

Digital medical record databases raise privacy concerns/2



CAROLINA JOURNAL

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

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September 2013 Vol. 22 No. 9

STATEWIDE EDITION

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New Election Law Concerns 'Without Merit'

Other states deny early voting, no-excuse absentee balloting

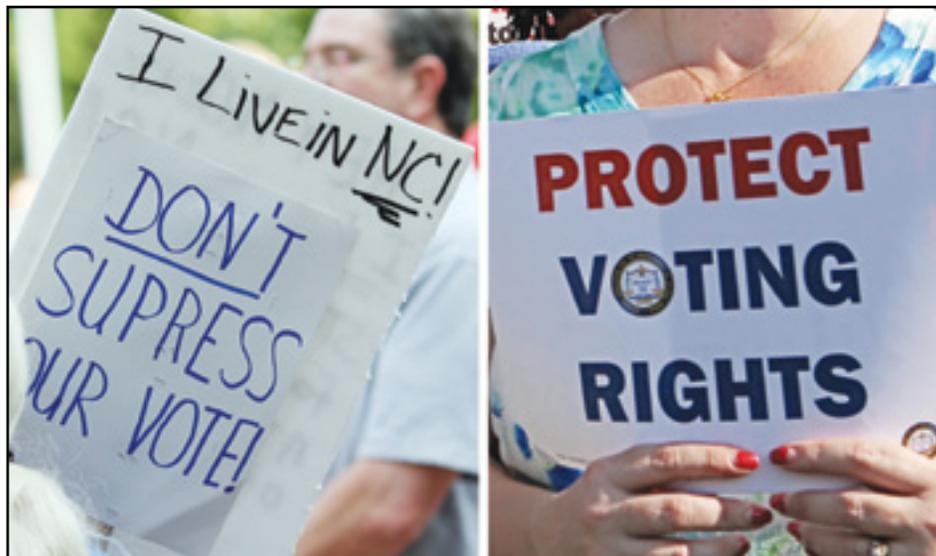
By BARRY SMITH
Associate Editor

RALEIGH

The terms "voter suppression" and "outrageous" were bandied about during the recent debate over North Carolina's voter ID and election law reforms. Editorial boards from Raleigh to New York inveighed against the alleged "intolerance" shown by North Carolina lawmakers' electoral reforms.

But comparing election laws in North Carolina with those of other states shows that the Tar Heel State has had and — even after Gov. Pat McCrory signed House Bill 589, passed in the legislative session's closing hours — would continue to maintain fairly liberal access to voting, especially when contrasted with several Northeastern states.

While *New York Times* editorialists bemoaned what they consider a mean-spirited attitude toward low-income and minority voters from the



A recurring theme among "Moral Monday" protesters in the spring was that new election laws proposed by Republicans were "draconian" and would make North Carolina's laws much more stringent than other states, but experts say North Carolina's laws, even after the changes, still are among the nation's most unrestrictive. (CJ photos by Don Carrington)

North Carolina General Assembly, the Empire State's election laws are more restrictive than ours.

"It shows that a great deal of the criticism, frankly, is without merit," said Rep. Tim Moore, R-Cleveland, who co-chairs the House Elections Committee.

Brent Laurenz, executive director of the N.C. Center for Voter Education,

said that he believed the election laws that were on the books before H.B. 589 was signed had helped boost voter participation in North Carolina. Laurenz said North Carolina went from being among the 10 worst states in voter participation to being 11th best nationally.

"I think some of these laws that

Continued as "New," Page 14

Experts see little or no effect on voter turnout in N.C.

By BARRY SMITH
Associate Editor

RALEIGH

Recent modifications to North Carolina's election laws — including changes affecting voter identification, new identification requirements for college students, same-day registration, early voting, and absentee ballot applications — would have almost no effect on voter turnout, voting experts say.

One election watcher, Hans von Spakovsky, senior legal fellow at the Heritage Foundation, even suggested that the shorter early-voting period enacted by the Republican North Carolina legislature actually may boost turnout.

After Gov. Pat McCrory signed House Bill 589, legislative Republicans heralded the measure as one that would restore integrity to the

Continued as "Experts," Page 14

State Bar Panel Could Take Belk's Law License

Complaints not based on any actions Belk took as a lawyer

By DON CARRINGTON
Executive Editor

RALEIGH

A three-member panel of the state's Disciplinary Hearing Commission ruled Aug. 23 that former Judge Bill Belk, 64, violated the Rules of Professional Conduct for attorneys because he was untruthful when interviewed four years ago about his outside activities while he was a District Court judge in Mecklenburg County.



Former Judge Bill Belk, who is fighting charges by the State Bar resulting from his continued service on a corporate board while a judge. (CJ photo by Don Carrington)

It was the third time in four years that Belk has faced discipline by a state agency monitoring members of the legal profession, even though none of the complaints involves actions he took as a judge or an attorney.

The hearing stemmed from a complaint by the North Carolina State Bar, the state agency that regulates attorneys. It was held at the bar's headquarters in Raleigh. The panel first listened to arguments from State Bar attorney Margaret Cloutier and then from Belk, who represented himself. The panel members then went behind closed doors and reached a decision in about an hour.

In 2010, the N.C. Supreme Court banned Belk for life from serving as a judge as a result of a complaint by the Judicial Standards Commission, the state agency that considers allegations of misconduct against judges.

The issue central to the recent

Continued as "Bar," Page 15

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Carolina Journal is
a monthly journal of news,
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state and local government
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Digital Medical Records Raise Privacy Concerns

By DAN WAY
Associate Editor

RALEIGH

As the North Carolina medical community presses ahead with a sweeping conversion to electronic health records, privacy advocates warn that confidential medical data are in jeopardy, and patients' most intimate health information could be used in harmful ways against them — or at a minimum mined for profit by pharmaceutical companies, medical providers, or other entities.

"There's the loudest group of people who think anything electronic is wonderful, and who buy the claim that costs will be reduced, and we'll all live happily ever after in a digital wonderland," said Linda Gorman, senior fellow and director of the Health Care Policy Center at the Independence Institute in Golden, Colo.

"There's another group of people, though, who, I think, have seen the IRS scandal, and have seen [the Obama] administration's misuse of government power, and are thinking, 'Whoa, let's stop here and think a minute,'" Gorman said. "People would be horrified if they realized that they can't keep anything secret."

The North Carolina Health Information Exchange, a tax-funded nonprofit, is similar to exchanges in other states. It is a government entity designed to be a state-wide repository of digital patient health records that would be shared among health providers, medical researchers, insurers, and others.

Established in 2009 with a \$12.9 million grant through the American Recovery and Reinvestment Act (aka the federal stimulus program), the data-sharing clearinghouse is intended to speed up care, improve health outcomes, aid medical analysts and researchers, and lower costs.

The health information exchange is housed under the nonprofit agency Community Care of North Carolina, which administers the bulk of the state's Medicaid program.

Officials with CCNC have refused to discuss the tax-funded health insurance exchange.

While the Patient Protection and Affordable Care Act, commonly called Obamacare, requires a massive transition to computerized recordkeeping, "It's not at all clear it's going to help medical care," improve health outcomes, or reduce costs, Gorman said.

The focal issue is control of the health care system and micromanaging health care providers, Gorman said.

"The only way to tell if physicians are doing what you ask them to do is to have a patient's medical record," she said.

If people believe their medical records are not private, "they will start lying to their physician. People aren't stupid. So that compromises medical care," Gorman said.

There "absolutely" is a risk of a person's most private and embarrassing medical records being leaked, hacked, stolen, or mistakenly released and used against the patient, she said, citing the stigma associated with mental health diagnoses.

Another downside of the centrally digitized data is a thriving black market for intimate details about celebrities and political figures that provides incentives to breach the system.

A political candidate whose health records show he once used an illegal substance or was treated for substance abuse could be confronted with that information, threatened with its public release, and intimidated into withdraw-

ing his candidacy, she said.

It's not difficult for those navigating the health information exchange to identify a person even though advocates of the systems say they "de-identify" records to prevent that, Gorman said.

"Actually, if you combine it with modern marketing databases, it's pretty easy to identify an individual," especially those who live in small towns, she said.

The state law creating the North Carolina Health Information Exchange mandates adherence to the federal Health Insurance Portability and Accountability Act, which protects the privacy of identifiable health information that can be linked to individuals.

But HIPAA has an exception for health oversight agencies that administer the system, and the same carve-out would exist in North Carolina, Gorman said.

Those agencies "can get the data and then do whatever they want with it. So when they say you're protected by HIPAA or they're going by all of the requirements of HIPAA, it's a fig leaf," Gorman said. "States sell [the data], which is what they're planning to do, right, sell it to support themselves."

Mark Bell, vice president of health information technology and chief information officer at the North Carolina Hospital Association, has been working with the North Carolina Health Information Exchange for several years. He agrees there is a risk that private medical records could be compromised when housed in a central storage repository.

For that reason, the hospital association supports a system of interconnected regional health information exchanges that can share data through a system with greater safeguards and exclusivity than is possible

on one statewide network.

"There are whole groups of health [information technology] stakeholders who are advocating for the patient" and the security of their health records because all of the accumulated data represent huge money to various interests for differing reasons, he said.

"There is a group of stakeholders, especially researchers, and also pharmaceutical companies, people who pay big dollars for access to data for research, so they can sell products" and increase profits, Bell said.

"There are groups of people for whom having access to data through health information exchange is their holy grail. They see this as the single best opportunity to get access to data for their purposes that, while important, are often not directly related to bedside care of a patient," he said.

Bell does not oppose health information exchanges. Indeed, the hospital association operates its own.

"Most of the large health systems have purchased some type of capability for health information exchange. Health information exchange is happening all across the state," Bell said.

"Public health has an interest in having access to that data for good and honorable public health reasons. To cut down on diseases and whatever flu virus we might get this coming flu season, these are great tools for public health," he said.

Despite the promise of improved population health and reduced costs, health information exchanges will not foster improved medical care "unless they collect enough information such that it's like a full-blown drug study, where they track every bit of somebody's health," Gorman said. CJ



JLF: NCGA Session Featured Conservative, Free-Market Reforms

BY CJ STAFF

RALEIGH

From taxes and spending to regulation, education, and transportation, the 2013 session of the North Carolina General Assembly proved historic in producing positive reforms for state government. That's the assessment from top John Locke Foundation staffers reviewing this year's legislative scorecard.

"As far as I can tell, North Carolina adopted more free-market and conservative reforms in 2013 than any other state has ever adopted in a single year," said JLF President John Hood. "In the great debate about how best to promote economic growth, North Carolina has come down clearly on the side of fiscal conservatism, competition in public services, freedom of choice, and limited government."

Many ideas transformed into state laws this year mirror recommendations from two recent JLF books. Hood's 2012 book *Our Best Foot Forward: An Investment Plan for North Carolina's Economic Recovery* charted North Carolina's economic woes and spelled out a 10-point economic growth plan.

In this year's *First In Freedom: Transforming Ideas Into Consequences for North Carolina*, Hood and JLF research staffers offered more specific proposals for reforming the state's tax code, public education system, and regulations. *First In Freedom* also called for expanding school choice, setting new government spending limits, avoiding pitfalls linked to the federal health care reform law, and adopting a new operating system for North Carolina government.

Republicans in Gov. Pat McCrory's administration and in the leadership of the N.C. General Assembly

took a number of steps to begin addressing those recommendations.

- Tax reform. Lawmakers reduced or eliminated dozens of special tax breaks and exclusions while replacing North Carolina's multirate personal income tax, with a top rate of 7.75 percent, with a flat-rate tax of 5.75 percent. The corporate tax rate drops from 6.9 percent to as low as 3 percent, if the state meets revenue growth targets.

"With one stroke, North Carolina's business tax climate improved from No. 44 in the nation to No. 17, according to the Washington-based Tax Foundation," said Roy Cordato, JLF vice president for research and resident scholar.

"Beyond the improved ranking, the decision to lower and flatten rates unquestionably meets the goal of a pro-growth tax reform. In many respects, North Carolina's tax reform legislation resembles the 'Plan B' scenario spelled out in the *First In Freedom* book."

- Budget reform. Legislators improved state government's balance sheet by boosting reserve funds, speeding up repayment of a \$2.5 billion debt to the federal gov-

ernment for unemployment benefits, and imposing a debt limit that forces lawmakers to seek voter approval before they can assume new state debt, Hood said.

"The General Assembly also gave Gov. McCrory the go-ahead to pursue competitive contracting for Medicaid services, which will make it more likely that future legislatures can devote a higher percentage of state revenue to public investment, rather than consumption," Hood said.

- Education reform. While increasing General Fund spending on public schools by 5 percent over last year's authorized budget, lawmakers also focused attention on important structural changes, said Terry Stoops, JLF director of research and education studies.

"Replacing teacher tenure with multiyear contracts, introducing merit pay, assigning schools performance-based letter grades, and strengthening charter schools all represent substantial re-

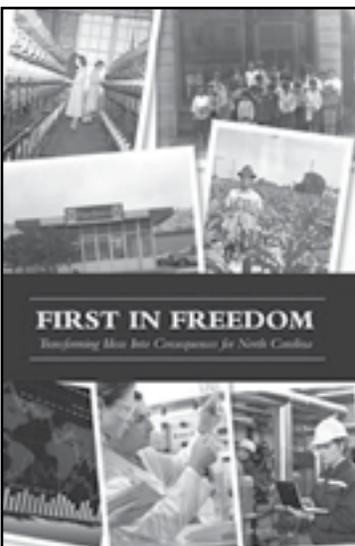
forms," Stoops said. "Legislators also agreed to offer private-school scholarships to as many as 13,000 students with below-average household incomes or special learning needs."

- Regulatory reform. Following up regulatory reform measures in 2011 and 2012, legislators took another significant step this year toward reducing the state's regulatory burden, said Jon Sanders, JLF director of regulatory studies.

"Among other things, the latest regulatory reform bill requires existing state rules to undergo regular reviews every 10 years," Sanders said. "Regulations that have become obsolete, along with those that generate more controversy and costs than benefits, will be more likely to go away. Research finds that 'sunset' provisions have a significant positive effect on culling unnecessary regulation, so with this reform state lawmakers are taking one of the best possible steps toward reducing regulatory overreach."

- Transportation reform. Lawmakers rewrote the state's funding formula for highways and other transportation infrastructure. "This change redirects dollars from pork-barrel projects to high-priority investments that will alleviate traffic congestion and create jobs," Hood said.

Taken together, this government reform package represents a "bold" choice, Hood said. "North Carolina's continuing economic woes motivated Republican policymakers to pursue major changes," he said. "Most of the changes they adopted are based on the best-available research into what makes economies prosper. Politicians in Washington and in other states should follow North Carolina's lead." CJ



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It also features the blog The Wild West, featuring commentary on issues confronting Western N.C. residents.

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State Briefs

McCrory vetoes

Gov. Pat McCrory issued the first two vetoes of his term in late August, rejecting measures that would require tougher screening of those receiving social welfare benefits and liberalizing some restrictions on hiring illegal immigrants.

McCrory vetoed House Bill 392, which would require criminal background checks on welfare recipients and allow counties to test applicants for illegal drug use, saying enforcement would not be uniform statewide and that the cost of such additional screenings would outweigh any potential benefits.

He also vetoed House Bill 786, a measure that would increase the use of the E-Verify system to check the legal status of immigrants seeking employment. It also would extend the definition of "seasonal" worker from the current 90 days to nine months. This provision was sought by farming interests so that they could hire more immigrant workers during the growing season. McCrory opposes the longer timeframe.

The governor called the General Assembly into session to consider overriding the vetoes beginning Sept. 3, after this edition went to press.

Regulatory reform bill

Gov. Pat McCrory signed House Bill 74, a sweeping regulatory reform measure, into law Aug. 23. The law will, among other things, set an expiration date on many state regulations. Jon Sanders, the John Locke Foundation's director of regulatory studies, calls that provision one of the most effective steps in fighting overregulation in North Carolina.

"Other kinds of regulatory reviews used in states across the nation proved to have little to no effect on reducing a state's total level of regulation, but sunset provisions had a significant effect, which translates into a strong, positive economic impact for a state," Sanders said.

Regulatory reform would have a minimal short-term impact on state government revenue, Sanders said. "Unlike tax reform, which deals with monetary distribution, cutting burdensome regulations essentially just gets rid of deadweight loss," he said. "Regulations are taxes on time. Restoring lost time to industry doesn't reduce the state's General Fund. Instead it encourages more entrepreneurship, more job opportunities, and more economic growth." CJ

Bill is Legislative Backup For Attorney General

Lawmakers worried about AG's lack of zeal in some cases

By DAN WAY
Associate Editor

RALEIGH

Rep. Paul "Skip" Stam, R-Wake, the House speaker pro tem, says a provision passed late in the General Assembly's session — giving lawmakers the right to intervene in lawsuits filed against the state — offers an insurance policy in case the attorney general provides what legislative leaders think is an inadequate effort defending state laws or constitutional amendments from litigation.

While Democratic Attorney General Roy Cooper and critics of the General Assembly's legislative agenda question the need (and even the legality) of the bill, an expert on the state constitution says allowing additional parties to intervene in lawsuits can ensure that the best arguments are presented in court.

Lawsuits are likely in a host of areas, from school choice to election reform to abortion. Cooper — whose office traditionally represents the state in such litigation — has expressed his opposition to some of the new laws publicly. Stam says the state needs a legal backstop.

"I don't think it's a lack of confidence in Cooper personally," said Stam, who pushed to add the standing-to-intervene language in Senate Bill 473, giving the speaker of the House and the Senate president pro tem the authority to join a lawsuit. "But on these high-profile [cases] that he has actually publicly attacked, you wonder."

One instance Stam cited was a letter Cooper sent July 26 to Gov. Pat McCrory opposing the election reforms in House Bill 589, such as fewer early voting days and requiring voters to show photo identification at the polls. Cooper called it "regressive legislation" and urged the governor to veto the bill.

"You may want to have the [General] Assembly have the option of presenting the case in a more positive light," an option enjoyed by legislatures in other states, Stam said.

"The pro-life bill [Senate Bill 353], although it is clearly, in my opinion, constitutional, I mean most every significant provision of it has already been upheld by the courts — [Cooper] attacked it as unconstitutional," Stam

said of a bill passed late in the session adding new restrictions on abortion clinics.

"So how does he defend a bill in court when a judge can just read back to him his statement that it was unconstitutional?" Stam said.

In several recent cases, state attorneys general have refused to defend state laws from court challenges. These instances added urgency to North Carolina's legislation.

"We had the spectacle in California and a couple of other states where the attorney general wouldn't defend their marriage amendment [a constitutional amendment banning same-sex marriage]. So as a result, even though a majority of California voters voted against same-sex marriage, California has same-sex marriage because the attorney general wouldn't defend it," Stam said.

Cooper's spokeswoman, Noelle Talley, thinks the concerns are overblown. "It is the duty of the attorney general under the law to represent the state when it gets sued, and that's what our office plans to continue to do," Talley said.

"The A.G. doesn't have to agree personally with a law in order for his office to be effective in defending it," Talley said. As examples, she pointed to the litigation surrounding redistricting and previous abortion cases.

Stam's theory may be tested soon. The Rev. William Barber II, president of the North Carolina chapter of the NAACP, has joined in lawsuits challenging the expansion of school choice and the election reforms.

"Our Constitution says that public education is a constitutional right, and when you undermine public education you're violating the Constitution, so we're going to be looking at several areas of lawsuits, public education, voting rights, and probably a couple others," Barber said.

He also disapproves of the standing-to-intervene legislation.

"It's never been done before that we know of, and even if it had it's still wrong because the A.G. is the constitutional office," Barber said.

"They're operating in the 19th century. They're trying to go backwards," he said of Republican lawmakers' passage of the bill.

Jeanette Doran, executive director and general counsel for the North Carolina Institute for Constitutional Law, does not share Barber's concern over the judicial standing legislation.

"I can tell you it's constitutional,"

Doran said.

