

**Backers rally to support \$2 billion bond campaign/3**



# CAROLINA JOURNAL

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

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STATEWIDE EDITION

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## McCrory Says CSX Rail Hub 'Not A Viable Option'

### Reports of eminent domain threats hurt early enthusiasm

BY DON CARRINGTON  
Executive Editor

RALEIGH

Less than two weeks after praising a proposed CSX terminal near Selma as a boon to economic development in eastern North Carolina, a spokesman for Gov. Pat McCrory said on Jan. 26 that the proposed transit hub "does not appear to be a viable option."

The reversal occurred amid substantial local opposition to the proposed "Carolina Connector," a \$272 million transit hub, including a resolution from the Johnston County Board of Commissioners rejecting the proposed 450-acre site and the refusal of several landowners to sell their property to the railroad, leading CSX officials to suggest they may use eminent domain to seize land for the project.



Gov. Pat McCrory



Don Lassiter, right, and his son Trent in front of their event center, The Farm, on property CSX wanted for the Carolina Connector project. (CJ photo by Don Carrington)

ect.

News reports of CSX telling property owners that the company would use eminent domain to obtain property, and comments from company representatives that some land owners viewed as threats, seemed to prompt some public officials to change their opinions on the project.

N.C. Agriculture Commissioner Steve Troxler said "the proposed trans-

portation hub is a major step for North Carolina, but not at the expense of private property rights." And U.S. Rep. David Rouzer, who initially supported the project, later pulled his support "after learning that the land owners impacted have had no input on this project," according to a news report.

McCrory announced the project in a Jan. 14 press release, saying "over time, the project could bring 1,500

statewide jobs to North Carolina and provide an estimated \$329 million in public benefits to the state. Enhancing freight movement through eastern North Carolina and the State Ports is a key part of my 25 Year Transportation Vision. I am enthusiastic that CSX, with support from local governments and planning organizations, has proposed this project for North Carolina."



Twelve days later, McCrory spokesman Graham Wilson issued the following statement: "Based on the vote of local officials as well as serious land issues, the current site in Johnston County does not appear to be a viable option. We will continue to work with CSX to explore alternative sites in order to create jobs and enhance our state ports."

While CSX officials compared the Carolina Connector to similar rail cargo hubs in Chambersburg, Pa., and North Baltimore, Ohio, *Carolina Journal* reported on Jan. 21 that the railroad

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## IRS Charges N.C. Couple With \$12 Million Fraud

### Arkansas traffic stop leads to investigation, arrest of man, woman

BY DON CARRINGTON  
Executive Editor

RALEIGH

The Internal Revenue Service Criminal Investigation Division's Raleigh office filed a criminal complaint on Jan. 8 in federal court against a Wallace couple, Walda Lorena Luna and her husband Perfecto Ruano, claiming the couple used identity fraud to obtain 2,760 illegal U. S. Treasury refund checks with a total value of \$12.1 million.



This vehicle, apparently owned by Perfecto Ruano, was on the property of a store owned by Walda Luna. (CJ photo by Don Carrington)

The complaint says the activity took place between January 2009 and May 2012. Luna and Ruano were arrested Jan. 11 and taken to the New Hanover County jail in Wilmington.

The IRS calls this type of crime

Stolen Identity Refund Fraud, or SIRF. More recently it has labeled the crime Identity Theft tax refund fraud, or IDT refund fraud. The IRS has been aware of this type of fraud at least since 2011 and recently stepped up efforts to catch it.

"The critical thing for taxpayers to know is that new protections will be in place by the time they have to file their taxes in 2016," said IRS Commissioner John Koskinen in June. *Carolina Journal* began reporting on the issue in April 2013.

Luna and Ruano made their first court appearance Jan. 19 at the federal courthouse in Wilmington. Each had a court-appointed attorney and a Span-

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## Obamacare Premiums Surge More Than 30 Percent

By DAN WAY  
Associate Editor

With a Jan. 31 deadline to obtain an Obamacare-compliant health insurance policy on the federal health exchange for 2016, enrollment in the federal health insurance plan has grown slightly, but individuals in 2016 may pay premiums 30 percent or more higher than those charged last year.

According to the Centers for Medicare and Medicaid Services, as of mid-January 563,830 individuals in North Carolina had enrolled in Obamacare plans. The U.S. Department of Health and Human Services said 560,357 were enrolled in the federal health insurance marketplace in 2015.

Blue Cross and Blue Shield of North Carolina is hiking its rates for 380,000 customers by an average of 32.5 percent. The state's largest insurer in the individual market abolished some plans in the Charlotte and Triangle regions, directing some 55,000 people to seek new coverage in smaller provider networks.

Coventry Health Care of the Carolinas, an Aetna company, will raise rates an average of 23.6 percent for 117,000 policyholders. United Health Care is increasing the average rate paid by its 86,223 customers by 20 percent in 2016.

According to the Gallup-Healthways Well-Being Index, 20.4 percent of North Carolinians had no health insurance in 2013. By the middle of 2015, that fell to 14.7 percent.

The Kaiser Family Foundation puts the number of uninsured eligible for an individual Obamacare plan at 1,138,000. Of those, 25 percent would qualify for a health policy premium tax credit; 40 percent would not. Another 21 percent are in the group that would have been eligible for Medicaid had the state expanded that federal entitlement program.

Teresa Parrott of Durham said her experience with Affordable Care Act plans has been disastrous.

"This Obamacare. It's for the birds," she said. "I don't see how this is helpful for the average American at all."

Parrott was 62 when her job was eliminated in 2013 and she went into early retirement. She found a policy on the federal exchange for a \$129 monthly premium, though she received substantial subsidies.

"The taxpayers were paying over \$600 a month for it. And the insurance was no good. I couldn't use it at any of my doctors," but was able to buy her prescriptions under the plan, Parrott said.

In 2015 her cost for the same policy jumped to more than \$300 a month "and I still couldn't use it," she said.

She switched to a less expensive BCBSNC policy, which ended up being the only Blue Cross plan her doctor would not accept.

"It's just a sorry policy basically," Parrott said. "I paid \$99.92 a month for 11 months, never used it one time," and meanwhile the government continued providing tax credits.

She turns 65 in March and will enroll in Medicare. To avoid the \$695 penalty for being uninsured, she sought the cheapest plan available for January and February.

"So now I have a policy that costs me nothing, but it costs the taxpayers over \$600 a month. That's ridiculous, and I can't use it because nobody accepts it," Parrott said.

RALEIGH

"So what is the point of paying out of pocket for insurance that you can't use?"

"With some of these plans, especially in the individual market, people are facing \$12,000 deductibles before an insurance company covers anything, so you might as well be uninsured," said Katherine Restrepo, health and human services policy analyst for the John Locke Foundation. "Just because you have insurance does not mean you have access to care."

Parrott's plan-jumping is becoming typical for Obamacare patients.

"Every year now people are having to switch their plans," said Duke research scholar Chris Conover, who monitors the Affordable Care Act's implementation and impacts.

Even the administration, which once claimed those who liked their plan could keep their plan, now says, "You need to switch plans if you want to get the best rate," Conover said.

"Now we're going through this system of endless churn," he said. "It's not an optimal model for insurance coverage," especially when a consumer can't keep the same doctor.

Devon Herrick, senior fellow and health economist at the Dallas-based National Center for Policy Analysis, said Texas, like North Carolina, has higher-than-average losses on the exchange plans.

"First, the only people who are willing to buy coverage are those who get subsidies," Herrick said. Those earning less than 250 percent of the federal

poverty level get cost-sharing subsidies in addition to premium tax credits.

Because health status and wealth are correlated to a large degree, "a [low-income] risk pool is likely less healthy than a wealthy risk pool," Herrick said. Many exchange enrollees were uninsured and may not have seen a doctor in years.

"Imagine what would happen if someone with no out-of-pocket costs went to see a doctor for the first time in a decade. I suspect they'd be an easy mark for 'anything goes,'" Herrick said. "All the people with pre-existing conditions, who had not enrolled in health coverage in years past due to the cost, probably jumped at the chance for subsidized coverage."

Gaming of the enrollment rules further complicates matters. While there are specific open-enrollment periods, they were extended in 2014 and 2015 to let more people enroll.

"Some probably took advantage of that and waited until they needed medical care before signing up," Herrick said.

"Once they received surgery or had that baby, many dropped out," he said. With nearly 30 special enrollment categories, "It's rather easy to game the system and wait until you're sick to sign up."

Indeed, compared with 2014, Blue Cross reported that from January to June 2015 its ACA patients had more chronic illnesses and higher-than-expected demand for expensive health care services, emergency department visits jumped 27 percent, prescription drug costs rose 33 percent, and most who dropped coverage used expensive medical services before terminating their insurance.

"I don't believe it's going to get any better," Herrick said.



Teresa Parrott of Durham says she is unable to use the health insurance policies she has purchased from the federal health exchange as part of the Affordable Care Act. (CJ photo by Dan Way)

# Backers Rally to Launch \$2 Billion Bond Package Campaign

By BARRY SMITH  
Associate Editor

RALEIGH

**H**undreds of supporters of the \$2 billion Connect NC bond referendum on the March 15 ballot gathered Jan. 5 on N.C. State University's Centennial Campus to kick off a campaign they say is essential for a growing North Carolina.

Gov. Pat McCrory told the crowd at the campus's Hunt Library that there is a heavy demand for workers with certain skill sets.

"There is a skills gap right now in our country and in our state," McCrory said. "Where we're putting the money in our university and in our community colleges is to help fill the skills gap we have in North Carolina so industries can find the talent needed to continue to grow."

The bond proposal earmarks more than half of the \$2 billion for various new buildings and renovations on University of North Carolina system campuses. Another \$350 million would go to community colleges across the state.

During his remarks McCrory, a Republican, alluded to projects the bonds would fund at Western Carolina University, UNC-Charlotte, and N.C. A&T State University.

McCrory said the natural science building at Western Carolina was built in the early 1970s, when the school had 15 nursing majors and no engineering majors.

"Today, Western Carolina has about 2,300 students in health and human sciences programs, which we majorly need right now more than ever," McCrory said, adding that there are 600 students in technical and engineering programs, and 500 in biological and physical science programs.



**Jim Rose, regional president of Yadkin Bank and treasurer of the Connect NC bond committee, rallies supporters at a Jan. 5 kickoff effort at N.C. State University for the bonds that will be on the March 15 ballot. (CJ photo by Barry Smith)**

Maintenance costs in the science building at UNC-Charlotte, which was built in 1985, "are costing more than the building is worth," McCrory said.

He also made a push for a new \$90 million science building at N.C. A&T. "We will invest more in our historically black colleges and universities to ensure that everyone has the opportunity to succeed in their chosen field and contribute to North Carolina's future," McCrory said.

House Speaker Tim Moore, R-Cleveland, said lawmakers were able to pay for highway projects with existing tax revenues, so the bond proposal doesn't include money for roads. However, he made a push for the community college component of the bond referendum. "It's where the rubber meets the road on worker retraining," Moore said.

Sen. Dan Blue, D-Wake, offered a note of bipartisanship. "It's absolutely essential for this state for its economic growth, for creating more jobs for

North Carolinians," Blue said. He said a business school building was needed for UNC-Pembroke to train business leaders for southeastern North Carolina.

