."

North Carolina has the last remaining insurance rate bureau in the nation, covering auto, homeowners, and workers' compensation. Most of its board members represent insurance companies licensed in North Carolina.

The Rate Bureau serves as a mega insurance company. It aggregates data from all insurers in the state and presents a rate cap request each year to the Insurance Department that all insurers must abide by. It last requested a rate hike in 2008 to take effect in 2009.

"Most people would look at that and say it's collusion," Pociask said. "That's what's called price fixing."

The Rate Bureau system recom-

mends a price cap favorable to all insurance companies' profit-making ability, Pociask said.

Thus it creates a disincentive for insurers to compete against one another by offering significant good-driver discounts, accident forgiveness, disappearing deductibles, and other consumer-friendly options available in the other 49 states where insurance companies individually seek approval of their plans and prices, he said.

Pociask said there are other anti-consumer elements to North Carolina's auto insurance market. Chief among them is a surcharge few drivers realize they are paying because the General Assembly passed legislation preventing it from appearing on the insurance policy declaration page.

"If you're a good driver in the state, you're paying a hidden fee that is used to subsidize a more risky driver who's insured by the reinsurance facility, essentially the state government," Pociask said.

That means an experienced driver with no violations and no accidents is paying the fee to subsidize consumers who insurers deem to be higher risks for a variety of factors, some of which have nothing to do with driving records.

"You're being punished for being a good driver, and you're encouraging bad driving" by subsidizing risky drivers, Pociask said.

North Carolina's Safe Driver Incentive Plan is a "horrible" and "punitive" program, he said. It assesses driver's license points for moving violations and accidents, with steep automatic insurance rate increases far above what other states charge for the same driving misbehavior, he said.

Goodwin countered Pociask's contentions, notably the lack of discounts.

"We don't block discounts, we don't block the add-ons," he said. "Whenever they file them, we approve them," and to date some 2,000 different types of discounts and optional programs have been approved.

He said he pushed this year for House Bill 288, which was signed into law by Gov. Pat McCrory. It allows, as in other states, an individual insurance company to bypass the Rate Bureau and present an enhancement option directly to the commissioner's office for auto and homeowner's insurance. Between 30 and 40 submissions have been received since July 1.

"I'm a reformer, but I'm also a realist. And I'm a former legislator,

and I know that to get things through sometimes you need to take bites of the apple at a time. And that's what we're doing," Goodwin said.

Rather than "blowing up the system almost all at once" as some legislators and insurance companies want, causing premiums to jump dramatically for some drivers, and creating instability in the market, Goodwin said he prefers incremental, methodical change.

He agrees that the surcharge should be transparent and appear on the declaration page, along with other information. The General Assembly passed a bill years ago removing it because many people thought it was optional and didn't pay it, causing their insurance to lapse for nonpayment.

Pociask says North Carolina's claim to have low auto insurance rates compared to other states is misleading because, among other things, the surcharge every driver must pay is not in-

cluded in the rate.

Goodwin said, "We actually asked our actuaries to look at that," and they determined "we're still among the lowest in the country" even including the surcharge. The surcharge was just over 5 percent this year, and will drop to slightly more than 4 percent in October, or about \$20 per policy, he added.

Nationwide corporate spokesman Alison Emery disputed Pociask's characterization of the company's success in North Carolina.

"We're a top competitor in each state where we operate," she said. The company offers 135 discounts and program options to North Carolina motorists, including safe-driver discounts, fender-bender forgiveness, discounts for military members, minor-violation forgiveness, and discounts for senior citizens. Nationwide "strongly supported" House Bill 288 that would allow even more such options.

Emery said Nationwide backs the state's Safe Driver Incentive Plan to "give good drivers a break by charging bad drivers more to reflect the increased risk they present. We think it makes sense to rate according to actual driving performance." *CJ*



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Catalyst Explains Martin's Role in Transforming N.C. GOP

By CJ STAFF

RALEIGH

Republicans' recent success in North Carolina politics can be traced in many ways to the example set by Jim Martin. That's one of the key themes of a new biography focusing on the state's only two-term GOP governor of the 20th century.

Catalyst: Jim Martin and the Rise of North Carolina Republicans is scheduled for an Oct. 6 release. Martin and biographer John Hood will discuss the book in a series of events starting this month, including an Oct. 6 presentation at the N.C. Museum of History in Raleigh.

"As a local politician, congressman, governor, and senior statesman, Martin helped prepare North Carolina's Republican Party for its historic rise to power," writes Hood, chairman of the John Locke Foundation. "Every time he campaigned for office, he won.

Along the way, and not by accident, the fortunes of his political party rose as he did."

Hood documents the "essential but underappreciated" role Martin played to help transform a once solidly Democratic North Carolina into a state capable today of placing all three branches of state government, both U.S. Senate seats, and a solid majority of the state's congressional delegation in Republican hands.

From reform-minded Davidson College chemistry professor, to Mecklenburg County commission chairman, to 12-year member of the U.S. House of Representatives in the 1970s and 1980s, to just the state's second Republican governor of the 20th century from 1985 to 1993, Martin consistently served as a "catalyst" for important changes in North Carolina's political history, in Hood's words.

"As a Republican governor in

what had been a strongly Democratic state, Martin enjoyed remarkable success in translating his policy agenda into law," Hood writes.

"His blending of pro-growth tax policies with a coherent strategy for improving core public services — an approach Martin called 'constructive conservatism' — served to give an entire generation of Republicans the tools they needed not only to win elections for local and state offices later on but also to govern effectively."

Unlike other titans of late 20th-century Tar Heel politics, Martin was able to transition effectively between federal and state elected offices, Hood explains. Seeing things "from a telescopic range," in the words of a key aide, Martin was able "to connect the conservative rhetoric North Carolinians expected from Republican candidates with the practical solutions they wanted from governors," Hood writes.

While Republicans appear to have the upper hand in North Carolina politics in 2015, more than two decades after Martin left office, the "party trailblazer and coach" labels Democrats' efforts to regain power as "healthy," Hood writes.

Reflecting his academic roots in chemistry, Martin contends political cultures ought to be "fluid" rather than static, with "two parties vying with

one another, bringing out their best candidates, sometimes missing that responsibility and having to pay for it."

"Throughout his political career, Jim Martin both fostered and thrived in such a culture," Hood writes. "In the process, he set an example for North Carolinians of all persuasions to study, admire, and emulate."

Catalyst is available from local booksellers, online vendors, and publisher John F. Blair (blairpub.com). This

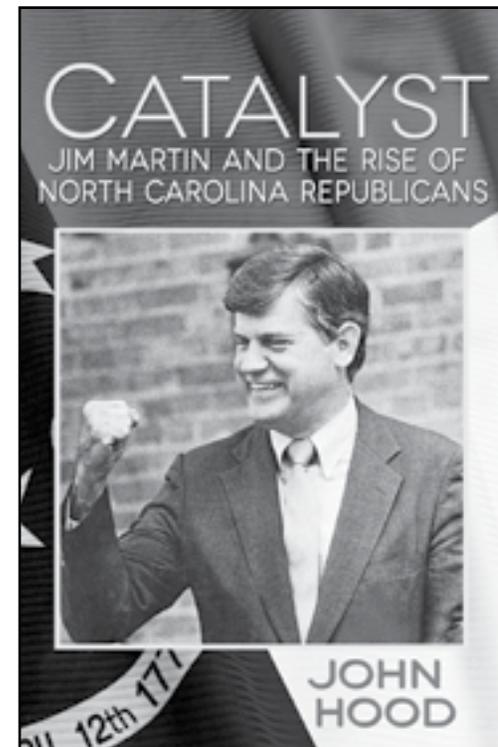
is Hood's seventh book. The others include *Our Best Foot Forward: An Investment Plan for North Carolina's Economic Recovery* (2012), *Selling the Dream: Why Advertising is Good Business* (2005), *Investor Politics* (2001), *The Heroic Enterprise: Business and the Common Good* (1996), and two volumes of family history.

Martin and Hood will discuss *Catalyst* and Martin's political history during a series of public events across North

Carolina, including four sponsored or co-sponsored by the John Locke Foundation.

The governor and his biographer appear together at 5:30 p.m. Tuesday, Oct. 6, at the N.C. History Museum in Raleigh. Other joint appearances include JLF luncheon events Oct. 8 in Winston-Salem, Oct. 14 in Wilmington, and Oct. 29 in Greensboro.

For more information about these four events, please visit JohnLocke.org/events or call 866-JLF-INFO. CJ



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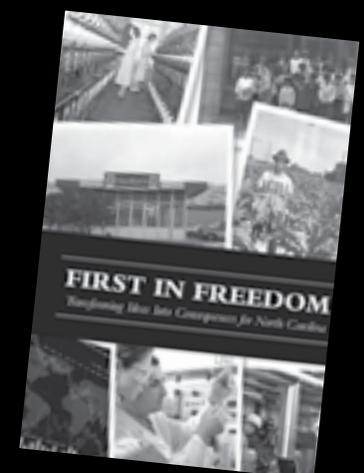
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COMMENTARY

Downsizing Federal Role in Education

Years of federally driven testing reform and a botched rollout of sweeping, federally incentivized standards have tried the patience of the American people. On their minds now: downsizing the federal government's role in education and shifting autonomy to states, school districts, and parents. Those are some key findings from a pair of polls providing the public's pulse on K-12 education. No more classrooms manacled by mandates; the American public has a new directive — for choice, flexibility, and local control.

Queried about which unit of government should be most responsible for education, Americans overwhelmingly say decisions should be made by state or local officials. The 47th annual "Phi Delta Kappa/Gallup Poll of the Public's Attitudes Toward the Public Schools," published in September, is unambiguous: Most respondents believe school accountability should be handled by states (44 percent) or local leaders (33 percent). Similarly, most think determinations about the amount of testing should be made at the state (42 percent) or local level (31 percent). Only one in five favors a major federal role.

Disenchantment with the federal government's leadership is pervasive. In another recent poll, the "2015 Schooling in America Survey" released in June by the Friedman Foundation for Educational Choice, 77 percent rate the federal government's management of education as "fair" or "poor."

A top priority moving forward: reclaiming classroom time for teaching. Sixty-four percent of PDK/Gallup respondents say there is too much focus on testing. And 54 percent oppose Common Core; just one out of four favors the national standards guiding what's taught in local communities.

The most fundamental way to localize control, of course, is to give more of it to parents. Americans know this, and largely support school choice: 64 percent of PDK/Gallup respondents favor allowing parents to decide which public school their child attends. A similar percentage supports charter

schools.

Not all forms of choice elicit comparable support, however: 57 percent of PDK/Gallup respondents oppose vouchers. Some opposition may arise from the wording of the poll's question: "Do you favor or oppose allowing students and parents to choose a private school to attend at public expense?" Stanford University professor and political scientist Terry Moe has long suggested this question is biased.



KRISTEN BLAIR

Does wording make a difference? The Friedman poll — which defines vouchers as a system of allocating tax dollars to parents to pay tuition at a school of choice, including private religious or nonreligious schools — shows that wording matters quite a bit: 61 percent of these respondents favor vouchers.

Public consensus also is coalescing around customization and choice through education savings accounts. ESAs enable families seeking alternatives to public school to use public funds for certain educational expenses — such as private school tuition, online classes, or tutoring. Sixty-two percent of respondents in the Friedman poll favor ESAs.

So far, five states have implemented ESAs. Arizona passed the nation's first ESA in 2011; Florida, Mississippi, Tennessee, and Nevada have since followed suit, generally targeting students with special needs. However, Nevada's program, signed into law in June, offers universal eligibility — the first in the nation to do so. Scheduled for a 2016 launch, the program is now, unfortunately, mired in court challenges. Stay tuned.

What about federal overreach? It soon may be curbed. This summer the U.S. House and Senate finally passed bills rewriting the No Child Left Behind law. Both bills would limit the federal role in education, shifting power back to states and school districts. The bills diverge in other areas, however, so a conference committee will attempt to reconcile differences this fall. Let's hope they do. The American public is counting on it. *CJ*

Kristen Blair is a Chapel Hill-based education writer.

New Budget Could Double Opportunity Scholarships

BY BARRY SMITH
Associate Editor

RALEIGH

Additional funding allocated in the state's two-year budget for the North Carolina Opportunity Scholarship Program could more than double the number of students taking advantage of vouchers to attend private schools by the 2016-17 school year.

The compromise budget just agreed to by legislative leaders and Gov. Pat McCrory appropriates \$6.8 million for the Opportunity Scholarship Program for 2015-16, and \$14 million for the program in 2016-17. That's in addition to \$10.8 million a year that already had been earmarked for the voucher program.

"When you consider that the first year of the Opportunity Scholarship Program was only able to utilize roughly \$5 million of what had been allotted due to legal challenges, it is truly significant to see that the final budget ends with over \$17.6 million for 2015-16 and \$24.8 million for 2016-17," said Darrell Allison, president of Parents for Educational Freedom in North Carolina.

The Opportunity Scholarship Program allows students from lower-income families to receive vouchers of as much as \$4,200 per year to attend private schools.

According to statistics from the N.C. State Education Assistance Authority, which administers the voucher program, 1,216 students received an opportunity scholarship during the 2014-15 school year. The state spent \$4.6 million on opportunity scholarships in 2014-15.

Supporters of the program say the number is lower for 2014-15 because of the legal snarls the voucher program faced. Just days before the start of the school year in August 2014, a Superior Court judge declared the program unconstitutional and blocked the distribution of funds based on his ruling.

Some parents decided to send their children to private schools anyway, trusting that the appellate courts would allow money to be spent on vouchers until they made a final decision. That occurred later in the fall.

This school year, 2,599 students were offered scholarships, including 1,060 renewal students who received scholarships last year. Again, timing was a factor. The N.C. Supreme Court ruled in July that the voucher program

passed constitutional muster.

Elizabeth McDuffie, executive director of the N.C. State Education Assistance Authority, said the additional funding could allow up to 4,300 students to attend private school on vouchers this year. There's a waiting list, she said, and additional students applying would be placed at the end of the list.

"Some schools were willing to admit students pending additional funding," McDuffie said. "They [parents] may be anticipating switching their children whenever the offers are made."

The new funds would allow about 6,000 students to use vouchers for private schools in 2016-17, McDuffie said.

Eligibility for the Opportunity Scholarship Program is based on household income.

Students who qualify for the federal free and reduced-price school lunch program can get a full tuition voucher paying up to \$4,200 per year, or \$2,100 per semester. To qualify, the maximum household income for a family of four is \$44,863. For a family of eight, it's \$75,647.

Students from households with higher incomes also may be eligible for vouchers, so long as the household income is no more than 133 percent of the federal school-lunch program level. Those students could receive vouchers equaling 90 percent of the tuition, also with an annual voucher limit of \$4,200.

At the 90 percent level, the maximum household income for a family of four is \$59,667. For a family of eight, it's \$100,610.

The General Assembly approved the Opportunity Scholarship Program in 2013. Subsequently, a number of organizations and individuals, including the N.C. Association of Educators and the N.C. School Boards Association, filed a lawsuit challenging the constitutionality of the program.

The Institute for Justice, based in Arlington, Va., represented parents of prospective voucher recipients in the case. The Institute for Justice has fought for school choice in a number of states.

After Superior Court Judge Robert Hobgood ruled the program unconstitutional, the case was appealed to the N.C. Court of Appeals. However, the N.C. Supreme Court went ahead and took the case, bypassing the N.C. Court of Appeals. *CJ*



NCGA Moves Charter School Operation to State Board

Legislation strips superintendent's authority over schools

BY BARRY SMITH
Associate Editor

RALEIGH
Legislation creating a state Office of Charter Schools and shifting management of those nontraditional public schools from the Department of Public Instruction to the State Board of Education has cleared the General Assembly and, at press time, awaited Gov. Pat McCrory's signature.

Sen. Jerry Tillman, R-Randolph, who spearheaded House Bill 334, said the change was needed because resistance to charter schools from traditional public schools appears to be affecting DPI's handling of the nontraditional public schools.

"When something's not working like you think it ought to work, you look for a better way," Tillman said.

Superintendent of Public Instruction June Atkinson, who oversees DPI, said the change is unnecessary. Nevertheless, she said she plans to carry out the policies of the State Board of Education, although she considers the shift of charter oversight a bit convoluted.

"Even though I may not agree with a policy that the state board would make, it's my responsibility to carry out policies of the state board," Atkinson said. "I will adjust as to the organization structure that the General Assembly has oddly asked us to implement."

When the legislation passed the Senate in August, Atkinson posted on her Twitter feed:

Moving charter schools from DPI to State Board is similar to my saying that I am moving from my current house to my current house. #ncga

That tweet prompted Terry Stoops, director of research and education studies at the John Locke Foundation, to note at the time, "[I]f the move is as trivial as Superintendent Atkinson claims it is, then there is no reason to object to it."