"The people who suspect it might not be constitutional are people who do not understand that it is not in any way a diminution of the attorney general's authority. The attorney general would still represent the state, but the [legislative] leadership jointly could intervene and have their own counsel," Doran said.

"And in any event, the duties of the attorney general are not enumerated in the constitution. They are set by law, which, of course, is made by the General Assembly," she said.

She believes the trend of state attorneys general not defending state laws "is a big problem."

It also is a problem at the national level, she said, where U.S. Attorney General Eric Holder refused to defend the constitutionality of the Defense of Marriage Act provisions in the recent U.S. Supreme Court case *U.S. v. Windsor*.

"There needs to be a mechanism in place for that just-in-case scenario," Doran said.

Nevada, Utah, and California all have laws giving the legislature judicial standing, she said.

Stam said research he conducted before filing the bill shows Oklahoma, Wyoming, and a few other states have such laws.

Jon Griffin, policy specialist at the National Conference of State Legislatures, said no other state has enacted standing-to-intervene laws this year.

Doran said intervention allows a third party or another entity to join a lawsuit.

"They work alongside either the plaintiff or the

defendant, but they don't push out the plaintiff or defendant," Doran said.

"Intervenors have real participation in the case" and can present evidence, bring forth witnesses, and make motions, Doran said. "It's not just a sideshow."

"The attorney general could make one argument of why it's constitutional, and the intervenors could make a different argument. As long as either one of those would uphold the statute, the court would be required to uphold it," Doran said.

She said judges and attorneys in North Carolina are "all familiar with intervention. In fact, when we had our lottery case, the [left-leaning N.C.] Justice Center intervened. They were plaintiff intervenors representing Common Cause and NC Fair Share, and we worked collaboratively with them." CJ



Rep. Paul Stam

Legislators note Cooper's public attacks on some high-profile litigious issues

Auditor: State Unlikely to Recover Rural Center Interest Earnings

Wood says state has no policy to claim money from a private account

BY BARRY SMITH
Associate Editor

RALEIGH

State legislators have racked their brains trying to come up with ways to recoup \$20 million in interest the N.C. Rural Economic Development Center had earned — primarily on state tax dollars the center deposited in a private bank account.

But state Auditor Beth Wood told the General Assembly's bipartisan Program Evaluation Oversight Committee that they're likely out of luck.

The interest is "still with the Rural Economic Development Center," Wood, a Democrat, told the committee regarding the interest income. "The definition of monies that belong to the state are basically any monies that are on deposit with the state treasurer's office, and these monies where the interest was earned [were] deposited in a private bank."

Wood went on to say that the state has no policy for dealing with the interest, and the funds "were put in a private bank. And so the two of those



The North Carolina Rural Economic Development Center, popularly known as the Rural Center, is located at 4021 Carya Drive in Raleigh. (CJ photo by Don Carrington)

items makes it pretty much difficult for the state of North Carolina to get it back."

Wood reported to the committee on an audit released in July that assailed the Rural Center for the interest account, failing to monitor grants to ensure that their requirements were fulfilled, lax reporting standards, and excessive compensation for its president, Billy Ray Hall.

After the audit, Hall resigned. Days later, the General Assembly cut all funds for the Rural Center from the 2013-14 budget, setting up instead a division in the Department of Commerce to promote and oversee rural economic development.

Lawmakers from both parties queried Wood about the audit, and the \$20 million in earned interest.

"Does the state now have control over this \$20 million in some form or fashion, even though it's not deposited?" asked Sen. Ben Clark, D-Hoke.

"No, it remains with the Rural Center," Wood responded.

"We need to get our \$20 million back," said Rep. Julia Howard, R-Davie, who chaired the committee.

In response to a question by Rep. Marvin Lucas, D-Cumberland, Wood said that it would be difficult to know exactly how much of the \$20 million has not been spent because that

money is co-mingled in a bank account with other Rural Center funding.

Wood said state law requires interest earned on unused grant money provided to local governments to be returned to the state. She suggested, and lawmakers seemed receptive to, enacting legislation that would require interest parked in accounts at tax-funded nonprofits to be placed in the General Fund.

She said it could be similar to the federal policy on grants, which says that — unless specifically exempted — interest earned on grants returns to the federal government.

Wood said that other nonprofit organizations getting money from state government could be earning interest on taxpayer-financed grants. The N.C. Biotechnology Center was the one she said came to mind.

The final budget compromise was reached this year within days of Wood's crushing audit, in which she pointed fingers at the center and its leaders for misleading the public. The audit chided the Rural Center for paying its executives excessive salaries, failing to verify job creation and other performance measures for at least five years, and failing to enforce grant reporting requirements diligently.

The initial House budget provided \$16.6 million in General Fund spending for the current fiscal year and \$20 million next year. The initial Senate budget called for ending Rural Center appropriations.

Instead, a new Rural Economic Development Division will be housed within the Commerce Department. It will get \$11.3 million in state funding during the current fiscal year and \$13.3 million next year. CJ



Billy Ray Hall

The 2013 General Assembly cut all funds to the N.C. Rural Center

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N.C. Childhood Obesity Panel Looks at Government Home Visits

BY SARA BURROWS
Contributor

RALEIGH

The North Carolina Institute of Medicine's Task Force on Early Childhood Obesity Prevention, which has spent the last two years brainstorming new policy ideas to decrease obesity in children, soon may go beyond school cafeterias and private child care facilities and take its programs right through parents' front doors.

The task force's official recommendations are scheduled for release in mid-September. A previous set of recommendations published in 2009 by a related task force — the North Carolina Task Force on Preventing Childhood Obesity — focused on measures like removing sodas from school vending machines, banning most non-cafeteria foods on campuses, and cutting the fat out of milk in preschools and child care centers.

The new task force — created by the NCIOM at the behest of the Blue Cross Blue Shield of North Carolina Foundation, and staffed by many of the same government officials and health professionals as the earlier state task force — has taken the mission further, as minutes from its meetings indicate.

Visits by 'support workers'

At a June 2012 task force meeting, one presentation recommended sending "family support workers" to visit "at-risk" families in their homes weekly from the time a woman becomes pregnant until her child is 5 years old, to teach them how to eat.

The government employees would be responsible for educating and counseling parents about smoking, breast-feeding, supplemental feeding, nutrition, physical activity, sleep and "screen time." A slide in the presentation titled "Intervention" talks about how the family support workers would be responsible for "monitoring" the children's growth, encouraging exercise, and collaborating with medical and other care providers.

These efforts are contemplated because previous aggressive government intervention has failed. Poor children in North Carolina are just as fat as they were five years ago, says a report released Aug. 9 by the federal Centers For Disease Control and Prevention.

This lack of success has not deterred public-health officials, however, who are considering even more aggressive measures despite the failure of the previous ones.

Not just North Carolina

And it's not just a North Carolina problem. The CDC studied 12 million low-income preschoolers across 40 states, the District of Columbia, Puerto

Rico, and the U.S. Virgin Islands between 2008 and 2011 to determine the impact of state and local obesity prevention programs. The results are less than stellar.

Twenty-one states and territories, including North Carolina, saw no improvement in their rates of early childhood obesity over the four-year period. Nineteen states saw only slight improvement (less than a percentage point), and the states saw increased rates of obesity. Ten states were not studied.

The state and federal governments have been trying to reduce childhood obesity in North Carolina for years. Their most recent efforts include changing the foods available through the federal Women, Infants and Children program to include more low-fat options (2009); cutting the availability of whole-fat milk, flavored milk, and juice from — and requiring more exercise in — public and private child care centers (2010); and passing a resolution to reduce sodium in North Carolinians' diets and attempting to eliminate "competitive" foods — those competing with meals provided by the federal school lunch program — from schools (2011).

In 2012, a *Carolina Journal* report that a Hoke County school employee swapped a 4-year-old's homemade turkey sandwich for cafeteria chicken nuggets revealed that state regulations required all lunches served in both public and private preschools and child care centers in North Carolina to meet U.S. Department of Agriculture nutritional guidelines, even lunches brought from home.

Obamacare provision

The idea of having government employees perform in-home evaluations of "at-risk" children and families is not merely limited to state-run school nutrition programs.

As part of the "Maternal, Infant, and Early Childhood Home Visiting Program" of the federal Affordable Care Act, aka Obamacare, the U.S. De-

partment of Health and Human Services has been providing grants to state HHS agencies that send social workers to homes of children on Medicaid under certain circumstances: if the mother is younger than 21; a member of the household uses tobacco; one of the parents is or has been a member of the military; or at least one child in the household has low student achieve-

ment, developmental delays, or other disabilities.

According to Examiner.com, attorney Kent Masterson Brown, who was a lead attorney for the plaintiffs in one of the federal lawsuits chal-

lenging the federal health care law, said that the home visitation provision could be extended to include any family, not just those on Medicaid.

Durham pilot program

Another presentation at the June task force meeting discussed a home-visit pilot program called Healthy Families Durham — funded by the county, state, and federal governments. The program involves 11 "family sup-

port workers" visiting 170 "at-risk" families weekly or biweekly, depending on the family's stability, and offering "guidance" about nutrition, as well as keeping an eye out for abuse and neglect.

The workers are responsible for helping parents with recognizing "hunger cues and ways to know their children are full," weaning children from the bottle or breast, and making "appropriate transitions to healthy solid foods ... starting with finger foods."

They also "help parents navigate challenges with picky eaters and over-eating with individualized counseling and support" and distribute free fruit and vegetables during their visits.

Supporters of the interventions say the programs aren't failing; they'll just take a long time to produce results.

Kimberly Alexander-Bratcher, director of NCIOM's childhood obesity task force, told *The News and Observer* the results of the CDC study are "really exciting."

"Even states that showed a leveling and not a decrease — that's actually a marker of success, because what we've seen pretty much over the past 20 to 30 years is an annual rise in obesity rates," she said. "I wouldn't necessarily say let's celebrate — but things are moving in the right direction for our state."

Measuring success

"Even just stopping the increase represents a significant advance," said Kelly Brownell, dean of Duke University's Sanford School of Public Policy.

Brownell attributes the country's small advances against obesity to "aggressive" steps taken by the federal and state governments and suggests more action will need to be taken to make a real dent in the numbers.

Brownell is a longtime advocate of using government intervention to prevent obesity. In *Food Fight*, a 2003 book he co-authored, Brownell was one of the first academics to consider obesity a public-health problem, calling it an "epidemic." He also advocates special excise taxes on junk food and federal bans on food advertising that targets children.

But the expanding role of government worries advocates for parental autonomy and limited government.

Not everyone agrees that U.S. Department of Agriculture Dietary Guidelines — which are at the core of all of the above-mentioned programs — are the solution to childhood obesity. The Weston A. Price Foundation — a nonprofit dedicated to "restoring nutrient-dense foods to the American diet" — has been a long-time critic of the guidelines, arguing that they actually cause obesity.

"Current USDA dietary guidelines are based on the flawed notion that cholesterol and saturated fat are unhealthy," writes Sally Fallon, the foundation's president. "They are unrealistic, unworkable, unscientific, and impractical; they have resulted in widespread nutrient deficiencies and contributed to a proliferation of obesity and degenerative disease, including problems with growth, behavior, and learning in children."

In her critique, Fallon says several recent studies show "the restriction of natural animal fats actually leads to more obesity in both children and adults, while the refined carbohydrates, polyunsaturated and trans fats that frequently replace natural saturated fats contribute to weight gain and chronic disease."

While the debate over the ideal diet continues, the question of whether parents or the government will decide what kids are allowed to eat remains. *CJ*



A page from the Task Force on Early Childhood Obesity Prevention's handout on the home-visit program.

The federal government, too, is pushing home visits under Obamacare

Atkinson: Public Schools More Important Than Kids

BY BARRY SMITH
Associate Editor

RALEIGH
State Superintendent of Public Instruction June Atkinson said her concerns about allowing students to use vouchers to offset the cost of private schooling was more her principled support of public schools' role in modern society than the effect vouchers could have in meeting individual children's needs.

"It's not the individual, it's the society as a whole, where it worries me about the privatization of public education," Atkinson said. "It's a philosophical belief that public schools — public education — is at the core of our democracy, and is at the core of ensuring that we can prepare people to live with and work with people who are different than what one they have in a segregated environment."

Atkinson said she worried that the availability of vouchers would erode support for public schools.

"What concerns me is not that individual child, but what concerns me is as a society that we will slowly starve public education," Atkinson said.

Atkinson made the comments during a roundtable discussion with reporters Aug. 12 in downtown Raleigh. The UNC-Chapel Hill School of Journalism and Mass Communication's Program of Public Life sponsored the program.

The budget recently signed by Gov. Pat McCrory authorized \$10 million for the 2014-15 school year to cover "opportunity scholarships," or vouchers, of no more than \$4,200 each that would offset the tuition costs of low-income students who wanted to attend private schools. The funding would cover a portion of the expenses of private schooling for roughly 2,000 students the first year; approximately 1.5 million students attend K-12 public schools in North Carolina.

Terry Stoops, director of research and education studies at the John Locke Foundation, had qualms with Atkinson's comments.

"That's par for the course for someone in her position," Stoops said. "The Department of Public Instruction is not mindful of the needs of individual students."

Atkinson said the state had offered children with disabilities whose needs were not being met by the public schools the option of being served in another environment. The 2011-12

session of the General Assembly provided a tax credit to parents of special-needs children who enrolled in private school. The 2013 session changed that tax credit to a scholarship, allowing more low-income parents to qualify for the aid.

She also said that private schools that accept students with vouchers should face the same testing requirements as traditional public schools. She said parents need a "consistent measure" for parents to make decisions about whether to send their child to a public or private school.

Stoops said that while there was a means of providing private help for students with disabilities, it rarely happened.

"Few parents were ever informed of that option, and school districts did everything in their power to make sure that their child stayed at a public school," Stoops said.

As for the testing requirement, Stoops noted that private schools already are required to administer

standardized tests, although not the same ones that public schools use.

"The idea that parents are going to make choices blindly just doesn't hold up in the real world," Stoops said.

During the discussion, Atkinson handed out a chart showing recent per-pupil expenditures in the state's public schools, showing per-pupil spending dropped from \$5,779 during the 2008-09 school year to \$5,497 in the 2012-13 school year. She projected per-pupil spending would be \$5,452 for the upcoming school year. (You can view the chart at <http://bit.ly/13Ga2v3>)

Stoops noted that Atkinson's base year — 2008-09 — "makes believe that there wasn't a major recession that started in the fall of 2008." The state accepted millions of dollars in stimulus funding from the federal government and directed much of it to the state's public schools. In the graphic, the green and blue bars represent federal spending the state used for K-12 schooling.

Lawmakers in recent years "did a nice job making up for the stimulus loss," Stoops said, noting that federal stimulus dollars helped pay for school operating expenses for some of those years.

The public school budget increased from \$7.5 billion for 2012-13 to nearly \$7.9 billion for the 2013-14 fiscal year, an increase of 4.8 percent. CJ



June Atkinson

COMMENTARY

For Teachers, A Satisfaction Slide

In the classroom, nothing beats a good teacher. Abundant research affirms teacher quality as the most significant in-school predictor of student achievement. Teachers know they have the power to leave a profound imprint on the minds of students; for many, this core belief shapes their choice of teaching as an occupation.

Yet scores of teachers are withdrawing emotionally from their work. A pair of recent surveys paints a portrait of alarmingly low levels of engagement and satisfaction among K-12 teachers nationwide. Such findings call for corrective action empowering teachers, principals, and other decision makers closest to students.

According to a Gallup poll released Aug. 1, fewer than one in three teachers (31 percent) is fully engaged, defined as being "deeply involved in and enthusiastic about their work, and actively contributing" to their school. Other recent data chronicle a seismic shift in satisfaction: The latest MetLife Survey of the American Teacher found job satisfaction is now at a 25-year low, plummeting 23 points in five years, with a five-point drop in the past year alone. Only 39 percent of teachers are "very satisfied" with their jobs.

Why this satisfaction slide? Assuredly, teachers face myriad challenges — shifting budgets, excessive testing, complicated student needs, unreasonable parents — all of which can sap enthusiasm. But something else is afoot: Teachers today feel unbelievably stretched and marginalized. More than half in MetLife's survey experience "great stress several days a week." And they have a diminished sense of personal efficacy: "Teachers are the least likely of all occupations to say 'at work my opinions seem to count,'" according to Gallup.

Is the answer better leadership from principals? Gallup senior scientist Shane Lopez says so, highlighting ample work force data reinforcing the importance of good managers. Certainly, capable, responsive school leaders are essential, but they're only part of the solution. Principals themselves acknowledge that K-12 education has

changed considerably: Three out of four told MetLife their jobs had become "too complex." Though highly accountable, principals have substantially less decision-making power in certain key areas than they did a decade ago: Only four in 10 say they have "a great deal of control over curriculum and instruction."

Low control coupled with high expectations are a deadly duo, creating toxic work force stress. Anyone familiar with research on occupational strain knows this to

be true. Yet what priorities does current K-12 education policy reflect? Instead of maximizing local control, we have doubled down on federal mandates and directives. As U.S. Sen. Lamar Alexander, R-Tenn., (U.S. secretary of education 20 years ago) wrote recently in *National Review*, "Over the last decade, the U.S. Department of Education has become so congested

with federal mandates that it has become, in effect, a national school board."

Indeed, the No Child Left Behind law intensified a top-down approach to reform that shows no signs of abating. Federal mandates have been followed by waivers that freed states from NCLB burdens only to stipulate new requirements, including the adoption of "common" standards or those certified by state higher education institutions. Not surprisingly, most states, including North Carolina, have chosen the Education Department-supported Common Core, an unprecedented educational shift that will drive curriculum and diminish educators' already-eroding autonomy in the classroom.

When will our love affair with top-down reform end? The writing is on the wall: Increasingly, classrooms are becoming regimented boiler rooms governed by disembodied bureaucrats. Of course we need accountability and high standards, but states, and ultimately, local school boards and communities should be the drivers of educational change. Otherwise, the next slide for fed-up teachers just may be the one out the door. CJ

Kristen Blair is a North Carolina Education Alliance fellow.



KRISTEN BLAIR

Critics: Board Disciplinary Policies Meant to Stifle Dissent

BY DAN WAY
Associate Editor

RALEIGH

School boards in Wake and Buncombe counties are pursuing disciplinary policies they say are necessary to prevent rogue board members from bringing their school systems into disrepute. Critics say they're pure intimidation tactics meant to silence critics and cover up problems.

"I can see people's concerns about it being a possible intimidation factor," but they are unfounded, said Amy Churchill, a newly elected member of the Buncombe County Board of Education and the primary catalyst behind its censure policy, which could be voted on at the board's Sept. 5 meeting.

"It's basically a little smack on the hand, make sure you don't do that again," Churchill said. "It's just a statement of displeasure. There's no way it could be used to throw somebody off the board."

The Buncombe board is putting together "a step-by-step guideline to make sure that it is not done randomly and for vindictive reasons," she said.

"I think that's what people are missing who are against this policy. It is "a good thing for all board members" to have a written policy to protect against retaliation, Churchill said.

"The censure is a consequence for not following the ethics policy," she said. It is not a cudgel to stifle dissent. She did not mention names, but said actions of one board member prompted her to explore the policy.

"I do think it's targeting me," said Lisa Baldwin, a lightning rod as the board's most conservative member. "I think my board does not like it when I ask a lot of questions. I have to ask a lot of questions because I don't get the data" from other board members or staff, she said.

"I've been asking a lot of questions lately about the purchase of property that we don't need. Our enrollment has been pretty much flat," she said.

The censure policy states that, by a two-thirds majority vote, the school board "can reprimand or condemn the actions of a member for any violation of law or policy or any other conduct committed by a board member which tends to injure the good name of the Buncombe County Board of Education and/or undermines the effectiveness of the Buncombe County Schools or the Board of Education."

The school board also could ask a member to resign, refer conduct to the district attorney for possible criminal charges, or issue a letter of warning about future conduct.

Baldwin said the language lacks specificity, and could be interpreted broadly and with malice. That could make a board member less effective, and affect elections by turning public



Wake County school board attorney Jonathan Blumberg explains the disciplinary procedures being considered at the board's Aug. 20 meeting. (CJ photo by Dan Way)

sentiment against the ostracized member during campaigns.