Former Democratic Lt. Gov. Walter Dalton joined the bipartisan chorus. "This is not a partisan issue, it is a North Carolina issue," said Dalton, who is president of Isothermal Community College in Spindale. "It is about keeping North Carolina strong."

Jim Rose, regional president of Yadkin Bank and treasurer of the Connect NC Committee, which is leading the push for the bonds, said the committee has collected about \$750,000 from donations and has pledges of more than \$1.3 million. "Our truthful goal is really about \$3.5 million," he said.

Rose used the occasion to rally supporters, urging them to vote for the bonds and to encourage others to do the same.

The committee distributed yard

signs at the event promoting the bond package.

Bob Orr, a former N.C. Supreme Court justice and chairman of the Connect NC Committee, said now is the right time to borrow money for the building program.

"We're at historically low interest rates," Orr said. "This is a smart business decision, and it will have enormous long-term benefits to North Carolina."

In addition to the money for the UNC and community college systems, the bonds would provide \$3 million in matching grants to make local parks more accessible for children and veterans with disabilities. Another \$309.5 million is earmarked for local water and sewer loans and grants.

Another \$78.5 million would go for National Guard readiness centers and a Department of Public Safety training academy.

An additional \$94 million would pay for labs at the Department of Agriculture and Consumer Services.

State parks and attractions would get \$100 million, including \$25 million designated for the North Carolina Zoo in Asheboro.

In late January, a group opposing the measure called NC Against the Bond filed paperwork to launch a formal referendum committee and raise money for advertising and voter education. Nicole Revels of Lenoir, the group's treasurer, told WRAL News the committee will rely on the grassroots support of about 30 activists and a mailing list of about 8,000 others who have expressed concerns.

Revels added that some of the opposition to the measure comes from residents who might support a transportation bond but say this proposal funds "luxuries" and "fluff." *CJ*

## Carolina Journal/Connects the Dots

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# Critics Worry About Impact of Connect NC Bonds on Debt Load

BY DAN WAY  
Associate Editor

RALEIGH

While publicly lobbying for the \$2 billion Connect NC bond referendum that will be on the March 15 ballot, Gov. Pat McCrory and members of his administration say the measure will be fiscally prudent, reducing state General Fund debt over the next five years.

But a small and growing chorus has criticized the bond proposal, which would support projects related to the UNC system, community colleges, state and local parks, water and sewer infrastructure, agriculture, and public safety.

"If you remember, we had a fit about \$8 billion in debt under [former Gov.] Bev Perdue, and so we went on an austerity program, we paid down our debt," said state Rep. Mark Brody, R-Union, who voted against the bonds.

"And now we want to go back up," Brody said. "It's just plain ironic to me."

"The issuance of the \$2 billion Connect NC bonds will cause debt service to rise," said Brad Young, press secretary for state Treasurer Janet Cowell. Debt service is the state's payment to retire its debt.

"The exact amount of the increase annually will depend upon the issuance schedule and prevailing interest rates at the time the bonds are issued," Young said.

If bonds are issued at a 3.5 percent interest rate, annual debt service would go up by more than \$14.8 million in the first year, 2016-17, from \$676.8 million to \$691.7 million, according to the legislative Fiscal Research Division.

By 2024-25 the annual debt payment would be \$151 million higher

than it would be without the bond, rising from \$359 million to \$510 million.

"Interest rates are at historic lows," outgoing state budget director Lee Roberts said during recent remarks at the John Locke Foundation. "We believe we would be committing fiscal management malpractice not to take advantage of these historically low interest rates to finance these long-term infrastructure needs."

Roberts said the state is paying off its existing debt very rapidly. It was at \$7 billion in 2010 before dropping to \$5.2 billion at present.

"We'll pay off 75 percent of our existing debt over the next 10 years, and even with the issuance of the additional \$2 billion we'll have less debt

five years from now than we do this year, and that's why we're so confident in saying this bond in no way will require a tax increase," Roberts said.

Without the \$2 billion bond, state debt would drop from its current \$5.2 billion to about \$3 billion in five years. If the bond passes, the debt load would dip slightly from its current level to \$5.1 billion in five years.

The state likely would issue the bond in four installments so all the debt would not come due at the same time, Roberts said.

According to a Fiscal Research document, those installments, would be \$421.6 million in 2016-17; \$598.8 million in 2017-18; \$573.8 million in

2018-19; and \$405.9 million in 2019-20.

If the state found itself in a rapidly rising rate environment "which we might have," Roberts said, "you probably would front-load the issuance. That's a decision for the treasurer and the debt writers at the time of issuance," when interest rates would be locked in.

Even if the bond were issued at 5.75 percent interest, there would be "ample debt service capacity, ample affordability," Roberts said.

The 2015 Debt Affordability Advisory Committee chaired by Cowell "found that the General Fund had in excess of \$2 billion in additional debt capacity," Young said. "Therefore, at the current time it does not appear that a tax increase would be necessary to service the new debt."

The rating agencies currently consider North Carolina's debt burden to be "low-to-moderate," and "below average," Young said, "and they recognize that state borrowing is subject to debt affordability guidelines," so the state's AAA rating should not be affected.

State bonds "historically enjoyed very favorable market acceptance and a very positive reception from investors," Young said. "At the current time it does not appear that extraordinary actions will be necessary to successfully issue the bonds."

Brody said to call any of the po-

tential bond uses pressing needs "is a real stretch of the imagination. If they were pressing needs, then they would have been in the budget."

Brody believes "we would get more economic value if we waited a few more election cycles and took advantage of our surpluses to do certain things that we really need to do and pay off our debt."

The state would have more money available to spend on its needs without raising taxes if it didn't add the new debt service and interest, he said.

"I'm a very strong, conservative Republican, and I would not embrace this," Brody said. Asked if the bond package was out of sync with Republican values, he replied, "All I'm going to say is that this isn't a strong Mark Brody philosophy to follow."

"Although we are being told that this bond will not lead to tax increases, I never heard of a bond that didn't," said state Rep. Larry Pittman, R-Cabarrus, who voted against the bonds.

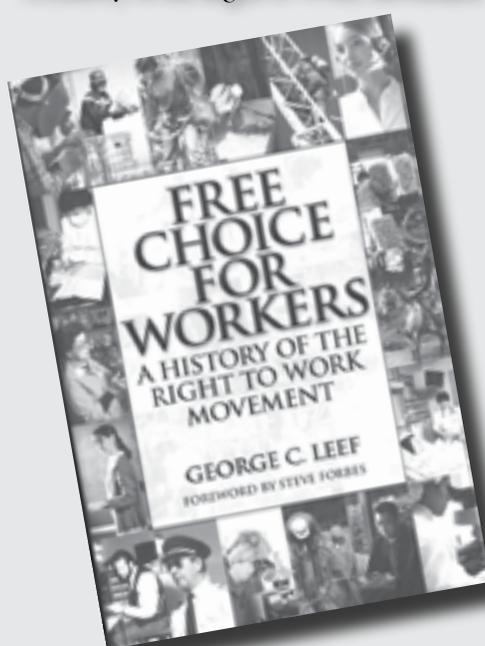
"Even if we don't raise state taxes to pay for it, I believe the localities involved, in order to meet the matching funds aspect of some of this, will almost certainly have to increase their taxation to pay their share of it," Pittman said.

"I personally would not go out and buy a house, car, or other item I don't really need, just because interest rates are lower. The state needs to be similarly frugal with the people's money," he said.

The state should not put up new university and community college buildings "when they aren't even using all the space they have now," he said. CJ



## Free Choice for Workers: A History of the Right to Work Movement



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

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# State Bar Complaint Seeks Misconduct Probe of Roy Cooper

By DON CARRINGTON  
Executive Editor

RALEIGH

A longstanding feud between Raleigh attorney Gene Boyce and State Attorney General Roy Cooper that appeared to be over in 2014 reignited in January, when Boyce filed a complaint against the North Carolina State Bar claiming that Cooper should be investigated for professional misconduct.

Boyce claims that starting in 2000, Cooper knowingly made false statements harming the reputation of Boyce and his law partners. Seeking to force an investigation, on Jan. 5 Boyce filed a formal complaint in Wake County Superior Court against the North Carolina State Bar, the state agency that regulates attorneys.

In the complaint, Boyce says that as an attorney he has an obligation to report the professional misconduct of other attorneys to the State Bar. According to the complaint, Boyce has notified the State Bar on multiple occasions about Cooper's alleged misconduct but the State Bar has not responded. Boyce also believes the State Bar has a conflict of interest because Cooper also serves as the attorney for the State Bar.

Boyce is asking the court for a declaratory judgment forcing the State Bar to acknowledge Boyce's claims of Cooper's misconduct; declare that the State Bar has a conflict of interest in the matter; and refer the matter to an appropriate alternative agency for investigation, findings of fact, and discipline if appropriate.

The dispute began in 2000, when Cooper was the Democratic Party's nominee for attorney general and his main opponent was Republican Dan Boyce, Gene's son. Cooper won that race and has served as attorney general



Raleigh attorney Gene Boyce has filed a complaint with the State Bar to force an investigation of Roy Cooper for "professional misconduct." (CJ file photo)

since then. He currently is a Democratic candidate for governor.

The Boyces and their law partners Philip and Laura Isley in 2000 filed a defamation lawsuit against Cooper based on ads run by the Cooper campaign committee. The lawsuit alleged that Cooper and his committee ran a political ad that was defamatory and constituted an unfair and deceptive trade practice. It also charged that Cooper and his committee participated in a conspiracy to violate a North Carolina law prohibiting false ads during election campaigns. A trial court judge dismissed the lawsuit, but appellate courts ruled in Boyce's favor on several occasions, and in 2014 the matter was scheduled to go to trial.

The dispute appeared to be over in April 2014 when Cooper issued a written apology to Boyce for statements Cooper's political campaign made in the political ads. The parties signed an agreement ending the civil action, but Boyce's complaint before the State Bar says Cooper's conduct is

a separate issue that the State Bar must address.

Boyce has been practicing law since 1956. He served as assistant chief counsel to the Senate Watergate Committee, working with U.S. Sen. Sam Ervin, D-N.C., on the investigation of President Nixon's 1972 presidential campaign.

When asked for comment, Boyce told *Carolina Journal* the information in the complaint spoke for itself.

Noelle Talley, Cooper's spokeswoman at the attorney general's office, said the office had no comment.

## The lawsuit

One week before the 2000 election, Cooper's campaign started running a television ad that read: "I'm Roy Cooper, candidate for attorney general, and I sponsored this ad. Dan Boyce: His law firm sued the state, charging \$28,000 an hour in lawyer fees to the taxpayers. The judge said it shocks the conscience. Dan Boyce's law firm wanted more than a police officer's salary for each hour's work. Dan Boyce — wrong for attorney general."

The ad contained several untrue statements. When the advertisement was running, the Boyces and Isleys were partners at the Boyce & Isley law firm in Raleigh. Dan Boyce did not work on the lawsuit referenced in Cooper's ad (the *Smith* case), and that case predated the foundation of the Boyce & Isley law firm. The *Smith* lawsuit was filed by Gene Boyce and attorneys from the Womble Carlyle Sandridge & Rice law firm.