The bill administratively places the Office of Charter Schools within DPI. However, the office will be supervised, directed, and controlled by the State Board of Education.

The office's executive director will report to and serve at the pleasure of the State Board of Education.

Charter schools are public schools that operate with fewer regulations than traditional public schools. Charter schools report to their own board of directors instead of a local school board.

While charter schools receive a similar per-pupil allocation of state and local funds for operating expenses,

they do not receive local capital funds to build and renovate schools.

Tillman said that many local school boards across the state have resisted the formation and growth of charter schools. He said he hears complaints from local school board members that charter schools are taking resources from traditional public schools.

"They're not taking from the public schools," Tillman said, adding that funding is distributed to both traditional public schools and charter public schools on an average daily membership — or per-pupil — basis.

Tillman said he believes that some of the tension toward charter schools expressed by traditional public schools also exists within DPI.

"I feel like we've got some better advocates [for charter schools] under the State Board of Education," Tillman said. "I think things are going to work a lot better."

Tillman said he is just trying to make sure charter schools have a good working relationship with the state board.

Atkinson said that charter schools are public schools and that she will

continue to provide support for them. She also said she thought DPI was better positioned to administer the state board's charter school policies than the state board is.

"I wish that my friends in the General Assembly could understand this," Atkinson said. "We have a board appointed by the governor, and that board gets paid \$15 a day when it meets. And it meets once a month for two days."

"The State Board of Education does not have an administrative arm outside the Department of Public Instruction," Atkinson said. "We are the administrative arm" of the state board.

Atkinson said that while the N.C. Constitution indicates that the State Board of Education is responsible for supervising and administering the state's public schools, it also says that the superintendent of public instruction is the chief administrative officer of the state board.

In 2009, after the State Board of Education and then-Gov. Beverly Perdue stripped Atkinson of her powers, Atkinson won a lawsuit when a judge ruled that she had the authority to oversee supervision of the state's public schools.

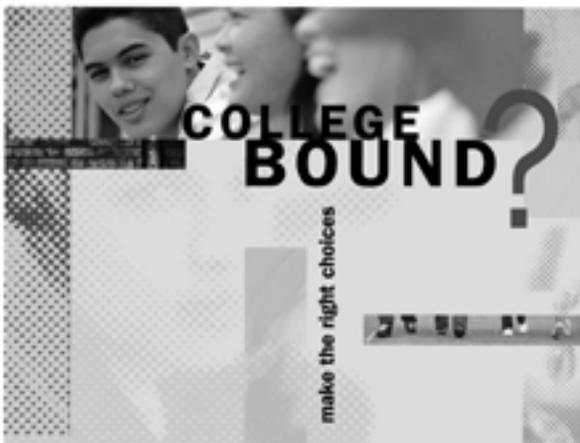
Atkinson said she plans to carry out the law and the policies of the state board.

"We have an excellent State Board of Education," Atkinson said. "The state board and I work very well together."

Tillman said that the General Assembly has on a number of occasions tweaked the state's charter school law. The latest move is another in a series of tweaks, he said. *CJ*



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Large Cities Promised \$65 Million in Incentives Over Five Years

JLF follows up on first-of-its-kind report on local grants, deals

By CJ STAFF

RALEIGH

North Carolina's largest cities dealt with nearly 240 economic development contracts and promised \$65 million in incentives from 2009 to 2014, according to a new John Locke Foundation Policy Report. Actual incentives payments topped \$20 million during the same five-year period.

Winston-Salem awarded \$20 million in incentives, the most among the 13 North Carolina cities with populations of at least 70,000 people. Charlotte awarded more than \$16.8 million in incentives, ranking No. 2, and Durham ranked No. 3 with \$10 million. On the other end of the list, Wilmington awarded no incentives during the five-year study period.

Raleigh approved \$1 million. Greensboro approved \$3.3 million.

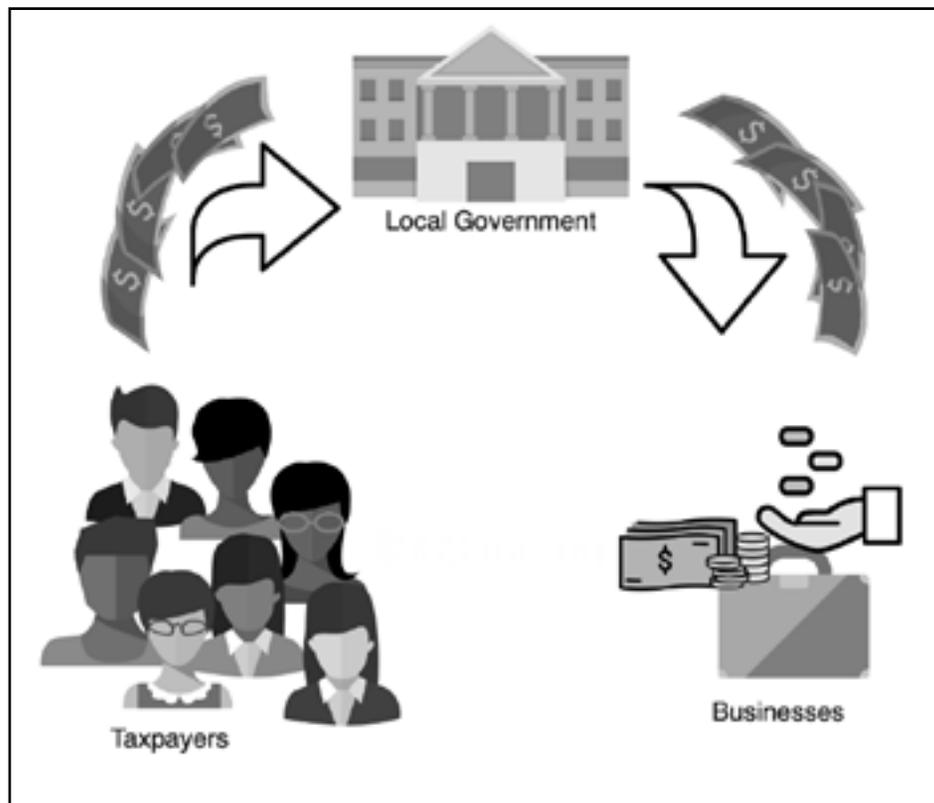
On a per-person basis, Winston-Salem once again ranked No. 1 with \$83.86 in incentives. Asheville ranked No. 2 with \$80.40 in incentives per person. Durham awarded \$39.92 in incentives per person, and High Point awarded \$35.46 per person.

All 13 cities made incentives payments during the study period. Winston-Salem made the largest payments, nearly \$4.9 million. Fayetteville paid \$3.1 million, and Charlotte paid \$3 million. On a per-person basis, the largest payments came from Concord (\$28.86 per person), Winston-Salem (\$20.45), and Fayetteville (\$15.31).

Raleigh and Wilmington

handled just two incentives contracts during the five-year study period, with Wilmington offering no new incentives, while Durham had 80 active incentives contracts during the same years," said the report's lead author, Sarah Curry, JLF director of fiscal policy studies. "There was no correlation between the number of contracts and the amount of money approved or paid by the cities."

This report follows up JLF's release this summer of a first-of-its-kind analysis of county government incentives issued across the state. That report showed that county governments awarded \$284 million in incentives and made payments of \$144 million



from 2009 to 2014.

As with the county incentives report, Curry and her co-author, JLF research intern Austin Pruitt, found that city incentives data were "much more difficult to collect and interpret than was anticipated."

"Currently there is no single data source that tracks the expenditure of tax revenue on economic development activities at the local level," Curry said. "There is no state reporting requirement, so cities are free to maintain unique ways of documenting their economic incentive activities. Those differences make it extremely difficult to capture comparable data across jurisdictions."

The new report recommends that state legislators mandate a standardized reporting requirement for all municipal economic development activities.

"In addition, legislators should require that all economic incentive data be collected by the Local Government Commission and published in a way that gives taxpayers access to aggregate and city-specific economic development expenditures and readable documents," Curry said.

A provision of the newly approved state budget plan creates a new state budget transparency website. The provision calls for the state chief information officer to "coordinate with" local governments to ensure posting of budget and spending data on local government websites and to pro-

vide the data to the Local Government Commission in a standardized format for publication on the new state website.

In addition to data about the 13 largest cities, Curry and Pruitt detail cities' legal authority to offer local incentives. The authors note that North Carolina's appellate courts have addressed incentives issues in 1996 and 2010, but "no court has directly addressed" whether one form of incentive used in Raleigh and some counties represents an unconstitutional form of tax abatement.

From a regional perspective, Charlotte-area cities on the list (including Concord and Gastonia) approved

\$17.4 million in incentives over the five-year study period. The Triangle's three largest communities approved \$12 million, while Triad cities approved \$27 million.

Larger incentives deals affected the numbers for several cities, Curry said. "Concord approved \$5.26 in incentives per person during the study period but paid \$28.86 per person, largely because of a one-time payment of \$1.5 million to Great Wolf Lodge," she said. "High Point and Winston-Salem each approved one exceptionally large agreement that skewed their totals as well."

"Of the \$3.85 million in incentives approved in High Point, \$2.4 million was earmarked for the Ralph Lauren Corporation," Curry explained. "Winston-Salem's total of \$20 million in incentives agreements included more than \$13 million for Caterpillar Inc. alone."

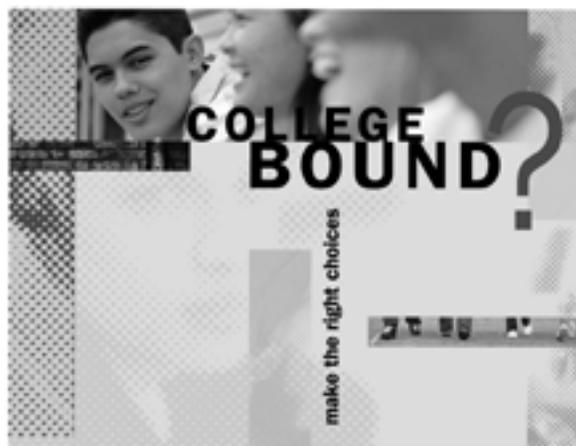
Before the John Locke Foundation issued its county and large-city incentives reports, no government agency, trade organization, special-interest group, or nonprofit organization collected or published economic development data for N.C. municipalities and counties.

A standardized reporting requirement would give local and state officials a helpful tool to evaluate incentives, Curry said.

"Elected officials should use this information to evaluate whether the costs of incentives outweigh the benefits," she said. "We suspect that, in most cases, there are much better uses of tax revenue and much more efficient ways to spur economic growth, such as lower tax rates and reduced regulation." CJ

Winston-Salem once again ranks tops in per capita incentives

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Raleigh Planners Working to Legalize, Then Regulate Airbnb

Zoning code disallows short-term residential rentals

By KARI TRAVIS
Associate Editor
RALEIGH

Airbnb and similar short-term rental services are illegal under Raleigh's existing bed and breakfast zoning rules, said Eric Braun, chairman of the city Planning Department's Text Change Committee, at a Sept. 15 meeting.

Braun, who is working with committee members to revise the rules and present a new ordinance to the city council, said some media coverage of the city's plan has been skewed, and that proposals to regulate networked bed and breakfast models like Airbnb are not intended to stifle entrepreneurship.

"We are not putting regulations on something that wasn't regulated before," Braun said. "I think some people get mixed up and think we are regulating something that was not regulated. Well, it's not legal — so we are trying to legalize it."

Still, tensions exist inside city government about how to deal with the networked service — and how quickly.

The issue of zoning loopholes for Airbnb-type rentals was brought to the city's attention last year following an anonymous complaint regarding homeowner and Airbnb host Gregg Stebben.

Stebben and his wife, who say they joined Airbnb just for fun, looked

into Raleigh's zoning regulations prior to renting a portion of their home.

"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 up your people's listings and go find them. We would only show up at your door if someone complained.'"

The complaint against Stebben, which assistant planning administrator Eric Hodge and assistant zoning administrator Robert Pearce confirmed is one of three Airbnb violations on record, spurred city officials to step in. They soon found a gap in zoning code that failed to address what the city terms "short-term residential rentals," about 500 of which exist in Raleigh's Airbnb network.

"We [want] to facilitate a balance ... because ... people didn't necessarily sign up to have short-term rentals all over their neighborhood," Braun said. "So we're trying to figure out a way to balance the neighborhood versus somebody's right to use their property."

The issue first was heard by the city council Dec. 2, 2014, and the discussion of Airbnb's legality has gone through various phases before reaching the Planning Department. Not all

members of the council are on board with allowing it. Council member Kay Crowder voiced strong opposition to legalizing Airbnb-type services during the council's first discussion on the issue.

"This would be an absolute nightmare," Crowder said. "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."

Crowder did not respond to requests for comment on proposed revisions to zoning rules by the Text Change Committee.

Council member Russ Stephenson, who agreed on Dec. 2 that Raleigh should allow 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 states that the city attorney's proposal to notify short-term rental owners through media channels — and enforce the code using only a complaint-based enforcement policy — is the most logical approach.

"Certainly, there are people who are expressing concerns about these things, but there probably isn't a need to go out and educate people who are providing the service individually about the problem because it's going to be time-consuming and expensive," Stephenson said.

The Text Change Committee's rule recommendation is still under revision, but currently would require: off-street parking and special-use permits for rentals with more than two bedrooms; special-use permits for rentals without an onsite manager; carbon monoxide and fire alarms on all rental premises; a 30-day rental limit; and restraints on the type of residences eligible for rent, depending on the zoning district. City inspections would not be required under the ordinance, but officials would reserve the right to inspect properties in cases of potential violation.

"We're trying not to [have a situation] where somebody goes and buys 10 houses and has tons of short-term rentals without leases, and can just

move people in and out and disturb neighborhoods," Braun said.

The committee also cited concerns about maintaining noise control, cleanliness, and general upkeep for short-term residential rentals.

Stebben, like other Airbnb users in Raleigh, has continued renting from his home while the city discusses new rules. And he says he's heard no other complaints about his property — and few other complaints about Raleigh's Airbnb culture in general.

"In the Airbnb world — or any other model — people pick my place because I have high ratings," Stebben said. "So I can't have a house that looks scummy, or no one will stay. I'm motivated to make my house look as great as possible every day. That's not true of many landlords or their tenants."

Stephenson, who says he uses Airbnb on a regular basis and likes the two-way review system, believes that other regulations are needed.

"I don't think [the two-way ratings system] passes muster in terms of public health, safety, and welfare in terms of regulating short-term rental accommodations," Stephenson said. "I think we have a responsibility to citizens to make sure that we approach this in a way that we can guarantee — as much as we can — the integrity of that health, safety, and welfare."

Stephenson added that he would like to see an ordinance allowing individual neighborhoods to ban (by referendum, presumably) Airbnb use. He also would like to ensure that enough funds are available to pay for enforcement of the rules.

"I'm a big fan of Airbnb, but I also have a responsibility to the citizens of Raleigh to make sure that we do this in a thoughtful, equitable way," Stephenson said.

Stebben says he is happy to be part of the Text Change Committee's critical discussion, but would like to see the city take faster action, turning Airbnb regulations into a positive message about Raleigh's goals for innovation and growth.

He drew parallels between the Airbnb controversy and the city's recent moves setting curfews and space limits on restaurants and bars that serve patrons outdoors. The outdoor dining rules went from the discussion stage to a full-scale ordinance within weeks.

"To me, the issues of downtown drinking and Airbnb use are so closely related, it makes me wonder—why was that issue resolved so quickly, and yet it's been almost a year, and we're still talking about this one?" Stebben asked.

CJ



Committee cites concerns with proliferation of short-term rental properties

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Bond Measure Folded Into March 2016 Primary Election to Save Money

BY CJ STAFF

RALEIGH
North Carolina voters will be able to decide on a \$2 billion bond package in March, at the same time they state their preferences for president and state and local offices, if legislation pending at press time becomes law.

Legislative election law writers scheduled the bond referendum alongside the March 15, 2016, consolidated primary, a move that would prevent local taxpayers from paying between \$7 million and \$10 million to hold a second primary in May.

Separate bills establishing the consolidated March primary and the bond measure were pending at press time. Legislative leaders and Gov. Pat McCrory indicated they would support the changes in election law.

Since 1992, North Carolina's primaries have been held in May. However, in 2013, lawmakers approved holding an earlier presidential preference primary in an attempt to draw more interest from presidential contenders and give North Carolina voters more of a say in who wins the major party presidential nominations. The May primary has deprived North Carolina voters of having much of a voice in presidential races. Major party nominees typically have been decided by March or April of presidential years.