She sent a copy of the proposed censure policy to the North Carolina School Boards Association for feedback. Janine Murphy, the association's assistant legal counsel in charge of its model policy manual "Policies to Lead the Schools," reviewed it.

Baldwin said Murphy "thought the censure policy was wonderful. She said, 'I would recommend it to other school boards as a model policy [for consideration].'"

Murphy offered a different account. "Our base policy manual does not have a policy on censure. We don't even have that word in any of our policies because, from our perspective, censure is not legally mandated," and is "rare" as a policy, she said.

The association has a removal policy because "there are laws about board members being removed if they commit felonies and things like that, but the district attorney would have to do that," Murphy said. "Board members do not have legal ability to remove one of their own."

She speculated that, without naming anyone, there are board members who might wear censure as a badge of honor — "Look, I got this because I'm kicking up the dust and they don't like the fact that I'm kicking up the dust," Murphy suggested.

Censure is "more of a political question than a legal question," Murphy said. "So it's not being pushed by the North Carolina School Boards Association at all."

Wake County school board member Deborah Prickett doesn't buy that.

The Wake County policy, which was approved 5-3 on first reading Aug. 20, "came from the School Boards Association," Prickett said. "They're the one who tried to start putting this policy in school boards across the state." The Wake County policy closely resembles the Buncombe proposal.

"I just think this policy seems to be more of a muzzle [rather than a way to enforce] ethics. If you read through

the policy there's not a lot of ethics to it," Prickett said. She described the Wake policy as "a power grab" not based in law.

"It seems to be politically driven to me because now there are very few Republicans on the board. The election's coming up" in November, and majority Democrats could use the censure process to cast GOP board members in an unfavorable light to the voting public, Prickett said.

State law requires only that school board members earn two hours of ethics education within 12 months of assuming office and take 12 hours of ethics training annually, she said. She said she would not sign the ethics policy if it passed.

At the Aug. 20 meeting, school board attorney Jonathan Blumberg said the word "censure" was removed from the policy due to objections by some board members. The policy still allows "reprimands." Language interpreted by some as preventing free-

flowing communication with constituents also was stricken.

Board Chairman Keith Sutton said the policy is "not intended to be a tool for a witch hunt, but again [to] give us an organized and systematic way to address the misconduct or bad behavior of board members." Students and teachers have a code of conduct, "and there's no reason we shouldn't have one as well," he told board members.

Board member Susan Evans, who voted with Prickett and John Tedesco against the policy, expressed "conflicted feelings."

"I must admit that based on the contentiousness that I've observed on this board I do have some fear that certain board members might use this frivolously to [conduct] witch hunts for other board members," Evans said.

"They are high standards, and I think as an elected body we need to hold each other accountable," said board Vice Chairwoman Christine Kushner.

Tony Rose, chairman of the Alamance-Burlington Board of Education, said that school board created an ethics policy about two years ago, "but it does not contain the censure language that Buncombe and Wake County are considering."

"I can say that we have had no discussions regarding having such nonsense here," Rose said. "I am shocked and appalled that the North Carolina School Boards Association and legal representatives are endorsing such governmental-sanctioned gag ordering."

Rose said when a board majority passes policies "designed to squelch the voices of certain [dissenting] members, it is the public who suffers." CJ

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It also features the blog Piedmont Publius, featuring commentary on issues confronting Triad residents.

N.C.'s School Boards Preparing to Embrace Political Advocacy

By DAN WAY
Associate Editor

RALEIGH

Alarmed by what it perceived as a legislative agenda that was encroaching on local school boards' oversight of education, and unnerved by a lack of support from the business community, the North Carolina School Boards Association has created an advocacy organization to protect its interests and promote its agenda.

Government watchdogs and some local school board members are wary of the organization using tax money to lobby for still more public money for schools and using tax funds to promote a political agenda for tax-paid elected officials.

"Local school board authority is coming under attack by a growing chorus of political and business leaders who believe that school boards are not doing what is needed to effectively educate our children and that school boards are, in fact, one of the biggest impediments to educational progress and reform," stated an Aug. 7 memorandum sent statewide to local school superintendents and school boards.

The memo was released jointly by Evelyn Bulluck, the association's president, and Tim Morgan, a member of the NCSBA board of directors and president of the newly created North Carolina School Boards Action Center, a 501(c)4 advocacy organization.

The memo said the Action Center, created April 26, will operate under an IRS tax structure that allows for greater lobbying and grass-roots activity than the NCSBA has under its 501(c)3 charter.

The Action Center's board of directors comprises four school board

members on the NCSBA board of directors, and five school board members who do not sit on the association's board.

"What we face today is a battle for survival, both of public education as we know it and of the model of the locally elected board governance of public school system operations," the memo said.

"Our ability to endure in the face of these extraordinary challenges requires that we recognize and accept the changed environment in which we operate and embrace new ideas and concepts in how we advocate," the memo said.

"We're facing challenges not only from the General Assembly but things that are coming from [the state Department of Public Instruction]," Morgan said in an interview.

"There's a lot going on right now, a lot of different narratives, and the board felt that it was important for us to be in position, not only for the [2014] short session but to gear up for the [2015] long session a year out, to make sure our voices are heard and to be able to communicate with the general public, with parents, with teachers, with

educators to make sure they're aware of our issues and concerns that we're working on," Morgan said.

"I am not surprised that the NCSBA plans to escalate their advocacy efforts. The current Republican leadership in the state legislature is not as compliant as their Democratic predecessors were. And compliance

was good for business," said Terry Stoops, director of research and education studies at the John Locke Foundation.

"North Carolinians should demand that their local school board refuses to fund the N.C. School Boards Action Center. Tax dollars have no business being used to further the political agenda of any organization, let alone

one that operates far from the mainstream," Stoops said.

"The NCSBA had two options — either cultivate strong relationships with the current leadership in the General Assembly or try to replace them," he said. "By choosing the latter, they decided to be bridge burners, rather than bridge builders, in their approach to the legislature."

Jane Pinsky, director of the N.C. Coalition for Lobbying and Government Reform, also was wary of funding for the Action Center.

"I don't know that I'm crazy about them spending tax money for advocacy," Pinsky said. "If individual school board members want to pay for it with their own money that's one thing, but public money raises questions."

She further questioned the need for greater lobbying, noting that the School Boards Association already has two lobbyists. One of them, Leanne Winner, has been named by the N.C. Center for Public Policy Research as one of the most effective lobbyists in the General Assembly.

"I'm not by nature anti-education [or] anti-advocacy. But this doesn't

make a lot of sense to me," Pinsky said. She believes most parents already are familiar with education issues and what school boards do.

Bryan Shoemaker, a member of the Iredell-Statesville Schools Board of Education, said he received a memo from the School Boards Association about creation of the Action Center.

"The memo does not tell me what our district will be getting for the \$6,000 contribution," Shoemaker said. The annual allocation is on a sliding scale based on school district enrollment.

"To date, our system has not discussed joining this new group. We plan on discussing it at our Sept. 3 board meeting," Shoemaker said. "I would like to know more about what type of 'advocacy and grass-roots engagement' this organization will be involved with."

The school district is laying off employees, and without further information, "I do not feel like we can justify spending any money for something we can do on our own for free," Shoemaker said.

"Most of our board members have great relationships with our General Assembly members already," he said.

Morgan, vice chairman of the Charlotte-Mecklenburg school board, said starting in September, Action Center officials will meet with local school boards at eight regional meetings.

The legislative agenda will be based on feedback from those face-to-face meetings, and put to a vote of members at the school boards association's annual meeting in November.

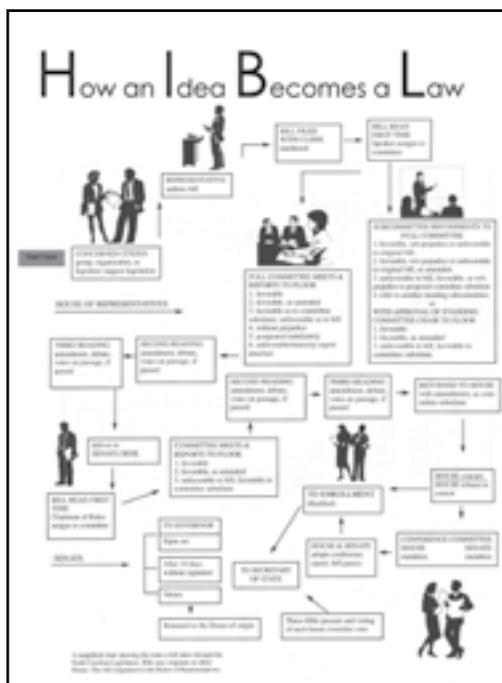
The Action Center could hire lobbyists, Web

page editors, marketing personnel, and other staff as needed. Efforts could involve both grass-roots education and activism.

A school board's decision to join the Action Center is voluntary, and it is up to them to determine the source of annual fees.

"If they want to use tax dollars, they could. If they want to go out and have businesses or others pay for it in their behalf, they could do that," Morgan said.

Items likely to appear on the Action Center's legislative agenda include efforts by counties to take ownership of school properties, new DPI testing models used in Measures for Student Learning, pay-for-performance for school teachers, and restoration of pay increases for teachers who earn master's degrees, Morgan said. *CJ*



A page from the N.C. School Boards Association's Legislative Lobbying Manual.

The newly created
N.C. School
Boards Action
Center will direct
board activism

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Finished reading all the great articles in this month's *Carolina Journal*? Don't just throw it in the recycling bin, pass it along to a friend or neighbor, and ask them to do the same.

Thanks.



Town and County

W-S BID tax

The Winston-Salem City Council has scheduled an Oct. 7 public hearing to discuss a proposed business improvement district, the *Winston-Salem Journal* reports. If approved, the special district would impose a tax on downtown property owners, with the proceeds spent on additional trash pickup and cleaning services, security patrols, and other measures intended to make the downtown area safer and more inviting to visitors. The proposed tax rate of 9 cents per \$100 of taxable property would generate nearly \$500,000 in revenue annually, the newspaper reports.

Business owners who rent office space downtown have expressed concerns that their landlords would increase rents to cover the cost of the tax. Mark Dunnagan, chairman of the Downtown Business Partnership, a business group pushing the tax, said the property owners would have the option of passing along higher costs.

If the council approves the business improvement district, it would take effect July 1, 2014.

Business incubator

The city of Raleigh has withdrawn financial support from a business incubator after an audit found significant financial irregularities, says the *Raleigh News & Observer*.

The audit of the Raleigh Business and Technology Center was ordered in February, 15 months after a city official expressed concerns about the center's finances. The audit found \$65,000 in cash was missing, and several questionable loans and other payments were made to the center's leaders or groups associated with them. RBTC's nonprofit status was revoked last year for not filing disclosure forms with the Internal Revenue Service. The center also owes payroll taxes to the IRS.

The city regularly had provided support to RBTC since 2000, including \$149,000 last year. The center operates out of a city-owned building, though Raleigh is trying to evict the group.

"I understand there are concerns that the current management group, Raleigh Business & Technology Center Inc., is not providing a quality environment for business incubation," wrote city auditor Martin Petherbridge in November 2011 to the city's chief information officer, who was in charge of overseeing the center. CJ

Debt Instrument Extended by Legislature

By DAN WAY
Associate Editor

RALEIGH
State Sen. Jeff Tarte, R-Mecklenburg, believes Special Assessment District revenue bonds may be the fairest method of taxation for economic development infrastructure projects, even if the financing instrument attracted only one successful applicant in the five years the bonds have been an option for local governments.

"You have to have the majority [of property owners] agree to, in a sense, tax themselves, so if you're going to do a tax district, at least from a conservative perspective, a pretty good way is to allow people to select whether to pay it," Tarte said.

Tarte was one of the sponsors of Senate Bill 103, extending the statute from its July 1 sunset date to July 1, 2015.

"There were a couple of developments that had come to us and asked for it to be extended," Tarte said. The legislation allows them "to keep some new options open [and] to try to stimulate economic development."

"There have only been two applications received by the Local Government Commission for special assessment financing, and one of those applications [Mooresville] was withdrawn by the applicant," said Schorr Johnson, press secretary for the N.C. Department of State Treasurer, which oversees the Local Government Commission.

"Local governments and developers have a variety of ways to finance their public infrastructure needs including special assessment revenue bonds," Johnson said.

"The decision on which type of financing to use depends on a variety of factors related to economics, public policy objectives, the specific details of the project, etc.," he said. "Most likely a combination of these factors explains the limited use of special assessment revenue bonds in North Carolina."

The law, which took effect in August 2008, allows counties and municipalities to create Special Assessment Districts within which public improvement projects are added with the intent of enhancing the value of the property.

A majority of property owners within that geographic area must seek the town-approved revenue bonds, and those owners must control 66 percent of the assessed value of the district.

It is unclear just how many comparable financing instruments exist.

Spokesmen for the National Conference of State Legislatures and the North Carolina League of Municipalities said they do not track the number of Special Assessment Districts funded by revenue bonds.

Kara Millonzi, associate professor of public law and government at the UNC School of Government, said other forms of special assessment funding have been used more frequently in North Carolina than the revenue bonds and Special Assessment Districts.

"I can't answer why local governments choose which avenues they use. There's obviously an array" of funding options, Millonzi said. "I don't know of anyone who's out there studying ... whether this is a good option for local governments or not."

The School of Government has no official opinion on the merits of various funding streams, she said.

"It looks like Hillsborough is the first and only local government to use the provision for the Special Assessment District bonds," said Hillsborough Town Manager Eric Peterson. The Town Commission approved its application June 24; the Local Government Commission approved it the

following day.

"We like the Special Assessment District financing tool. In certain situations, it just makes it easier to go forward with economic development," Peterson said. "Hopefully, this will work and be a good example that might be able to be used in other parts of the state."

Hillsborough is working with Dallas, Texas-based Stratford Development on a \$5.1 million bond issue with a 10.5-year payback for infrastructure construction at its 330-acre, \$300 million Waterstone multiuse project between Interstates 40 and 85. A bond sale is planned tentatively for early September.

The \$5.1 million primarily would pay for road construction to connect the development, which has seen little activity in recent years, with a four-way intersection to the nearby Cornwallis Hills subdivision and Old N.C. Highway 86, Peterson said.

The bond would be used to complete an abandoned community park, complete minor infrastructure cleanup from prior phases, and pay for the first two years' debt payments on the bonds and administration, cost of issuance, and interest, Peterson said.

Durham Technical Community College built a satellite campus in Waterstone. A \$200 million UNC Health Systems hospital is under construction, while hotels, single-family houses, townhouses, apartments, and retail offices are included in the master plan.

Mooresville Town Manager Erskine Smith said his town might again pursue a Special Assessment District for the \$2 billion Langtree at the Lake mixed-use community bracketed by Interstate 77 and Lake Norman.

The town previously withdrew its application for \$66 million in revenue bonds due to the sour economy, incomplete information from the developers, and a change in ownership of the project, but those situations have been resolved.

The bonds were intended to pay for water and sewer lines, sidewalks, curbs, storm drainage, gutters, and other infrastructure in a first phase of construction of a convenience store/gas plaza, restaurants, and the first of five buildings housing 300 apartments.

"They'll probably file another one in the next coming months" for phase two, Smith said of R.L. West Properties, the developers. It includes a 12-story DoubleTree hotel with condos, office, and retail space; a parking deck; and convention center.

The town board plans to hold a workshop with financial consultants First Southwest and an attorney who's handled similar projects in other states.

"I think there's a kind of a split on our board. Some don't think that's the town's role in financing projects even though the legislature put this in," Smith said.

"And then there's some who say because of the economic downturn, it's just another way to secure another type of financing vehicle to put in infrastructure to help grow the tax base and spur development to keep the economy going, and increase our tax base and other amenities they may put in for the public's use," Smith said.

Tarte said he and Sen. Fletcher Hartsell, R-Cabarrus, a lead sponsor of the statute extension, believe the financing mechanism will become more active soon.

"There's longer-term projects that are looking at the use of it," including one to add a new interchange on I-77, Tarte said. And the Charlotte Area Transit System has looked into a Special Assessment District "as a way to fund buildout of the transit lines." CJ



Greensboro Takes First Steps Toward Performing Arts Center

BY SAM A. HIEB
Contributor

GREENSBORO
Game changer." "Reinventing our city." "Ensuring the future of our city."

Lofty rhetoric for a performing arts center, but that's the way the majority of the Greensboro City Council views the proposed \$60 million downtown performing arts center.

The council took a major step toward making the performing arts center a reality when it voted at its Aug. 20 meeting to purchase several tracts of land downtown at a cost of \$7.6 million.

The purchase of the tracts covered several motions on the council's agenda, but each vote went the same way — 6-3 in favor, with council members Tony Wilkins, MairKay Abuzuaiter, and Dianne Bellamy-Small voting "no."

Indeed, a performing arts center has been an issue in Greensboro for some time now. The city has the 23,000-seat Greensboro Coliseum, which regularly has hosted the ACC basketball tournament and also draws big-name concert acts.

But events drawing a smaller audience — Broadway shows, for example — are left to the adjacent War Memorial Auditorium. Now more than 50 years old, the venue has fallen into bad repair.

Voters twice have rejected bond referendums to renovate War Memorial, leading city leaders to believe a better approach would be to start from scratch. As a result, War Memorial seems destined to become a parking lot that will generate revenues to help pay for its successor.

City officials estimate the \$9,000 in annual savings by demolishing War Memorial — plus the revenue the premium parking will generate — will help cover an estimated \$388,000 operating deficit.

GPAC was pitched as a public-private partnership, with the city contributing \$30 million using Guilford County hotel-motel tax funds.

Earlier, the Republican-majority Guilford County Board of Commissioners voted 7-2 to approve the use of hotel-motel tax funds for the performing arts center.

As for private donations, the original goal was \$20 million, raised by the nonprofit Community Foundation of Greater Greensboro. The Community Foundation has met that goal, but now

the bar has been raised to \$30 million, as stated in a memo from Greensboro City Manager Denise Turner Roth.

During the meeting, Wilkins repeatedly raised the issue of the \$10 million shortfall. Wilkins also made a motion that the council pass a resolution stating that no property tax dollars would be used to fund GPAC. The motion died for lack of a second.

"You know why we won't assure taxpayers that we're not going to use their money — it's because we know we are," Wilkins told *CJ*.

The way Wilkins sees it, the city is "putting the cart before the horse" by purchasing land when there's still a funding deficit.

"How do we as a council — supposedly good stewards of taxpayers' money — spend \$8 million [on land] when there's a \$10 million gap in the project?" Wilkins said. "It doesn't make sense to me."

Wilkins contends the \$7.6 million figure to purchase the land is not accurate, given that the city might have to buy

out the leases of current tenants.

"It may be an insignificant number, or it may be a larger number," Wilkins said.

Fellow council member Nancy Vaughan, a GPAC supporter, disputes that view, adding if anything the leases will offset the cost of the land.

"If we own those properties, then we start getting those lease payments," Vaughan told *CJ*.

Vaughan added that she's confident the private sector will come up with the additional \$10 million.

"I think we will have that question resolved by late September," she said. "So, yeah, I'm pretty confident additional funds will come in."

The questions still did not deter the performing arts center's proponents, especially Mayor Robbie Perkins, who is facing a challenge from fellow council member Vaughan in the upcoming municipal election.

Perkins has taken a lot of heat in recent months for his personal and financial problems — he filed for bankruptcy earlier this year and has been taken to court by his ex-wife over alimony and child support payments.

Perkins said that as mayor he's taken a lot "dings" this year, but it did not deter his support for the performing arts center.

"Why do we do this?" he asked. "Because we can change the city." *CJ*



COMMENTARY

Airline Merger No Slam Dunk

To the surprise of industry observers, the U.S. Department of Justice in August filed a lawsuit to block the pending merger of US Airways and American Airlines. Contrary to much howling in the press and from the companies, unions, and communities involved, the DOJ's action was far from unreasonable.