Gene Boyce was not running for attorney general, and he did not charge taxpayers \$28,000 an hour. The judge sets legal fees in class-action lawsuits, and the final payment to the attorneys was much lower than the amount alleged in the ad.

On the second day the ad ran, Boyce & Isley notified Cooper's committee in writing about the statements in the ad and requested an immediate retraction. Cooper ignored the request and continued running the ads, the lawsuit stated. Gene Boyce said Co-

per's ad ran at least three times a day for seven days on more than 20 television stations.

The Boyces and Isleys filed their lawsuit the day before the election, naming Cooper, the Cooper (political) Committee, and campaign aide Julia White as defendants. In three court filings in 2003 and 2008, Cooper stated, "The political advertisement is true."

Gene Boyce assumed the lead role in the lawsuit against Cooper. "That ad was false, and the Cooper team knew it," Boyce told *CJ* in 2013. "They implied we were crooks. I want my name cleared. I did not cheat my clients. The public record has shown the statements in the ad to be libelous. My main purpose in pursuing this is to get a decision that the ad is false. I want the record to be clear."

## Attorney precedent

Boyce's complaint states that the State Bar recently set a precedent for the Cooper situation in handling a complaint against Faison Hicks, an attorney who works for Cooper. Since Hicks previously had served as counsel for the State Bar, the State Bar referred the Hicks complaint for an independent review by the ethics counsel for the State Bar of Georgia for a probable cause determination.

In 2014 the State Bar became aware that on two occasions, Hicks signed forms stating he attended continuing legal education programs sponsored by the State Bar. Hicks claimed full credit for his attendance even though he had not attended enough hours to qualify for the credit he claimed.

Rule 8.4 of the North Carolina State Bar provides in part that it is professional misconduct for a lawyer to "engage in conduct involving dishonesty, fraud, deceit, or misrepresentation." Hicks acknowledged that he had not attended all the credit hours he claimed, even though he signed the attendance forms.

Instead of handling the discipline through the State Bar, the matter was referred to Wake County Superior Court Judge Donald Stephens.

"Attorney Hicks has no history of previous attorney misconduct resulting in disciplinary action and has admitted and expressed remorse for this misconduct. The court finds and concludes that attorney Hicks intentionally engaged in professional misconduct and that such was willful and did not result from mistake, inadvertence, or neglect. The court ... finds that a public reprimand should be issued in this matter. A public reprimand is a serious form of attorney discipline and is warranted for professional misconduct of this nature," Stephens wrote.

By issuing a reprimand, Stephens added, "This sanction shall serve as a strong reminder of the high ethical standards of the legal profession."

Hicks is still employed by the N.C. Department of Justice. *CJ*

# Lawmakers Surprised at Renewable Energy Tax Credit Costs

## Magnitude of 'safe harbor' credits a surprise to some

BY DAN WAY  
Associate Editor

RALEIGH

State officials, lawmakers, and renewable energy consultants attempted in early January to downplay the \$937.8 million cost of tax credits sought under the state's new Safe Harbor Act — a total more than five times higher than initial projections.

Members of the Joint Legislative Commission on Energy Policy also discussed who would monitor compliance for those receiving the 35 percent state tax credit for renewable energy investment and how rigorous that process would be. Some worried the tax credit program will be a drain on state finances, offering large banks and insurance companies a windfall at the expense of the state treasury.

"It's the first time I've seen the numbers, to be honest about it," state Sen. Bob Rucho, R-Mecklenburg, said after the meeting. In December, *Carolina Journal* reported the \$937.8 million estimate, provided by the state Department of Revenue.

Rucho was a primary sponsor of the bill allowing renewable energy companies, under specific restrictions, to remain eligible to claim the tax credits after the credit program expired Dec. 31.

"The \$937 million is exorbitant," Rucho said. "I don't believe that is a real number."

When the legislation was debated in April before the Senate Finance Committee, Jonathan Tart of the legislature's Fiscal Research Division said applications would be limited mostly to "four very large projects of approximately 100 megawatts each, and another one for 65 or 75 megawatts" at a cost of \$183.5 million.

As it turned out, 201 applications and \$1.9 million in application fees were submitted to the state Department of Revenue by the Oct. 1 deadline.

"The applications suggest a much higher level of participation in the safe harbor than we knew about or projected at the time the legislation was passed," Tart told commission members. "Going down the road, you're just not going to know" the actual fiscal impact for some time.

Rucho said he anticipated only 50 to 60 percent of the credits would be taken.

"The data that we looked at showed 50 to 60 percent of available in-



Legislators were surprised recently at the magnitude of the tax credits awarded to renewable energy projects, such as wind and solar, under the state's new Safe Harbor Act. (CJ file photo)

stallments in a given year are actually used," Tart confirmed. That does not mean the full tax breaks won't be received. "That meant they would have to be carried forward."

Under the Safe Harbor Act, the tax credits can be spread out over a decade, Tart said. A recipient of the credit may use it to offset no more than 50 percent of tax liability in a single year. Instead of losing part of a credit if it exceeds the 50 percent threshold, the tax break can be pushed forward.

"It's probably not going to be quite to the level of what's suggested by the applications," Tart said of the projected tax credits. If some projects aren't pursued, or don't meet requirements of the Safe Harbor Act, those tax credits won't be issued.

Thomas Boothby, a renewable energy industry accountant with Dixon, Hughes, Goodman of Charlotte, said his company has worked to varying degrees with roughly half of the Safe Harbor applicants.

"My estimate is that probably three-quarters of those applications that we're spending time working on are for projects that were placed in service by Dec. 31, 2015. So in reality, was the Safe Harbor law necessary for those projects to have received credits?" Boothby said. "It would not have been."

His firm's clients saw the act as "a well-designed insurance policy" in case weather delays, a backlog of permitting, or some unforeseen setback at the very end of the project "would have prevented tax credits from being delivered."

It was unclear from Boothby's testimony how many of those projects were in the pipeline when the Safe Harbor Act was passed and why the numbers provided then by Fiscal Research were so far off.

The gap between projections and

applications prompted Rep. Ken Goodman, D-Richmond, to wonder how the fiscal note got written and whether its numbers presented a realistic cost to the state.

"Undoubtedly a portion of those 200 or so applications that were filed will be for projects that maybe never materialize," Boothby said. "It's just too early to tell."

Developers must certify by March 1 that they qualify for the tax credits, according to Nelson Freeman, Revenue Department legislative liaison, but total credits actually taken would not be disclosed until the Revenue Department releases its 2018 Economic Incentives Report.

To be eligible, Freeman said, a project smaller than 65 megawatts must have incurred costs and partial

construction of at least 80 percent. Projects 65 megawatt and larger must have been 50 percent complete to qualify for the credit. An independent engineer and certified public accountant must submit notarized copies of written reports verifying eligibility.

House Majority Leader Mike Hager, R-Rutherford, asked about the Revenue Department's level of vigilance and review of those reports.

"There is no exception or additional requirement for examinations or audits," Freeman said. "The department certainly does not have the capacity or knowledge" to do that.

Hager also expressed his disapproval that companies receiving tax credits for investments in renewable energy projects can sell or transfer them to other parties.

Hager said Duke Energy, Blue Cross and Blue Shield, Bank of America, and other large banks and insurance companies end up with most of the tax credits.

The renewable credits are "a sweetheart deal," Rucho said. "It doesn't seem very fair that the taxpayers are picking up the burden that should be done strictly by the private sector."

Rep. John Szoka, R-Cumberland, took issue with Rucho. He said renewable energy companies have spent at least \$2.6 billion in qualifying expenses alone in North Carolina and more in ancillary costs.

"The tax revenue isn't really lost because if you were not doing this, [revenue would be] zero anyway. And then the economic activity that this is generating in the billions of dollars, which personally I think is a good thing," Szoka said. CJ

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# Groups Keeping Tabs on Tight-Lipped Government PR Officials

By DAN WAY  
Associate Editor

RALEIGH

A national government watchdog group is collecting examples of government employees who are responsible for providing public information but in fact impede the free flow of information to journalists. Media executives in North Carolina say the problem is pervasive here, especially in state government.

"We hear about this all the time, and it's happening all over the country at all different levels," from local to federal governments, said Lynn Walsh, a television news producer in San Diego and president-elect of the Society of Professional Journalists.

"There are so many journalists out there who are really trying to get information so they can make their stories better, make them more accurate, make them better for the community, and they're being blocked for various reasons" by government communications departments, Walsh said.

SPJ, an organization that promotes ethics in journalism and open government, is collaborating on a project called #AccessDenied with MuckRock, another government watchdog group.

MuckRock bills itself as "a news site for journalists, researchers, activists, and regular citizens to request, analyze, and share government documents, making politics more transparent, and democracies more informed," while helping journalists with public records requests and investigative stories.

Walsh said there is a trend among government agencies to force reporters to go through a public information officer before speaking to other employees, which tends to encourage staff

to be less forthright with journalists. Sometimes the PIO demands to sit in on interviews or requires a list of questions in advance of an interview.

"The increasing trend of pushing off hard questions or even basic queries to press offices and canned statements may make public officials' lives easier in the short term, but it robs them of the chance of truly engaging with their constituents, and undermines public accountability and trust," MuckRock founder Michael Morisy said in announcing the launch of #AccessDenied.

Walsh said an initial survey of reporters and PIOs is now being completed, and every indication is that access has become a substantial problem. She hopes examples of abuses can be put on a national digital map to show where the cases are and at what levels of government.

Bridget Munger, a spokeswoman for the North Carolina Department of Environmental Quality who handles press inquiries for that agency, is president of the North Carolina Association of Government Information Officers.

She said that organization is mostly a professional career development endeavor and declined to discuss the SPJ project. She said she did not feel comfortable dealing with the political nature of the subject since her organization is not political.

"I don't think that there's any doubt that there are more barriers in our ability to get to the stakeholders these days," said Jim Lawitz, editorial vice president for Davidson, N.C.-

based Civitas Media, which owns more than 100 publications in 12 states.

Not long ago, journalists typically could walk into a government office and sit down for daily conversations or briefings unfettered by middle men.

"That's a bygone era," Lawitz said. "It goes part and parcel with how much more difficult our job is. The waters have been muddied regarding journalism, and I think that government officials in some ways use this as a way of covering their own back ends because they don't want to get in trouble with their bosses."

Lawitz and Lockwood Phillips, longtime general manager and publisher of the *Carteret County News-Times*, and former president of the National Newspaper Association, agree that the access problem is infrequent in smaller communities, where government officials are more familiar with local reporters.

"But, yes, at the state level it is a headache. ... We quite often just automatically anticipate they want to know what the questions are so we email the questions to them" in advance, Phillips said.

"But obviously there's a delay so they can look at the questions and figure the best way to answer them without necessarily answering, or answering it in a fashion that somehow influences the conclusion, if you will. I don't want to say spin it, but, yeah, they spin it," Phillips said.

He doesn't blame the PIOs.

In today's politically charged environment, "The decision makers, the

policymakers, the point-of-responsibility people are looking for plausible deniability in some fashion," Phillips said. "They want to control the message. There is nothing helpful" for taxpayers and voters as a result.