Details of moving the primary, including setting filing deadlines for candidates, had not been determined at press time. However, Sen. Bob Rucho, R-Mecklenburg, said an early December filing date seemed likely.

Rep. David Lewis, R-Harnett, said the House Republican Caucus voted to go ahead with one combined primary in an attempt to save money

for local elections boards and county commissioners. Lewis placed the cost of a separate primary at between \$7 million and \$10 million. County taxpayers are responsible for local election costs.

"I think it will certainly be more challenging for down-ballot races to get more attention when you've got presidential candidates buying media time," Lewis said. "I don't think it's an impossible task."

He also said he thought the change would increase turnout.

The House earlier had passed a \$2.85 billion bond package, but in late September the Senate trimmed the total to \$2 billion. The bond proposal includes \$980 million for building and

repairs at University of North Carolina system campuses, \$350 million for community college improvements, \$310 million to fund grants for local water and sewer improvements, and \$100 million for state parks and attractions, among other projects.

The original House plan would have used \$400 million in bonding authority to pay for transportation projects.

It also would have scheduled the referendum for Nov. 3 of this year, with backers saying that the state needed to take advantage of historically low interest rates and commence work on overdue repairs and upgrades more quickly.

But during budget negotiations, Senate leaders insisted that the state could collect enough revenues from fuel taxes and higher fees at the Division of Motor Vehicles to fund necessary transportation projects (and the State Highway Patrol, which also was funded with fuel-tax collections) without incurring new debt. The House went along with the Senate's plan. The General Fund budget McCrory signed into law ended an annual shift

of \$216 million from fuel taxes from the Highway Fund and boosted DMV fees by 20 percent, giving transportation planners additional authority to underwrite highway and infrastructure plans using current revenue.

Moreover, the November 2015 state bond referendum would have required officials to run at least three statewide elections over a 12-month period: the 2015 bond measure, the March or May primary, and the November 2016 general election, along with potential primary runoffs.

While municipal elections are slated for November 2015, about one-third of the state's voting precincts, primarily rural, had no scheduled election. Those precincts would have had to prepare for voters in an election of officials had not anticipated.

"The state overall has about 2,700 precincts," said Josh Lawson, spokesman for the State Board of Elections. "About 1,000 of them do not have an election presently scheduled for them on Nov. 3."

Moreover, eight counties currently have no elections scheduled for November.

A handful of municipalities and at least one county school board have scheduled October elections, with potential runoff dates in November. *CJ*

Move would save local citizens between \$7-\$10 million in tax dollars

City of Raleigh Program Working to Fix Leaks in Water and Sewer Lines

BY MICHAEL LOWREY
Associate Editor

RALEIGH
Raleigh is continuing a multiyear program to assess the condition of its water and sewer lines and make repairs as necessary. The city is finding a lot of pipes in need of attention, reports the *Raleigh News & Observer*.

While a majority of the city's water and sewer pipes are less than 25 years old, some lines are much older, including a few sections that date to the 19th century. Traditionally, the city had replaced pipes as soon as leaks were detected. That quickly could get expensive.

"Emergency replacement is rough because a lot of times you're dealing with overtime work," notes John Sorrell, a project engineer in Raleigh's utilities department. "A main could fail at 10 [p.m.] on a Friday."

Since 2013, the city has changed its approach, with stepped-up inspections aimed at detecting and fixing suspect pipes before they actually rupture.

While identifying issues before they become critical has long-term benefits, it comes with a short-term cost: \$6.86 million over the next 10 years, with most of that front-loaded.

The extra cost is being paid through service fees.

"We're finding quite a bit of failing pipe that we're having to repair," said Robert Massengill, Raleigh's public utilities director.

City crews have made 30 emergency repairs so far this year, compared to 21 at the same time last year.

The assessment effort also eventually will extend to the other Wake County towns to which Raleigh supplies water.

Police cameras

The Charlotte-Mecklenburg Police Department is changing its approach to police cameras. Dash cams are out, body cams in at CMPD, reports *The Charlotte Observer*.

The CMPD has had dashboard-mounted cameras in its police cruisers since the 1990s. The city most recently bought updated dash cams in 2009. Those cameras already are outdated, and replacement parts are difficult to obtain. Buying a replacement system

would cost about \$5 million. The police department instead has opted to spend \$7 million on body cameras for its patrol officers.

"You don't need both" body cameras and in-car video, said Charlotte City Council member Claire Falon, who leads the Community Safety Committee. "The body camera has more validity. Body cameras are much more of a solution."

Not everyone agrees with that assessment.

"Eliminating dash cams is just a complete disservice to transparency and accountability," said Carolyn Cacedo Manrique, a staff attorney for the North Carolina chapter of the American Civil Liberties Union. "The body cameras are supposed to be a step forward and not something that triggers a step backwards."

Drone rules

Since mid-November, at least 13 reports have been filed of drones flying

where they shouldn't in North Carolina. Many but not all involve drones getting too near airplanes or airports, says the *Winston-Salem Journal*.

The Federal Aviation Administration is working on rules to integrate unmanned vehicles into the nation's airspace.

The focus of the FAA's rulemaking will be on the commercial use of drones, with an expectation that private citizens could continue owning and flying drones up to a certain size without obtaining a permit.

Private drone usage rules are expected to be modeled on standards developed by the Academy of Model Aeronautics, including no flying above 400 feet, staying within the line of sight of the operator, and staying clear of aircraft.

It's unclear what risk the rapidly expanding use of drones poses. None of the incidents in the state was classified as a close call.

"If users follow the rules and stay out of the restricted airspace, the risks would decrease dramatically. However, it appears that around the United States, some drone operators are breaking the rules," said Mark Davidson, the director of Winston-Salem's Smith Reynolds Airport. *CJ*

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N.C. Appeals Court Tackles ‘Historical’ Cell Phone Data

By MICHAEL LOWREY
Associate Editor

RALEIGH

When is something old enough to be considered “historical”? The answer is not very, the state’s second-highest court decided recently in a case involving cell phone data in a drug bust. The decision could have a major impact on how easy it is for law-enforcement officers to obtain tracking data on individuals.

On Dec. 10, 2012, the Raleigh Police Department became aware through an informant that a suspected drug trafficker would be coming to town the following day. Detectives obtained a court order for account information and call details for the phone number the informant had used to contact his supplier. This included the precise locations for the phone on Dec. 11 and 12, which was provided at 15-minute intervals with a five- to seven-minute processing delay.

Armed with this information, detectives were able to track the cell phone “down to a certain amount of rooms” at the Red Roof Inn on South Saunders Street in Raleigh. The front desk clerk informed the officers that someone had just checked in to one of those rooms and gave them a key to the adjacent room.

A few minutes later, two men were seen leaving the room. One got into a Toyota Corolla and drove away. A marked police car stopped the car soon after it left the hotel. The driver, Kenneth Wheeler, had heroin in his possession. Wheeler said he got the drug at the Red Roof Inn.

Apparently alerted to Wheeler’s arrest, four people hurriedly left the hotel room. Police officers stopped them before they could get away. Three had heroin on them, and the fourth,

Paul Perry, had \$1,620 in cash but no drugs. The phone belonged to Perry.

Perry was charged with trafficking heroin. At trial, a jury convicted him and he received a prison sentence of at least 56 years.

Perry appealed his conviction to the N.C. Court of Appeals, contending that the method in which the Raleigh Police Department used his cell phone data violated his Fourth Amendment rights against unreasonable searches.

A three-judge panel of the court disagreed, upholding the conviction.

“Defendant asserts the AT&T records obtained via his cell phone constituted ‘real-time’ information, and argues a search warrant supported by probable cause was required,” wrote Judge John Tyson for the appeals court.

“We disagree. Courts in other jurisdictions, which have considered disclosure of records under the [Stored Communications Act], have concluded the federal statute permits the disclosure of ‘historical,’ as opposed to ‘real-time,’ information.”

Under existing case law, the dis-

inction between “historical” and “real-time” information often is critical. To obtain historical data, police officers need to present specific and articu-

lable facts to a judge. To obtain real-time data, however, police must meet a higher burden, a showing that probable cause existed. In Perry’s case, the police presented only articulable

information — not specific evidence, but information that’s more substantial than a feeling or a hunch — to the judge.

Even though the detectives received nearly contemporaneous information from AT&T, two of the three judges hearing Perry’s appeal found the data to be historical.

“The distinguishing characteristic separating historical records from ‘real-time’ information is the former shows where the cell

phone has been located at some point in the past, whereas the latter shows where the phone is presently located through the use of GPS or precision location data,” wrote Tyson.

“After careful review of the record and trial transcripts, we conclude

the cell tower site location information acquired and stored by AT&T and provided to the officers were historical records.”

Even if they were, the court held that Perry’s conviction should still stand.

“The law enforcement officers reasonably relied on the SCA in exercising their option to seek a § 2703(d) order and obtain defendant’s historical stored cell tower site location records from third-party AT&T. The good-faith exception applies to defendant’s Fourth Amendment claims.”

Federal courts have allowed evidence collected from some warrantless searches (which generally are not permitted under the Fourth Amendment) admitted at trial if the officers were acting in good faith.

Chief Judge Linda McGee disagreed in part with Tyson’s reasoning.

“Because most federal courts recognize that historical cell site information consists of information generated prior to the issuance date of a judicial order that allowed law enforcement to obtain such records for a given defendant, and because I believe allowing the majority’s characterization of the information provided by AT&T to law enforcement, based on the facts in this case, would effectively obliterate the distinction between ‘historical’ and ‘real-time’ cell site information, I must respectfully disagree with the majority’s characterization.”

McGee did agree with the majority to uphold Perry’s conviction based upon the good-faith exception to the Fourth Amendment.

Court of Appeals decisions are binding interpretations of state law unless overruled by a higher court.

The case is *State v. Perry* (14-1328).

CJ



At issue was the difference between ‘historical’ and ‘real-time’ phone data

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Federal Investigation of Calderon Prosecution Urged By Attorneys

Continued from Page 1

torney Denise Walker (no relation to Thomas Walker) for her work in prosecuting Calderon and members of his gang — and Thomas Walker approved a motion asking the judge presiding over the case to give Calderon a reduced sentence.

Denise Walker had been the lead federal attorney on a task force of law enforcement professionals that in 2012 flushed out and captured members of a criminal gang led by Calderon. The men were robbing homes and businesses in Wayne and Duplin counties, selling stolen firearms, and participating in the local drug trade. They were also responsible for the kidnapping, torture, and murder of a Goldsboro man.

In 2012, while Calderon was in jail awaiting sentencing, a jail informant overheard Calderon discuss arranging for someone to harm or kill Denise Walker; the informant said he also overheard Calderon say he arranged to have a gang member who cooperated with prosecutors murdered.

When the U.S. Marshals Service learned of the threats, they immediately went to Denise Walker's office, gave her a few minutes to gather her belongings, and sent her into hiding for six weeks. During that time she was under 24-hour protection from marshals and unable to disclose her location, even to family members.

Even with the threats to Denise Walker and the disruption of her life, Thomas Walker and his top deputy Bruce downplayed the perils she faced. They asked the assistant U.S. attorney handling the sentencing phase of the trial to request a 30-year sentence for Calderon, even though the crimes he pleaded guilty to commanded a mandatory life sentence. The request for leniency was based on information Calderon provided to prosecutors that helped convict another gang member.

At Calderon's sentencing, Faber said:

This is what we might describe as a maximum offense; a cold, calculated, preplanned, self-serving murder committed for money, perhaps the worst offense that a human being can commit, particularly when accompanied by the outrageous activity that went along with it, such as the torture for fun of a victim.

This is a maximum offense. A maximum offense calls for maximum penalty. The maximum penalty under our federal laws is the death penalty, but the government has elected not to pursue that penalty and it has the discretion to do so, which the court must honor. That leaves this court with a life sentence as the maximum penalty it can impose and I have done so.

In his letter to Lynch, a Greensboro native, the NAAUSA's Cook said, "The actions taken here — negotiating with a murderous gang leader, agreeing to hide information from the sen-



The first page of the letter from the National Association of Assistant U.S. Attorneys asking that U.S. Attorney General Loretta Lynch look into the oversight of the prosecution by Raleigh U.S. Attorney Thomas Walker of Reynaldo Calderon.

tencing judge, and blaming the AUSA — breach the department's most basic responsibilities to AUSAs and to the courts, and, if left unaddressed, will embolden criminals and jeopardize the integrity of the system and the lives and security of all AUSAs and agents."

CJ has contacted Lynch's office and Thomas Walker's office for comment. At press time, Lynch's office had acknowledged CJ's request for comment, but otherwise neither office had responded.

Stash house heist

In December 2011 a confidential informant told an agent with the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives about a group of men who were invading and robbing homes and businesses in the Duplin County area. The group also sold firearms they collected from the robberies. The leader of the gang appeared to be Reynaldo Calderon. His brothers Rosalio Calderon and Melchor Calderon were participants.

At the request of the undercover ATFE agent, the informant purchased stolen weapons from Calderon's gang in December 2011 and January 2012. ATFE agents and Duplin County de-

Goldsboro, in rural Duplin County.

After the second sale, Calderon mentioned to the confidential informant that his gang was interested in robbing a "stash house" to acquire cocaine. A stash house is the term used to describe a location where drug dealers would store a large amount of drugs awaiting distribution.

The informant and the undercover agent devised an elaborate opportunity for the gang to rob a stash house in Wilmington supposedly protected by two armed men. However, this stash house was fictitious.

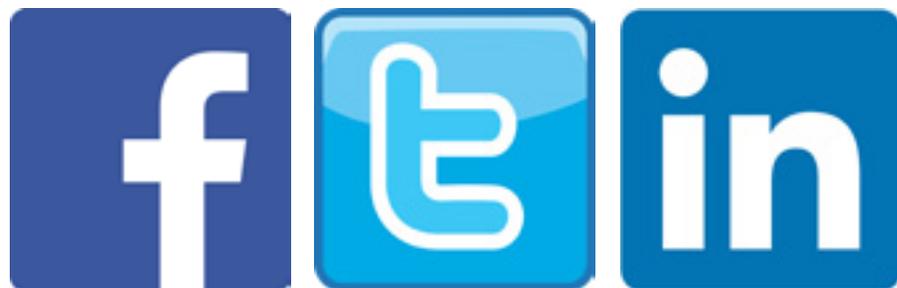
The entire gang stayed at a Wilmington hotel for four nights preparing for the heist. On the day of the heist, they traveled to a location to switch into different vehicles. After they got out of their cars, all eight were arrested by an ATFE SWAT team that had been hiding nearby.

Kidnapping and murder

Prior to the stash house heist, the informant heard some gang members talking about a murder they had been involved in, but the informant did not know who was murdered and when or where it took place. After the men were arrested, they were questioned individually about the murder. One man confessed that he and six of the eight men who were arrested had participated in the kidnapping and murder of a man named Geniro Jamis. The man led federal officials to the location where Jamis was buried behind Calderon's rented mobile home. Luis Renteria, an established Goldsboro-area drug dealer, hired Calderon and his gang to kidnap, torture, and kill Jamis in January 2012. CJ

Carolina Journal Executive Editor Don Carrington contributed additional reporting to this story.

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North Carolina Budget Includes Tax Cuts, Teacher Bonuses

Continued from Page 1

is up from the current \$15,000 of income exempted from those filers.

And the budget "encourages job creation and private investment in North Carolina by moving to calculate corporate income taxes based on a single sales factor over the course of three years," Berger said.

The bill also restores full tax deductions for medical expenses, without a cap, to all North Carolinians.

Past budgets were "overly dependent on income taxes, and so when we had problems with the overall economy, that's when you saw those wild swings" in tax revenue, Berger said. He believes sales taxes are a more stable source of revenue.

Some installation and repair services would now be taxed. Berger noted retailers that service goods they sell collect taxes now only on retail sales.

Berger said businesses that do not sell products to retail consumers (and currently do not collect sales taxes) would not be covered by the expanded sales tax.

House Speaker Tim Moore, R-Cleveland, said by limiting the sales tax expansion to companies already taxed on retail sales of products, no additional companies would be forced to become tax collectors for the state.

The new revenue from the expanded tax base would help to support education and economic development in counties with "insufficient local tax dollars," Berger said. "The additional local revenue must be used to support public schools, community colleges, or economic development in those counties."

Some of that money would go to the state, and some to the counties. Local sales tax revenue would continue to be divided, with 75 percent going to the county where the sale takes place, and 25 percent based on the county's population, "ensuring that no local government will lose revenue under those changes," Berger said.

There were attempts during the session to alter the allocation formula to shift more sales tax dollars to rural counties.