Many, including the editorial boards of *The Charlotte Observer* and the *Chicago Tribune*, have questioned DOJ's action, arguing that US Airways and American are entitled to merge because the Justice Department hasn't objected to earlier mergers of big airlines.

Just because such household names as Delta and Northwest were allowed to merge in 2008, and United and Continental merged in 2010, does not make those mergers identical to the proposed deal between American and US Airways.

Each airline had its own strengths and weaknesses. And when this round of mergers began, American far and away was the largest U.S. carrier. The airline industry has evolved over the past five years, going from the depths of the Great Recession to strong profits today.

A key argument DOJ makes in its complaint highlights this point. The government notes that US Airways' business model is fundamentally different from American, Delta, or United. US Airways' hubs are in smaller cities than its competitors — yes, that is a reference to Charlotte — and it doesn't get the same sort of revenues. To compensate, it must compete more aggressively for connecting traffic, offering what it calls "Advantage Fares," lower prices for a connection than American, Delta, or United do for a nonstop flight.

In city pairs where US Airways is not a factor, American, Delta, and United do not undercut each other in this manner, typically pricing a connection the same as their rivals' nonstop flights. Consumers have little reason to take a connection.

"The bottom line is that the merged airline would likely abandon Advantage Fares, eliminating significant competition and causing

consumers to pay hundreds of millions of dollars more," said the DOJ in its complaint.

Another contention made against DOJ's intervention is that the merger is needed to keep US Airways and/or American afloat. The DOJ counters that both airlines' management had stated repeatedly before the merger was announced that they could survive as stand-alone entities.

And while American Airlines is operating under Chapter 11 bankruptcy protection, it has used the process to shed costs and become a formidable competitor, aiming to expand aggressively. Delta, Southwest, United, or US Airways aren't doing that now.

Indeed, the government argues that "after the merger, US Airways' current executives — who would manage the merged

firm — would be able to abandon American's efforts to expand and instead continue the industry's march toward higher prices and less service. As its CEO candidly stated earlier this year, US Airways views this merger as 'the last major piece needed to fully rationalize the industry.'"

One can argue that much of antitrust policy is misguided, in that free-market forces develop new technologies and products that make existing monopolies and noncompeting oligopolies obsolete. Alas, the development of transporters a la "Star Trek" hasn't happened yet, so for the foreseeable future, airplanes are the most feasible way to travel large distances. Maintaining a competitive airline industry, as opposed to one characterized by a few oligopolists that see a need to compete against each other only in a few markets, would benefit all Americans.

Lawyers for US Airways and American are free to rebut the government's claims and show how their merger would promote competition. To argue that the merger is inherently good for consumers, though, ignores airline market realities in 2013. *CJ*



MICHAEL LOWREY

Michael Lowrey is an associate editor of Carolina Journal.

Court: Sex Offenders Can't Be Barred From Social Media

By MICHAEL LOWREY
Associate Editor

RALEIGH

In a unanimous opinion, the state's second-highest court has struck down as unconstitutional a state law prohibiting registered sex offenders from accessing social media sites such as Facebook.

Attorney General Roy Cooper, who lobbied for passage of the 2008 Protect Children From Sexual Predators Act, will ask the N.C. Supreme Court to overturn the opinion, according to The Associated Press. "The law is broad because technology moves fast, and we don't want predators and child pornographers to use legal loopholes," Cooper said.

The 2008 law banned sex offenders from using social media sites on the Internet that allow minors to create profiles. Lester Gerald Packingham was convicted of taking indecent liberties with a child in 2006 and thus became a registered sex offender. To enforce the law, the Durham Police Department examined profiles on Facebook and MySpace and came upon one that officers recognized Packingham had created.

At trial, a Superior Court judge rejected Packington's claim that the law was unconstitutional. After being convicted by a jury, Packingham was given a suspended prison sentence and placed on probation for a year. He then appealed.

"Defendant challenges N.C. Gen. Stat. § 14-202.5 (2011) on the basis that it violates his federal and state constitutional rights to free speech, expression, association, assembly, and the press under the First and Fourteenth Amendments. Additionally, he asserts that the statute is overbroad, vague, and not narrowly tailored to achieve a

legitimate government interest," wrote Judge Rick Elmore for the N.C. Court of Appeals. "We agree."

The appeals court noted that Packingham's First Amendment rights to freedom of speech and association clearly were restricted by the law. Existing U.S. Supreme Court case law subjects such content-neutral restrictions to "intermediate scrutiny," requiring them to be "narrowly tailored to achieve a significant governmental interest."

North Carolina appellate courts have not addressed the constitutionality of the state's ban on sex offenders using social media. Federal courts have, however, struck down similar bans in Nebraska and Indiana. The appeals court found the logic behind those decisions persuasive and cited them.

For example, the 7th U.S. Circuit Court of Appeals, in striking down Indiana's law, held that "there is nothing dangerous about Doe's use of social media as long as he does not improperly communicate with minors. Further, there is no disagreement that illicit communication comprises a minuscule subset of the universe of social network activity. As such, the Indiana law targets substantially more activity than the evil it seeks to redress."

The N.C. Court of Appeals also held the state's statute was not focused tightly enough, as it applied to all sex offenders, whether the victim was an adult or a minor.

"The application of this statute is neither conditional upon showing that

the offender previously used a social networking website to target children, nor does it require a showing that the offender is a current threat to minors," wrote Elmore.

"Accordingly, the statute is not narrowly tailored because it fails to target those offenders who 'pose a factually based risk to children through the use or threatened use of the banned sites or services.' In essence, it burdens more people than necessary to achieve its purported goal."

The appeals court also found the law too vague. Elmore noted that while most people would assume that the law applied only to websites like Facebook and MySpace, its actual sweep was much broader.

The law prohibits sex offenders from accessing sites that are "commercial" (derive revenue), "social" (promote the introduction of individuals), and facilitate "networking" by creating personal profiles or communicate with others via message boards, chat, etc. The law could cover not only Facebook and MySpace but also sites such as foodnetwork.com or even Google or Amazon.

Another problem the appeals court found with the statute is that it prohibits a sex offender from "accessing" a website that he knows permits minors to become members. "Accessing" means "the act of approaching," which is to say a sex offender would violate the law merely by clicking on a prohibited website, even if he leaves it immediately when he realizes he

shouldn't be there.

"Furthermore, by its plain language, it is assumed that every offender inherently 'knows' which websites are banned," Elmore wrote. "However, given the vague definition of 'commercial social networking website' and its broad reach, it is fundamentally impossible to expect an offender, or any other person, to 'know' whether he is banned from a particular Web site prior to 'accessing' it."

The appeals court also noted that the General Assembly can and has enacted laws aimed at protecting children on the Internet that do not undercut First Amendment rights. Examples include prohibiting cyber-stalking, banning the solicitation a child by computer to commit an unlawful sex act, and requiring registered sex offenders to provide the state with "[a]ny online identifier the person uses or intends to use."

"In sum, we conclude that N.C. Gen. Stat. § 14-202.5 is not narrowly tailored, is vague, and fails to target the 'evil' it is intended to rectify. Instead, it arbitrarily burdens all registered sex offenders by preventing a wide range of communication and expressive activity unrelated to achieving its purported goal. The statute violates the First Amendment's guarantee of free speech, and it is unconstitutional on its face and as applied."

N.C. Court of Appeals rulings are binding interpretations of state law unless overruled by the N.C. Supreme Court. Even though Cooper will ask the Supreme Court to review the opinion, the justices are not required to reconsider unanimous decisions from the Court of Appeals.

The case is *State v. Packingham*, (12-1287). CJ



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Financially Strapped Civil Rights Museum Seeks City Help

By SAM A. HIEB
Contributor

GREENSBORO
It's been more than 50 years since four North Carolina A&T State University students made history by taking a seat at the segregated Woolworth's lunch counter in downtown Greensboro.

Today the Woolworth's is no longer a dime store, but the site where the historic sit-in movement was born is still the center of controversy.

In 2010 — the 50th anniversary of the sit-ins — the International Civil Rights Center and Museum opened at the newly renovated Woolworth's location. The celebration was broadcast live on local television stations. The Rev. Jesse Jackson was in attendance. It was a day of remembrance for Greensboro, the state, and the nation.

But more than three years later, the museum finds itself in dire financial straits and is asking the City of Greensboro for help. Without that help, museum leaders say, the danger is real the museum could shut its doors.

City leaders and residents have made it clear they want the museum to succeed. The question is whether taxpayers should bail it out, either in the

form of a grant or a loan.

That question was debated during a recent City Council meeting. The museum is asking for \$1.5 million in funds to help it get through a difficult — and complicated — period during which it must retire millions in debt owed to satisfy earlier tax credits obtained from the federal government.

"If we meet the ... tax credit obligations, everything's fine," former state Rep. Earl Jones, a museum founder and board member, told the council. "If we don't, it is not."

In preparation for the museum's request, the City of Greensboro did its own audit based on documentation the museum provided. The audit concluded the museum has a staggering \$30 million debt.

The museum has "experienced financial challenges with debt service payments coming due and trying to lower operating expenses and overhead costs while experiencing declin-

ing donations and revenues," the audit reads.

Making matters worse, the audit also notes the museum property took an \$8.7 million loss between book value and fair market value.

Since its high-profile opening in 2010, museum attendance has lagged. In 2012 the museum attracted a mere 57,000 visitors — far short of the projected 200,000 visitors annually.

Leadership also has been a question mark. The museum board chairman is former Guilford County Commissioner Skip Alston, who has been no stranger to controversy during his 20-plus years in

local politics.

Following calls from two local media sources — the African-American publication *Carolina Peacemaker* and Greensboro *News & Record* columnist Allen Johnson — for Alston to step down, he announced his resignation as board chair hours before the City Council meeting. Alston will, however, remain on the museum's board.

Alston did not respond to a request for an interview. But he told the council that a new chairman is "just what the museum needs at this date in time."

Council discussion and debate grew even more complicated when wording in the agenda changed from a \$1.5 million grant to a loan. As a result, the council ended up voting to table the issue and take it up again, possibly

at its Sept. 3 meeting.

While a majority of council members most likely favor a loan over a grant, allowing the city the possibility of getting its money back, setting the terms of a loan was a complicated issue the council did not want to approve immediately.

"You can't just shift gears and call it a loan when we don't know what the details are," council member Tony Wilkins said in a phone interview. "I wouldn't consider a grant with the knowledge I have now. If we could come to terms on a loan, I would listen with an open mind, but I wouldn't even consider a grant."

"If anything happens, it will be a loan," council member Nancy Vaughan said in a phone interview. "I don't think the vote [for the grant] would have passed, so this gives us some opportunity for more discussion."

Just how transparent the museum has been about its financial records also is in dispute. The city audit praised cooperation on the part of museum chief financial officer John Paine in providing information, and museum officials also allowed the media and Mayor Robbie Perkins to sit in on a conference call with its lenders.

The problem is, no matter how much information the museum has provided, it still hasn't provided an official third-party audit — which the museum is asking the city to fund.

"There's absolutely not enough information, and it's unrealistic to go to the city and ask for a \$1.5 million loan when you don't have your last three years' audits," Wilkins said. "Go to a bank and ask for that, and see how far you get." CJ

An audit concluded the museum has a staggering \$30 million debt

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New Election Law Concerns 'Without Merit,' Say Supporters

Continued from Page 1

are rolled back sort of fostered participation," Laurenz said.

"Even under the legislation we have now, that simply reduced by a few days of early voting, we have more opportunity for folks to go vote than a big number of other states," Moore said.

Traditionally blue states such as New York, Massachusetts, and Connecticut don't allow either early voting or no-excuse absentee voting, according to the National Conference of State Legislatures. Other states allowing neither include Rhode Island, New Hampshire, Delaware, Pennsylvania, Michigan, Missouri, Kentucky, Virginia, South Carolina, Alabama, and Mississippi.

Minnesota, which doesn't have early voting, next year will offer no-excuse absentee voting for the first time.

Republicans who proposed the election law changes took heat from Democrats when H.B. 589 cut the number of early voting days from 17 to 10.

The length of early voting varies

from state to state. Vermont's early voting begins 45 days before an election and ends at 5 p.m. the day before an election. In Iowa and Wyoming, early voters can cast ballots 40 days before an election until the day before an election.

Maine allows early voting as soon as absentee ballots are available (30 to 45 days before an election) through Election Day.

Of the states that have early voting, Oklahoma has the shortest period, beginning the Friday preceding an election and ending at 6 p.m.

the day before an election.

North Carolina Republicans also were criticized for instituting a requirement for voters to produce a state-authorized identity card at polling places. The mandate will be enforced in the

2016 election cycle.

Thirty-three states require some sort of ID before voters can cast a ballot, said Wendy Underhill, senior policy specialist at NCSL. Four — Georgia, Indiana, Kansas, and Tennessee — have photo ID requirements similar to those in H.B. 589.

Eight others — Alabama, Arkansas, Mississippi, Pennsylvania, Rhode Island, Texas, Virginia, and Wisconsin — recently have enacted new photo ID requirements that have not taken effect.

Those requirements state that voters who do not have an ID at the polls on Election Day may cast a provisional ballot, which would be counted only if the voter can present an authorized ID to an election official within a few days of

the election.

While most states allow no-excuse absentee balloting and/or early voting, fewer permit same-day registration — a provision that was repealed in H.B. 589.

One other state, Ohio, allows same-day registration during early voting, Underhill said. Maryland passed legislation this year authorizing same-day early voting registration in 2016.

Eleven states — California, Connecticut, Colorado, Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin, and Wyoming — plus the District of Columbia allow same-day registration on Election Day, Underhill said.

North Carolina had been one of 15 states allowing straight-ticket voting — another provision H.B. 589 eliminates. The others are Alabama, Indiana, Iowa, Kentucky, Michigan, New Jersey, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, and West Virginia.

Two states, Oregon and Washington, vote only by absentee ballot. *CJ*

Traditionally blue states like New York and Massachusetts have more restrictive laws than North Carolina

Experts See Little or No Effect on Voter Turnout With New Laws

Continued from Page 1

election process. Democrats countered that the changes were unnecessary and levied charges of voter suppression during debate.

Even election observers on the left do not anticipate any substantial impacts on turnout. "It's hard to gauge exactly, said Michael McDonald, associate professor of government and politics at George Mason University, who blogs for Huffington Post. "We're probably talking about a cumulative effect [on voter turnout] of about 1 percent," he said in telephone interview.

"It won't have any effect on turnout," countered Spakovsky from the conservative side. "Voter ID laws have shown that they don't depress turnout."

H.B. 589, which passed the General Assembly along party lines, made a number of changes in the state's election law.

Beginning in 2016, North Carolina voters will be required to show a state-approved photo ID before being allowed to vote. Elections officials plan to begin informing voters of the requirement during primary and general elections next year.

Another change in election law eliminates same-day registration, a process allowing an unregistered voter to show up at an early voting site, register, and vote the same day. While proponents of the change worried that same-day registration could allow ineligible votes to be cast, the state's recent experience with those voters showed little effect.

"Voters [using same-day registration] would vote a 'retrievable ballot,'" said Kim Strach, executive director of the State Board of Elections. Such a ballot could be removed from the count if elections officials found that the person was ineligible to vote before the elections canvass, the time local elections boards generally certify results. Local election boards verified each same-day voter's eligibility by sending a letter to the address listed on the registration form.

But not all voters were verified by the canvass time, Strach said. "If you voted same-day the Saturday before the election, there's not 15 days before the canvass," Strach said.

Mail verification takes 15 to 60 days, with most registrants being verified within 15 days, according to a State Board of Elections report.

Following the 2010 general election, 153 of 21,742 — or 0.7 percent — of same-day registration voters were listed as inactive because the county was unable to verify the registrant's address by mail.

Following the 2012 general election, 1,288 of 96,730 — or 1.3 percent — of same-day registration voters were listed as inactive for the same reason.

Another provision changes absentee voting. Previously, an absentee voter had to send a handwritten request for an absentee ballot or use a county board of elections absentee ballot request form.

Under the new law, requests must be made in writing on a State Board of Elections form. The form must be signed by the voter, a near relative, or a

legal guardian.

The absentee ballot must be witnessed by two people, or by a notary public. It can be mailed or delivered in person to the county board of elections, or to early voting sites during their operating hours.

Voters who are patients in hospitals can vote absentee, and get assistance from a near relative, guardian, or multipartisan group sponsored by the county board of elections. If such help isn't available, others can assist the voter. But the new law excludes owners and employees of the facility, officeholders, candidates, and political party representatives from assisting patients in voting.

This change occurred following a *CJ* report on a severely disabled woman who was assisted in voting by workers at a group home in Roanoke Rapids last year. The woman's parents, who are her legal guardians, say she has the cognitive ability of a 7-year-old.

The law also cuts the early-voting period from 17 days to 10, but requires local election boards to keep early voting sites open the same number of hours during the 10-day cycle that they maintained during the 17-day period.

Von Spakovsky said that long early voting periods actually could depress turnout rather than increase it. A lengthy early voting period "disperses the get-out-the-vote efforts," he said. "When it's spread over a couple of weeks, it's not as concentrated," and voters who aren't highly motivated may choose not to cast ballots if the early voting period stretches too long.

"African-Americans disproportionately may be affected" by the changes in laws, McDonald said. "They disproportionately vote early and [use] same-day [registration]."

Out-of-state college students wishing to vote in North Carolina elections should find it relatively easy to get a state-issued photo identification card.

While an out-of-state driver's license or ID card issued by the N.C. Division of Motor Vehicles will suffice for people who registered to vote within 90 days of their first North Carolina election, they'll need to obtain a different photo ID card for subsequent elections. "It should be pretty simple," said Steve Abbott, a spokesman for the N.C. Department of Transportation.

Abbott said students coming to North Carolina for college could obtain a DMV ID card by providing several specific documents necessary to prove their age, identity, proof of Social Security registration, and proof of residency.

"As soon as they have those in hand, there's no waiting period," Abbott said.

People moving to North Carolina from other states are allowed to vote in the state if they live in the state, precinct, ward, or other election district for 30 or more days before the election.

While the N.C. Constitution requires a person to live in the state for one year to establish residency, a 1972 U.S. Supreme Court decision ruled that a similar one-year residency requirement to vote was unconstitutional, suggesting that 30 days was ample time to establish residency. *CJ*

Bar Panel Could Take License For Reasons Unrelated to Profession

Continued from Page 1

hearing (and Belk's ban from the judiciary) is his continued service on the board of directors of Sonic Automotive Inc., while he was a judge. The current Bar complaint alleged that Belk was being untruthful and misleading when he answered questions about health insurance coverage during a February 2009 interview with a Judicial Standards Commission investigator.

After the August hearing, Belk discussed the outcome with *Carolina Journal*. "I didn't lie on anything. There was no deceit or lying. This had nothing to do about being a judge or a lawyer," he said.

'Singled out'

Belk told *CJ* he has been singled out unfairly and that the disciplinary systems for judges and lawyers in North Carolina need to be reformed. He blames his troubles on a broken system and specifically on Paul Ross, executive director of the state's Judicial Standards Commission, who initiated the first complaint against Belk in 2009.

Belk's panel was composed of New Bern attorney Joshua Willey Jr., Fayetteville attorney Renny Deese, and Karen Ray, a former legislator from Mooresville appointed to the commission by House Speaker Thom Tillis, R-Mecklenburg.

The panel will meet again Sept. 26 to decide what discipline it will impose. Possible actions against Belk include issuing an admonishment, a reprimand, or censure; suspending his law license; or disbaring him permanently.

In August 2012, the State Bar's Grievance Committee issued a reprimand to Belk based on an August 2010 judgment resulting from a civil action filed by his former wife. A Superior Court judge ruled that Belk had mismanaged some of the funds in a custodial account that he set up for their daughter.

Ongoing discipline

Sonic is one of the nation's largest auto retailers, and Belk had been on the board since 1998. The N.C. Code of Judicial Conduct contains a provision that states a judge "should not serve as an officer, director, or manager of any business." Belk maintains that the provision does not prevent judges from having such corporate ties; otherwise, the language would be "shall," rather than "should." He also noted that South Carolina allows judges to serve on boards as long as that participation does not conflict with the judge's judicial duties or create the appearance of a conflict.