Controlling the message is partly linked to the rise of social media, he said.

"The public officials are frightened that they will lose control of the story" if it goes viral on the Internet, Phillips said.

Sometimes agency bosses distrust the media due to past experiences.

"Part of it is self-inflicted, some of it is not," Phillips said.

While he maintains good contacts with some state agencies, he said he can "never get an opportunity to talk to the attorney general." Shortly after Attorney General Roy Cooper took office, Phillips wanted to interview him for a positive story, but was unable to. "He just actually refuses to talk to the public. It's a fascinating thing."

"I don't recall any recent interview requests from that media outlet," said Noelle Talley, a spokeswoman for Cooper.

"Reporters frequently tell me that they find us to be among the most responsive government agencies, the attorney general has done hundreds of media interviews during his tenure, and we often make other experts with the department available to the media on general topics," Talley said.

"The Rules of Professional Conduct for lawyers affect media contacts with our office more so than any protocol, for example, limiting our ability to comment on or do interviews about pending legal matters or things that may become litigation involving the state," Talley said. CJ



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By John Hood  
Chairman of the  
John Locke Foundation

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# NCGA Looks at Ending or Revising Job Licensing Requirements

BY BARRY SMITH  
Associate Editor

RALEIGH

Members of a legislative subcommittee heard recommendations Jan. 21 to eliminate the requirement for occupational licenses in many jobs, and instead move to a voluntary certification process.

A subcommittee of the Legislative Administrative Procedure Oversight Committee is considering changes and modifications to the state's occupational licensing boards. Backers of the changes say they would enhance opportunities for potential entrepreneurs while protecting consumer health and safety. Opponents lodged safety concerns if occupations went unregulated and suggested an end to licensing would harm existing business owners.

Jon Sanders, director of regulatory studies at the John Locke Foundation, referred lawmakers to a provision in the state constitution saying residents have a right to the fruits of their labor.

Sanders said voluntary certification is a better alternative to licensing in occupations where practitioners who offer poor or ineffective services pose minimal risk of harm to the public.

"Significant risk to the public is a very high standard, and it should be reserved for really significant risks," Sanders said.

If the state moved toward voluntary certification of occupations, then it also should impose penalties serious enough to discourage fraudulent claims of certification, Sanders said.

Sanders said that moving toward a certification process for occupational regulation would open up "greater avenues" for lower-income residents.



John Locke Foundation staffers Becki Gray, left, and Jon Sanders, right, speaking at a subcommittee of the Legislative Administrative Procedure Oversight Committee on Jan. 21. (CJ photo by Barry Smith)

"Licensure costs are very large hurdles for the poor," Sanders said. Getting licensed usually requires a fee, costly education, and training, which are more burdensome for poorer workers, he said.

Sanders said that restrictive licensure tends to boost the overall earnings of those already in a particular field, restricts the supply of labor to the occupation, and drives up the price of labor.

"Restricting the supply of labor also restricts the supply of jobs," Sanders said. He said that leads to higher costs for consumers.

Those higher costs can affect consumers' behavior, Sanders said.

Rather than use a licensed professional, consumers "might decide to forgo necessary work," Sanders said. "People might choose to do it themselves. They may seek out a family member or a friend who can do it.

They can find someone who might do it under the table."

Sanders said that moving to a voluntary certification model was preferable to a licensure model.

Becki Gray, vice president for outreach at JLF, told the subcommittee that North Carolina has 154 licensed job categories compared with South Carolina's 49.

"These restrictions ripple through our economy, preventing people from pursuing their dreams, driving up the cost of services, impacting individuals, families, communities, the state's economy, and whether businesses want to expand or grow here," Gray said.

North Carolina ranked 39th nationally in the "occupational licensing freedom" category in the most recent "Freedom in the 50 States" study by the Mercatus Center at George Mason University. In a 2012 comparison of

state occupational licensing requirements by the Institute for Justice, North Carolina ranked 29th in overall licensing burdens.

Chuck Hefren, principal program evaluator for the General Assembly's Program Evaluation Division, presented a report recommending that the General Assembly establish a commission to oversee licensing boards, eliminate a dozen boards, and consolidate 10 other boards.

Bill Rowe, general counsel and director of advocacy at the N.C. Justice Center, supported the legislature's decision to take a fresh look at licensing requirements.

"We think it's a very good idea to review your occupational licensing boards, particularly looking at costs," Rowe said. He said that was particularly true for low-income residents hoping to enter businesses regulated by the licensing boards.

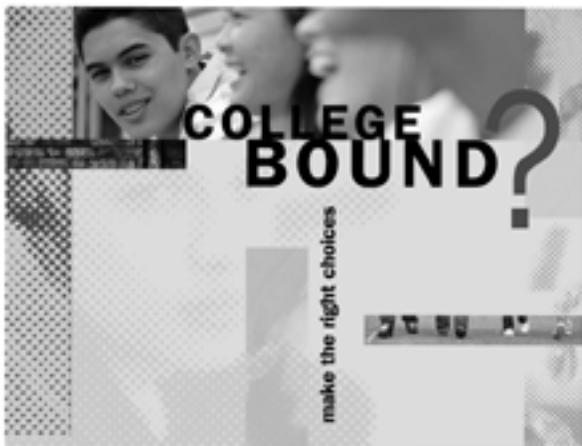
The N.C. State Board of Opticians is one of 12 boards that the Program Evaluation Division has recommended reviewing.

Jack Nichols, counsel for the opticians board, said the board was necessary to protect public safety. Instead of eliminating the board, he suggested that the General Assembly increase the maximum licensing fee from \$200 to \$300 so that the board can have more financial leeway.

Nichols said 10 percent to 15 percent of drivers licensed in North Carolina are designated with a requirement to wear corrective lenses. "That alone I believe establishes the need to protect the public," Nichols said.

Nichols also said that the increasing trend of big-box department stores to have in-store optician shops threatens the viability of independent opticians' shops. CJ

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# Lawmakers Not Concerned About Duke 'Green Claims' Program

BY DAN WAY  
Associate Editor

RALEIGH

Two leading legislative critics of tax incentives for the renewable energy industry have not taken issue with an unusual new program used by Duke Energy allowing high-consumption electricity customers using traditional energy to claim their plants are powered by renewable sources.

Neither House Majority Leader Mike Hager, R-Rutherford, nor Sen. Bob Rucho, R-Mecklenburg, expressed concerns about Duke Energy's Green Source Rider program during a Jan. 5 meeting of the Joint Legislative Commission on Energy Policy.

The initiative, approved by the state Utilities Commission in 2013, allows big electricity users to pay a premium when placing new sources of costlier renewable energy of their choosing on the power grid.

Duke Energy either adds renewable power from one of its sources or negotiates a deal with a renewable company. The Duke customer could purchase as much as 100 percent of the energy it uses from Duke's less expensive coal, natural gas, and nuclear sources while claiming its operations instead are fueled by renewable power.

"The Green Source Rider is a voluntary pilot program," Kendall Bowman, Duke Energy vice president of regulatory affairs and policy, told members of the legislative commission.

Participants' power bills "will represent the premium associated with renewable energy," Bowman said. "These Green Source Rider customers are willing so that they can offset some

of their load with renewable energy, paying a premium for the power."

Likely participants in the program include universities, data centers, large manufacturers, and industrial plants, she said. To date, three customers have signed on. Program rules prevent disclosure of the participants' names without their consent. Google is the only customer to go public.

The rest of the customer base "is held harmless" from paying the higher rates for new renewable energy sources brought onto the power grid, Bowman said.

Duke Energy Carolinas entered into an agreement with Google for Cypress Creek Renewables, a California firm, to build a 61-megawatt solar facility in Rutherford County expected to go online in late 2017, she said. The solar facility would offset the electricity demand for Google's new data center in Caldwell County, 50 miles away near Lenoir.

"I think this is a great project," said Hager, a former Duke employee who represents the district where the solar farm is being built. "It doesn't impact taxpayers. It doesn't hit ratepayers. If someone wants to pay more for electricity, then they can pay more for it. That's the free-market solution for this."

"I don't know enough about that to comment. I'm not chairing this committee anymore," Rucho said when asked if he agreed with Hager, who is

one of the co-chairmen of the Energy Policy commission.

As Carolina Journal has reported, when Google announced the deal it said the agreement allows it to purchase solar power "in enough volume to power one of our data centers."

Some critics have said such promotions are deceptive, as they suggest the large facilities are connected directly to the

renewable sources while in fact they are getting electricity from the grid that powers other utility customers. Google did not mention that the entire Caldwell County data center complex would not receive any of the new solar power. It will continue to receive all of its power from Duke Energy's traditional fossil fuel/hydro/nuclear mix.

CJ also reported other potentially deceptive claims from large energy users that are not part of this rider program.

Amazon says its data center near Dulles International Airport in northern Virginia would be powered by a wind farm under construction near Elizabeth City when, in fact, it will not be connected to that wind farm. Apple claimed its data center in Maiden, N.C., is 100 percent renewable-powered even though it purchases all of its energy from Duke and the utility's traditional fuel mix primarily of coal, natural gas, nuclear, and hydro.

Bowman said if the Green Source Rider program is successful, it could

be rolled out to other customer classes and possibly "other jurisdictions." The program is not offered in Duke Carolinas' South Carolina market.

The enrollment period is scheduled to end at the end of December 2016, or earlier if 1 million megawatt hours of new renewable power are brought online. Bowman did not say how many new renewable megawatt-hours are currently in use or scheduled, but said it is likely enrollment will extend to the end of the year.

Bowman and Sam Watson, general counsel of the Utilities Commission, also gave an update on Duke's rate increase case.

Bowman said the typical Duke Energy Progress customer using 1,000 kilowatt-hours of power per month would pay \$1.59 less when all the increases and decreases of fuel costs, taxes, and various riders are tabulated. Watson said the decrease was \$1.52, going from \$36.43 to \$34.91 per month.

Watson said a decrease in fuel costs, mostly in natural gas, resulted in a \$5.64 decrease in that average customer's bill.

But the cost of the Renewable Energy Portfolio Standard that requires utilities to purchase increasing amounts of renewable energy went up 34 cents, from 83 cents to \$1.17 per month. A Demand Side Management/Energy Efficiency Rider went up \$1.95, from \$4.26 to \$6.21.

Riders allow Duke to pass various allowable costs to customers. The new Joint Agency Asset Rider for Duke Energy Progress's purchase of generating assets from the North Carolina Eastern Municipality Power Agency added \$1.83 to the average bill. CJ



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# Landowners Await Ruling by Supreme Court on Map Act Suit

BY BARRY SMITH  
Associate Editor

WINSTON-SALEM  
When Gene Kirby bought nearly 42 acres of land along High Point Road in the early 1980s, he envisioned eventually going into business with his son and building apartments on the property.

By the late 1990s, when his son was an adult and the Kirbys were ready to start building, the North Carolina Department of Transportation had other plans for his property.

"We went to the planning and zoning department of the city of Winston-Salem and said how do we go about getting a building permit," Kirby said. "And they said, oh, no, you can't do that. This is in the protected corridor. You won't be able to do anything in here."