Moore said budget negotiators tried to address the matter in a way that helped rural counties "but not in a way that hurt the urban counties, and we've actually found a way to do that. This will cost no county any money. There are truly no losers in this plan."

Berger said he is not aware of any new provision in the budget that expands the authority of local governments to impose sales taxes.

The single sales factor is a complex mechanism that 26 states now employ, including Virginia, Georgia, and South Carolina. Instead of North Carolina's traditional dependence on corporate taxes based on a mix of



property, payroll, and sales variables, a single sales factor would base tax calculations on sales revenue, excluding property and payroll.

Berger's office calculated the cost of such a switch at \$75 million when discussing the proposal in March.

Moore said the budget provides \$225 million over the next two years to begin the process of restructuring the state's Medicaid program, but a separate rate bill providing the reform framework was pending at press time.

Money was included in the budget bill for a government budget transparency website beginning in 2015-16 that would require all state agencies, counties, cities, and local school systems to post their spending data and update the information regularly.

The budget also would raise fees at the Division of Motor Vehicles for the first time in more than a decade. Berger said that would help offset a gas tax reduction passed earlier this

year, though some viewed that action as a gas tax increase.

The budget would not extend the state's 35 percent renewable energy investment tax credit, due to sunset at the end of 2015, "and there is no plan to extend it," Berger said.

Spending provisions

The budget increases salaries for first-year public school teachers in the state from \$33,000 to \$35,000, fulfilling a promise made last year.

The budget also provides \$750 one-time bonuses for state employees and other teachers, ends transfers from the Highway Fund to the General Fund to pay for the State Highway Patrol, gives troopers and correction officers an additional bump in pay, and provides money for additional students from lower-income families to use vouchers to attend private schools.

"The compromise plan includes a responsible 3.1 percent increase in

spending, invests hundreds of millions of additional dollars in public education and other core priorities of the state, shores up the state's rainy day fund and the repair and renovation fund by a total of \$600 million," Berger said. That breaks down to \$450 million for the rainy day fund and \$150 for repairs and renovation.

According to Rep. Chuck McGrady, R-Henderson, however, \$250 million of the \$450 million in rainy day fund savings is contingent on the General Assembly placing a \$2 billion bond package on the 2016 ballot. The bond package also was pending at press time.

Berger also noted that the budget preserves funding for driver's education programs in North Carolina high schools and teacher assistants in elementary schools, two items that had been hot topics of debate among budget writers.

"It increases the funding for K-12 public schools by \$410 million, community colleges by \$20 million, and for the UNC system alone by \$99 million," Speaker Moore said.

Moore said that class size in the first grade would be reduced to a 1:16 teacher-student ratio in the second year of the two-year budget plan. Funds will be provided to enhance textbook and digital learning resources, he said.

Senate Minority Leader Dan Blue, D-Wake, criticized the lack of transparency in the budget and tax negotiations.

"This process has been an absolute disgrace to the taxpayers of this state," Blue said Sept. 14. "Legislators and the public alike will have less than 24 hours to read and digest a final budget that is expected to be well over 500 pages, and will drastically affect the livelihood of the state over the coming two years."

Blue continued. "With all negotiations taking place behind closed doors, one has to wonder what the budget writers are hoping to hide from the public," he said. "Even without addressing the wrong priorities put forward in this budget, the process itself has been a sham since day one, and the people of this state deserve better."

The budget provides \$38 million over two years to boost salaries of correctional officers and gives department heads more flexibility to use merit-based pay to attract and retain state employees, two items sought by McCrory.

The budget establishes two new Cabinet departments within the executive branch, the Department of Information Technology and the Department of Military and Veterans Affairs.

In addition, the budget transfers attractions, such as museums and state parks, to the Department of Cultural Resources.

First-year teachers in North Carolina will get an increase from \$33,000 to \$35,000

Morrissey: Liberals Now Think Being Rich is a Resume Enhancer

BY CJ STAFF

RALEIGH

Ever since the movie “Wall Street” hit the big screen in 1987, left-of-center pundits and partisans have tried to tie conservatives and Republicans to that movie’s villain, Gordon Gekko. His motto was “Greed is good.” Twenty-eight years later, Ed Morrissey argues that Gekko’s most famous saying seems to fit much better with the facts surrounding a leading progressive political figure. Morrissey is a conservative columnist, speaker, talk show host, author, and blogger at HotAir.com. He shared his analysis with Mitch Kokai for Carolina Journal Radio. (Head to <http://www.carolina-journal.com/cjradio/> to find a station near you or to learn about the weekly CJ Radio podcast.)

Kokai: Those of us who have seen the movie remember Michael Douglas and this evil character, Gordon Gekko, who loved greed and thought greed was good. This has been tied to conservatives and Republicans ever since. So this is actually a progressive mantra?

Morrissey: ... It’s a fascinating movie. It’s actually a really good movie. It’s probably the best one Oliver Stone ever did other than the World Trade Center movie, which was excellent.

But it was an indictment of conservative principles, of free-market capitalism, and this was supposed to be sort of like the *reductio ad absurdum* of free-market capitalism — a guy like Gordon Gekko getting up and telling stockholders, “Greed is good, greed clarifies, greed succeeds,” that sort of thing. It was a big, long speech.

So, we got a taste of that, more than a taste — we got a double helping full of that — during the last presidential election when Mitt Romney was the Republican nominee. People were going on and on about the car elevator in his garage in his Southern California home outside of San Diego, and Ann Romney’s dressage with the horses. The [Democratic National Committee] actually ran ads about the horse dressage during the summer of 2012, and they were just absolutely burying Mitt Romney in all of these negative ads.

And so you’ve always had this kind of class warfare thing coming from the Democrats until the Clintons made \$30 million over the last four years giving speeches to politically connected corporations and politically connected banks in places like Russia and Saudi Arabia, and all of these various different entities that normally Democrats rail against — the oppressive regimes, and the international banking cartels, and Wall Street players and that sort of thing. All of a sudden this is all good.

And Matt Bai wrote a piece ...

“[Y]ou’ve always had this kind of class warfare thing coming from the Democrats until the Clintons made \$30 million over the last four years giving speeches to politically connected corporations and politically connected banks. ... All of a sudden this is all good.”

*Ed Morrissey
Blogger, columnist, author
HotAir.com*



about, “Well, why do we want a president who is just like one of us?” And he was comparing the Clintons to Marco Rubio, Scott Walker, both of whom are of fairly modest means. ... So now the meme is, “Well, we don’t want a president who is just like us. We want somebody who is comfortable with their earning potential.”

The only really downside Matt Bai argued was that they just maybe are a little too acquisitive because they’re compensating for this lifestyle that they’d like to have. Well, if they’ve made \$30 million off of just giving speeches in the last three or four years, I think they’ve compensated enough. I mean, this is a couple whose net worth right now is estimated to be in the nine figures — very low nine figures — but if it’s nine figures, very low is not much of a qualifier.

I mean, we’re talking over \$100 million of net worth, and that’s the estimate anyway. But they’ve certainly made about \$150 million that we know about over the last 15 years or so, from book deals, from speeches, from consultancies that Bill Clinton has tried to, more or less, mask by using a pass-through entity for the payment.

And so all of a sudden ... these things are no big deal anymore. “We

don’t want a president of modest means. We want somebody who is aspirational. Greed,” for lack of a better word, “is good.” “Greed clarifies” ... if you’re a Democrat in 2016.

Kokai: Is this going to be something that ends up coming back to bite Hillary Clinton, or do you think that basically it’s just a case of “if our side does it, we’re going to ignore it,” and conservatives will just have to find some other way to attack her record?

Morrissey: No, no, I think it’s going to make a difference. How much of a difference obviously is arguable. But the difference is this — and, as you know, I’m doing some research on 2016 and how it’s going to im-

pact the vote — and I’ll tell you one thing that I am discovering is one of the reasons Barack Obama was able to change the turnout model so dramatically ... is because he was perceived as a transformational, unique individual [who] wasn’t beholden to Wall Street, [who] wasn’t beholden to an establishment. He was the voice of a new generation, and people could sort of project

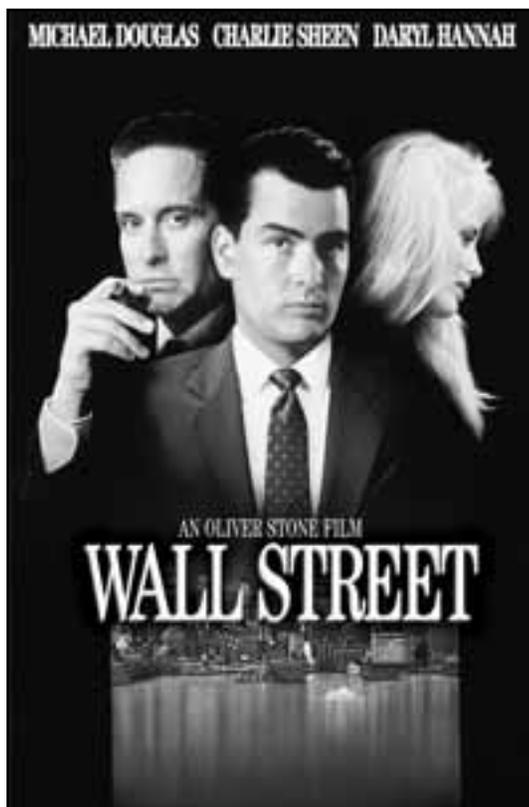
their hopes and aspirations onto him.

The hope-and-change thing ... a lot of us conservatives derided it, and we still do, but there was something to that. Because he was who he was, and because his background really didn’t have any of these encumbrances, and because he also never spoke in really specific terms about what it was he wanted to do, people were able to project onto him their hopes and aspirations, and voting for him — this is a key thing that I’ve been hearing — voting for him made the voter feel special. They had an identity. They were looking to the future.

None of those things apply to Hillary Clinton. She has got all of this establishment baggage. First off, she’s got performance issues. When she starts getting into the debates and stuff like that it’s going to ... be a real problem for her to explain her way through the Clinton Foundation morass, through the State Department for the four years that she was there, the failures in Libya, the failures of the Arab Spring. Those are all going to come back to bite her. Those are track records; those are things that are going to hang on her.

But even more importantly than that, because Democrats will excuse that, the problem for her and for Democrats is that she is not going to inspire that turnout model. It’s going to probably go back to something very similar to the 2000 model or the 2004 model, both of which were close elections.

Republicans, arguably, didn’t win the first one, and only barely won the second one. Certainly, in the popular vote, Democrats actually came out ahead in 2000. So it’ll still be close, it’ll still be tight, and Hilary Clinton still has a shot at winning it. But Republicans have an opportunity here to offer a future-looking — a forward-looking — candidate of their own. CJ



Community Colleges Look At 'Earning Gains' Accountability

By HARRY PAINTER
Contributor

MEASURING the performance of colleges — and holding them accountable for their performance — is an unsolved problem. A new “earnings gains” measure of community colleges in North Carolina aims to solve it.

The state is increasing its focus on “performance funding” of the North Carolina Community College System. Performance funding combines measurement and accountability functions, using a set of goals that public colleges are expected to meet to determine in part how much funding they will receive from the General Assembly.

The NCCCS is trying to add a new measure to its performance-funding model based on graduates’ incomes. The “earnings gains” measure was approved on Aug. 21

by the State Board of Community Colleges, but still needs the legislature’s approval.

The metric, using wage records from the North Carolina Department of Commerce, measures the graduates of vocational programs who have held full-time jobs for the two years before enrolling and for the two years after graduation.

Accountability standards have evolved over the years. In 1998, the General Assembly required the State Board of Community Colleges to review its performance measures and implement a performance-based funding plan. Under the original plan, colleges that met all of the measures received bonus funding. Colleges that underperformed merely had to submit an action plan to the board, but were not penalized further.

In 2013, the General Assembly changed the structure so that colleges would be funded proportionately by how well their students do.

The legislature set aside \$24 million for performance-based funding out of a \$1.3 billion NCCCS budget in 2014-15. There are eight funding measures designed to apply to the various types of community college students; they range from GED passing rates and remedial student success to certification test passing rates and performance of transfer students.

One measure of performance missing from the list: an employment

measure. That was not always the case. Originally, there were 12 measures, two of which were related directly to employment: “employer satisfaction with graduates” and “employment status of graduates.”

However, both measures were unreliable, according to Bill Schneider, the community college system’s vice president for research and performance management. He told the Pope Center that both measures had unrealistically high success rates, as they failed to include many people who were not working, used inconsistent survey methods, and cherry-picked which employers to survey.

While several states utilize some kind of employment metric, most do not. Even fewer have the measure that North Carolina settled on. A national higher education metrics expert with whom the NCCCS consulted, Nate Johnson of Post-secondary Analytics, told the Pope Center that earnings gains

are a good measure and that by using it, North Carolina is “putting itself at the leading edge” of higher education systems seeking to measure work force data. For example, he said, Florida simply provides average wages without any context or added value.

But he also said that measuring work force outcomes is “not a well-developed science yet in higher education.”

The average age of students measured using North Carolina’s metric is 34, six years older than the average of the community college system. Among the groups excluded from the measure are students in academic programs and students who are part-time workers, unemployed, or work in another state two years before or after community college.

Stanly Community College president Brenda Kays, who headed the committee that produced the measure, admitted that it is not perfect and may need to be adjusted or added to in the future. Still, she touted the initial results from the cohort that graduated in 2011-12. “Every college had positive gains, and so that tells us that the career and technical experience that these students had increased their earning potential,” she said. CJ

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



COMMENTARY

The English Department's Willful Self-Destruction

Are the humanities in trouble on American campuses? That is certainly the impression one gets from the media today: Articles in publications of both left and right describe the increasing flight from the humanities into other disciplines.

But is it all hype? To find out the real situation, I recently explored what is going on in one of the main humanities disciplines, English. Concentrating on English departments and their faculties in the University of North Carolina system, I used a mix of empirical and qualitative methods to look behind the rhetoric and wagon-circling.

The result is the newly released report, *The Decline of the English Department*. And as the title indicates, the decline is far from hype. By almost any measure, English departments are diminishing numerically, dropping standards, or calcifying into a hard-left intellectual status quo.

That is not to say that there are no pockets of excellence in the discipline. Nor does it mean that English departments will disappear anytime soon. But they are besieged by negative trends on almost every front, from politicized course content to ebbing enrollment.

At most UNC schools, there has not been a wholesale retreat from the English major, as there has been elsewhere. At the University of Maryland, for example, the number of English majors fell by 40 percent from 2012 to 2014.

Many English departments have tried to fend off the decline in enrollment, mostly by making drastic changes to the English curriculum to appeal to more students. This means more emphasis on writing and technology courses that will help prepare students for employment. It also means more courses that are as much entertainment as education, such as UNC-Chapel Hill’s “CMPL 55: First Year Seminar: Comics as Literature.”

As the English discipline moves farther away from its core of the greatest works of English, American, and European literature, either to attract students or for

political reasons, its very reason for existing is reduced. As *New York Times* columnist David Brooks put it, the humanities “are committing suicide because they have lost faith in their own enterprise.” And English may be leading the pack over the cliff.

Politicization is a particularly destructive force in the humanities because it directly affects what students learn. The left-wing bent of English department faculties is indisputable; I identified 261 tenured (or tenure-track) professors in the

UNC system who teach literature and are registered to vote in North Carolina. Only 10 were registered Republicans, as opposed to 196 Democrats (55 were registered as Independent).

I found more than a few professors who openly put politics ahead of scholarship. For instance, Amanda Wray, who teaches writing courses at UNC-Asheville, states on her LinkedIn page that:

In all the courses I teach, students can expect to talk and think critically about intersecting structures of oppression including racism, homophobia, sexism, and classism.

Exactly how her hyperpolitical agenda makes students better writers is unclear. And it is very unlikely that these topics are discussed in an objective, evenhanded manner from multiple perspectives, as controversial subjects are supposed to be taught in college.

Another example is UNC-Wilmington’s Alessandro Porco, whose master’s thesis and first book comprise obscene and childish poems, mostly written in honor of Porco’s favorite porn star.

Porco was hired in 2009 over 100 other applicants, according to the then-acting department head. With the older generation, which is more rooted in traditional scholarship, being replaced by younger Ph.D.s who are steeped in left-wing politics and a “pop culture as high culture” lowering of standards, it is hard to see a way out of the downward cycle. CJ

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



JAY
SCHALIN

Campus Briefs

Student loan debt in North Carolina has been rising almost across the board at University of North Carolina schools, both in the percentage of students who take loans and the amount of their borrowing. This is leading to a sharp increase in the rate that student borrowers default on those loans.

The default rates at the system's Historically Black Colleges and Universities are rising at an astronomical pace.