The State Bar complaint alleges that in December 2008, Belk told Ross that Sonic was a source of Belk's health insurance and he wanted to remain on the Sonic board because he had medical issues. The complaint also alleges



Former Mecklenburg County Judge Bill Belk (right) presents his defense at an Aug. 23 hearing to Disciplinary Hearing Commission members, left to right, Renny Deese, Joshua Willey Jr., and Karen Ray. (CJ photo by Don Carrington)

he told the same information to a commission investigator during an interview in February 2009.

"Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d)," stated the complaint.

Belk told *CJ* he did not lie to Ross or the investigator. In responses to commission and bar complaints, he said he wanted to remain on the board because he would be likely to get health insurance from Sonic if he served no more than one four-year term on the court. "While [I was] a judge I was receiving health insurance from the state, and they should have known that," he said.

The Disciplinary Hearing Commission is an independent tribunal that considers all contested disciplinary cases against attorneys. The commission is composed of lawyers appointed by the State Bar and nonlawyers appointed by the governor and the General Assembly. Each hearing panel has two lawyers and one nonlawyer.

The Charlotte Observer reported that Sonic, founded by NASCAR promoter Bruton Smith, did not offer medical insurance to board members, but Belk told *CJ* he believed there was a possibility he could pursue health insurance through Sonic if he had no other health coverage. He had made a similar arrangement when he served on the board of directors of Monroe Hardware. Besides, Belk said, the State Bar was more interested in forcing him to resign from the Sonic board rather than settling any uncertainty over what he had said about any medical benefits associated with Sonic.

Short time on bench

In various 2008 media appearances, Belk said he ran for judge be-

cause he thought the court system was broken. His firsthand experience with District Court came from the contentious divorce from and property settlement with his first wife, Suzanne Belk. They separated in 2001 but were tied up in court battles as recently as 2010.

Belk has a law degree but had spent most of his adult career working in management for Belk Department Stores, the company started by his grandfather, William Henry Belk.

Belk was elected in November 2008, receiving 58 percent of the vote against incumbent Judge Ben Thalheimer, the judge who handled the distribution of property in Belk's divorce.

Belk said he first learned about a potential problem with his service on Sonic's board during a Dec. 5, 2008, training session Ross conducted for new judges. Belk researched the issue and concluded the Code of Judicial Conduct did not require him to leave Sonic's board. When he discussed the issue with Ross, Ross said he would have to step down.

Seeking to clear up the matter, Belk sought advice from Judge Richard Bonner, who was a member of the commission at the time. Bonner suggested that Belk ask to present his side of the story at the commission's January 2009 meeting by writing Ross and copying the commission's chairman, state Appeals Court Judge John Martin.

But Belk didn't get the opportunity to make his case. "As I was waiting for my request for due process, I was shocked and dismayed to see my file in *The Charlotte Observer* on Friday, Jan. 16, 2009. It was even more disturbing that Mr. Ross and Chief Judge Lisa Bell elected to provide statements to the media on what is a private and privileged matter, according to the Code of Judicial Conduct," he told *CJ*.

One week after the story appeared in the Charlotte newspaper,

Ross filed a formal complaint against Belk with the commission.

Belk resigned his seat on the bench in November 2009, citing a heart attack that he blamed on the stress of the public investigation into his conduct.

Even though he was no longer a judge, the Judicial Standards Commission did not end its proceedings against him. In April 2010, based on the commission's investigation, the N.C. Supreme Court issued an order officially removing Belk from office as a judge, barring him from serving as a judge again.

The order cited his decision to remain on the Sonic board and alleged that he used "intentional misrepresentations" to an investigator over the health insurance issue.

Mecklenburg County District Judge Lisa Bell filed a complaint with the commission on another matter in February 2009, but that and several other complaints ended without any findings or disciplinary action against Belk.

In 1973, the General Assembly established the Judicial Standards Commission as the state agency to consider complaints of misconduct against judges. After an investigation, the commission may recommend to the N.C. Supreme Court that a judge should be disciplined. The Supreme Court then reviews the case and dismisses it or establishes disciplinary action ranging from a public reprimand to removal from office.

The commission is made up of 13 members, five of them judges appointed by the chief justice of the Supreme Court. The commission's chairman must be a member of the N.C. Court of Appeals. The State Bar Council appoints four attorneys, and the governor and General Assembly appoint four citizen members. *CJ*

Maltsev: Despite Progress, Russia Remains on the Road to Serfdom

BY CJ STAFF

RALEIGH

Russia has witnessed massive changes over the past two decades. Not all of them have been good. Yuri Maltsev, professor of economics at Carthage College, served as a top economics adviser to Mikhail Gorbachev, the last leader of the former Soviet Union, before Maltsev defected to the United States in 1989. Earlier this year, Maltsev addressed the John Locke Foundation's Shaftesbury Society on the topic "Russia, Hydrocarbons, Autocracy, and Power Politics." He shared some key themes from that presentation during an interview 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.)

"In Africa there is a well-kept secret of Botswana. That's a country which is doing better than any other country in Africa because they are free, because natural resources are privately owned, and the people of Botswana, they have a standard of living about three times higher than in South Africa, the most developed country in Africa."

Yuri Maltsev
Professor of Economics
Carthage College



Kokai: It is an interesting thing when you look at Russia, the Russian economy, all kinds of access to natural resources, but still an economy that trails many of the other developed countries. And you said that there is a definite reason why this is true.

Maltsev: Well, I would say John Locke, as well as Adam Smith, they believed that the only source of wealth is freedom — human freedom. And in economics we use a special term called the "curse of natural resources," or "paradox of plenty." And this paradox of plenty [is] that Russia is awash with natural resources. They have second-in-the-world deposits of oil, first-in-the-world deposits of natural gas. They have platinum. They have gold. They have diamonds.

They have almost everything possible and impossible, and the country is still poor. It's still poor. What's the reason? Because usually natural resources owned by a government help to perpetuate bad governance, because government, amazingly enough, does not depend on its own people, even for tax revenue. Eighty-five percent of all revenue of the Russian treasury comes from natural resources. They sell oil, they sell gold, they sell other natural resources, and they keep an inefficient, corrupt, and, I would say, autocratic government of Mr. [Vladimir] Putin in place. So that's what it is. When you don't need to keep a chicken laying golden eggs, you can eat the chicken and eggs at the same time.

Kokai: When a society has that problem, like Russia, or some have made the same argument about the Middle Eastern countries with their large oil deposits, what sorts of long-term problems does that create for the people in society who aren't getting those dollars?

Maltsev: Yes, it creates a lot of problems. One problem is something called Dutch disease. Dutch disease means that the mining industries, the industries like the oil industry and other mining industries, would crowd out any other industries because of the exchange rate. Because Russia is selling so much of its natural resources, the ruble exchange rate is getting higher and higher and higher, making — it's easier for Russians to buy everything in other countries. So that means that any business you start outside of the mining industry in Russia will either become unprofitable or would be under such a competitive pressure because of the very high exchange rate of the ruble, because the ruble is overvalued. So this is Dutch disease in economics. So the whole development of the country would be one-sided, based on the natural resources.

Another thing is that natural resources perpetuate bad government. [Vladimir] Lenin, in his letter to [Leon] Trotsky in 1922, he wrote, "Dear Leon, I think if our revolution would win in Belgium, we would be done in a week." Here [in Russia] we have 11 time zones. So he didn't try to loot, but that's exactly what happened. You have a lot of natural resources — then, if you remember, there was a movie "Blood Diamond," that's a very good illustration of what natural resources can do to people. Or look at Venezuela, at oil in Venezuela, and many other countries like that, especially countries where government controls and owns natural resources.

We have a lot of natural resources in the United States, in Canada, in Australia, and these countries are doing well. For what reason? Because natural resources are owned privately, and governments just take a cut in taxes. In Africa there is a well-kept secret of Botswana. That's a country which is

doing better than any other country in Africa because they are free, because natural resources are privately owned, and the people of Botswana, they have a standard of living about three times higher than in South Africa, the most developed country in Africa.

I just happened to be in Africa a month ago, and it was amazing to see how economic freedom, whether it is in North America or Europe or Africa, what miracles it produces.

Kokai: Just to make it clear for folks, the problem is not necessarily the fact that they have the natural resources in Russia, but it is the fact that it's being used in the wrong way and the government controls it. What do you think would be the situation in Russia if all of these valuable natural resources were privately owned and private investment was taking advantage of them?

Maltsev: Well, in Russia, at first, that was the case. Natural resources were at first privatized. They were spontaneously privatized. That means just stolen from the people. However, the so-called oligarchs who got them, they, at a certain point, they became, I would say, pretty good citizens. Mikhail Khodorkovsky, who was the richest man in Russia, he became like the Bill Gates of Russia. He started something called the Open Russia Foundation. He was concerned with the Internet. He would be putting free Internet in remote Siberian villages, in post offices, in libraries, in schools, elementary schools, high schools, everywhere. And I think that people like him. He had the best-managed company in Russia.

And then, sure enough, he made a mistake. In 2003, he declared that maybe he will run for the Russian presidency against Mr. Putin. And now he

is on trumped-up charges, was sent by the kangaroo court into eastern Siberia, and now he is rotting in an eastern Siberian dungeon with roaches and rats.

Kokai: So not just private ownership, but also a strong rule of law would be needed?

Maltsev: Absolutely. Absolutely. Rule of law makes all the difference because without rule of law, the Russian economy is doomed to be corrupt, based on corruption, doomed to be inefficient and not competitive, except again, except mining industries, except oil, except other natural resources, where they are just pumping everything, depriving future generations of Russians to enjoy even the same standard of living that they do have today.

Kokai: ... Knowing what you know about the history of the area, the former Soviet Union, current Russia, do you see any signs that we're likely to see improvement any time soon, or is this path sort of leading to a bad outcome?

Maltsev: Yes, I would say that the great Austrian economist Friedrich August von Hayek, he wrote a book, *Road to Serfdom*. And Russia, unfortunately, is still on this road. However, some other countries of the former Soviet Union, especially Baltic states — Lithuania, Latvia, Estonia — they made a very resolute U-turn on this road, and they became free, and they became prosperous. And those countries do not have any natural resources, except maybe good year-round ports in the Baltic Sea. But they already enjoy the standard of living of Europe. They became members of [the European Union] and NATO and of the Western community, and they're doing very well. They are free. Freedom is the source of prosperity.

UNC-Chapel Hill Attempts To Counter Grade Inflation

BY LEA PALMER
Contributor

RALEIGH

In 2008, a committee of faculty members at UNC-Chapel Hill discovered that the average grade of a Carolina student was 3.213 — well over a B average. Led by Andrew Perrin, a professor of sociology, the school's Educational Policy Committee began looking at how other universities were dealing with grade inflation and decided that "contextual grading" was the best way. Last fall, the university began to use it.

Contextual grading is the policy of reporting not just what the individual student earned in a course, but also what the class average was, thereby providing the "context" for the grade. Getting an A in a class where almost everyone gets an A is not so much of an accomplishment as getting an A when most of the other students earned Bs and Cs.

Contextual grading may not end grade inflation, but it may help reduce the effects of grade inflation. Using contextual grading, anyone can look into whether a student's GPA may have been built up by taking lots of easy courses in which As are common, or resulted from taking challenging courses where grades represent different levels of achievement.

Grade inflation has been a feature of American universities since the 1980s, says Stuart Rojstaczer, a former Duke University professor of geology, environmental science, and engineering. He is recognized as an expert on grade inflation and has developed a grading database of about 230 schools.

Some universities already have adopted policies to combat grade inflation. For example, Princeton University set a standard that fewer than 35 percent of the grades in any undergraduate class should be As. Wellesley College has a similar standard.

Beginning in 2009, Perrin and a team of other faculty members began examining other schools' policies, but they rejected the "so-many-As-per-class" approach. Such systems assume that grading should be the same across all disciplines.

After several years, Perrin, his team, and the Educational Policy Committee decided on contextual grading. Each student's transcript now con-

tains not only the grade that particular student received but also the average grade given in that course section.

When this policy was announced, students were less than enthusiastic, and some faculty members questioned whether grade inflation should be a major concern. UNC-Chapel Hill vice chancellor and provost Bruce Carney told *The Daily Tar Heel*, "Yes, we give high grades at Carolina, but I've heard faculty argue that we have better students than at other places."

Recently, however, faculty, staff, and students at UNC-Chapel Hill have been more supportive, Perrin said in an interview with the Pope Center. "Having Carolina known for quality education and rigorous grading is good for students once they're out on the job market and competing for graduate schools and so on."

Perrin also notes that the university has contacted a number of graduate schools and large companies to ensure that this policy does not hurt the prospects of UNC-Chapel Hill graduates. The responses the university has received from various institutions have ranged from "not particularly interested" to very positive, and none of the respondents has criticized the new policy.

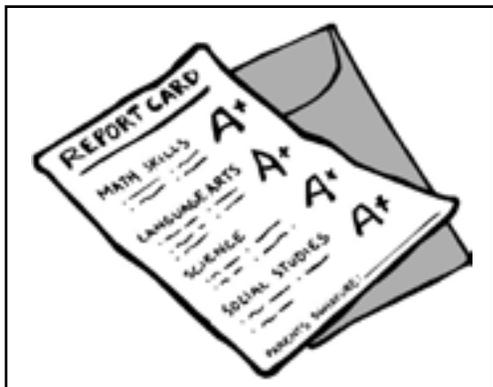
Many faculty members at UNC-Chapel Hill hope this policy will encourage students to take more challenging courses, Perrin said. He thinks some students avoid math and science courses because they are graded more stringently than other courses, including some in the humanities.

Faculty members also hope that adding more information to students' transcripts also may prevent students from feeling entitled to a certain grade in a seemingly trivial course. Such entitlement is visible, for example, when a student complains to a professor about receiving a B in a course he or she thought would be an easy A.

UNC's contextual grading policy is still in its early phases; the results of these first few steps will be analyzed after a five-year trial period. CJ

UNC's contextual grading policy is still in its early phases; the results of these first few steps will be analyzed after a five-year trial period. CJ

Lea Palmer, a UNC-Chapel Hill sophomore, was an intern this summer at the John W. Pope Center for Higher Education Policy.



COMMENTARY

Why I'm A 'Superbubble Hawk'

A colleague has sighted some interesting birds — "bubble hawks" and "bubble doves." He describes as hawks those who think the higher education bubble is likely to burst and as doves those who think that not much will change.

The "bubble" refers to the possibility that (as with housing) tuition will rise so high that customers (students) decide to stop buying. Also, more young people might start realizing that a four-year academic degree is not always in their best interests. Enrollment will decline, and college revenues will fall, bursting the balloon and shuttering some schools.

That's the hawkish version. Now, add the belief that the disruptive technology of online education will amplify the effects of the financial bubble, bringing change, both creative and destructive. That creates the potential for a wave of closings, and reinvention of new and better schools.

Indeed, I'm a "superbubble hawk." Years ago, I was taken with Clayton Christensen's *Innovator's Dilemma* — the book that described disruptive technology in industry. Disruptive technology follows a pattern, and higher education seems to be in line with the pattern. To wit:

1. The story starts with big, well-managed institutions happily serving their customers.

Christensen's example: It is the 1950s, and big companies like Zenith and RCA provide ever-improving radios and televisions using vacuum tubes. They sell their products through independent appliance stores (which, it happens, make most of their money repairing TVs with blown-out vacuum tubes). Higher education example: It is the turn of the 21st century. Demand for college is rising. Prices are going up. Alumni are generous. The college diploma is the new American dream.

2. A new but primitive technology appears.

Christensen's example: The transistor was invented in 1947 — an impressive technical achievement but too weak to use commercially. Then Sony Corporation invents the pocket transistor radio, which introduces radios to a new market — teenagers. Higher education example: Online education

appears. For-profit upstarts like the University of Phoenix market it to "nonconsumers" of traditional education: low-income working adults. Wall Street loves the new companies, but the education establishment mostly ignores them.

3. The establishment tries out the new technology.

Christensen's example: RCA spends hundreds of millions of dollars trying to use the transistor, but fails. Higher education example: Columbia University starts an e-learning project. The British

Open University tries a U.S. startup. Both fail. Then, MOOCs (massive open online courses) catch fire. But doubt sets in; many wonder if they are just a fad.

4. The disruptive products get better.

Christensen's example: The transistor market takes off and the transistor-based Walkman, introduced in 1979, eventually sells 200 million units. Higher education

example: By 2009 nearly 10 percent of enrolled college students are attending for-profit colleges (which feature online education).

5. New distribution channels spring up.

Christensen's example: Radios and TVs are now sold at discount outlet stores like Kmart, Walmart, and Costco. Most appliance stores have gone out of business. Higher education example: Sebastian Thrun quits Stanford to work for Coursera, a private creator of MOOCs.

6. The end game arrives.

Christensen's example: By 2013, companies like RCA and Zenith are but a memory. Higher education example: Higher education is in a state of ferment. Western Governors University offers a complete college education for \$18,000; StraighterLine offers courses at \$99 a month and \$49 per course. The University of Wisconsin starts a separate online branch. Enrollment begins to fall at many schools. Only 27 percent of college CFOs surveyed by *Inside Higher Ed* express "strong confidence" in their school's financial viability under their present model.

That's where we are today. CJ

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



JANE SHAW

Campus Briefs

A Tale of Two Scandals

Just about everyone who follows the news about North Carolina is aware of the series of scandals at UNC-Chapel Hill, especially the one in which the African and African-American Studies Department handed out passing grades to athletes and others who essentially did no academic work.

But probably few know about a scandal at Winston-Salem State University that centers on the school's former director of academic technology, Shira Hedgepeth, who was fired after complaining to superiors about several breaches of academic integrity she said she witnessed.

One involved organized cheating by students, but a much more damaging claim is that some administrators raised the grades of black students (but not students of other ethnic backgrounds) without notifying the professors who taught the classes.

Hedgepeth said that many WSSU students were unprepared to finish college and that professors were under great pressure from the administration to lower their standards in order to allow more students to pass their classes.

It is unclear whether the alleged grade changing and acceptance of systematized cheating occurred as a result of the UNC system's new "performance-based enrollment funding" policy. Rewarding schools for improving graduation and retention rates creates an incentive for administrators to engage in such activities as grade inflation or dropping academic standards.

Hedgepeth is not merely a disgruntled crank; she has filed a complaint with the Equal Employment Opportunity Commission on the grounds that faced racial discrimination; WSSU is a historically black campus and Hedgepeth is white. The commission has allowed her case to proceed after a preliminary investigation. Further, she says, several former faculty members corroborate her story, and one of them held onto some evidence she says will back up her claims.

One must wonder how widespread WSSU's practices are throughout the UNC system. And why statewide media coverage of this important story has been so sparse. CJ

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

Would 'Skin in the Game' Reduce Loan Defaults?

By DUKE CHESTON
Contributor

RALEIGH
Students are defaulting on their college loans at high rates. A growing number of analysts think one reason may be that those most responsible for the high costs — the colleges themselves — have little or no incentive to prevent defaults.

Would requiring colleges and universities to have "skin in the game" deter defaults? A "skin in the game" rule would dictate some selectivity in lending by making them essentially co-signers of a percentage of the loans taken by students at their schools. If colleges were responsible for between 10 and 20 percent of the balance, wrote law professor and Pajamas Media founder Glenn Reynolds in *The Wall Street Journal*, "You can bet ... universities would be much more careful about encouraging students to take on significant debt unless they are fully committed first to graduating, and second to a realistic career path that would enable them to service that debt over time."

Alex Pollock, a fellow at the American Enterprise Institute, proposed the idea in a January 2012 article for *The American*. Congress imposed a similar rule on mortgage lenders in the Dodd-Frank Act of 2010, requiring those who securitized loans to share at least 5 percent of the credit risk. It has apparently kept banks from continuing the risky lending that led to the housing market crash, and Pollock argued that something similar could work for college loans.