NCDOT had invoked North Carolina's Map Act on Kirby's property, which was within the corridor of a planned highway bypass around Winston-Salem. Under the state's Map Act law, when the DOT files the map with local governments, those governments aren't allowed to issue building permits within the corridor. The moratorium on development is supposed to end three years after the map is filed, but it can extend much longer than that if NCDOT has difficulty gaining clearance from environmental or other regulators to begin construction.

Kirby and other property owners have sued NCDOT, and last February won a unanimous ruling from the N.C. Court of Appeals. If the Supreme Court upholds the appeal, then NCDOT could be on the hook for hundreds of millions of dollars in compensation to property owners in those areas where it has invoked the Map Act.

The Appeals Court ruled that when NCDOT invoked the Map Act, it exercised its power of eminent domain. Chief Judge Linda McGee wrote that when that power is exercised, it "requires the payment of just compensation."

NCDOT appealed, and on Feb. 16 the N.C. Supreme Court is scheduled to hear that appeal.

North Carolina is one of 13 states with Map Act statutes. However, North Carolina's three-year moratorium on building permits is longer than in other states, where restrictions range between 80 and 365 days and requires the states to allow property owners to use their land when that moratorium ends.

The Map Act was intended in part to keep the cost down for the Department of Transportation when it does take property to build roads.

While the case before the Supreme Court involves properties in Forsyth County, the ultimate Supreme Court decision is likely to affect projects across the state. The Map Act has been invoked and lawsuits also have been filed in Guilford, Cumberland,



Gene Kirby has been unable to improve the Forsyth County property he has owned for years because it's inside a highway corridor designated by the state's Map Act. The Supreme Court later this month will hear a challenge to the law. (CJ photo by Barry Smith)

Wake, Cleveland, and Pender counties.

Matthew Bryant, lead attorney for the plaintiffs, said if they win at the Supreme Court, NCDOT would have to pay the landowners just compensation.

"It's clearly well north of \$300 million to \$400 million," Bryant said of the amount of payments across the state that would have to be made.

Bryant called the Map Act "a giant train wreck," saying it has allowed NCDOT to lower its property acquisition costs by shortchanging a handful of landowners.

"The government will never admit that it's wrong," Bryant said. "It has to be told that it's wrong." He's hoping the Supreme Court will do just that.

The case has drawn a lot of attention from policy and advocacy groups across the ideological and political spectrum.

The John Locke Foundation, Pacific Legal Foundation, Civitas Center for Law and Freedom, N.C. Justice Center, N.C. Association of Realtors, and N.C. Advocates for Justice have all filed amicus — or friend-of-the-court — brief supporting the property owners in this case. The Wilmington Urban Area Metropolitan Planning Organization has filed a brief supporting NCDOT.

"Our research contradicts a number of points that the NCDOT raises in its appeal," said Jon Guze, director of legal studies at the John Locke Foundation. "We wanted to bring those contradictions to the court's attention."

Guze pointed to NCDOT's assertion that, by invoking the Map Act, the state is using its regulatory powers and not eminent domain — which would require the state to compensate landowners for the loss of value or use of their property. The Map Act's powers do not resemble those in other legislation that governs conventional land use planning in the state, Guze wrote in his brief.

"It is blatantly unfair; it is patently unnecessary; and it violates fundamental rights protected by the United

States Constitution and the Constitution of North Carolina, including the rights to equal protection, due process, and just compensation," Guze wrote.

Calvin Leggett, the head of NCDOT's program development branch, said last January that by and large, the Map Act has worked well.

Leggett said a lot of the frustration attributed to the Map Act actually is a result of the state's open planning process for building highways. That process identifies potential parcels of land being considered for future highway construction, he said, and landowners are aware that their property may be part of a highway corridor.

Bryant counters that the Map Act destroys the market for affected properties. "It's a three-year wait for a building permit," Bryant said. "The map, however, lasts forever."

Practically speaking, nobody makes improvements to property within the corridors because landown-

ers are unable to sell their property, Bryant said. "The marketplace doesn't reward it," he said.

While Kirby waits for NCDOT to act, he's using his land to board and train Labrador retrievers. The property has a mobile home for trainers, a kennel for the dogs, ponds, a mound, and fields for training purposes.

Kirby, who will turn 82 just days after his case is scheduled to be heard in the Supreme Court, said he hopes the issue is resolved while he is alive. The issues are complex, and he doesn't want his family to have to deal with them, he said.

Ben Harris, another plaintiff in the case, turns 65 later this year. In the early 1990s, he built 15 houses on property in the corridor.

"I started when I was 40," Harris said. "I'm going to be 65 this year. How many more years can I fight?"

Harris said the case has placed a financial strain on him.

Bryant said others are in similar situations. Many of the plaintiffs are aging. He said he fields calls from children of plaintiffs wanting to know when their aging parents can sell their homes so they can make arrangements to move to other places.

Efforts have been made to repeal the Map Act. Last year, a bill sponsored by Rep. Rayne Brown, R-Davidson, passed the House, 114-0. But the bill never made it out of the Senate Transportation Committee.

The chairman of the committee, Sen. Bill Rabon, R-Brunswick, said the upcoming case in the Supreme Court had an affect on the legislation.

"We're at the point now, let's wait and see what the Supreme Court does," Rabon said. "We will probably adjust, based on their decision." CJ

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# Raleigh Preparing to Scrap Many New Rules on Outdoor Dining

BY KARI TRAVIS  
Associate Editor

**D**owntown restaurant and bar owners could see sidewalk-dining restrictions eased yet again this year if the city council adopts recommendations being discussed by the Raleigh Appearance Commission.

Tasked by the city council in December to discuss patio borders, capacity limits, outdoor furniture, and outdoor signage for sidewalk dining areas, on Jan. 13 the commission discussed changes that would end the requirement for restaurants to separate their patios from public sidewalks with stanchions.

Instead, patio space might be set apart by placing medallions into the sidewalk, a move that would allow for easier pedestrian passage, said commission chairman Brian O'Haver.

"We're trying to figure it out and look at it from our [design] perspec-

tive, versus going to the city attorney — though at some point we're going to have to [do that, too]," said O'Haver. "We've got a good group of folks here who [are designers]. That's their focus."

A week later, the commission recommended the repeal of a rule requiring restaurants and bars with patios to post signs stating where patrons could and could not drink. Restaurant owners and patrons, along with Jennifer Martin, director of Shop Local Raleigh, an advocacy group for downtown businesses, told the commission the signs are an eyesore. Members also were told the signs were redundant, since state law requires restaurants and bars to control where their patrons consume alcohol.

Discussions about tighter regulations for dining on public spaces began in mid-May last year, when residents complained about overcrowding, noise, and sidewalk disturbances



Fayetteville Street resident Will Marks (right) shares his concerns about late-night revelry at a Jan. 13 meeting of the Raleigh Appearance Commission. (CJ photo by Kari Travis)

downtown.

The city initially proposed banning sidewalk seating at bars (but not restaurants), and, after much protest, it enacted a pilot program in August requiring stanchions, maximum capacity limits, and curfews for all dining areas on city sidewalks.

In December, the council relaxed the curfews but called for further discussions before removing stanchion stipulations or changing capacity limits.

Some Fayetteville Street residents, who were satisfied with the decreased noise levels during the city's test of stanchions and curfews, worry that fewer restrictions would signal a step in the wrong direction.

"What concerns me is that a holistic view isn't being taken in this," said Fayetteville Street resident Will Marks. "Nobody wants to see businesses punished, singled out, or demonized. And I don't think anybody wants to see residents treated that way. But residents have had to put up with sleep deprivation, which is a recognized health threat. What we would like is the same amount of consideration in this issue that says whatever is working [helped

the noise level drop]."

Others who live downtown say the regulations now being considered could still use some tweaking for the sake of both residents and business owners.

"I think this conversation is taking place ... because there were pieces of this ordinance that worked really well, and there were pieces of this ordinance that really need some work," said Ashley Melville, director of business development for the Downtown Raleigh Alliance. "And so I don't think that either side is being ignored or is being influenced heavily in any direction."

Ultimately, businesses want a practical solution that works for residents, merchants, and enforcers, say the owners of several downtown bars and restaurants. Removing physical stanchion requirements will allow bars to maintain order more efficiently.

"I don't think anyone wants to go back to the way it was, where the entire sidewalk was covered with people standing and drinking," said Ben Yanessa, co-owner of Fayetteville Street's Paddy O'Beers. "No one is asking for that." CJ

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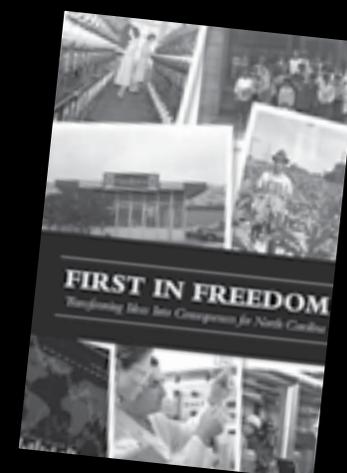
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# McCrory Says CSX Rail Hub 'Not a Viable Option'

Continued from Page 1

did not use eminent domain to acquire property for either project. Nor did the railroad receive significant state subsidies for the Pennsylvania or Ohio projects, even though the company has said the Carolina Connector depended upon at least \$100 million in state transportation funding promised by the McCrory administration.

Through a spokeswoman, the railroad maintained confidence the project would be completed.

On Jan. 20, McCrory spokesman Wilson told *CJ* the CSX terminal would compete with other transportation projects for state funding — a point the governor did not mention in his Jan. 14 press release on the Carolina Connector — and no decisions about funding would be made until March.

The Carolina Connector, which company officials say will cover 450 acres, spurred immediate opposition from local property owners and other residents. Don Lassiter, 63, who owns about 45 acres between the CSX rail line and Batten Road, told *CJ* that at 8:30 a.m. Jan. 14 — two hours before McCrory issued a press release announcing the project — CSX acquisitions director Cameron Wilson came to Lassiter's home and said the railroad needed some of his land for the Carolina Connector terminal.

Lassiter, whose 28-year-old son Trent was present at the meeting, said he was not interested in selling. The Lassiters then said Wilson told them they had no choice, and that if they could not agree with CSX on a price, the railroad's legal team would handle the matter, implying that CSX would use eminent domain.

Trent Lassiter told *CJ* his family has owned the land since the 1700s. On the property is The Farm, a special-event facility that Trent Lassiter completed in 2013. The Farm hosts wedding receptions, business meetings, parties, and concerts. "American Idol" winner Scotty McCreery has played there and is scheduled for another concert June 4. Trent Lassiter is engaged to McCreery's sister Ashley.

## Other states

Wood County, Ohio, Economic Development Commission executive director Wade Gottschalk told *CJ* that CSX did not use eminent domain to acquire the land for its North Baltimore project.

Franklin County, Pa., Area Development Corporation president Mike Ross also told *CJ* that CSX did not use eminent domain to acquire the land for the company's Chambersburg facility.



An aerial photo shows a concert held recently at The Farm on land that was being sought by CSX. The railroad roadbed is at the treeline. (Photo courtesy of The Farm)

Both Gottschalk and Ross said that little if any state funds went into the CSX projects in their areas, but CSX probably received some federal funds for each project.