The problem is not the money spent on UNC's HBCUs — and majority-minority UNC-Pembroke — nor a lack of "access." Their state appropriations rank in the middle of the pack among UNC system campuses. The three schools with the lowest per-student state appropriations — UNC-Wilmington, Appalachian State University, and UNC-Charlotte — had default rates of 6.7 percent, 4.8 percent, and 6.2 percent respectively. Not good, perhaps, but nowhere near Elizabeth City State University's 22.9 percent or N.C. A&T State University's 18 percent.

Tuition for every minority institution is lower than that at all other schools in the system.

The problem is that North Carolina's minority institutions are admitting large numbers of unprepared students who are unlikely to graduate — undoubtedly contributing to the high default rates. Students at the state's minority institutions have the lowest average GPAs and SAT scores in the system.

The correlation of admissions standards and graduation rates with loan default rates holds at the high end, too. The schools with the best SAT scores and graduation rates, UNC-Chapel Hill and North Carolina State, are also the schools with the lowest default rates.

Almost by definition, higher student loan default rates are driven by the gap between expectations of future success and the ability to find good employment after school. That many students have unrealistic expectations is increasingly well-documented. A new report from ACT Inc. revealed that 84 percent of low-income students say they aspire to a four-year baccalaureate degree, but only one in 10 meets all four of ACT's college-readiness benchmarks. CJ

Compiled by Jenna Ashley Robinson, president of the John W. Pope Center for Higher Education Policy.

UNC Salaries Dwarf Those In Other State Agencies

By JESSE SAFFRON AND JENNA A. ROBINSON
Contributors

RALEIGH

The average annual income in North Carolina is just over \$40,000. But in September, senior-level bureaucrats in the University of North Carolina system's General Administration — who take home six-figure salaries — said they needed raises, and they got them. The system's Board of Governors voted in favor of a salary range increase that will "assure that [UNC] has the ability to match and, when necessary, lead market in compensating hard to recruit or retain executive talent."

The increases are "designed to [promote] good stewardship of State and University budgetary resources," according to a statement from the system. Top-level employees in the General Administration and across the state's 16 public universities are among the highest-paid public employees in the state.

For instance, UNC system president Thomas Ross, who heads General Administration, earns \$550,000 per year, \$30,000 more than the chancellors at UNC-Chapel Hill and North Carolina State University. (Other chancellors in the system earn between \$240,000 and \$325,000.) General Administration employs 68 people who earn more than \$100,000 per year and eight who earn more than \$200,000.

But that's just for starters. The system's 16 universities employ 47,894 people. Of those employees, 1,039, or 2.17 percent, earn more than \$200,000, and 6,243, or 13 percent, earn more than \$100,000. The share of UNC employees earning six-figure salaries far outpaces that of other state agencies. Of the 87,364 state employees (from the departments of Commerce, Transportation, Health and Human Services, and so forth), only 56, or 0.06 percent, earn more than \$200,000, and just 1,900, or 2.17 percent, earn more than \$100,000.

Examples abound. For instance, UNC-Chapel Hill's chief diversity officer, Taffye Benson Clayton, earns \$195,000 per year, or 38 percent more than Gov. Pat McCrory. Clayton heads the university's Office of Diversity and Multicultural Affairs, which hosts campus events, diversity training sessions for students and faculty, and seminars. The office employs 10 full-time employees as well as graduate and undergraduate staff members. Its second- and third-highest paid staffers earn \$101,000 and \$72,000, respectively.

Similarly, N.C. State's Office for Institutional Equity and Diversity employs 30 people and has total salary expenditures that exceed \$1.85 million annually. Three employees earn more

than \$100,000, and only two staffers earn less than \$40,000. The office includes, among others, a gay, lesbian, bisexual, and transgender center, a women's center, and an African-American cultural center.

Like UNC-Chapel Hill's diversity and multi-cultural affairs office, N.C. State's OIED has a strong "social justice" emphasis. It hosts events and offers students and faculty seminars, workshops, and conferences. In October, for example, the GLBT Center is hosting a workshop titled "Recognizing and Responding to Microaggressions."

Progressive projects are not the only areas that offer large salaries to administrators. For instance, East Carolina University's department of student involvement and leadership, just one branch of the university's student affairs division (that division's vice chancellor makes \$203,000), employs roughly 30 administrators and has total annual salary expenditures of about \$1.6 million. Additionally, the director of UNC-Greensboro's art museum makes \$124,395 each year, and the bookstore manager at Appalachian State University earns \$140,448 annually.

There also are at least two policy think tanks within the UNC system with million-dollar salary budgets; the public spends roughly \$2.6 million each year to employ 37 people at UNC-

Charlotte's Urban Institute and N.C. State University's Institute for Emerging Issues. The latter's director makes \$185,289 per year.

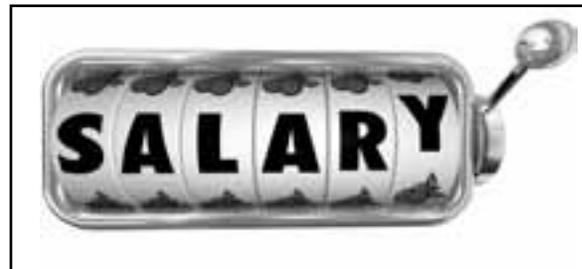
Along with administrators who are paid large salaries, the university system hires a lot of administrators.

Across the system, universities employ dozens of support specialists, technicians, associates, and executive assistants.

Whenever state leaders float the idea of tightening the system's budget, university officials claim that students will suffer. During the Great Recession, the UNC system had to manage a \$400 million cut. More than 500 vacant faculty positions were eliminated (vacant positions are part of "management flexibility" appropriations), as well as some administrative positions, but degree programs weren't affected. Today, state appropriations account for roughly 43 percent of the UNC system's revenue (nationally, that figure averages about 28 percent). As a result, average in-state tuition is lower than that of all neighboring states.

The system is a \$9.5 billion public enterprise. The latest UNC salary and administrator data suggest that there are areas to cut costs and improve efficiency. CJ

Jesse Saffron is a senior writer for the John W. Pope Center for Higher Education Policy, and Jenna Ashley Robinson is the center's president.



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Opinion

Why Is It Necessary to Ask Universities What Students Are Learning?

It seems shocking that, in 2015, it is difficult to fully answer the question, “What are college students learning?” After all, people can find out about admissions policies, degree programs, student debt levels, graduation rates, campus amenities, and financial aid options with the click of a mouse. But if they want to find out how well a school stacks up in terms of building students’ knowledge, for the most part, they hit a dead end. And the information they might come across is worrisome.



JESSE SAFFRON

For instance, a 2005 report produced by the Education Department’s National Center for Education Statistics indicated that college-educated Americans’ literacy declined “significantly” between 1992 and 2003. Only 25 percent of the 19,000 graduates surveyed were deemed capable of “using printed and written information to function in society, to achieve one’s goals, and to develop one’s knowledge and potential.”

Also, a scientific literacy survey of 10,000 college students conducted between 1988 and 2008 revealed that students who had taken two or three science courses had test gains of only 10 percent to 15 percent over individuals who had not taken those courses.

Students also appear weak when it comes to the humanities and social

sciences. Since 2006, the Intercollegiate Studies Institute has administered a 60-question civic and historical literacy exam to more than 28,000 college students from more than 80 schools. According to ISI, the average score has been about 54 percent (an “F”).

But there is a glimmer of hope. Some higher education organizations, as well as accreditors and state governments, have pushed for measurements of overarching skills such as critical thinking, problem solving, and written communication — skills that should transcend majors and academic disciplines and be possessed by all college graduates.

In 2002, the Council for Aid to Education began developing the Collegiate Learning Assessment. The CLA is a “value-added” test that shows how well colleges are building students’ academic skills. It compares students’ freshman-year skill levels in areas such as critical thinking and written communication to their senior-year skill levels.

So far, the results have been bad. Last year the CLA was administered to 32,000 students from 169 colleges. Forty percent of college graduates were found to be unprepared for the white-collar work force because they had not developed the skills mentioned above sufficiently.

The website College Portraits, a byproduct of the Voluntary System of



Accountability (a collaboration between the American Association of State Colleges and Universities and the Association of Public and Land-Grant Universities), was designed to pro-

vide the public with a wide range of college data — including results from employer and graduate surveys and standardized tests such as the CLA and ETS Proficiency Profile. After eight years, however, only about 300 colleges are listed on the site, and less than half provide learning outcomes information.

A big impediment to the assessment movement has been faculty members. They have been highly resistant to attempts to measure their productivity. Many professors are skeptical about standardized tests of student learning and show stronger enthusiasm for initiatives that embed overarching learning goals (critical thinking, etc.) into coursework, allowing them to make adjustments as they see fit.

Hence the Valid Assessment of Learning in Undergraduate Education rubrics, crafted by the Association of American Colleges and Universities. They’re designed to help professors assess students’ competencies via traditional class assignments, papers, and so forth.

Somewhat similar to VALUE rubrics in that it rejects the standardized testing approach is the Lumina Foun-

ation’s Degree Qualifications Profile. It’s been used by more than 400 colleges and universities since 2011. It defines an array of skills and knowledge that graduates should possess and provides professors with guidance on how to “fine-tune” courses to achieve specific learning outcomes.

But one wonders how the DQP would address, for instance, many students’ apparent political and historical illiteracy; its “civic learning” section emphasizes diversity issues and current events.

At any rate, the use of employer surveys, national standardized tests, and rubrics is on the rise and never has been more prevalent in higher education. However, a report released last year by the National Institute for Learning Outcomes Assessment indicated that more than two-thirds of schools do not share assessment results, and only 8 percent show how results are being used to shape curricula.

Today, given the evidence we have of substandard learning outcomes, the longstanding assumption that colleges are doing an adequate job preparing students for life and work should be questioned by those overseeing our universities.

If universities wish to avoid micromanagement of curricula, they must provide more information about learning outcomes. If they don’t do so voluntarily, pressure from legislators, governing boards, employers, students, and parents likely will force them to act. *CJ*

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

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• What has happened to men in America? Once upon a time, men in their 20s looked forward to settling down and having children. Today, most young men seem infected by a widespread Peter Pan syndrome. Unwilling to give up the freedom to sleep late, play video games, dress like a slob, and play the field, today's men wallow in an extended adolescence, ostensibly unaware that they're setting themselves up for a depressing, lonely existence. In *Heavy Lifting*, a hilarious ode to male adulthood, Jim Geraghty and Cam Edwards — two happily married, 40-year-old men — have a simple message for their younger peers: Grow up! More information at www.regnery.com.

• What would you do, if you were the offspring of an infamous dictator who lords it over your country? Jay Nordlinger set out to answer that question and does so in this book. He surveys 20 dictators in all. They are the worst of the worst: Stalin, Mao, Idi Amin, Pol Pot, Saddam Hussein, and so on. The book is not about them, really, though of course they figure in it. It's about their children. Some are absolute loyalists. Others become defectors. Obviously, the children have things in common. But they are also individuals, making of life what they can. The main thing they have in common is this: They have been dealt a very, very unusual hand. In *Children of Monsters*, meet these characters for yourself. Marvel, shudder, and ponder. More at www.encounterbooks.com. CJ

Book review

In A Full Life, Jimmy Carter's Malaise Continues

• Jimmy Carter, *A Full Life: Reflections at Ninety*, Simon and Schuster, 2015, 257 pages, \$28.

BY LLOYD BILLINGSLEY
Contributor

For many readers, the 1976-80 Carter administration may be unfamiliar, but in *A Full Life*, America's 39th president, now 90 and suffering from cancer, may surprise even those who believe they know him well. The surprise emerges not in Carter's poetry or painting, both sampled here, but in politics and economics.

His father, James Earl Carter, was "a libertarian at heart and deeply resented the intrusion of the federal government into his personal affairs." The elder Carter opposed the New Deal agricultural programs "that required farmers to plow up part of their growing crops and to kill a portion of their hogs in order to qualify for 'government relief' payments." Son Jimmy does not tell readers whether his father was justified in resenting this intrusion, and the libertarian inclinations evidently had little effect on the son.

As he explains, the Internal Revenue Service decided to audit his father's income tax returns for a number of years, "demanding that I substantiate with written proof his claims that much of the income had been from the sale of timber instead of earned, and therefore subject to lower tax rates for capital gains." Unfortunately, "it was impossible for me to prove the sources of all the income, and the resulting penalties took up most of the cash available in my father's estate."

Jimmy Carter, an outgoing Christian, does not render a clear moral judgment on this action. As president, he did not lead any charge for reform of the IRS, the most powerful and intrusive agency of the federal government. In *A Full Life*, Carter comments on current affairs, but the recent IRS targeting scandal escapes his moral vision. On the other hand, even sympathetic readers are likely to find him overly kind to himself.

"I became deeply involved in environmental issues by meeting challenges on our own land," he explains. Black worshippers were not allowed in the Plains Baptist Church, but Carter says he objected to that policy. He also had a prophetic side.

"I saw the presidency as a way to accomplish specific goals that I considered important," he says, and "decided four years in advance to be elected." Fellow Georgian Dean Rusk, secretary of state in the Kennedy and Johnson administrations, told Carter he should run in 1976. His Republican opponent was Gerald Ford, who "insisted, inexplicably, that the Soviet Union did not dominate any of the East European countries." Actually, it did, and Ford confirms that no party holds a monopoly on fatuous statements. Carter made gaffes of his own, telling *Playboy* he lusted after women, but as one wag put it, after Nixon, Watergate and Ford, few were going to vote against Jimmy Carter's dentures and the

Ten Commandments.

Carter says his first request to Congress was "to authorize me to simplify and streamline the federal government." So the eager streamliner duly created two new cabinet-level entities, the departments of Energy and Education, which Carter says he wanted to be free of domination by teacher unions. He leaves out the fact that creating the Education Department was repayment for teacher union support during the 1976 campaign. He notes that Ronald Reagan promised to abolish the new departments, but both survived. So no party holds a monopoly on the No Bureaucracy Left Behind policy.

Carter's pick to represent the United States at the United Nations was Andrew Young, "a superb ambassador, who always supported freedom and human rights and I trusted him completely." That will ring strange with readers who recall that Young proclaimed Iran's Ayatollah Khomeini a saint. On Nov. 4, 1979, as Carter notes, "American hostages were held captive by Iranian militants, supported by the Ayatollah Khomeini and his government." *A Full Life* fails to explain that Iran held 52 American hostages for 444 days. The author devotes some attention to the failed rescue mission and its exploitation by Carter's political opponents.

"Since I had refrained from exerting military force to punish the Iranians, the failure to secure the freedom of the hostages made me vulnerable to their allegations that I was an ineffective leader." Many readers, whatever their political affiliation, are likely to arrive at that conclusion. As he explains, "I have never known what caused the Ayatollah to delay granting their [the hostages] freedom until I was out

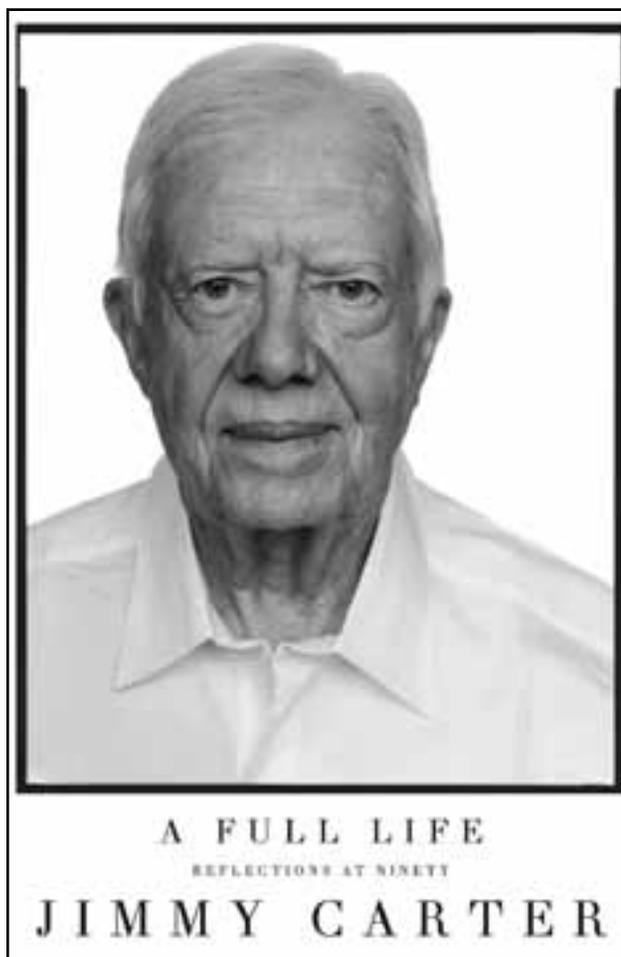
of office."