"Who are the most important parties to have 'skin in the game' in student loans? The colleges themselves, of course!" wrote Pollock. "They are the effective originators, the promoters, and the chief financial beneficiaries of student loans. It is their rising costs which result in ever more debt and more risk of default for student borrowers."

Advocates of the rule see numerous benefits, starting with improvements in the likelihood of repayment. In 2010, nearly 375,000 students defaulted on their loans within two years of beginning repayment, a rate of 9.1 percent. And at more than 260 colleges in the country, a higher percentage of students default on their loans than graduate.

Taxpayers likely would save money, too, since tax dollars underwrite the loans. If more students can pay back their loans, taxpayers will lose less.



A third benefit, supporters say, is that it would change aspects of higher education itself, since colleges would be incentivized further to help students graduate and find well-paying jobs. For example, they may steer students away from majors with poor employment prospects, such as gender studies.

But there are strong objections to the idea of colleges sharing default risk. Some of them come from universities, since they might have to pay sizable sums — or lose students. In an interview with the Pope Center, economist and higher education reformer Richard Vedder predicted a "firestorm" of protest from universities.

One criticism is that the rule would prevent many students with poor academic records from going to college, even though some of them will beat the odds and succeed. To use the popular phrase, it would limit "access."

Vedder thinks that criticism is in-

appropriate. Preventing students from attending schools where they are likely to default would be good for them, not bad. "Should the taxpayer be subsidizing sending kids to go to school to make some people feel warm and fuzzy about themselves," he asked, "when they are in fact consigning these kids to a very, very bad future where they end up getting a job probably no better than had they not gone to college?"

Another criticism is that default risk-sharing would be expensive. In addition to the fees universities would pay when their students default, they would also have to pay professionals to assess the potential for default risk of each student. Andrew Gillen, a researcher at Education Sector, told the Pope Center he is concerned that sharing default risk would "impose a new burden on universities." Analyzing who is likely to default and who is not could be expensive, and colleges are not good at it.

Yet such objections could be surmounted readily when the real potential for saving from shifting accountability for lending from the government (which has little incentive to take care in lending) to the universities (which indeed have an incentive) is considered.

Vedder concedes it is a "second-best solution" to the problem of government subsidies luring students to college who will suffer for having gone. A better solution, he says, would be for the government to exit the student loan business, allowing private lenders to decide which students pose the greatest risks of default. CJ

Duke Cheston is a graduate student at Southeast Baptist Theological Seminary who formerly wrote for the John W. Pope Center for Higher Education Policy.

Some are urging that colleges become co-signers of a percentage of each student loan



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Opinion

New Rating System Separates Education School Wheat From Chaff

The great majority of the teachers in America's public schools were trained for their work in one of our education schools. Students who want to go into K-12 teaching usually major in education, just as our future engineers major in engineering and future chemists major in chemistry.

There is, however, a difference: No widespread criticism ever has been aimed at our engineering or chemistry programs, calling them "follies," or saying that their graduates often are ill-prepared for their careers.

For decades, people have been making such criticisms of education schools.

Back in 1991, Rita Kramer's book *Ed School Follies* argued that our education schools were giving the country a steady stream of intellectually weak teachers who had been steeped in dubious educational theories and knew very little about the subject matter they were to teach.

Despite widespread and strenuous criticism such as Kramer's, education schools have changed very little.

Now, a study by the National Council on Teacher Quality has focused attention again on the weakness in most of our education schools. That study gathered data from more than 1,100 institutions (although some had to be hauled into court after refusing to comply with Freedom of Information Act requests) and was able to gather enough on 608 schools to give

them a rating based on 18 standards the NCTQ team established.

Those ratings provide the most thorough consumer's guide to ed schools now available. For the first time, students and school principals have a means of sorting wheat from chaff in teacher preparation programs.

Only four schools earned the top four-star evaluation: Furman University, Vanderbilt University, Lipscomb University, and Ohio State University. A small percentage of programs earned good ratings with three or three-and-a-half stars, including one program at UNC-Chapel Hill. More than three-fourths of the programs evaluated, however, were found to be mediocre or weak.

NCTQ's 18 standards were grouped into four "buckets": selection of students; content preparation for the material the student plans to teach; professional skills in the classroom; and outcomes (i.e., how well the school does in assessing the competence of its graduates). I will highlight a few of the standards.

Perhaps the most important is Standard 1, relating to student selectivity. In educationally successful countries such as Finland and Japan, education students have to be in the



top third or better of their classes before they will be considered for acceptance into the teacher-training program. In many American programs, almost any student who wants in will be accepted.

Consequently, our teachers (at least those who go through ed schools) tend to be weak academically. Lots of education majors choose the field because ed school is easy to get into and easy to get through.

Even if the study did nothing else, it would be beneficial because it focuses attention on the low selectivity that prevails among our ed schools.

Another crucial standard addresses reading instruction. Many young Americans struggle with reading because they are not taught properly how to read in their early school years. The trouble here, NCTQ president Kate Walsh

explained, "What these programs most often teach is not to adopt the whole language approach, but that the candidate should develop her own approach to reading, based on exposure to various philosophies. ..."

That statement gets at one of the great failings of most of our ed schools. Instead of actually training future teachers, they see their mission as preparing them to learn to teach by

imbuing them with the right attitudes and beliefs.

While future teachers in other countries (Japan is a good example) work with veteran teachers to master lesson plans on how best to impart knowledge to their students, our future teachers spend much of their time listening to vague or pointless theorizing from professors — many of whom have little teaching experience themselves.

One of those theories, for example, is that teachers need to take into account their students' "learning styles." Most ed schools propound that superficially appealing notion, but, the study says, it has been "thoroughly discredited by research as ineffectual."

Finally, student teaching experience ought to be an extremely important part of ed school training, but the NCTQ study finds that students in only 7 percent of the programs evaluated were "ensured of receiving strong support from program staff and cooperating teachers." In 70 percent, however, they are not ensured any support from staff and teachers. Moreover, most programs have no "exit strategy" for those who do poorly in their student teaching.

The concept behind NCTQ's project is that it will spark competition. Once students and school decision makers can say which ed schools are good and which ones aren't, that will put pressure on the poor ones to improve. CJ

George Leef is the Director of Research at the John W. Pope Center for Higher Education Policy.



GEORGE LEEF

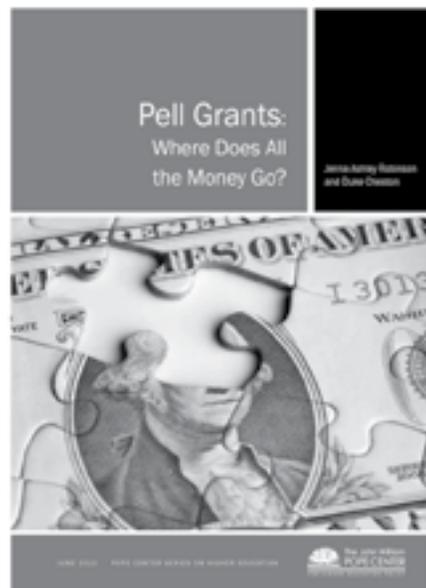
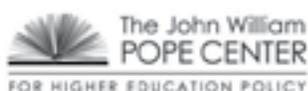
U.S. ed schools concentrate on vague theories rather than practical knowledge

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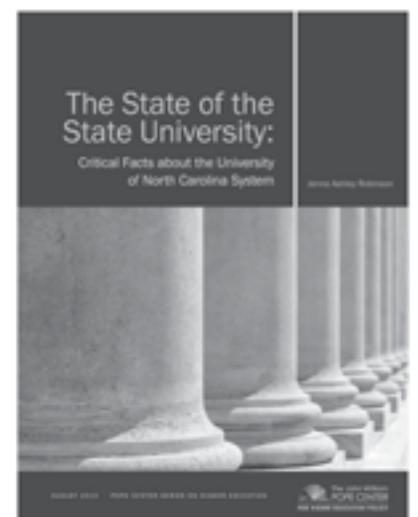


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- Modernity developed only in the West — in Europe and North America. The question is: Why? Taking readers on a fascinating journey from ancient Greece to the age of imperialism, *How the West Won* challenges much of the received wisdom about Western history. Renowned author Rodney Stark shows, for example, why the fall of Rome was the single most beneficial event in the rise of Western civilization; why the “Dark Ages” never happened; why the Crusaders did not march east in pursuit of land and loot or to attack the Muslim world unprovoked; and why there was no scientific “revolution” in the 17th century — these brilliant achievements were simply the culmination of scientific progress stretching back centuries. Learn more at www.isi.org.

- What explains the growing class divide between the well-educated and everybody else? Author Brink Lindsey, a senior scholar at the Kauffman Foundation, argues that it's because economic expansion is creating an increasingly complex world in which only a minority with the right knowledge and skills — the right “human capital” — reap the majority of the economic rewards. In *Human Capitalism: How Economic Growth Has Made Us Smarter, And More Unequal*, Lindsey shows how economic growth is creating unprecedented levels of human capital — and suggests how the huge benefits of this development can be spread beyond those who already enjoy its rewards. More information at www.cato.org.

- Margaret Thatcher's time in office defined an era — a Golden Age of conservative leadership. But she was not a typical conservative politician then or now. She made the Conservative Party more open and inclusive. Lady Thatcher understood that conservative principles are for everybody, not tied to special-interest groups or trends. Conservative ideas must win people over first, before conservatives can win their votes later. In *Margaret Thatcher on Leadership*, Nile Gardiner and Stephen Thompson outline the critical lessons conservatives can learn from Thatcher on articulating conservative principles to a broader audience. This inspirational and practical guide for conservatives combines episodes from Thatcher's life with the lessons that conservatives can apply to their challenges today. For more information, visit www.regnery.com. CJ

Book review

Reid Completes Manchester's Unfinished Churchill Bio

• William Manchester and Paul Reid, *The Last Lion: Winston Spencer Churchill: Defender of the Realm, 1940-1965*, Little, Brown, and Company, 2012, 1,182 pages, \$34.95.

By HAL YOUNG
Contributor

An unfinished story is a frustrating thing, and William Manchester's biography of Winston Churchill, *The Last Lion*, was one of mine. The second volume had ended as Churchill was called to succeed Neville Chamberlain. Throughout the 1930s Churchill's warnings of the rise of Nazi power had been jeered and dismissed. Now, Austria and Czechoslovakia were gone, Poland had fallen, Panzers were rolling through the Low Countries, and France was about to collapse. And there the story ended.

After 23 years, the third volume has been released with the help of a collaborator, journalist Paul Reid. Manchester was 100 pages into volume three when a pair of strokes left him perfectly lucid but unable to write. Shortly before he died, he passed 5,000 pages of research notes to his friend Reid, and the final volume, subtitled *Defender of the Realm*, now appears under both men's names.

If you have more than a casual interest in Winston Churchill or World War II, you will find this a fascinating account of both. The war was the high point of Churchill's service to the country, and ultimately to humanity, so it occupies the stage for all but the final pages of the book. Reid wrote the account in scenes, week by week and sometimes hour by hour, so students of the man or the conflict will have plenty to consider.

There are several themes to that story. For one thing, it is a remarkable account of the vitality of an elder statesman. Churchill was 65 years old when the war broke out, with a long and interesting career already completed as a military officer, journalist and author, member of Parliament, and First Lord of the Admiralty. His cigars and his liquor consumption are legendary, as was his zest for good dining (even within the constraints of wartime rationing). Yet he threw himself into the conflict with an energy that swamped all the lesser boats around him. If anything, his health improved; when air raid sirens blew, Churchill would stalk the parapets and darkened streets of London.

His jaunts while the bombs fell seemed to be just the medicine, self-prescribed. Harold Nicolson, in November, noted Churchill's healthy glow: “He seems better in health than he has ever seemed. That pale and globular look about his cheeks is gone. He is more solid about the face, and thinner. ... But the eyes themselves are glaucous, vigilant, angry, combative, visionary, and tragic ... the eyes of a man much preoccupied.” He was preoccupied — with Hitler, the Americans, and the nightly bombings. Yet he was determined that all would end on his terms. In spite of the dangers, the defeats, and the grim prospects for national

survival, he was content.

The relationship between Churchill and America is another major theme of the history. It's easy to forget that by the time the Sleeping Giant was aroused, the Battle of Britain was over and England was training civilians to oppose a German invasion with makeshift weapons. Our ambassador, Joseph Kennedy — one of the most repellent characters in the book — had quit London for the countryside and then left his post announcing that Britain already was finished. Much of the scant attention Churchill could spare from Hitler was invested in wooing President Roosevelt. Churchill seemed to have a genuine admiration and affection for the man, who comes across as cynical and calculating in the face of Britain's desperate need.

Much of the war was driven by a conflict between two wills — Hitler's and Churchill's. Each was a master of his native tongue and had the power to sway popular opinion and mold it to his plans, and each of them exercised truly

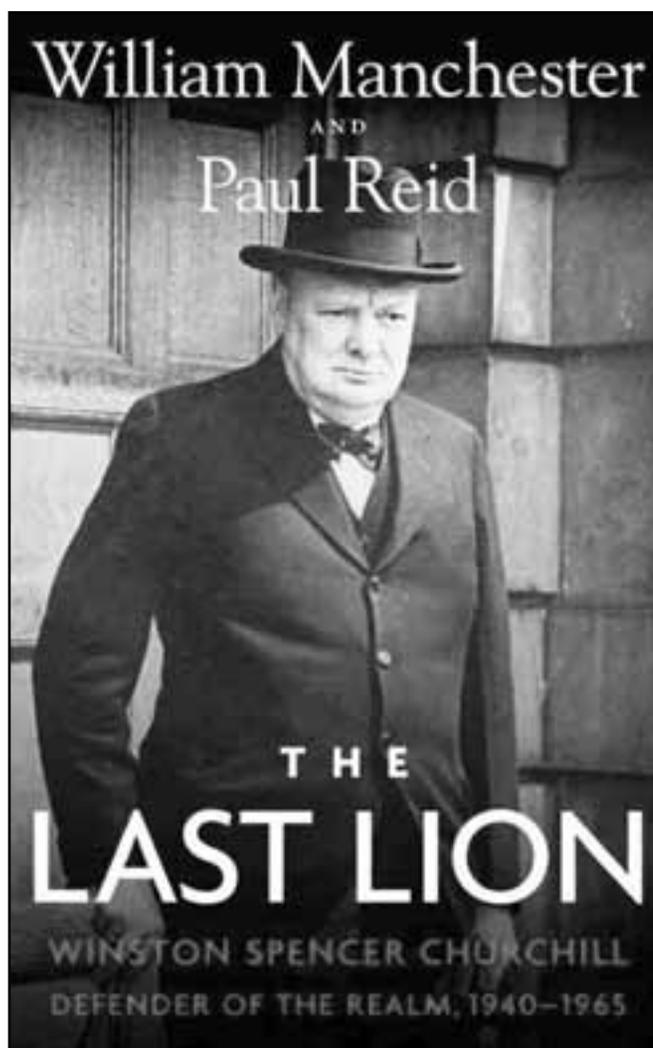
dictatorial powers. Churchill functioned as premier and his own minister of defense as well, but while unafraid to wield this power over the nation and to drive his subordinates without mercy, he was scrupulous to report his plans and programs to his colleagues in the House of Commons, and never wavered in his loyalty to the king. Hitler believed to his death that “the Englishmen” would eventually come alongside Germany to fight the Soviet threat — but he had a cordial hatred for Churchill personally.

Reid notes two departures from Manchester's treatment of Churchill's personality. For one thing, Reid points out that Churchill's “weak whiskey and soda, refreshed all day” was frequently supplemented with generous intake of champagne, brandy, and beer. He was never drunk, but always drinking.

And Reid doesn't agree with the popular notion of Churchill's depression. While some of the interviews he gave in his 80s sound melancholy — after all, he'd had several strokes and finally resigned from Parliament —

there are no other symptoms typical of major depression. For all his imbibing, Churchill never seemed to be drowning his sorrows. He never lost interest or disengaged from his work, and he never had manic phases either — he was always preternaturally active, mentally and physically. Reid believes that occasional mentions of “the black dog” may have been no more than normal periods of the blues.

Churchill said that history would be kind to him, for he proposed to write the history; certainly he made much of it in his career. The history he couldn't complete is his own, though, and in Manchester and Reid, Sir Winston's legacy has found a pair of sympathetic but honest storytellers who present the man in all his greatness, arrogance, eccentricity, and wit. Whether you're interested in a front-row seat for the war against fascism, or a seat at Churchill's dinner table instead, *The Last Lion: Defender of the Realm* will be a satisfying event. CJ



Enfield Riot Symbolized Colonists' Distrust of Royal Government

After the English Civil War, in 1660 King Charles II was restored to the throne, and the crown rewarded its political allies with vast tracts of land in British America. Eight tracts were bestowed to eight lords proprietors in Carolina (later divided into modern-day North and South Carolina).

In 1729, the heirs of seven of the eight lords proprietors sold the lands back to the crown. The holdout was the heir to the Earl of Granville. His tract contained roughly what is now the upper half of North Carolina. Francis Corbin of Chowan County was the second Earl of Granville's land agent from 1744 to 1759.

Granville's land agent held an important, influential, and often respected position, including a position on the royal governor's council. Prospective property owners traveled to Edenton to talk to Corbin, who had built and used the Cupola House as his office. The candidates included



TROY KICKLER

Bishop August Gottlieb Spangenberg, who discussed purchasing a Piedmont tract for Moravians. The settlement later became known as Wachovia.

During Corbin's tenure, however, especially in his last years as land agent, he faced accusations of malfeasance. He and his co-agents, the allegations went, had condoned false surveys, charged excessive fees, and knowingly granted identical tracts to more than one grantee. Many in Edgecombe County and the newly formed Halifax County did not consider such actions sloppy bookkeeping. They deemed it a corrupt, duplicitous way to gain wealth.

Eventually, a formal reprimand and investigations occurred. In 1756, Lord Granville, Corbin's employer, warned his office to stop dishonest business operations. But land agents continued as usual, leading farmers to petition the Assembly. The body established an investigatory committee that found Corbin's office guilty of irregularities. Even so, Corbin walked away without censure. Many believed that the land agent influenced the

Assembly by bribing some assemblymen. At least Royal Governor Arthur Dobbs thought so.

In January 1759, approximately 24 men — many of them substantial property holders — detained agent Joshua Bodley and kidnapped Corbin and hauled him back to Enfield in Halifax County. They interrogated the two men. No bodily harm was inflicted, but under duress, they agreed to do three things: The land agents promised to appear in court to make whole those who had been duped and cheated in their previous land grant schemes; they



John Carteret, the 2nd Earl of Granville.

pledged to establish a proper protocol for all future land dealings.; and the two signed a statement purportedly acquitting the rioters of any wrongdoing by kidnapping them.

The rioters were unable to "prosecute" another land agent, John Haywood. Corbin's subordinate had died shortly before the Enfield Riot. Skeptical rioters, with shovels in hand, needed proof, so they dug up Haywood's gravesite until they reached the man's decomposed body. Only then did they

believe Corbin. (Later, the rioters were charged with grave desecration.)

The rioters had taken matters into their own hands. In fact, a judge, William Hurst, was one of the rioters, and, for some, as historian Wayne Lee points out, his presence added legitimacy to the event. Others in the Assembly considered the whole matter to be the product of a "sham jurisdiction."

Soon after the incident, in 1759 Lord Granville relieved Corbin and Bodley of their duties, and the following year, Dobbs removed Corbin from the council. Even so, Chowan county elected Corbin to the Assembly, and there he continued to be a nemesis of Dobbs.

The Assembly soon turned the charges used against the rioters into allegations against the royal governor. Corbin more than likely played a role in this turnabout, as the legislative body alleged that Dobbs approved of and failed to quell the Enfield rioters' "insurrection."

For more information on the Enfield Riot, see Wayne Lee's *Crowds and Soldiers in Revolutionary North Carolina* (2001). CJ

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

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Book reviews

Smith Sneers Dismissively at Free Market While Pushing Statism

• Hedrick Smith, *Who Stole the American Dream?* Random House, 2012, 557 pages, \$30.00.