CSX spokeswoman Kristen Seay confirmed in an email that CSX did not use eminent domain in Ohio or Pennsylvania. And she added, "CSX has a proven record of coming to agreement with property owners on infrastructure developments across our network without employing eminent domain. We are beginning a lengthy dialogue with property owners in Johnston County and are committed to working closely with each individual owner to address his or her specific concerns. We are confident that we will be able to come to an agreement to ensure this project is positive for the owners and the community."

She also confirmed there "was no state funding associated with the development of either the Northwest Ohio or Chambersburg terminal."

## Announcement premature

In the Jan. 14 press release announcing the Carolina Connector project, McCrory did not mention that final approval from the state might not be issued until the end of March.

CSX issued a statement the same day, saying the company would spend \$150 million on the project, but that the "development of the terminal is contingent upon securing an additional \$100 million through the state of North Carolina's Strategic Transportation Investment program."

McCrory said CSX and the Upper Coastal Plain Regional Planning Organization submitted the project for \$100 million in Strategic Transportation Investments funding, which helps pay for new infrastructure. He said STI uses the "Strategic Mobility Formula, a data-driven system for allocating available revenues that allows NCDOT to more efficiently invest its transportation dollars."

McCrory spokesman Graham Wilson confirmed that CSX has received no guarantees that Carolina Connector will receive any state funding.

Wilson said CSX requested funding for the project in October or November. To secure STI funding, a project must be evaluated on four criteria — cost effectiveness; system health; safety and suitability; and project support — and "be compared against other statewide mobility project scores, including eligible highway and aviation projects," Wilson said.

"If the project scores high enough, it will be included in the list of statewide mobility projects to be funded in the next Draft State Transportation Improvement Program. This list should be available by the end of March," he said.

WTVD first reported on the Lassiters' involvement with CSX and the experience of another landowner, Jennifer Edwards. According to WTVD, a CSX employee told Edwards she had six months to move. "I've lived here 58 years. There is no price on my property. This is my life," she said.

## CSX moving forward?

Even though the McCrory administration seems to have no interest in supporting the Carolina Connector at the proposed Selma location, CSX continues pursuing the project.

On Jan. 27, the day after Wilson suggested the Johnston County site was "not viable," CSX project consultant Caitlin Farhat, who works at the Raleigh office of the public relations firm APCO Worldwide, issued the following statement:

"CSX is committed to this infrastructure project, which will create jobs, deliver a distinct competitive advantage for large and small businesses, and spur economic development. We look forward to working with all interested stakeholders to address concerns and move the project forward."

It is unclear how CSX will acquire property for the terminal if the landowners remain unwilling to sell and whether the company would underwrite the entire cost of the rail hub without state subsidies. *CJ*

# N.C. Couple Charged With Stealing \$12 Million from IRS

Continued from Page 1

ish translator served both defendants. The attorneys filed motions to withdraw from the case because they said Luna and Ruano were in the process of hiring their own attorneys. U.S. Magistrate Judge Robert Jones approved the motions and will continue with the case when the new attorneys are secured.

It was not IRS computers that detected the couple's alleged activities. Instead, the agency first learned of the alleged tax fraud because of a traffic stop in Arkansas two years earlier,

according to the complaint. In May 2014, Arkansas State Police stopped the couple and found them carrying nearly \$1.8 million in cash, the complaint states. The police notified the Duplin County Sheriff's Department, and within days law enforcement officials seized tax documents from the couple's North Carolina home and business.

According to the complaint, Luna and Ruano obtained Individual Taxpayer Identification Numbers for at least 300 names that may represent real or fictitious people. The IRS issues ITINs instead of Social Security Num-

bers to foreign individuals working in the United States, giving them a means of filing income tax returns and paying taxes on income earned.

Luna and Ruano allegedly fabricated W-2 wage and tax statements for each name using the names of real employers, then prepared tax returns and submitted refund claims to the IRS. The refund checks were sent to post office boxes rented by Luna or Ruano. The average refund check was \$4,385. The checks were all deposited in a First Bank business account that Luna had opened in 2006. Luna withdrew \$11,888,300 in cash by writing 252

checks for cash, the complaint states.

## Background

Luna is a native of Honduras who obtained temporary protective status in November 2006. She entered the United States illegally in 1993. Since February 2010, she operated a small convenience store named Beverly Tienda, located on North Norwood Street in Wallace. For the 2009 through 2012 calendar years, Luna reported annual incomes from the store of \$16,000, \$18,000, \$17,481 and \$24,915, respectively. She reported no other income.

Continued as "N.C. Couple," Page 13

# N.C. Couple Charged With Stealing \$12 million from IRS

Continued from Page 12

Ruano is a native of Guatemala, who obtained legal permanent resident status in 1988. For 2009 through 2012 he reported business income from several sources for a total of \$18,560, \$26,204, \$27,002, and \$59,123, respectively. He reported no other income.

Duplin County birth records show they are the parents of three children. On Jan. 18, *CJ* visited the family home at 413 North Duplin Street. There were three vehicles in the yard and driveway. There was also a large Nativity scene in the front yard.

## Searches produced evidence

Members of the Duplin County Sheriff's Office, accompanied by a federal agent from the Department of Homeland Security, first visited the family home on May 2, 2014, the day after the Arkansas traffic stop. Their adult daughter, Beverly Ruano, consented to a search. The officers saw a business ledger consistent with use for documenting tax preparation services.

After about 30 minutes, the complaint states, Beverly Ruano advised the officers she needed to leave to attend school. The officers left the residence and went to Beverly Tienda, the retail business owned by Luna. They spoke with Luna's sister, Dunia Mejia Lopez, who said she was operating the business while Luna and Ruano were on the way to Los Angeles to visit another sister. Lopez permitted the officers to search the business premises. The officers saw photocopies of tax preparation documents and computers.

The officers then obtained warrants to search both properties for evidence of filing fraudulent income tax returns. The officers seized more than 300 ITIN letters issued by the IRS,



Three vehicles and a Nativity scene were seen recently at the home of Perfecto Ruano and Lorena Luna in Wallace, where the couple live with their three children. (CJ photo by Don Carrington)

179 wage and tax statements issued to names other than Luna or Ruano, and handwritten ledgers appearing to detail the flow of tax refunds sought and checks received.

Charlotte-based IRS special agent and agency spokesman Rajender West said the IRS had taken significant steps to combat Stolen Identity Refund Fraud. "The Internal Revenue Service, along with our law enforcement and community partners, continue to combat the serious, continuing threat of that identity theft," said West.

## Stopping SIRF

In 2011, IRS officials began testifying to congressional committees about the growing SIRF problem. Two years later, IRS Inspector General for Tax Administration Russell George

called it the "No. 1 tax scam for 2013."

In March 2015, Koskinen convened a "Security Summit" meeting with IRS officials, the CEOs of the leading tax preparation firms, software developers, and state tax administrators "to discuss common challenges and ways to leverage our collective resources and efforts." Three working groups were established using the themes of authentication, information sharing, and strategic threat assessment and response.

The groups made several recommendations, but improving IRS computing capabilities to identify suspect refunds appeared to be one of the most important recommendations. The details of the program will not be made public.

"Extensive public discussion of these new elements would provide a

roadmap to the IDT criminal and undermine the effectiveness of these elements to protect taxpayers from IDT refund fraud," stated the report from the summit. "As such, this report will not provide extensive details or specifics related to these new elements."

The report also mentioned a proposal that could prevent fraud significantly: advancing the deadline for employers to submit earnings statements (W-2, 1099, etc.). That would give the IRS more time to compare W-2 earnings statements, such as those submitted by Luna and Ruano, with those submitted by an employer before any refund requests were processed.

## CJ reporting from 2013

*CJ* initially reported on SIRF in March 2013, identifying fraud schemes over the course of several months in Durham, Clinton, Union County, and Long Island, N.Y. *CJ* also reported that the IRS had been aware of the issue for years but rarely had discussed it publicly.

In July 2012, George's office issued a report stating that for tax year 2011, the IRS reported that it had detected 938,644 tax returns involving identity theft and prevented the issuance of fraudulent tax refunds totaling \$6.5 billion. But the losses from undetected identity fraud are substantial. His office's analysis of data from the 2010 tax year identified 1.5 million returns, amounting to \$5.2 billion, that likely were filed by identity thieves.

To combat SIRF the report stated, "Access to third-party income and withholding information at the time the tax returns are processed is the single most important tool that the IRS could have to identify and prevent tax refund fraud. However, most of the third-party information is not available until well after tax return filing begins." *CJ*



Lorena Luna and Perfecto Ruano are charged with having IRS checks from their fraudulent tax returns sent to post office boxes in this post office in Wallace, N.C. (CJ photo by Don Carrington)

# Anti-Spellings Protesters Scuffle With Police at BOG Meeting

BY KARI TRAVIS  
Associate Editor

CHAPEL HILL

Even though Margaret Spellings will not take over as president of the UNC system until March 1, protests against the hiring of the former secretary of education in the George W. Bush Administration continue to escalate, as protesters scuffled with police at the Jan. 26 meeting of the system's Board of Governors.

Four students — Madeleine Scanlon, Irving David Allen, Olufemi Shittu, and Jennifer Myers — were arrested following an outbreak of chaotic protests during a special meeting of the board.

The demonstration began in silence, but erupted into shouts and demands during the board's discussion about program cuts at East Carolina University. Students swarmed the boardroom table, chanting and shouting before being removed forcibly by police.

Several students occupied the board members' seats and used the microphones to shout and chant, "Stand up, fight back," and "No justice, no peace." One student took the gavel at the chairman's seat and pounded it against the table in rhythm with the chants.

"See what you're participating in?" One student yelled as officers escorted protesters from the room. "See what you're allowing to happen to students? That's some scary s--t. You're letting a student be dragged out of here. What is wrong with you? You should all be scared. Look at what you're doing to us!"

Law officers, who took several minutes to subdue the frenzy, say they acted well within the boundaries of the law as protesters showed unnecessary resistance.



Student Madeleine Scanlon shouts through the microphone of a UNC Board of Governors member on Jan. 26 just before being arrested by UNC Campus Police for disrupting the board's meeting. (CJ photo by Kari Travis)

Scanlon, who was one of the first to fight back against the officers, was charged with resisting and obstructing an officer, disorderly conduct, and assault inflicting serious injury on a law enforcer. Allen and Shittu faced lesser charges, while all counts against Myers ultimately were dropped.

"I think the behavior and the response of the officers here was completely dictated by the behavior of the protesters today," said Jeff McCracken, chief of the Campus Police at UNC-Chapel Hill. "We hate that we had to take any action, but that was their choice."

"We have approximately 40 officers [on duty]," McCracken added. "This whole situation's not normal. We were expecting a protest but were hoping they would not be violent."

This most recent incident follows

a protest at the board's Dec. 11 meeting, during which at least four faculty members were removed for disrupting board proceedings during roll call. A discussion about disciplinary action followed, but no action was taken.

No faculty members participated in the Jan. 26 disruption, but professors made their sentiments known in a quiet protest before the start of the meeting.

Zach Robinson, professor of mathematics at East Carolina University, has helped the Faculty Forward Network — a New York City-based coalition of professors, students, and parents affiliated with the Service Employees International Union — conduct a survey of 1,400 UNC faculty members, many of whom are deeply unhappy with the direction of the system, particularly the lack of funding for new construction.