The new tenant in the White House had something to do with it, but Carter is still at war with Ronald Reagan. Carter credits the end of the Cold War to Mikhail Gorbachev's *perestroika* and *glasnost*. No mention of Reagan's anti-Communist stance, military buildup, or support for dissidents.

Those who believe Jimmy Carter one of the weakest presidents will find support in *A Full Life*. A good companion volume is Steven Hayward's *The Real Jimmy Carter*, which makes a case that he was our worst ex-president. On that theme Carter adds evidence.

In Cuba, many families "are deprived of good income, certain foods, cell phones, access to the Internet, and basic freedoms, but they have access to good education and health care." So much for the former president's commitment to human rights. The Iranian regime, meanwhile, is now close to getting nuclear weapons. So what began as farce in 1979 could well repeat as tragedy, big time. But even if doesn't, Carter says, the United States faces "an inevitable reduction in its relative global influence." So, as in 1979, the malaise continues. CJ

Lloyd Billingsley is author of the forthcoming *Bill of Writes*, a collection of journalism.



Ohio Transplant Tourgee Influenced Reconstruction-Era N.C.

Reconstruction was a turbulent time, filled with significant political and social change, violence, and controversy. One controversial figure was Albion Tourgee, an Ohioan who moved to North Carolina for economic opportunities.

To many Southerners, he was a carpet-bagger. Tourgee was also a controversial Radical Republican. Motivated often by religious ideas, the abolitionist was, as historians Mark Elliot and John

David Smith describe, "among the foremost champions of racial equality in the 19th century." His political and social views did not endear him with most mid-19th-century North Carolinians. In the words of Judge Robert N. Hunter Jr. in "The Past as Prologue: Albion Tourgee and the North Carolina Constitution," Tourgee was "a lightning rod for controversy on matters of racial equality."

Living in Greensboro, Tourgee



**TROY
KICKLER**

had a fascinating and noteworthy legal and political career. He was a Superior Court judge (1868-74) serving eight counties, and he was a delegate to the 1868 state constitutional convention and made his mark on the state's most fundamental law. On moral grounds, he argued for black suffrage and equal civil rights. He also worked for penal reform and election of all offices by the people — to name two other examples. In addition, he simplified legal procedures and revised the state's civil codes. After an unsuccessful bid for Congress, Tourgee left North Carolina in 1878. His legal influence, however, remained.

Later in his legal career, he served as the plaintiff's attorney in the landmark 1896 *Plessy v. Ferguson* lawsuit challenging segregation laws in New Orleans. He did not prevail in that instance, but, he was successful that year in securing the passage of an anti-lynching law in Ohio.

In 1897, President McKinley appointed Tourgee as U.S. counsel to Bordeaux, France. There he corresponded with McKinley, and later President Theodore Roosevelt, offering advice regarding race relations in the U.S. He was dismayed, in particu-

lar, by the Wilmington Race Riot that occurred in November 1898. He had thought that the brave service of African-American regiments in the Spanish-American War might have altered opinions regarding race relations, or at least allowed the integration of Army regiments — which happened decades later. He was encouraged, however, in 1901 when Roosevelt invited Booker T. Washington to the White House. Tourgee wrote Roosevelt: "It would be hard for me to give any idea of the emotions I have experienced in contemplating this momentous incident. To say that I have been thoroughly dazed is not too much."

Tourgee was a prolific and popular fiction writer. Like many authors, his experiences influenced his content and informed his plots. Reconstruction-era North Carolina, and Greensboro in particular, provided him with ample material. *A Fool's Errand* (1879) was a national best-seller and *Bricks Without Straw* (1880) also was very popular. Some scholars have argued that Tourgee was one of the most important American writers of his day. These two Reconstruction novels were his most popular works.

The two Reconstruction novels

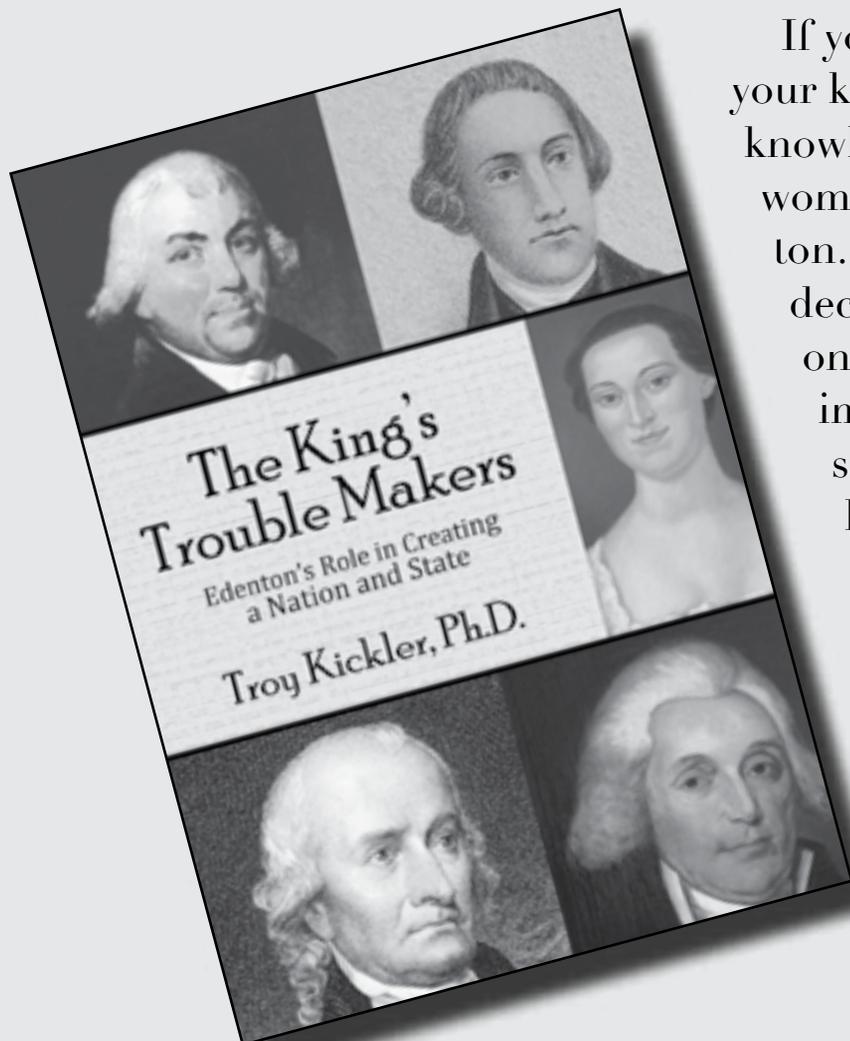
are autobiographical in many ways. In *A Fool's Errand*, a former Union soldier moves his family to the South. The main character purchases a decaying estate and works to improve the condition of freedmen and race relations. In the process, he angers many of his neighbors and the Ku Klux Klan. It's a novel about a Northern Radical Republican's experiences in the postwar South. The story includes the issues facing the South during Reconstruction and the conflicting attitudes in the land.

In *Bricks Without Straw*, Tourgee tells the story of how an African-American community worked to improve its economic and social condition and the backlash against those efforts. In many ways, it's a story of how Reconstruction failed from Tourgee's viewpoint.

To learn more about Tourgee's fascinating legal and literary career, read *Undaunted Radical: The Selected Writings and Speeches of Albion W. Tourgee* (edited by Mark Elliot and John David Smith). 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.

Book review

Ham and Benson: The Outrage Machine Just Needs to Chill Out

• Mary Katharine Ham and Guy Benson, *End of Discussion: How the Left's Outrage Industry Shuts Down Debate, Manipulates Voters, and Makes America Less Free (and Fun)*, Crown Forum, 2015, 277 pages, \$29.95.

BY RICK HENDERSON
Managing Editor

RALEIGH

As I began making notes to review the delightful *End of Discussion*, at long last the debate over secretly recorded videos of Planned Parenthood officials advocating horrific practices had reached the mainstream media and received a thorough vetting.

Well, not really. During the Republican presidential debate at the Reagan Library, GOP hopeful Carly Fiorina made an impassioned plea for Democrats, particularly 2016 front-runner Hillary Clinton, to watch those videos. And then after watching them, to continue defending federal taxpayer funding of Planned Parenthood.

The immediate response from Democratic operatives and media outlets was not to approach Team Clinton but to attack Fiorina and the pro-life guerrillas posting the videos.

In other words, attempt to shut down the discussion before it really started.

It's this tendency — mainly but not exclusively among the Left, its "thought leaders," and the prestige press — to silence and discredit those who don't agree with the modern liberal world view, that motivated conservative writers and commentators Mary Katharine Ham and Guy Benson to write *End of Discussion*. (Full disclosure: Ham's father Jon is *Carolina Journal's* publisher.)

What sets *End of Discussion* apart from other recent exposés of the excesses of political correctness and what's now called "shutupperry," including Kirsten Powers' *Silenced* and "The Coddling of the American Mind," a much-discussed recent cover story in *The Atlantic Monthly* by Greg Lukianoff and Jonathan Haidt, is the great good humor and conversational style Ham and Benson deploy throughout.

From the opening pages, Ham and Benson lament the Left's "weaponization of outrage for ideological and partisan ends" of seemingly innocuous occurrences, minor errors, or innocent gaffes. "The object is not to declare our words or actions offensive, which would be preposterous enough given their innocuous nature, but to slowly but steadily declare our very *existence* offensive" (emphasis in original).

Less skillful authors might rant and rave about these developments, but instead, Ham and Benson steer

clear of bombast. Their approach is more along the lines of: Can you believe this is happening? The ample use of pop-culture references and self-deprecating humor make *End of Discussion* an indispensable book to share and discuss with friends and acquaintances with even a casual interest in political and cultural events, no matter what perspectives they hold.

It also may be the first political non-fiction book to include its own drinking game.

The authors outline the "Six Ways the Outrage Culture Is Turning Your Entire Life into a Political Campaign," from converting every person who participates in social media into a public figure and a potential object of vilification; elevating every issue into a struggle of good against evil; and "the professionalization of outrage," the insistence of using online petitions and campaigns making every social interaction an opportunity to urge millions to demand that something must be done.

As an example, they cite the Chapel Hill disc jockey who was fired because, at the pub where he worked, he played "Blurred Lines," the popular Robin Thicke song (which reached No. 1 on the U.S. pop charts), because a UNC-Chapel Hill student at the bar said the song's suggestive lyrics might "trigger" sexual assault. The student posted her concerns on Facebook and threatened to launch a boycott of the bar unless the DJ were fired, because hearing the song "harassed" her. Of course, the bar caved and sacked the DJ.

A number of British universities actually banned the song. While Ham and Benson are no fans of the tune, "What we object to is pre-emptively declaring your opponent too insensitive to engage" in a debate over its merits.

As a proper response to a tasteless tune, the authors cite three female New Zealand law professors who rewrote the lyrics with a feminist twist. I'd add the approach taken by the brilliant parodist Weird Al Yankovic, who used the music from "Blurred Lines" as the backdrop for "Word Crimes," a song attacking bad grammar (and subtly poking fun at the notion that a brainless pop hit could inspire sex crimes).

"More speech, more effective,

more fun," the authors say.

End of Discussion includes plenty of other instances of double standards and shutupperry:

- Rutgers University diverted major amounts of student fees in 2011 to let reality show star Snooki address the student body; three years later the state university disinvited former Secretary of State (and Bush administration alumna) Condoleezza Rice from giving the commencement address following protests by noisy left-wing faculty and a handful of students.

- Brandon Eich, the former chief executive officer of Mozilla (creators of the Firefox Web browser), was fired because gay activists learned he gave a donation to the organizers of the California initiative banning same-sex marriage.

- In 2013, then-U.S. Attorney General Eric Holder associated the Tea Party's invocation of a desire to "take back America" with racism, even though the next year, campaigning for Democratic congressional candidates, Vice President Joe Biden told audiences, "It's time to take back America!"

The authors expose the Orwellian speech police on college campuses, demanding "safe spaces" protecting fragile young minds from "microaggressions," "triggers," "rape culture," and "white privilege."

Surprisingly, President Obama

seems to have gotten the message. During a late September speech in Des Moines about college costs, the president chided campuses that had banned speakers who were considered "too conservative."

The president said: "I don't agree that you, when you become students at colleges, have to be coddled and protected from different points of view. I think you should be able to — anybody who comes to speak to you and you disagree with, you should have an argument with 'em. But you shouldn't silence them by saying, 'You can't come because I'm too sensitive to hear what you have to say.' That's not the way we learn, either."

If only he would treat his political adversaries (Republicans and Democrats) with the same respect.

There's also a wonderful chapter showing how even stand-up comics and comedy writers are being ostracized by the perpetually offended.

Not surprisingly, Ham and Benson aren't presumptuous enough to offer any sweeping solutions. Instead, they offer several reasonable suggestions to conservatives, moderates, and liberals that might minimize some of the social and cultural damage.

My favorite recommendation is to create and recruit a Coalition To Chill The Hell Out. When the Outrage Circus gets exorcised over some trivial matter, the coalition — an "alliance of shruggers" — would sign online petitions saying, in effect: Meh. This is unimportant. We don't care. Move along.

Mostly, they encourage people of all political persuasions to keep talking to one another, even if the discussions get uncomfortable at times. That's sound advice for all. CJ



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Book Review

AEI's Brooks Makes the Conservative Case for Winning Hearts

• Arthur C. Brooks, *The Conservative Heart: How to Build a Fairer, Happier, and More Prosperous America*, Broadside Books, 2015, 256 pages, \$27.99.

BY MITCH KOKAI
Associate Editor

MENTION the words “social justice” to a conservative, and you might see eyes roll. You might also hear grumbling about silly, left-wing nonsense.

But Arthur Brooks labels as a mistake a blanket dismissal of social justice as “the exclusive language of the left.” The president of the American Enterprise Institute devotes his latest book to cultivating new appreciation of “social justice” and other concepts that appear alien to many right-leaning thinkers.

As more than a dozen candidates vie for the chance to represent the Republican Party in the next presidential race, Brooks presents them with a gift of sorts in *The Conservative Heart*. It's not written as a campaign playbook. But White House aspirants would be wise to peruse Brooks' book and take some of its lessons ... well, to heart.

Those who want to win public support for conservative ideas and policies need to read the lines Brooks saves for the opening of his seventh chapter. “It's time to return to the brutal truth that motivated this whole book: Conservatives have the right stuff to lift up the poor and vulnerable — but have been generally terrible at winning people's hearts.”

“We are the fiscally responsible grown-ups, the stern authority figures, the ones people usually trust to run a tight economic ship. But that is not pri-

marily what the country wants. Voters want leaders who care about people like them. They yearn for leaders who feel their pain and respond in tangible ways. And that has just not been us.”

This reader encounters the words “feel their pain” and thinks first of Bill Clinton, no paragon of conservatism, then of George W. Bush, whose “compassionate” conservatism helped pave the path of government bloat that our current president has been more than happy to extend during his two terms in the White House.

So it's a relief to learn that Brooks is not advocating that conservatives drop free-market, limited-government principles and hop on the big-government train. Instead Brooks focuses on the way in which conservatives express their core principles.

“I believe that poverty and opportunity are moral issues and must be addressed as such,” he writes. That's a stance that places Brooks directly at odds with those conservatives who argue that policy debates should focus on economics, setting morality aside.

“That is dead wrong and a false choice besides,” he argues. “Economic issues are moral issues.”

“So when conservatives fail to invoke compassion and fairness in our bid to solve society's problems, we preemptively surrender arguments with near-total support from the public. That's insane. If conservatives want to

become a true majority movement and unite the nation in a way that lifts up everyone, then we need to build our message around majoritarian values. Compassion and fairness are majoritarian values.”

Returning to the social justice issue, Brooks urges conservatives to overcome their hesitancy to fight on foreign turf. “Many conservatives recoil at the mere mention of ‘social justice,’” he writes. “But this is a mistake. ‘Social justice’ simply means working for a society that lives up to our American standards of fairness. And conservatives believe in fairness just as much as liberals do. We just define it differently.”

“To conservatives, a social justice agenda means making the starting line more equal for the vulnerable by improving education, expanding the opportunity to work, and increasing access to entrepreneurship,” Brooks adds. “Then it must ensure that rewards reflect effort, merit, and virtue. Further, true conservative social justice must also fight cronyism that favors powerful interests and keeps the little guy down.”

While accentuating positive elements within the conservative message, Brooks does not shy away from pointed critiques of the left's failures.