BY LLOYD BILLINGSLEY
Contributor

American dreams are as numerous as Americans, but for Hedrick Smith there's only one: a steady job with good benefits, a home of your own, rising living standards, and so forth. That dream did not fade on its own. Somebody stole it, and Smith flags the thief as Corporate America.

The former *New York Times* reporter and Pulitzer Prize winner has collected stories of workers cut loose after years of faithful service. These will resonate with many readers, and the author surely is right that baby boomers are in for a rough ride. In Smith's view they have been shunted aside because foreigners do the same work for less money. He finds no shortage of skilled American workers in science, technology, engineering, and mathematics. But for companies, it's all about the bottom line.

The author shows how major corporations outsource operations to China at the expense of American workers. Smith is also adept at exposing the tax-dodging machinations of corporations through loopholes the average worker cannot exploit. But the book is riddled with clichés that lazy journalists have used to defend statism for decades. His book may comfort liberals seeking a seemingly nonpartisan voice to vindicate their biases. But there's little value for a reader looking for a critical analysis of why so many believe the American dream is receding from view.

Smith sees U.S. military expenditures as a wasteful drain on the economy. He cites a Heritage Foundation report that the U.S. military is deployed more than at any time in our history, and that in 2010 our network of bases cost \$41.6 billion. But that is about the limit of any concern he shows for government spending and government expansion as a contributor to current inequities.

The flywheel of corporate malfeasance is the U.S. tax code, by all accounts a monstrosity, though Smith appears comfortable with high corporate taxes. A flat tax would resolve the complexity problem, but neither a flat tax

nor lower taxes figure in Smith's list of solutions. Indeed, he quotes President Obama, who claims that under tax cutting proposals, "millionaires would get a check of \$100,000."

Of course, they would get no check at all. Instead, like other taxpayers they simply would retain more of what they already earn. Smith sees no disincentives in high marginal tax rates. He appears to have no problem with the top income tax rate of 92 percent under Eisenhower and 77 percent under Kennedy. He also writes approvingly of the inheritance tax of 77 percent on estates of more than \$250,000 that prevailed from the Wilson administration until the 1970s.

That's when things began to go wrong, according to Smith, whose memory proves faulty. He places the "Misery Index" in the 1990s, but that term gained popularity during the administration of Jimmy Carter as a measure of unemployment and inflation, both high at the time and devastating for American families. *Who Stole the American Dream?* contains little about Carter's economic failures

and nothing about the Carter-era Community Reinvestment Act and its role in the housing crisis. In Smith's view, that crisis resulted from predatory lending.

The author repeatedly slams Ronald Reagan for charging that government is the problem. That makes sense, because in Smith's view government is not only the solution but also the source of all good things. Steve Jobs and Steve Wozniak may have toiled in a garage, but in Smith's view everything the Apple Computer founders created began in or received support from a government office. So it was all Big Brother's idea.

Smith wants an "industrial policy," and says we have a de facto one

now through military contracts with such companies as Boeing and Lockheed. But contracting with companies to provide items the government needs is not the same as a broad-based industrial policy, under which bureaucrats

pick winners and losers using subsidies, tax breaks, and regulatory favors. Smith does lament that the solar-panel maker Solyndra went bust after getting \$500 million in federal loans, one of the author's few concessions to government fallibility. "Government has to be much smarter in picking the companies it funds," he says, "and much tougher overseeing their performance." Good luck with that, especially on the

infrastructure projects Smith sees as key to reform.

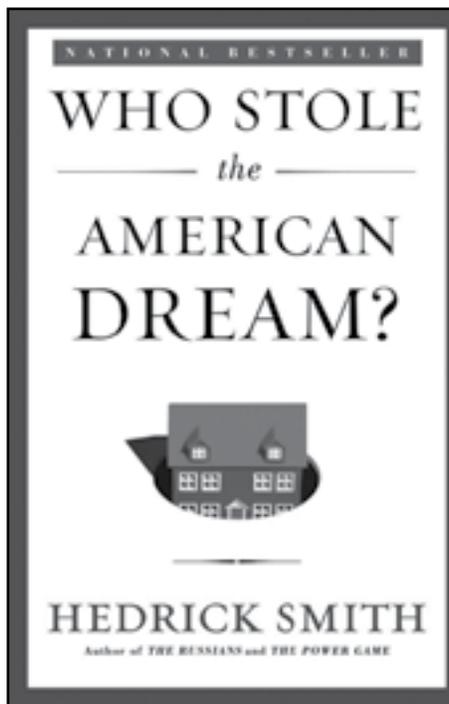
He laments that the Martin Luther King memorial in Washington, D.C., was designed by a Chinese architect and made in China. Likewise, the new span of the Oakland-San Francisco Bay bridge used Chinese steel. Smith fails to note that the bridge is some 10 years late and \$5 billion over budget. That might cast a chill on the saving prospects of such projects.

While government is infallible, consumers are stupid, Smith writes. Millions of them have proved incapable of providing for their own retirement. During tough economic times, he's OK with creating new federal departments such as the Consumer Financial Protection Bureau and vast new entitlements such as Obamacare, here described uncritically as a plan to "extend health insurance to 32 million financially strapped Americans." In his view, Americans simply cannot advance to middle-class status without student loans, Medicaid, food stamps, child care, housing assistance, and the Earned Income Tax Credit.

The *New York Times* vet strikes a bipartisan pose but telegraphs his bias with a flare gun. He laments the rise of the "radical right," but the radical left is nowhere to be found. Smith sneers at the "free market fundamentalism of economist Milton Friedman," but gives Paul Krugman and Robert Reich a free pass. And apparently no command-economy fundamentalism exists anywhere.

"Right to work" goes into dismissive quotes. The Tea Party is a collection of millionaires and conservatives who demonstrate wisdom only when they cave to liberal policies. And here we find the "unlikely-looking Pied Piper, the stocky, bearded, owl-eyed anti-tax lobbyist named Grover Norquist." But Smith indulges no demeaning descriptions of liberals such as Evan Bayh, a "moderate centrist Democrat with a shot at the presidency."

Who Stole the American Dream? is one of the more comprehensive statist manifestoes around. In forthcoming campaigns, it will doubtless pull heavy duty as a Democratic Party playbook. *CJ*



The book is riddled with clichés that lazy journalists use to defend statism

BOOKS AUTHORED BY JLF STAFFERS



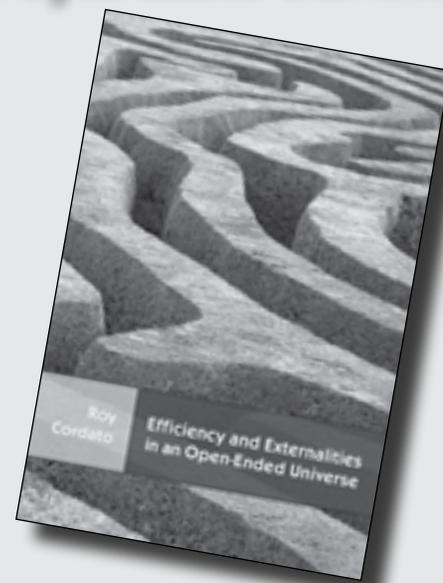
By Roy Cordato
Vice President for Research
John Locke Foundation

"Cordato's book is a solid performance, demonstrating impressive mastery of both the Austrian and neoclassical literature."

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Efficiency and Externalities in an Open-Ended Universe



Book review

Constitutional Money Explains How the Courts Politicized Currency

• Richard H. Timberlake, *Constitutional Money: A Review of the Supreme Court's Monetary Decisions*, Cambridge University Press, 2013, 257 pages, \$95.00.

BY GEORGE LEEF
Contributor

RALEIGH

Most Americans would be surprised to learn that the Federal Reserve notes in their wallets and the balances in their various accounts are not constitutional money.

Yes, what they have is money, but not the kind of money authorized under the Constitution. Our fiat, irredeemable, legal tender money is, as retired economics professor Richard Timberlake demonstrates in his new book, entirely at odds with the Founders' prescriptions.

Article I, Section 8 gives Congress the power "To coin money and regulate the value thereof," and Article I, Section 10 provides that state governments may not "coin money, emit bills of credit, or make any thing but gold and silver coin a legal tender in payment of debts." Also pertinent is the 10th Amendment, which states that the federal government only has those powers expressly granted to it.

Under Article I, Section 8, in 1792 Congress defined the dollar as a coin containing 24.74 grains of pure gold, and also as a coin containing 371.25 grains of pure silver. That meant that the United States was on a bimetallic standard.

Such a monetary system is workable, but leads to the problem of changing market ratios between the two metals. For that reason, Timberlake argues, the language about "regulating the

value" of coined money was included — the Founders knew that from time to time it would be necessary to adjust the dollar's metal content.

The first of Timberlake's constitutional decisions regarding money is the famous 1819 ruling in *McCulloch v. Maryland*. In 1818, Maryland enacted a tax on the notes of all banks not chartered in the state, including the recently reauthorized Bank of the United States. To resolve the case, the court had to decide on the constitutionality of the Second Bank of the U.S.

Chief Justice John Marshall ruled that although nothing in the Constitution expressly allowed Congress to set up a bank, it was nevertheless within its powers because establishing the bank was "necessary and proper" in carrying out its fiscal operations.

While *McCulloch* is applauded by most constitutional law "experts," Timberlake argues that it runs contrary to the limited government spirit of the Constitution. As for its impact, by opening the Pandora's Box of justifying expansions of federal power with the Necessary and Proper Clause, the Court set the stage for enormous monetary mischief in the future.

Despite that decision — President Jackson killed the Second Bank in 1832 — the nation's monetary system was sound, and in keeping with the Constitution, until the outbreak of the Civil War. The war upset everything.

To pay its enormous expenditures, the federal government had three options: raise taxes, borrow more, or print paper money. As Timberlake observes, "For quick revenue, nothing could match the printing of money," and to a considerable extent, that is what Lincoln's government did.

In 1862 Congress passed the first "Legal Tender Act," which authorized the printing of \$150 million in what came to be called "greenbacks." Those were U.S. notes, not redeemable in gold or silver, and declared to be legal tender for all public and private debts.

Some members of Congress questioned whether the Constitution allowed the federal government to issue paper money that citizens would be compelled to accept, but Treasury Secretary Salmon Chase and other administration supporters crushed opposition by claiming that in an "emergency" the federal government could do whatever was "necessary and proper."

At the war's end, the federal debt was more than \$3 billion, and the country was flooded with paper money. The problem was how to get back to the gold standard, which presented serious legal and political problems. The book covers them in detail.

Between 1868 and 1884, the court dealt with a series of cases involving the federal government's monetary powers. Unfortunately, those decisions (owing to an increasing Republican majority) gave the government almost limitless power, destroying the Founders' intentions.

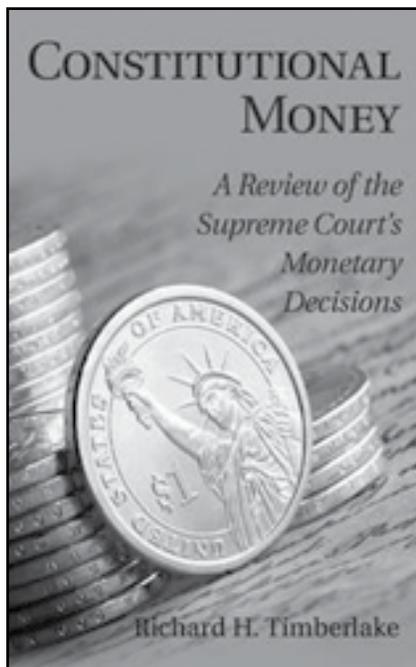
The latter chapters deal with the Federal Reserve system. Timberlake masterfully analyzes the economic damage the Fed wrought in the late 1920s through the 1930s.

Especially intriguing is his discussion of how it kept the gold standard from working once the Depression began, thus deepening and prolonging the economic agony.

In his conclusion, Timberlake argues that the United States needs to get away from "the rule of men" (especially the role of the Fed chairman) when it comes to money and get back to "the rule of law" — a system that follows the Constitution and isn't susceptible to political manipulation. He proposes a means of divesting the federal government of its gold holdings and putting that gold back into the hands of the people.

Constitutional Money is a superlative work of research and analysis. CJ

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



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Selling the Dream
Why Advertising is Good Business



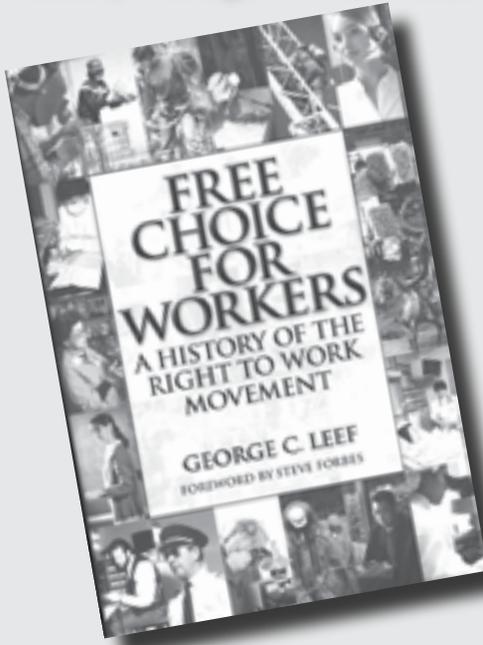
By John Hood
President of the John Locke Foundation

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

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COMMENTARY

N.C. Election Laws Still Liberal

You've heard it from the Left. You've heard it from the press and on TV. It's all over the Internet.

The Voter Suppression Act. Disenfranchised voters. One of the nation's most restrictive voter ID laws. Sweeping. Controversial. Restrictive. Fiercely contested. Assault on democracy.

Before the General Assembly convened in January, North Carolina's voting laws were some of the most liberal in the country. Now that legislators have enacted new election-related laws, they're still among the most liberal in the country; more liberal than New York's, for example. The new voting and elections laws bring us closer in line with the rest of the country. House Bill 589 makes substantive changes to our election laws that many believe will restore integrity and trust in our voting system.

Here's a recap of what the new law does and where North Carolina lines up nationally (much of this information comes from the National Conference of State Legislatures):

- Voter ID: required. Thirty-three states require voters to present identification at the polls. North Carolina is the 34th and joins a national trend of requiring a photo ID. Two-thirds of North Carolinians asked in several polls favor a government-issued photo ID to vote.

- Straight-ticket voting: no longer allowed. Fourteen states allow straight-party voting. North Carolina joins the 36 states that do not.

- Early voting: fewer days but the same number of hours. Fifteen states allow neither early voting nor no-excuse absentee voting. Thirty-two states have early voting periods ranging from four days to 45 days prior to election day, with an average of 19 days. North Carolina allows 10 days but requires the same number of hours of early voting that were available in 2012 and 2010, when the early voting period was 17 days.

- Same-day registration: no longer allowed during early voting. Only Ohio and North Carolina allowed same-day registration during early voting. Ten states and the

District of Columbia allow same-day registration on election day. North Carolina no longer does.

- Pre-registration: no longer allowed for 16- and 17-year-olds.

Five states allow 16- and 17-year-olds to register before they turn 18. Forty-five states do not, now including North Carolina.

- Campaign contributions: limited. Fourteen states allow unlimited individual contributions to candidates. North Carolina limits individual contributions to \$5,000, with periodic increases tied to the Consumer Price Index.

- Paper ballots: required in all N.C. counties. All but five states require paper ballots or some type of paper trail voters can verify at the polls. North Carolina becomes the 18th state using only paper ballots statewide. Sixty-seven North Carolina counties

used paper ballots in 2012. H.B. 589 brings consistency across all counties.

- Taxpayer-funded campaigns: repealed. Only 13 states offer public funds to political candidates. North Carolina joins the 37 states that do not.

- Provisional out-of-precinct voting: no longer allowed. Thirty-one states and D.C. require voters to cast provisional ballots in the precinct where they live (according to 2008 data, the most recent I could find). Now, North Carolina does, too.

- Instant runoff elections: eliminated. North Carolina was the only state using the confusing instant runoff process in judicial races. Three states use instant runoffs for ballots cast by overseas voters. H.B. 589 eliminates them in North Carolina.

H.B. 589 did make sweeping changes to North Carolina's election laws. But just as states with laws resembling ours have held successful elections and allowed citizens to exercise their constitutional rights, the same will happen here in North Carolina, with assurances of integrity and trust in a voting system that is fair and reasonable — and, in the scheme of things, still pretty liberal. *CJ*

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



BECKI GRAY

U.S. EDUCATION STANDARDS



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EDITORIAL

UNC Students (and Due Process) Prevail

If your child is a K-12 student in a North Carolina public school and faces an offense that could lead to suspension or expulsion, she has a legal right to seek the help of a lawyer. If she's enrolled at one of the UNC system campuses, however, and is charged with theft or sexual harassment, until recently she had to represent herself before a tribunal of administrators and had to face her accusers with no legal help.

The General Assembly and Gov. Pat McCrory leveled the scales a bit for students attending the UNC system who are accused of crimes or other breaches of conduct that are not related to academics (such as plagiarism).

A provision of House Bill 74, the sweeping regulatory reform measure that McCrory recently signed into law, would give college students and campus organizations the right to legal representation when charged with such offenses.

The legislation was promoted by the Foundation for Individual Rights in Education, a nonprofit legal and advocacy group promoting free speech and due process for college students and faculty. The group successfully has fought against speech codes and other foolhardy attempts at enforcing political correctness. By enacting this law, North Carolina became the first state in the nation to provide students at public universities these basic protections.

Previously, students and student groups facing complaints that were filed on campus could not hire attorneys to question witnesses or present evidence. "Students across America are regularly tried in campus courts

for serious offenses like theft, harassment, and even rape," said FIRE Vice President Robert Shibley in a press release. "Because the stakes are so high, students should have the benefit of an attorney to ensure the hearing is conducted fairly and by the rules."

Campus police rather than local law enforcers have jurisdiction over most offenses that occur on university property. Sexual harassment charges typically are handed over to the U.S. Department of Justice's Office of Civil Rights; violations under Title IX of the federal Civil Rights Act can jeopardize a school's federal funding.

But the feds often have little concern for the welfare of defendants; FIRE has pointed out a host of instances in which the OCR encouraged universities to disregard the due-process rights of students. (For more, see <http://bit.ly/njoRDV>.)

One exception in the law could be troublesome, however: It does not allow students to use attorneys if they're charged by the Student Honor Court at UNC-Chapel Hill or face other investigations controlled by students rather than campus administrators. It's possible that the sorts of incidents that drive the PC crowd to distraction — such as the publication of provocative articles, photos, or art in campus newspapers — might be considered "honor code" offenses rather than crimes, again threatening the due-process rights of the accused.

UNC administrators already have said they're worried the new law will make the dispute process more "adversarial," and it will — to the benefit of college students, who don't surrender their constitutional rights when they enter campus grounds. *CJ*

EDITORIALS

Growth Strategy

Research backs less government

As liberals criticized the economic policies of the General Assembly this year, they often resorted to the tactic that “economists say” liberals’ views were correct. Few of these commentators were, in fact, economists or had read the relevant literature.

While researching his 2012 book *Our Best Foot Forward*, John Locke Foundation President John Hood gathered every recent academic study he could find testing the relationship between state fiscal or regulatory policy and economic measures such as income growth and job creation. The database grew to contain 218 articles. Here are the main findings:

- Most studies of overall state taxes found that they were associated negatively with economic growth. That is, 31 studies linked higher taxes to weaker growth, while 17 studies yielded mixed or statistically insignificant findings, and only one study found that higher taxes were linked to stronger growth.

- With regard to specific state tax policies, there were negative associations with growth in 65 percent of the studies examining income tax burdens, 69 percent of the studies examining marginal tax rates, and 69 percent of the studies examining taxes on business or corporate income.

- Liberals say that North Carolina would be better served by a strat-

egy that maintains or increases the current tax burden to fund education, infrastructure, or other programs. This idea lacks strong empirical support. Of the 17 studies testing the relationship between total state spending and economic growth, only one found it was positive. Nine studies found that higher spending was associated with weaker growth, and the other seven were inconclusive.