"Over the last 10 years or so, we estimate that there's been approximately 30 percent reduction in construction expenditures in the system," Robinson said. "For a system that has a constitutional mandate to provide free education for the people of this state — as is practical — reduction in funding for construction is not only [taking us] in the wrong direction, it's actually unconstitutional."

Examining UNC's construction spending in isolation is a mistake, however, as spending for the system as a whole has increased in the past 10 years, said Jenna Robinson, president of the Pope Center for Higher Education Policy.

"The UNC system is very generously funded by the state of North Carolina, [with] the fourth-highest per-student expenditures in the nation," she said. "Moreover, we should expect construction expenditures to be tied to usage and need. As data from the UNC

system shows, facilities use is below the established targets for nearly every school — for both classroom and laboratory space."

Concerns about support for historically black colleges and universities also continue to resonate, particularly since the December resignation of former Elizabeth City State University chancellor Stacey Franklin Jones. Over the last five years, ECSU has seen its revenues drop by 10 million and its enrollment decline by more than 50 percent.

During the meeting, by unanimous vote the Board of Governors elected former ECSU vice chancellor Thomas Conway to take the reins of the struggling university, saying that they hope new leadership will boost morale and performance.

But some faculty and students worry that schools such as ECSU have an uncertain future — given the direction of the university system as a whole, Zach Robinson said.

"This is about Margaret Spellings leading the system in the wrong direction," Robinson said. "Spellings holds a record of attacks on diversity. She has openly attempted to suppress positive depiction of a same-sex household on public television. As secretary of education she neglected to apply for millions in funding for historically black colleges and universities. We think there is ample evidence that she is not somebody who is prepared to accept the challenges of leading a diverse faculty and student body to success."

The Faculty Forward Network and NAACP college division have attempted to request meetings with members of the board to no avail, Robinson said.

"The Faculty Forward Network stands ready to meet and confer with management and administration on this and a number of issues, and if they're willing to do that, we would look forward to such a meeting," he said.

"I don't know that there has been such a [meeting] request made [by Faculty Forward]," said UNC spokeswoman Joni Worthington. "But obviously there are processes in place for faculty input to the board. There are processes in place for student input to the board. The Faculty Assembly includes members elected by the faculty. We have an Association of Student Governments that includes representatives from multiple campuses. Those are the kinds of avenues that students and faculty across the university can use."

In an effort to reach out to students and faculty members — despite ongoing opposition — board members said Spellings would visit student and faculty groups on every UNC campus as soon as she takes office. *CJ*



Student protesters with signs chant and shout at the UNC Board of Governors meeting on Jan. 26 in Chapel Hill. (CJ photo by Kari Travis)

# More Parents, Students Seeing Benefits of Opportunity Scholarships

By KARI TRAVIS  
Associate Editor

RALEIGH

Ten year-old Donovan Coates-St. Remy loves science club, geography club, and his Windows 10 ThinkPad. He would have none of these things if not for North Carolina's Opportunity Scholarship Program, a tuition voucher system that provides funding so he can attend Cathedral School, a private Roman Catholic institution in Raleigh.

"This year is our first year with the Opportunity Scholarship Program," said Donovan's mother, Betti Coates-St. Remy. "I didn't really know about it until I'd read up on it. When we applied [for the scholarship] I was like, 'If we get in, we're definitely doing this.' And we did. We were just so excited."

Donovan attended a charter school prior to enrolling at Cathedral School, and though the institution was good, the atmosphere didn't provide enough of an academic challenge for her bright, precocious middle school boy, Betti said.

"I really try not to put emphasis on test scores," Betti said. "But I looked at them and thought, 'My son can do so much better than this.'"

That's when she decided to explore other options. After discovering the school voucher program through online research, and after visiting several private schools in the area, she and her husband decided the learning opportunities and hands-on instruction at Cathedral School would be the best fit for their son.

Donovan is one of thousands of North Carolina students who have benefited from at least one version of school choice, which allows parents from every economic background to depart traditional public schools and



Donovan Coates-St. Remy and his mother, Betti, are using an opportunity scholarship to help pay for tuition at the Cathedral School, a Roman Catholic institution in Raleigh. (CJ photo by Kari Travis)

select options they believe will serve their children better — using vouchers, enrolling in charter schools, or educating their children at home. National School Choice Week, a nationwide educational and promotional campaign highlighting these options and advocating wider availability of them, comprised thousands of events nationally (including more than 200 in North Carolina) from Jan. 24-30.

"I feel the greatest gift you can give your child is a good education," Betti said. "I really do. I figure as a parent, if I do my part, it's up to him what he does with that. But at least I can say, 'Donovan, you have the opportunity.'"

Since his enrollment, Donovan's grades have increased, and his attitude toward academics also has improved, Betti said.

"I just think if people knew more

about [opportunity scholarships], if they knew they had the chance to go to another school that accepted [vouchers], then they might think, 'Well, this is an alternative for me,'" Betti said. "If my child is over here, and this is not working for us, I can move my child over here to a different school."

Donovan is just one of eight students at Cathedral School who have received an opportunity scholarship, and school principal Donna Moss would like to see the program grow in the coming year — not only within her institution, but also statewide.

"Parents don't like uncertainty about whether their child is going to be able to get a scholarship, or whether the program will continue, and I think that now that we're certain that the program will continue and we can start utilizing it effectively, I think we'll see

an uptick in participation statewide," Moss said.

Enacted by legislation in 2013, the Opportunity Scholarship Program was subjected to a host of legal challenges regarding the use of public tax dollars to fund private school tuitions before July 2015, when the North Carolina Supreme Court ruled the law constitutional.

The program now has awarded more than 2,500 children \$4,200 vouchers to attend private schools during the 2015-16 school year, and is on more solid footing with parents who are looking for reliable education options, says Terry Stoops, director of research and education studies at the John Locke Foundation. But though the voucher program is moving forward, challenges remain.

"There is still some alignment necessary between private schools and the State Education Assistance Authority," Stoops said. "And these are issues that can be worked out with minor changes to the law, or minor changes put in place by the SEAA that makes it easier for parents and private schools to accommodate the scholarship program."

One of those issues is a conflict between private school and scholarship enrollment periods, Moss said.

"At this point it's a question of whether or not seats are left to be had when a parent comes to enroll, their child as an opportunity scholar, Moss said. "As the program becomes more well-known and widespread, I would like to think that the private school administrators could suggest some tweaks that could better serve the families."

Families will continue to benefit from opportunity scholarships, according to Betti, who says she's blessed to give her son the education and future he deserves. CJ

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## Opinion

# Concussions: The Latest P.R. Battle That College Athletics Is Facing

The multibillion-dollar college athletics industry is under attack. While there is no shortage of reports on academic and financial abuses, a new problem is emerging: evidence of long-term neurological effects caused by high-impact head trauma in football.

This problem has gained notoriety from a new movie, "Concussion," which tells the story of a doctor trying to link previous head trauma to some deaths among professional football players.

In the last three seasons of the National Collegiate Athletic Association Division I football, there have been 501 publicly reported concussions. But that greatly understates the extent of the problem, many feel. For while concussions cause immediate neurological effects, the unreported "dings" — substantial hits to the head that do not exhibit outward signs of concussion — may prove more serious over the long term.

Football players, more than any other athletes, are at high risk for a condition known as chronic traumatic encephalopathy. CTE, which cannot be diagnosed definitively while the sufferer is alive, causes severe depression, early onset dementia or Alzheimer's, and schizophrenia. The one definitive shared variable among those diagnosed with CTE is repeated trauma to the head.



**STEPHANIE KEAVENEY**

According to the CTE Center at Boston University, CTE can be caused by impacts at the subconcussive level, meaning that players who exhibit no obvious signs of head trauma may be subjecting themselves to slow-developing, irreparable brain damage. Furthermore, medical professionals agree that no helmet currently in use is capable of avoiding the trauma to the brain caused by football.

The NCAA often has been criticized for poor handling of concussions in college football, and in 2011, a former player for Eastern Illinois University filed a concussion-related lawsuit against the NCAA. Eleven additional lawsuits later were added to the original complaint, and it became a class action suit, which was settled in 2014.

The NCAA agreed to provide \$70 million to fund medical monitoring for student-athletes and \$5 million for research into head injuries. Additionally, the NCAA was required to establish return-to-play guidelines and a concussion education requirement for student-athletes. It's not clear if the universities would adhere to NCAA concussion guidelines even if they were codified as regulations,

## Issues in Higher Education



Sixty-two of those were related to football, including several violations of health and safety regulations. Even though these violations carry

however.

According to the NCAA Major Infraction Database, which tracks violations of NCAA regulations, since 2004 there have been 138 instances of Division I schools violating NCAA regulations.

penalties such as probation, vacating wins, and substantial fines, it is clear that universities regularly violate protocols.

Since the beginning of the 2013 season, 27 college athletes have ended their football careers due to concussions.

Students who choose this path not only guarantee the end of their prospects of playing football professionally, but also risk losing their scholarships and have no access to funding from the NCAA to continue their college education. Students also are severely limited in their options for covering concussion-related medical expenses. Schools are under no obligation to provide any medical care.

Although critics tend to aim their fire at the NCAA for doing so little, plenty of other decisionmakers could have taken action at any time.

Stricter regulations regarding head injuries could originate at the conference level, from state lawmakers, from university systems, or the schools themselves.

One reason no one has taken action unilaterally may be that doing so would mean accepting legal liability for medical crises.

However, not all schools have dropped the ball. The Ivy League is already unique in that it does not lower admission criteria for student-athletes or offer athletic scholarships. Additionally, the Ivy League adopted concussion regulations in 2010, four years before the NCAA issued its guidelines.

The regulations seem to be working well; none of the 501 concussions reported since 2013 occurred at an Ivy League school. The regulations adopted by the Ivies are very similar to the NCAA guidelines, but the universities may apply the rules more strictly.

Modern college football basically operates as a minor-league companion to the National Football League. Yet only 1.6 percent of the college athletes are drafted, and a few others make it as free agents. That means that education is important to the futures of roughly 98 percent of college football players.

While medical professionals are quick to caution the public about exaggerated fears based on movies like "Concussion," perhaps it is time to consider that college exists to improve minds, not damage them. *CJ*

*Stephanie Keaveney is a policy associate at the John W. Pope Center for Higher Education Policy.*

## The movie 'Concussion' has raised the visibility of CTE in football

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COMMENTARY

## A Humdrum SAT for 'The Real World'

Teen geniuses and word wizards just lost their competitive edge with the nation's most established college admissions exam. There's a new SAT in town, and this one favors the mundane over the arcane.

Debuting in March, this latest version of the SAT represents the test's most substantive revision in decades. Proponents say it assesses the skills necessary for college and career more accurately. Detractors say it has been dumbed down following years of declining scores.

One thing is clear: The SAT has drifted far from its early moorings as an aptitude test. The focus of the new SAT, like everything else in education right now, is on "the real world." High schoolers are tested on vocabulary they'll use "long after test day," according to the SAT's publisher, the College Board. Reading requires analysis of mostly nonfiction texts and is "about the everyday." I slogged through a sample reading passage and infographic about the time costs of commuting. The College Board isn't kidding. Welcome, kids, to the tedium of the workaday world.