For instance, he devotes a full chapter to explaining why America “hasn't won” its 50-year War on Poverty. The analysis features a fascinating contrast between complicated problems, difficult to understand but easily resolved with adequate resources,

and complex problems, simpler to understand but never completely solved. Designing a jet engine is complicated. Ensuring your favorite football team wins is complex.

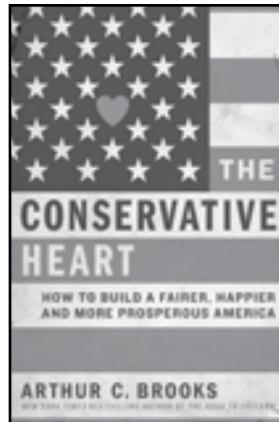
“If designing a jet engine were a complex problem, you'd fall out of the sky most of the time,” Brooks writes. “If a football game were a complicated problem, you'd know the score before it started just by looking at the team rosters.”

“The difference is the fundamental reason why the War on Poverty failed. Its architects thought poverty in America was more like a jet engine than a football game. They maintained the conceit that with their big brains and a boatload of taxpayer money, they could smoothly categorize all the facets of poverty and design mechanistic programs to ‘solve’ them.”

That same delusion motivates other progressive policies, Brooks notes, and explains why conservatives have multiple opportunities to offer superior alternatives.

They must work hard, and in different ways. Brooks closes the book with a seven-step checklist for conservatives who want to win converts to their ideas. Among them: Don't be afraid to be a “moralist,” focusing on more than facts and figures. “Get happy,” rather than maintaining the stance of the angry opposition. “Fight for people, not against things.”

There's no simple way to ensure transformation from a minority protest movement to a majoritarian social movement, but Brooks contends conservatives must adopt new strategies to build a “fairer, happier, and more prosperous America.”





E.A. MORRIS

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COMMENTARY

The Fair Tax Vs. Obamacare

I never have been a fan of the Fair Tax, a proposal to abolish the income tax and substitute a national sales tax. My opposition has nothing to do with the merits of a national sales tax as opposed to an income tax per se. Clearly, as an economist, I agree that the proper and most efficient tax base is consumption, not income, which is consumption plus saving.

My concern always has been that it would be impossible to eliminate completely both the current income tax and the possibility of bringing it back at some point in the future. In other words, by creating an infrastructure for a new national tax, we could end up, in the long run, with both a sales tax and an income tax.

Instead, I have supported converting the current income tax into a consumption tax by eliminating savings from the tax base, making all savings deductible, and flattening the rate.

But while the proposal I like, typically called a consumed income tax, would in principle have the same impact on the economy as the Fair Tax, the Fair Tax does have one advantage that could change my thinking. By eliminating the income tax and the IRS, you also would eliminate the enforcement mechanism for Obamacare's individual mandate.

Under the Affordable Care Act — Obamacare — everyone who is not receiving health insurance as part of his employment benefits package or a government program like Medicare or Medicaid must purchase a federally approved health insurance plan. The IRS through the income tax system enforces this "individual mandate."

Every year, at tax-filing time, each taxpayer must show proof that during that year he was covered by a health insurance plan meeting Obamacare's requirements. The IRS levies a penalty against uninsured taxpayers by reducing their income tax refunds.

The individual mandate is essential to the operation of Obamacare. It is how healthy, low-cost

health care consumers are forced into the risk pool, which then subsidizes higher-cost unhealthy individuals, particularly those with pre-existing conditions.

The constitutionality of the individual mandate was based on this enforcement mechanism. U.S. Chief Justice John Roberts cast the deciding vote in this case, and he determined that the penalty collected by the IRS was not a fine but a tax.

The reasoning was because the mandate was enforced through the income tax system. If it were levied directly on the noncompliant citizen like, for example, a speeding ticket, then it no longer would be a tax and Obamacare would lose its constitutional status.

In this regard, the Fair Tax would have an advantage over a consumed income tax, because it would abolish the existing income tax and the IRS. In doing so, it also would abolish the mechanism for enforcing Obamacare's individual mandate.

This would require a new enforcement mechanism that could pass constitutional muster as a tax rather than a fine would have to be both devised and approved by Congress as an amendment to the original Affordable Care Act. This would be extremely unlikely, particularly with any Congress that would pass a Fair Tax in the first place.

If my assessment is correct, implementing a Fair Tax could accomplish something that two Supreme Court cases and the election of Republican majorities in both chambers of Congress have not — the effective repeal of Obamacare.

Have I changed my mind on the merits of a national sales tax versus a flat-rate consumed income tax? Not necessarily, but using tax reform to kill two birds with one stone makes, in my mind, a properly implemented sales tax at the national level more appealing than it was. *CJ*

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



**ROY
CORDATO**

Could implementing
the Fair Tax
result in the
effective repeal
of Obamacare?



EDITORIAL

Making Spending Visible and Trackable

One of the least costly but most valuable provisions in the recently enacted state budget could transform the way the citizens of North Carolina understand state and local government: the section requiring all state, county, and municipal agencies, along with local education authorities, to post online their budgets and spending in a user-friendly, easy-to-search manner.

To satisfy the law, agencies must format data in ways that can be downloaded and analyzed easily by citizens and decision makers. The information must include budgeted amounts and actual spending by each state agency or local entity, as well as information on receipts and expenditures from and to all sources, including vendor payments, updated monthly.

When this portal goes live, advocates of government transparency can claim a major victory. Putting all spending information in the hands of the public will help us understand how government works, make it more difficult to conceal questionable spending schemes, and allow meaningful comparisons among different units of government.

Two pathbreaking John Locke Foundation reports on economic development incentives highlight the need for that information. The first, released in July, showed that between the 2009 and 2014 budget years, North Carolina counties entered 776 incentive deals, committing \$284 million in taxpayer subsidies to private businesses. The second, published in September, concluded that over the same period, the state's largest cities (the 13 with populations of 70,000 or more) entered 240 contracts worth \$65 million.

The mega-businesses enjoying taxpayer largess included Apple,

Bridgestone-Firestone, Caterpillar, Great Wolf Lodge, Ralph Lauren, Lowe's Home Improvement, and Malt-O-Meal. And, as you probably know, both the General Assembly and local governments have been eager to open the fiscal floodgates (and the taxpayers' wallets) to attract an automobile manufacturer to North Carolina.

The JLF reports marked the first time any government organization, trade association, special-interest group, or nonprofit organization had collected or published economic development data for N.C. cities or counties.

The lead author of both studies, JLF director of fiscal policy studies Sarah Curry, found that local governments are not required to use any kind of uniform or even comprehensible reporting requirements for their economic development projects, making it very difficult for researchers — and nearly impossible for the public at large — to track spending on tax abatements and other subsidies to businesses.

The lack of a uniform reporting requirement also makes it challenging to compare incentive deals from one city to another or across county lines, since each government unit can choose how to report or obfuscate taxpayer spending on those projects.

Correcting that problem should be a top priority for the General Assembly's 2016 short session. The new budget requires the websites to be up and running by April 1, 2016. The state allocated \$814,000 to develop the budget transparency portal — much less than the \$6 million set aside by the House and the \$16 million promised by the Senate in their original spending plans.

Even the lower amount should be money well spent. *CJ*

EDITORIALS

Taxpayer Protection

Amendment has N.C. pedigree

As North Carolina's legislative session began to wind down in September, it became increasingly unlikely that the cap on state spending growth and other provisions of the proposed Taxpayer Protection Act would pass the House this year, despite a supermajority vote in favor in the Senate. It's still a live option for 2016, however.

Members of the House were focused on other matters — including the passage of a budget — and weren't entirely sold on all the details of the bill passed by the Senate.

Neither were we, as a matter of fact. But constitutional protections of taxpayers should be improved. Furthermore, those opposing the Taxpayer Protection Act have tried to convince North Carolinians that the idea is foreign to our state, foisted on them by out-of-state activists.

Their claim is incorrect. We should know. *Carolina Journal* was one of the few newspapers to endorse the original Taxpayer Protection Act, introduced at the General Assembly in 1993. That measure, in turn, was inspired by a 1991 bill that would have limited state spending to the amount of state revenue collected during the previous calendar year. While that earlier bill didn't pass, one of its components did — the creation of a formal

rainy-day fund.

The original budget restraint and rainy-day proposal in 1991 had two main sponsors, Democratic Sen. Bill Goldston and Republican Rep. Art Pope. Two years later, Rep. Robert Brawley of Iredell County was the primary sponsor of House Bill 960, the Taxpayer Protection Act. Its main provision was to subject most tax increases to voter approval. Brawley's co-sponsors on House Bill 960 included future congressman and state Republican Party chairman Robin Hayes and future House Co-Speaker Richard Morgan. The following year, 1994, a new version of the TPA capped the annual growth of state spending to some combination of inflation and population growth.

Outside the General Assembly, one of the TPA's strongest champions during the 1993-94 session was the new grass-roots organization North Carolina Taxpayers United. Among its founders were two future U.S. senators: Richard Burr, then a businessman who would win election to the U.S. House in 1994, and Rand Paul, a medical student at Duke University who later moved to Kentucky and went into the "family business," as it were, by winning election to the Senate in 2010. CJ

Reduce Inequality

Growth is the answer

Although it is misunderstood and wildly exaggerated by some, income inequality should be a real concern for state policymakers of all parties.

You already know there are major differences of opinion regarding what to do about this. Here's what you may not know: Social scientists have spent decades exploring these differences.

One paper, just published by the *Journal of Economics and Economic Education Research*, was written by John Bethune at Barton College in Wilson. Bethune studied whether tax policy, welfare programs, minimum-wage hikes, and other policies reduced income inequality at the state level.

Bethune found no reduction in income inequality from most government spending, including transfer programs and education expenditures. States that set their minimum wages higher than the federal standard did not have lower rates of income inequality, either.

So what factor does seem to correlate with sustained reductions in

income inequality? Overall growth. "Higher rates of economic growth are significantly associated with more equal distributions of income," Bethune concluded, "which might imply that, for an individual state, policies to promote economic growth are the key for achieving less income inequality relative to other states."

In our state, that means continuing to reform and reduce the tax and regulatory burdens. It means rewarding higher productivity in our education and transportation systems. And it means continuing to remove disincentives for North Carolinians to enter the labor force.

Experts on poverty from across the spectrum describe a "success sequence": Those who finish high school, obtain full-time employment, and delay parenthood until they get married have very low poverty rates, even during recessions. State leaders can do their part by promoting robust economic growth and job creation — in other words, by embracing fiscal conservatism. CJ

COMMENTARY

Fewer Split The Difference

At this moment, strategists in both the North Carolina Democratic and Republican parties are concocting the same fantasy — that they can wall off their state and local candidates from a potential disaster at the top of the ticket.

While I think these politicians are mistaken, I don't really blame them for their fantasizing. Imagine that you are a Democratic strategist in North Carolina. You're watching Hillary Clinton's deteriorating poll numbers. You're also thinking that neither Joe Biden nor Bernie Sanders would be an adequate substitute as an energetic, appealing head of the Democratic ticket in 2016. Wouldn't you try to figure out how to run Roy Cooper for governor and pick up some legislative and county commission seats anyway, despite the expected headwind?

Now imagine that you are a Republican strategist. You're watching Clinton's sinking fortunes as well, but you also see polls showing Donald Trump and Ben Carson leading the field both nationally and in the early-primary states. You worry that neither has the background or temperament to capitalize on the Democrats' weakness. You further worry that Trump, in particular, could self-destruct and deeply wound the GOP as a whole. Wouldn't you try to figure out how to get Gov. Pat McCrory re-elected and protect Republican seats?

The problem is that, contrary to popular belief, there are fewer ticket-splitters and truly independent voters today than there were in the past. Don't pay attention to party registration. Plenty of people without a formal party affiliation are, in practice, loyal Democratic or Republican voters.

Even in the 1990s and early 2000s, many members of Congress claimed party affiliations that differed from how their districts voted in presidential or other statewide elections. Now there are few. The phenomenon is pronounced even more down the ballot in state legislative seats. The decline of split-ticket voting is a trend that political

scientists have confirmed with hard data and attributed to a variety of factors that have polarized the electorate into more ideologically coherent, mutually antagonistic camps.

One implication is that in a presidential election year, how each party's base feels about the top of the ticket can affect all the other races. If Democrats are enthusiastic about their nominee in 2016, it won't take much effort to get them to vote for Roy Cooper and other Democrats. The same goes for the Republicans.

There's nothing new about turnout effects, of course. GOP fortunes in North Carolina surged with Richard Nixon's easy re-election in 1972 and Ronald Reagan's landslide in 1984. But there aren't as many split-ticket voters campaigns can reach out to as a way of counterbalancing the presidential effect, as Gov. Mike Easley did as recently as 2004

when he won a second term with 56 percent of the vote while President George W. Bush was winning 56 percent of the vote in his re-election bid.

To say there are fewer split-ticket voters than before is not to deny their existence. When presidential contests are very close, as they were in North Carolina in 2008 and 2012, you can still see their effects. I guess that's not what I see coming in 2016, however. I think there will be a clear break in one direction or the other.

If Hillary Clinton survives her current woes without criminal indictment and regains her footing in a race against a weak or unsalable Republican nominee, North Carolina Democrats will be gleeful and McCrory will try desperately to separate himself from the national ticket. On the other hand, if GOP primary voters choose wisely, I suspect Cooper will run away from his party's standard-bearer much as Easley kept his distance from John Kerry.

It worked in 2004. I don't think it will work in 2016. CJ

John Hood is chairman of the John Locke Foundation.



JOHN HOOD

MEDIA MANGLE

Media Preoccupations

As the next president of the United States sits down for the first time in the Oval Office, the top item on his to-do list might involve policies designed to boost a sluggish economy. Or perhaps she will survey the international landscape and focus on efforts to crush ISIS and contain Russian and Chinese military adventurism. Maybe he will set priorities for addressing Americans' immigration concerns.

It's not likely that he will spend much time wondering whether Barack Obama is a Christian. He'll avoid forming a Blue Ribbon Commission — capitalized for emphasis — to choose a Secret Service codename. She will not ask her Cabinet members for their responses to another politician's criticism of her appearance.

Yet it's the latter set of issues that seems to preoccupy much of the national news media these days. Why ask Ben Carson about his plans to repeal and replace Obamacare when you can uncover his thoughts about the hypothetical merits or demerits of a Muslim president?

Why query Marco Rubio about lessons learned during the contentious immigration debate in the U.S. Senate when you can inform the world that he would like Secret Service agents to call him Gator?

Why seek the opinions of Ted Cruz — or John Kasich, or Carly Fiorina, or any of the rest of the Republican presidential field — on Iran, capital-gains taxes, carbon-dioxide regulations, or other policies that will affect hundreds of millions of Americans, when you can ask them what they think of Donald Trump's latest insult?

Yes, media outlets need to find something interesting to sell to advertisers. Conflict among rival politicians is likely to attract more eyes than a discourse on the entrepreneurial benefits of collapsing the number of marginal income tax rates.

Still, members of a profession that prides itself on being an unofficial fourth branch of government ought to feel a little embarrassed about devoting so much time to the trivial and banal. It's hard to believe that a self-respecting reporter or anchor can feel proud about saying, "Yeah, I'm the one who tripped up Candidate A today by asking him what he thinks of the term 'anchor baby.'"