- Of the 45 studies testing the link between education expenditures and growth, 16 studies found a positive association, 16 studies were inconclusive, and 13 studies had a negative association (the economic benefits of additional education spending were lower than the economic costs of the taxes required). Of the 36 studies examining infrastructure spending, a somewhat-higher plurality (44 percent) found positive results, but most studies still found inconclusive or negative relationships.

Finally, 45 articles looked at regulation, and 21 articles studied indexes of economic freedom encompassing both fiscal and regulatory policy. Scholars found a positive economic effect for less regulation 67 percent of the time and for economic freedom 75 percent of the time.

The claim that “economists say” liberals are correct about promoting economic growth is incorrect. *CJ*

Fiscal Repairs

Budget fixes state’s balance sheet

One outcome of the General Assembly session that got much less attention than it deserved was an invaluable piece of legislation limiting the share of state debt that can be issued without voter approval in the form of certificates of participation.

Historically, North Carolina maintained low debt burdens and prudent fiscal practices. That began to change during the late 1980s as state lawmakers coped with a burgeoning population and increased demand for services by issuing billions of dollars in bonds for schools, roads, and other infrastructure.

At least they asked voters for approval during the first big round of borrowing. After the passage of a \$3.1 billion higher-education bond in 2000, the state stopped holding public referendums altogether and issued COPs. Technically, COPs don’t obligate taxpayers to pay debt service,

but in practice, taxpayers are still on the hook.

By 2008, the amount of state debt per North Carolinian was five times greater than in 1988. In that 2007-08 fiscal year, the state spent nearly \$700 million just on General Fund debt service and held only \$787 million in its rainy-day reserve, less than 4 percent of spending.

The new 2013-14 budget put \$150 million into the repair and renovation reserve for state facilities and another \$233 million into the state’s rainy-day reserve. Going into this year, the rainy-day fund had only \$419 million in it.

By the end of the 2014-15 fiscal year, state cash reserves (rainy-day fund plus other fund balances) should be about \$1 billion, or 5 percent of General Fund spending.

It’s not exactly flashy for politicians to save money or reduce debt loads. Still, fiscal restraint is the smarter course. *CJ*

COMMENTARY

When Education And Politics Collide

When educational statistics and state politics collide, the results can be cringe-inducing.

A memorable example dates to March 4, 1999, when the governing board of the National Assessment of Educational Progress released the results of national reading exams. They showed that North Carolina was one of only five states posting significant gains in fourth-grade reading performance from 1992 to 1998.

Then-Gov. Jim Hunt released a statement and did a round of media interviews to celebrate the news. One reason for the test-score jump, he said, was “making sure our children get a Smart Start.”

In his exuberance, however, the governor didn’t do the necessary arithmetic. While his signature preschool program received legislative authorization in 1993, Smart Start didn’t reach a majority of North Carolina’s counties until 1996 and then went statewide in 1997. Unless the participating preschoolers became so brilliant that they immediately skipped several grades or started tutoring their older siblings, it was impossible for Smart Start to have affected the reading scores of fourth-graders in 1998.

I don’t recount this story to pick on Gov. Hunt. Many politicians fall into the same trap. Education is a key voting issue in state elections. Politicians have a strong incentive to claim credit for positive news about education and shift the blame for negative news to others.

But education policy isn’t so simple. By the nature of the institution, the benefits of even highly successful reforms take years to manifest themselves. Moreover, reforms rarely get passed one at a time. They come in clumps. In the mid-1990s, for example, North Carolina lawmakers not only created Smart Start but also rewrote part of the state curriculum, instituted new standardized tests, authorized charter schools, and changed teacher-compensation policies. So any subsequent gains in student performance could have multiple causes (including nonpolicy factors such as in-migration from other states).

Making things even more

complicated, the yardsticks for measuring student performance kept changing. North Carolina’s end-of-grade and end-of-course tests proved so problematic that they repeatedly were re-jiggered and eventually abandoned. The proportion of students taking NAEP exams changed, as well. And North Carolina stopped reporting a ridiculously high 96 percent graduation

rate in 2004, adopted a more sensible cohort measurement, and then saw graduation rates rise from 68 percent in 2006 to nearly 83 percent in 2013.

So establishing valid relationships between education reforms and education outcomes is extremely challenging. The task doesn’t lend itself to self-serving rhetoric or political gamesmanship.

Consider that recent rise in North Carolina’s graduation rate, for example. Democrats claim it proves the value of past Democratic policies, including Smart Start and More at Four. Republicans claim it proves the state budgets they fashioned in 2011 and 2012 did no significant harm to public education, as their Democratic rivals had alleged.

The available data just don’t offer a comprehensive explanation for the trend. Other states have experienced large gains in graduation rates, too. When *Education Week* used comparable data to track changes in graduation rates by state from 2006 to 2010, it found that North Carolina’s gain of 8.4 percentage points beat the national average gain of 5.5 points. But so did the gains in Alabama (8), Georgia (8.1), Virginia (8.3), Texas (9.5), Tennessee (10.8), and Florida (15.4).

Unless former North Carolina preschoolers have fanned out in massive numbers to populate public schools in other Southern states, it would be odd to credit Smart Start and More at Four for what is clearly a broader trend.

Education always will be a political issue. Still, let’s hope that politicians graduate to a higher level of political discourse about it. *CJ*

John Hood is president of the John Locke Foundation.



JOHN HOOD

EDITORIAL BRIEFS

Charitable Giving

U.S. Sens. Max Baucus, D-N.D., and Orrin Hatch, R-Utah, recently suggested placing all exemptions in the federal income tax code on the chopping block. At Politico.com, Howard Husock of the Manhattan Institute argued that, despite its popularity and the tenacity with which it will be defended, the deduction for charitable contributions is a prime target for elimination because the character of nonprofits has changed in recent years.

Each year, Americans donate more than \$300 billion to charities, resulting in some \$50 billion in lost revenue to the U.S. Treasury. Increasingly, though, many organizations receiving donations also receive significant amounts of government funding. The Urban Institute estimated that in 2010, federal, state, and local governments handed out more than \$100 billion to 33,000 social-service organizations.

"Quite simply, it is far more difficult to defend the charitable tax break when so many nonprofit groups rely on government funding," says Husock, noting they "get both tax money and a tax break for their donors."

Husock would allow deductions only to those groups that can operate independent of government — say, those getting no more than a quarter of their revenues from government contracts.

"Instead of directing money to established organizations that are already pulling in government grants," he writes, "a reformed charitable deduction can fuel what amounts to a national nonprofit venture capital fund and the revival of a truly independent, independent sector."

Men's rising earnings

One commonly repeated claim about the health of the middle class is that men's wages have stagnated — or worse — since the late 1970s. This argument is demonstrably false, writes Scott Winship for the Brookings Institution.

Some observers contend that household incomes have risen only because more women have entered the work force as men's wages have fallen.

"There are a number of problems with this claim, the main one being that, across the developed world, rising employment among women has coincided with their rising educational attainment, as well as deferred marriage, delayed childbearing, and lower fertility," writes Winship.

"This suggests that women today work more than their 1950s counterparts for reasons unrelated to men's earnings. Less appreciated is that middle-class men are doing better than the most widely cited statistics indicate."

A frequently cited paper by Michael Greenstone and Adam Looney reports that median earnings among men age 25-64 fell by 28 percent from 1969 to 2009. Winship finds significant flaws with Greenstone and Looney's work. In particular, Winship writes, Greenstone and Looney ignore the impact of increased immigration and overestimate the impact of men outside the work force. Making these adjustments, Winship finds that inflation-adjusted mean male earnings increased by 20 percent from 1969 to 2007. CJ



Gauging N.C.'s Economy

How do we know what's happening to our state's economy? Certainly we can rely on our personal experiences, but there's no assurance that what's happening in our own economic life is representative of the entire state.

This is why we rely on economic statistics to give us an idea of what's occurring. Let me give you a road map to the most common statistics for measuring our state economy.

The "gold standard" for measurement of the economy is gross domestic product, or GDP. Think of GDP as the value of total production of both products and services in a particular region — like a country or state. The value of anything used in the production made outside the region is not included.

Personal income is another closely watched economic measure. For a state, it includes income to persons from all sources — earnings from working, investment returns, pensions, Social Security, and money from various public assistance programs. It often is expressed on a per person basis as per capita income.

It is important to recognize that per capita income is not the same as a worker's salary. The income included is broader than what is earned from working. Also, in expressing the income on a per person basis, all persons are used — those working, not working, retired, and children.

Fortunately, there is a measure focused only on what people receive from working. It is called compensation per worker, and it is available for each state. The compensation includes both what a worker earns in salary or wages plus the value of benefits.

Still, there is no question that the most followed economic statistics are those related to jobs. Unfortunately, even this measure isn't simple. There are three commonly followed job statistics: the unemployment rate, the number of jobs derived from interviewing people, and the number of jobs calculated by interviewing businesses. Each of these measures is based on a statistical sample.

Each measure has its own pluses and minuses. The count from interviewing households includes people working away from home or at home as well as at new business startups. The interviews of existing businesses may miss some of these. However, the household interviews are a much smaller sample than the business interviews, so the latter have an edge in statistical robustness. Finally, the unemployment rate can move around solely based on whether jobless individuals are actively looking for work.

Whew — that's a lot of statistics! Now what do they say about the current condition of the North Carolina economy?

GDP is up in North Carolina over the last three years and is now above prerecessionary levels. Last year (2012), growth in GDP in North Carolina was actually faster than in the nation.

The pattern in personal income has been the same, with a definite rebound since 2009. Per capita personal income fell from 2007 to 2009, but is up from 2009 to 2012. Compared to the nation, however, per capita personal income in North Carolina fell more during the recession.

But in contrast, compensation for the average North Carolina worker has been rising faster than workers nationally, resulting in the ratio for North Carolina to the nation now being higher than in the past!

Both job surveys show North Carolina added jobs at a faster rate than the nation between the bottom of the job market in early 2010 to now. Why, then, is our state's jobless rate still more than a percentage point higher than the national rate? A big part of the answer is that our labor force has continued to expand faster than the nation's. During the recession North Carolina's labor force grew while the nation's contracted. People continue to move to North Carolina, and our schools are graduating future workers at a faster clip. If these individuals don't find work immediately, they are unemployed.

Statistics can be confusing — believe me, I know — and they can also be interpreted in different ways. I've given you the numbers — now you decide on the interpretation. CJ

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



MICHAEL WALDEN

Partisan Politics Nothing New in N.C.

This summer I've taken calls from dozens of reporters across the country. A couple of questions are repeated time and again: How could North Carolina Republicans have moved so far to the right? How have the state's politics polarized so much when the Democratic Party barely has budged from its position? I'm quite sure a number of them wanted to add, "Isn't this all such a terrible business?"



ANDY TAYLOR

It is undeniably true that today's state GOP is more conservative than when we last had Republican governors — Jim Holshouser from 1973-77 and Jim Martin from 1985-93. But systematic measures of state citizen ideology — such as that constructed by Richard Fording and his collaborators — show a material move in a conservative direction, especially since 2008, after a slow but perceptible creep leftward in the previous decade was capped by Barack Obama becoming the first Democratic presidential candidate since Jimmy Carter in 1976 to win North Carolina. In 2012, Gallup found that, at least according to figures derived from residents' self-identified ideology, conservatives outnumbered liberals here by 20.9 percentage points.

Also, during the Holshouser and

Martin years, the legislative Republican party was puny and those chief executives necessarily pulled the party to the center in order to please the state's median voter, whether for Martin's re-election in 1988 or, as in 1976 and 1992, when the governor was term-limited, to secure a political and policy legacy in the form of a Republican successor. The current state GOP, on the other hand, is led by large majorities in the House and Senate. Lawmakers have partisan and homogenous constituencies and powerful leaders.

It is no coincidence that the conventional model of the American legislative process — to paraphrase FDR, it is the duty of the chief executive to propose and the legislature to dispose — cannot adequately explain the recently ended session of the General Assembly. House Speaker Thom Tillis and Senate President Pro Tem Phil Berger offered lengthy conservative agendas that largely had been kept under wraps since they acceded to the leadership in 2011 because of Democratic Gov. Bev Perdue's veto. Gov. Pat McCrory, having campaigned as a problem solver rather than an ideologue, did not put himself in a position to challenge them. Instead, he often waited for bills to come to his desk, reacting rather than initiating. His secondary role has been demonstrated recently by some legislators' assertions that they are likely to override vetoes on bills having to do with drug testing for welfare recipients and penalties for businesses hiring illegal

immigrants.

Republicans, then, have both followed and attempted to lead the public in a conservative direction. Because of their assertiveness, there is still the nagging question of overreach that I've written about before. It is a proposition that will get its first real test in the 2014 elections.

What of the Democrats? Are they really no different today? In some ways, it is quite difficult to ascertain. The party is in the minority in both chambers of the General Assembly and its state organization rudderless.

The Democrats will win power back again, if not in the immediate future and if not always in toto. North Carolina is even now tinged purple and, like just about everywhere else, its public's views are thermostatic — they tend to react negatively to many new policies and frequently wish to have them tempered. When the Democratic Party does emerge from the doldrums, however, I find it hard to believe it will be the moderate party it has been characterized as in the past. Business leaders and their money once supported Democrats because they held power, not because there was any great meeting of the minds. Now that Republicans hold all the cards, these resources have flowed freely into GOP campaign coffers. Large corporations may back competitive Democrats occasionally for policy reasons. They often like regulation because it puts smaller competitors at a disadvantage. But because politicians of both parties can be persuaded

to deliver businesses specific benefits — such as relocation subsidies and tax breaks — corporations will tend to invest in incumbents and shift with the wind.

Without the solid allegiance of businesses large and small, the North Carolina Democratic Party will be pulled leftward by the biggest supporters it has today: African Americans (and possibly Latinos), public-sector unions, and liberal professionals. Democratic candidates sometimes may win the votes of swing moderate groups; suburban women, for example, seem deeply perturbed by elements of the GOP's current agenda, especially on issues like public education, abortion, and guns. But without the counterweight of business, the Democrats are as likely to overreach as the Republicans seem to have at times this year.

The result is a new polarized North Carolina politics. To some, this may be distressing, condemning us to abrupt changes in public policy and frequent gridlock if one party controls the governorship and its opposition the General Assembly. To others, it might be refreshing. Two competing parties with distinctly different programmatic approaches may increase citizens' interest in state politics and provide them with meaningful and clear choices come election time. *CJ*

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Obama Scandals and the Media

Without a doubt, President Obama is a clever and cunning politician. Perhaps he is the most deft politician I have seen at saying absolutely nothing during a press conference when he wants to avoid controversial topics, such as: Benghazi; the targeting of conservative groups by the IRS; the snooping on reporters by his Justice Department; or the potential overreach by the National Security Administration into the basic rights of privacy of Americans.



MARC ROTTERMAN

Watching his Aug. 9 White House press conference, I was struck at how manipulative the whole charade was and the passiveness of the press.

I recall the days when reporters

raised their hands and were selected spontaneously by the president — and it was the practice of reporters to ask follow-up questions.

Seems that's not kosher now.

As you watch Obama, after his initial remarks he clearly goes to his layup list of the reporters he knows won't challenge him.

From there, he filibusters for several minutes on each question, demonstrating (to himself, anyway) that he's the smartest kid in the class.

By doing this, he manages to call on six to seven members of the "fourth estate" — most of whom have totally bought into the Obama aura and — "presto" — he is out of there without a glove laid on him.

It's a masterful exhibition of dodge and parry.

Not long ago, Jay Carney, the president's press secretary, decried the "phony scandals."

The president has echoed these remarks. In a recent economic speech at Knox College in Illinois, Obama

said the following:

"With an endless parade of distractions, political posturing, and phony scandals, Washington has taken its eye off the ball, and I am here to say this needs to stop. Short-term thinking and stale debates are not what this moment requires."

In other words, don't bother me about the plethora of insignificant scandals surrounding me and my administration when we have bigger things to do.

The problem with this tactic by the president is that the American people aren't buying it, at least according to a survey released Aug. 8 by Fox News.

The survey found that 78 percent of voters think the Obama administration's handling of the terrorist attack on the U.S. consulate in Benghazi should be taken seriously. Only 17 percent call it a phony scandal.

As to the NSA's electronic surveillance of everyday Americans, 69 percent call it serious while 26 percent

call it a fake.

By a margin of 59-31 percent, voters are also more likely to view the seizure of reporters' phone records by the Justice Department as serious rather than phony.

While the White House portrays the congressional investigation of the IRS targeting of conservative groups as a "distraction," 59 percent of voters take it seriously. Only 33 percent concur with the administration that it's fake.

Clearly, the president and his team are practicing what I would characterize as "scandal avoidance."

The question is whether the "drive-by press" will continue to be co-conspirators in this folly or wake up and do their jobs.

In my view, the former is more likely. *CJ*

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

McCrorry Ponders Using Yadkin for Riverboat Gambling (a *CJ* parody)

BY HY ROLLER
Business Correspondent

BADIN

Gov. Pat McCrorry's administration is considering a compact with the relatively unknown Piedmont Band of Yadkin Indians that would demolish six dams along the Yadkin River and allow the tribe to operate a riverboat gambling operation, *Carolina Journal* has learned.

The floating games of chance would ply a 60-mile stretch of the Yadkin where hydroelectric facilities owned by Duke Energy and a subsidiary of Alcoa Inc. now operate.

"The river's water should be used to supply the state's people and to create jobs rather than power the dams. We need to return it to its natural state. The dams must go," McCrorry said in press release announcing a lawsuit filed against Alcoa by his Department of Administration.

The lawsuit claims that the state, rather than the manufacturing giant, owns the riverbed, even though nearly a century ago Alcoa built four dams to power an aluminum smelter in Badin that employed as many as 1,000 people until it closed in 2002.

The release did not mention the gambling issue. McCrorry's senior economic adviser, Tony Almeida, told *CJ* that neither he nor the governor could



State tourism officials already have designed promotional materials for the Yadkin River riverboat gambling project. A source gave *Carolina Journal* a mock-up of one of the brochure covers. (CJ spoof graphic)

comment because the proposal is an ongoing economic development project and any details must remain confidential.

But Yadkin Chief Level Cross told *CJ* that Almeida met with Stanly County officials and members of the tribe in August to discuss a potential riverboat gambling operation.

"Because our forefathers lived and hunted on this land, we deserve to get something out of it. For us, gambling is the ticket. Just look at all the dough flowing to the Cherokee tribe in

Jackson County," he said.

The Yadkin tribe is a small and relatively unknown North Carolina Indian organization. "We have about 13 members, but if you add the Crisco Band based in Randolph County, it brings the total to around 20," Level Cross told *CJ*.

Under McCrorry and his predecessor, Gov. Bev Perdue, North Carolina has been fighting Alcoa's attempt to obtain a new license from the federal government to operate its hydroelectric plants. Perdue wanted the state

of North Carolina to operate the dams and sell the electricity. McCrorry's plan to demolish the dams is much more drastic, and has the full support of environmentalists.

Yadkin Riverkeeper Dean Naujoks, who has helped lead the efforts to block Alcoa's license, was elated over the proposal.

"I am a riverkeeper, not a dam keeper or a lake keeper. McCrorry has impressed me with this proposal. And Indian gambling is much more in line with Native American traditions than hydroelectric power," he said.

A spokesman for Alcoa told *CJ* the idea of demolishing the dams was "a certifiably insane proposal," but he would not comment further, citing the ongoing litigation.

The McCrorry administration also is exploring a Cleveland County casino deal with the Catawba Indian nation. Sources say the governor wants to make tribal gambling operations a major component of his economic development strategy for the state.

Members of the tiny Occaneechee tribe in Orange County have contacted the administration, hoping to operate riverboat casinos on the Eno River.

When contacted by *CJ*, a spokesman for the Lumbee tribe in southeastern North Carolina said, "Hey, we deserve a piece of that action, too." *CJ*

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