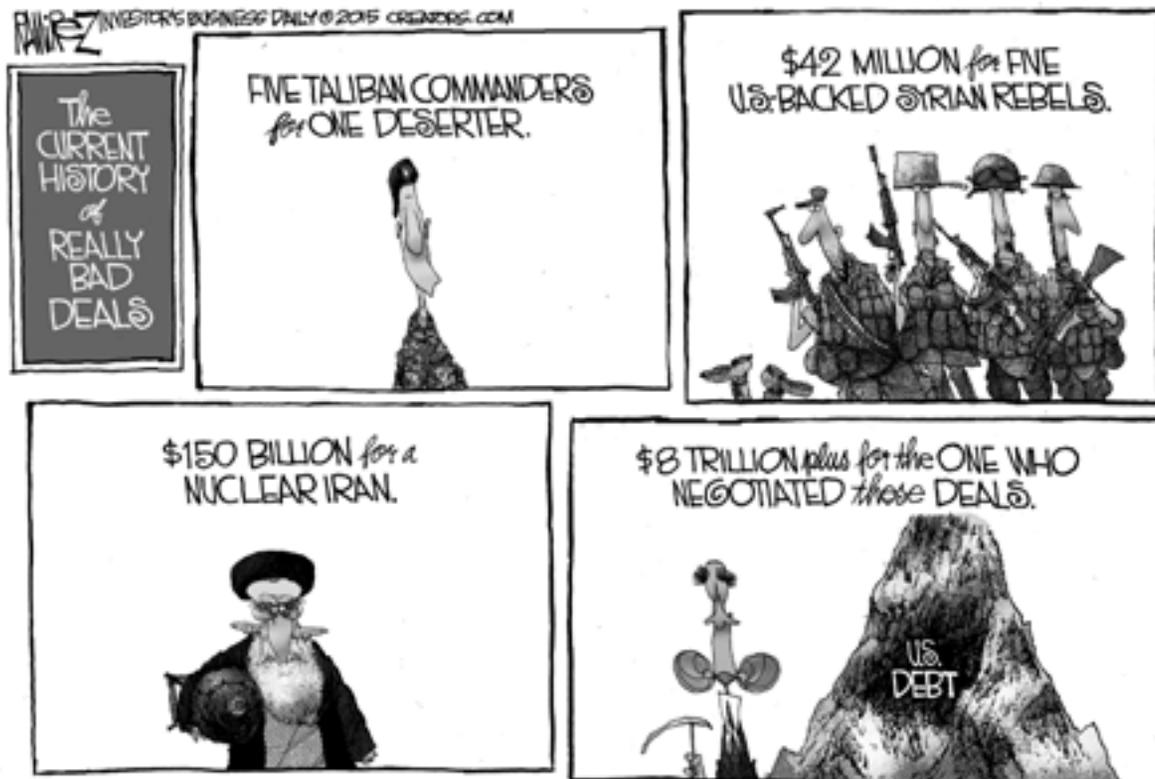
One curious aspect of the litany of off-topic questions is the fact that most seem to be aimed at candidates of only one political persuasion. It will be interesting to watch as Democrats take their places on the campaign stage. Will they be asked about a religious test for the presidency? Will Bernie Sanders encounter queries about how Hillary Clinton looks in a pantsuit? Will Clinton be asked which famous Socialist best resembles Sanders?

It's possible. But if Democratic interviews and debates focus on more meaningful matters, the media will have some explaining to do. *CJ*

Mitch Kokai is an associate editor of Carolina Journal.



**MITCH
KOKAI**



Belk's Sale and N.C. Retailing

I moved to North Carolina in 1978. One of the first purchases I made in my new state was a desk. To me, having a desk to use for writing and preparing lectures was more important than having a bed. I slept on the floor of my apartment for a year!

I bought that desk from the old Hudson-Belk department store in downtown Raleigh. I still have it; in fact, it's one of my most prized possessions.

The downtown Raleigh Hudson-Belk store no longer exists. It closed in 1995, and the building has been converted to condos and offices.

And now, it may not be too long before the Belk name is gone from retailing. In August it was announced that Belk was being sold to a New York investment group. Although the new owners immediately said nothing will change, I fear that Belk ultimately will disappear like other family run department stores, such as Gimbel's, Shillito's, and Thalheimer's.

Belk has a long history in North Carolina. Begun by two brothers in Charlotte more than a century ago, Belk was an innovator of the department store model. After some lean times during the Great Depression of the 1930s, it rapidly grew to more than 400 stores across the South. A unique part of the Belk operation was the involvement of a local partner in its expansion to new territories, like Hudson-Belk in Raleigh, Belk-Tyler in Greenville, Belk-Leggett in Roanoke Rapids, and Parks-Belk in Concord.

So what went wrong? There are many factors. In the aftermath of the severe recession, young people are delaying establishing households, people are showing a new frugality, and lenders have tightened borrowing standards. Many retailers have trimmed their long-run growth prospects, thus making any existing company less profitable and possibly open to a buyout.

Another challenge for any "bricks and mortar" stores is online buying. Cyber buying now accounts for 7 percent of all consumer purchases, double the share of a decade ago, and few experts think the rise will stop there. The trend calls into question the long-run viability of permanent stores at fixed

locations.

The homogenization and nationalization of the economy also have hurt regional companies like Belk. When it was more difficult and costly to communicate and travel the country, regional companies with attention to local styles and customs could thrive. Now — with some exceptions — people have very similar preferences and buying habits everywhere in the country. This makes it easier for national companies with giant advertising budgets to compete for the consumer's dollar.

Any discussion of business trends today must include a reference to the millennial generation, born between 1980 and 2000. Now the largest in numbers and rapidly taking over the work force, millennials have been displaying some buying habits that are working against large department stores.

First, the millennials are staying in school longer and delaying marriage and having children. Spending from married families with children was traditionally the mainstay of sales at department stores like Belk.

Second, the millennials — like most generations — have established their own identity and habits. For retail purchases, they have shunned large, impersonal (to them), and conventional department stores for small, intimate, and unusual (again, to them) specialty stores. This has been observed in everything from clothes buying to restaurant eating to entertainment. This habit has not been good for traditional department stores.

Last is an issue specific to family-owned and -operated stores. The issue is transferring control from one generation to the next. Research shows less than 20 percent of family-owned companies are passed down to a third generation.

The third generation of the Belk family now runs the company, and there is no obvious fourth-generation successor.

Having worked in a family-owned furniture store for several years, I'll always have a soft spot in my heart for firms with a long tradition of family ownership. It's sad to see them go. *CJ*

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



**MICHAEL
WALDEN**

Higher Ed Costs Get Serious Attention

Sadly, much of this presidential campaign has been a media circus, with most attention focused on the antics of Donald Trump and the emails of Hillary Clinton. This has been illuminating because it says much about whether either has a temperament suitable to be president, but it robs the American public of a debate about substantive policy.

An issue on which this has happened, however, is the cost of higher education. According to the Labor Department, average out-of-pocket tuition

expenses rose by 6 percent annually between 2000 and 2014, well beyond the rate of inflation. Edvisors reports that in 2014-15, about 71 percent of students graduated owing money, the average about \$35,000. The figures are worse — and accelerating rapidly in the wrong direction — for students finishing graduate and professional schools. Both Democrat Clinton and Republican Marco Rubio have offered interesting plans to address the problem.

Let's take Clinton's first. At the cost of \$350 billion over 10 years, she proposes to use roughly half to help refinance existing debt and the



**ANDY
TAYLOR**

remainder to allow students to avoid taking out loans to attend public institutions. This federal assistance would depend on states investing more of their own resources in higher education and colleges stemming increases in tuition. Much of the tab would be paid by capping the amount of itemized tax deductions high earners could take.

At the center of Rubio's plan is an income-based repayment schedule permitting students who enter lower-paying occupations to repay loans on more favorable terms. The proposal also provides for the beginnings of a system of equity funding for students who would secure support from investors in return for a share of their future earnings. Although Rubio is vague on cost containment, he is interested in the subject. He believes the federal government should provide tangible rewards to institutions that restrain spending in significant and innovative ways.

Note the main difference. Clinton's plan shifts the burden onto taxpayers much more. Trust me, as a professor who believes liberal arts contribute tremendously to a robust civil society and general economic prosperity, I believe the public can secure a valuable return on its investment in higher education. But it is a question of degree.

The Federal Reserve Bank of San Francisco estimated last year that, on

average, a college diploma is worth about \$830,000 in additional lifetime earnings. Georgetown University's Center on Education and the Workforce calculates that, after age 35, even humanities majors are making over 125 percent more each year than peers who only graduated high school. Why should other residents pay much of the proportion of this that is purely private gain?

In North Carolina, the Constitution asserts that "as far as practicable" the "benefits" of public higher education should be "extended to the people of the state free of expense." This is generally interpreted as meaning tuition in the UNC system should remain low and state support high — which is indeed the case today, at least in relative terms. According to the State Higher Education Executive Officers, in 2013 North Carolina was, per student, the nation's fourth most generous in direct appropriations and 45th when it came to the proportion of university revenue derived from tuition.

But the Constitution makes no mention of students, present or past. It implies higher education is a public good and taxpayers of North Carolina should not have to pay very much for it.

The problem with equity is that money inevitably will flow to students in programs that produce highly paid graduates. That's why some, like *The*

Economist, have proposed a mixture of equity and debt financing.

But there is an alternative. Institutions could create differentiated tuition rates that better reflect the cost of providing particular programs and courses. Currently a student generally pays the same amount to sit in a history class as an engineering one, even though the faculty member in the latter is paid more and the facilities and equipment costs in STEM tend to be substantial. With tuition rates set this way, those in the liberal arts will no longer have to subsidize engineers, and their investors might realistically expect appealing returns.

Some Republicans, notably Gov. Rick Scott of Florida, have suggested taxpayers and students in other fields should subsidize STEM even more than they do. The goal is to encourage greater enrollments in the natural sciences and technology. Not only is this a tad reminiscent of Soviet-style social planning, but, by encouraging heedless spending on science and technology education, it would not contain aggregate costs.

Rubio is on to something. Let's hope we get to see similarly substantive and imaginative positions on other important policy matters as the presidential campaign proceeds. *CJ*

Andy Taylor is a Professor of Political Science in the School of International and Public Affairs at N.C. State University. He does not speak for the university.

Budget Was Late, But Worth the Wait

Finally. As the 2015 General Assembly adjourns, there's a lot for conservatives to celebrate. This was a session built on the principles that started to turn the state around in 2011. The third two-year budget passed by a conservative General Assembly (and second for Gov. Pat McCrory) adheres to fiscal responsibility, transformational reforms, and respect for individual freedoms. It was worth waiting for.

Restraint opened the final budget negotiations. The governor's General Fund budget increased spending by 2.1 percent over last year. The House proposed a 6.2 percent increase, while the Senate was more in line with the governor at 2.6 percent. They ended up with a spending increase of 3.1 percent, staying within a fiscally responsible limit within the rate of growth of population and inflation.



**BECKI
GRAY**

Reforms to the tax system built on transformational changes started in 2011. This budget reduces the personal income tax rate to 5.499 percent, lower than our neighbors Virginia, South Carolina, and Georgia. The corporate tax rate will go down to 4 percent this year and is expected to drop to 3 percent in 2017, making N.C.'s rate the lowest of any state that imposes a corporate tax. It expanded the sales tax for services provided by companies that already collected taxes. Lower-income families will benefit from a \$500 increase in the zero tax bracket. Our tax code is further simplified, and North Carolinians will be paying \$2.2 billion less in taxes over the next five years.

Reserves are necessary to ensure funding for crucial services in case of a natural disaster or an economic downturn. This General Assembly is building a savings reserve that will exceed \$1 billion.

Revealing government spending lets everyone see how much is spent and where the money goes. A new Internet portal will post budgets and expenditures for all state, city, county, and local education agencies with

monthly updates. Technology and a commitment to open government make what was nearly impossible 10 years ago reality in North Carolina.

Reform to the behemoth Medicaid system, difficult and long overdue, will begin to lower costs (it's 17 percent of the budget and the fastest-growing part), ensure budget predictability, and provide the 1.9 million North Carolinians under Medicaid (including more than half the babies born) with quality care for the dollars spent.

Roads: The annual transfer of \$216 million from the Highway Fund to the General Fund stops, and that money stays where it belongs — to pay for roads. In addition, an update to the Division of Motor Vehicles fee schedule will provide a reliable stream of money to pave roads, shore up bridges, and relieve congestion.

Responsibilities to ensure every child receives the best education are taken seriously. More low-income kids whose needs were not being met by traditional public schools can attend a private school their family feels is best for them with a \$4,200 voucher.

Resources are best spent ensur-

ing every child gets a great teacher (rather than feeding a bureaucratic system), and this budget reflects that. It's not how much but how. Additional funding pays for reading camps, hiring more teachers to decrease first-grade class size, instructional materials, and broadband connectivity. Beginning teachers get a \$2,000 pay increase, and all teachers get a \$750 bonus and a step increase on the state salary schedule.

The budget offers relief from growing energy costs, with a realization that when government picks winners, the rest of us lose. A 35 percent tax credit for renewable energy investments will expire at the end of this year. North Carolina citizens, taxpayers, and businesses can expect lower energy costs.

From restraint to relief to reserves, our state's leadership has built on themes started in 2011 of reforms, redirection, and rebuilding. It was worth the wait. *CJ*

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

2015-17 Budget Gives All Retirees Long Leaf Pine Award (a *CJ* parody)

BY CLAUDE PEPPER
Retirement Correspondent

RALEIGH

The new state budget did not provide a cost-of-living adjustment for state government and public school retirees, but a special provision offers them a consolation prize of sorts: All of them qualify for the Order of the Long Leaf Pine, the state's most coveted award.

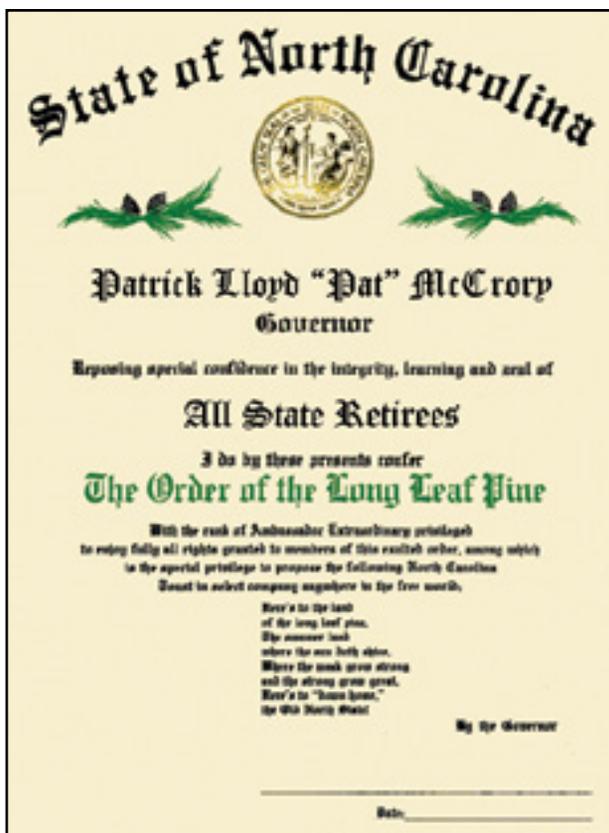
Beginning Jan. 1, 2016, all state government and public school retirees may apply online for the award. The budget appropriated \$300,000 in one-time funds to launch the program.

The Order of the Long Leaf Pine is considered by many to be the most prestigious award that can be conferred by the governor of North Carolina. It is analogous to the "Kentucky Colonel" award and the Alabama "Honorary Lt. Col. in the Alabama Militia" award, both of which also are given indiscriminately to various friends and cronies in those states.

This move, however, breaks that mold. Instead of friends and cronies, this is being given to a large swath of North Carolinians who have no lifetime achievement to speak of except for being a state employee.

"In these days of participation ribbons, I think it is entirely appropriate that state employees get recognized just for showing up," said House Speaker Tim Moore, R-Cleveland. "In fact, some are getting this award for not even showing up all the time, depending on the department they were in. Still, they're the ones who made North Carolina great. We had to do something for them. This was an economical but substantive gesture."

Josh Ellis, a spokesman for Gov. Pat McCrory, told *CJ*, the "governor believes the new program is a bit silly, and tends to diminish the prestige of this



important designation, but he has to administer the budget passed by the General Assembly."

Gov. Terry Sanford created the Order of the Long Leaf Pine in the mid-1960s, and the award continues to be administered by the governor's office, but several news reports have revealed that there are no criteria or review process for applicants. Govs. Jim Hunt and Mike Easley have given the most awards. Easley gave the award to his wife's parents shortly

before Christmas 2004.

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

Program details

The budget language was short on details, but Ellis told *CJ* of one way the program might work.

Retirees with computer access could apply for their award at www.governor.nc.gov. By entering the last four digits of their Social Security number, retirees could verify their identity and would receive confirmation by email of their award, which would be sent in the form of a PDF document attachment with the recipient's name left blank. The retiree could then print the PDF document and fill in his name.

The governor's office will sell commemorative frames for the awards, with the proceeds being used to finance the program in future budget cycles.

Retirees without computer access can visit any Division of Motor Vehicles office and pick up a blank certificate. Frames will be available for sale at DMV offices.

Former Department of Transportation Secretary Tony Tata, who retired from state government in July, told *CJ* he was planning to get an award as soon as it was available.

Tata, a retired U.S. Army brigadier general, was the subject of a recent *Raleigh News & Observer* story reporting several controversies during his military career, including two instances of adultery and the filing of a false court document during a child support dispute with his former wife.

"After the *N&O* story came out, I might as well go for the [Order of the] Long Leaf Pine," Tata said. "It is probably one of the few awards I will be able to receive over the next few years." *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

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

Important Dates to Remember

Applications Open September 15, 2015

Applications Due December 8, 2015



www.EAMorrisFellows.org

Contact: tmccaskill@johnlocke.org | karenyvonp@gmail.com