Deep, not broad, the SAT's new math section hones in on three areas: linear equations and systems; problem solving and data analysis; and complex equations, according to the College Board. Expect multiple steps and loads of word problems about real-world scenarios. Gary Gruber, an expert on standardized testing and founder of Gruber Prep, says the new SAT focuses less on critical thinking; many questions, especially in math, are "either very easy or very tedious," he says.

Students are likely to cheer, not bemoan, other changes. The guessing penalty — a quarter-point deduction for each wrong answer — is gone. Multiple-choice answer options have been trimmed from five to four, bumping up the odds of choosing correctly. The essay is optional. Scoring reverts to a 1,600-point scale for two sections: Math and the renamed Evidence-

Based Reading and Writing. Why change the once venerable SAT? The adoption of Common Core by most states has played a pivotal role, as testing companies have raced to ensure assessments are aligned with the standards. The chief architect of Common Core, David Coleman, is the man behind the new SAT: Coleman became the College Board's president in 2012. If you don't like Common Core, you probably won't like this test.

What else is fueling the shift? Economics, plain and simple. Facing dwindling market share, the College Board has created a test that resembles the ACT, students' now-preferred college admissions exam nationally. The ACT also enjoys market dominance in North Carolina, a trend fueled in part by the fact that the state began requiring all public school 11th-graders to take the test in 2012 as part of its accountability program.

Students elsewhere may find themselves locked into the new SAT as some states — previously committed to end-of-year Common Core exams developed by national consortia — defect in favor of the redesigned admissions exam. Already, a number of states have indicated they will use the SAT or ACT instead of consortium tests.

Perhaps most fundamentally, this SAT will deepen education's divide over the following question: What do we want students to know, and how should we test whether they know it? Of course, this issue is far bigger than the SAT. But the new test says much about where we're headed. Think China, for rote learning patterns.

If tedium continues to trump critical thinking and creativity, we'll incentivize and reward a different kind of student. This new SAT, says Gruber, "is not going to tap the smarter kids, the real creative kids." That's a shame. The real world needs them. CJ

Kristen Blair is a Chapel Hill-based education writer.



KRISTEN BLAIR

The SAT has drifted far from its early moorings as an aptitude test

COMMENTARY

## A Sober Appraisal

North Carolina's public university system is a multi-billion-dollar organization that affects virtually every region of North Carolina — socially and economically. It employs more than 47,000 people across 17 campuses, making it by far the largest state entity. As such, it is essential for policymakers and taxpayers to know whether it is managed efficiently and whether the 220,000 students attending UNC schools are succeeding.

The Pope Center's latest research report goes a long way toward answering those questions. *The State of the State University 2015: Critical Facts about the University of North Carolina System* (available at popecenter.org) analyzes a decade of data covering, among other things, tuition, graduation rates, student debt levels, and administrative growth and salaries. The resulting picture shows minimal progress in some key areas and cause for concern in several others.

For example, North Carolina has the fourth-highest per-student state funding in the country. The UNC system has been well-funded since its inception in 1971; today, its overall annual budget is roughly \$9.5 billion, with about \$2.6 billion coming from the state. Despite that abundance, tuition and fees have gone up by 65 percent in 10 years. Moreover, student aid packages have not kept up with those increases.

Results of these trends include an increase in the percentage of students with loan debt, an increase in the inflation-adjusted amount of such debt, and an increase in loan default rates. While such problems are troubling enough for those who graduate, we know that they can be downright debilitating for those who do not.

Six universities in the UNC system — Elizabeth City State University, Fayetteville State University, N.C. A&T, N.C. Central, UNC-Pembroke, and Winston-Salem State University — have six-year graduation rates at or below 50 percent.

Universities' graduation rates reflect, to a large extent, the

academic preparedness of entering students. The schools enrolling students with high SAT scores and high school GPAs also have (relatively) high graduation rates, and vice versa. Even though UNC system schools have improved slightly over the years in admitting better-qualified students, it is clear that standards need to be raised much higher.

While *The State of the State University 2015* offers plenty of insight into universities' academic standards, it also sheds light on their spending priorities. First, despite contrary claims, faculty members across the system are paid very well. The average faculty member earns almost 33 percent more than the average income earner in North Carolina, and most earn more than the national average for public university faculty.

Also, from 2003-04 to 2012-13, there was increased waste in the form of administrative bloat. That is, the number of employees who do not teach increased by 20.6 percent. As a result, today almost every campus has more than twice as many noninstructional employees as it has faculty members.

Many top-level university leaders and state politicians want to increase enrollment (which, by the way, increased by 20 percent over the last decade) and the percentage of North Carolinians with college degrees. But unless they confront the numerous issues raised by the Pope Center's latest report, the future social and economic costs of pursuing such expansion may far outweigh the benefits.

*The State of the State University 2015: Critical Facts about the University of North Carolina System* is a must-read for students, parents, taxpayers, and policymakers who want UNC to achieve its highest potential — and its peak efficiency. Here's hoping that, instead of sugarcoating the shortcomings identified in this report, in 2016 North Carolina leaders choose instead to address them head on. CJ

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



JESSE SAFFRON

# N.C. A Battleground State Long Before Presidential Politics

As I've discussed in recent columns, North Carolina was a battleground state long before media pundits started calling it one. In particular, the Old North State was divided politically during the American Revolution.

During the Revolutionary War, many sided with the British while others supported the former American colonies. American allies of the British were labeled Loyalists or Tories. Those championing the American cause were called Patriots or Whigs. In North Carolina, both camps existed and at times confronted each other on actual battlefields.

In fact, North Carolinians met each other on the battlefield before April 12, 1776, when the Halifax Resolves passed by a unanimous vote, not to mention before three North Carolinians (John Penn, Joseph Hewes, and William Hooper) in July of that year signed the Declaration of Inde-



**TROY  
KICKLER**

pendence. On Feb. 27, 1776, approximately 1,600 Highlanders (Loyalists) were poised to battle approximately 1,100 Minutemen (Patriots). Casualties, however, were minimal; many Loyalists fled the scene after an effective Patriot salvo. Even so, according to historian William Powell, the Patriots captured the Highlander leader, approximately half of the opposing force, and much weaponry (cannons and rifles), and later discovered a sizable amount of money.

A large Loyalist population lived in North Carolina. Their numbers and the number of Loyalist/Patriot encounters have prompted some historians to describe events during the war for independence as a civil war. Carole Watterson Troxler has reminded readers, though, that the proportion of Loyalists in the Old North State "may have been greater than that of Pennsylvania and Connecticut," but it "seems to have lagged behind New York's and Georgia's Loyalist population."

In any case, many North Carolina Loyalists left for friendlier environments. The state legislature had passed aggressive confiscation legislation, and, as a result, Loyalist property

was seized and often sold. Before the war, Committees of Safety were alerted of Tory sentiment (perceived or real) in their communities.

The notorious David Fanning led what historians have called the Tory War from 1780-82. One famous incident occurred in Moore County at what is now called the House in the Horseshoe, where Fanning and his band of Tories from adjacent counties engaged Patriot militia.

Another example occurred Oct. 7, 1780, when nearly 1,800 Overmountain Men battled almost 1,000 Tories at King's Mountain. The American victory was the beginning of the end for the British forces in the American South and the prelude to the brilliant military maneuvers displayed by Gen. Nathanael Greene against Lord Cornwallis in North Carolina. At the Battle of Guilford Courthouse on March 15, 1781, a sizable Patriot force clashed with a substantial British force. When the firing ceased and the smoke cleared, Cornwallis and his men claimed the field. Cornwallis' success was a Pyrrhic victory, however; his army never fully recovered from the harsh battle and heavy casualties.

The Patriot/Loyalist divide con-

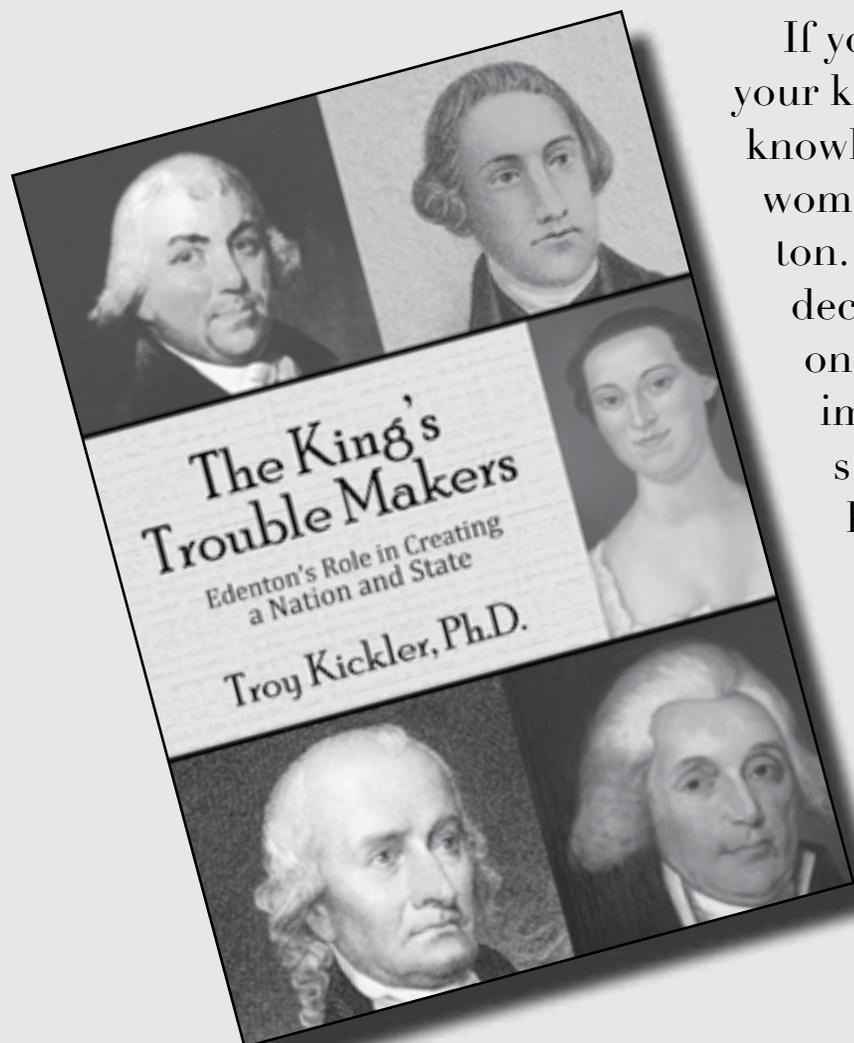
tinued in different forms after Americans won independence. Although Loyalist property had been seized during the war, many historians have considered their treatment to be mild compared to that in other areas. Some former Loyalists tried to reclaim their property, and those with small amounts, Troxler writes, probably decided it was not worth the effort.

In the end, the courts settled many of the property disputes. One significant legal precedent resulted from this process — the concept of judicial review in *Bayard v. Singleton*. In this case, Elizabeth Bayard, the daughter of a Loyalist whose property was seized during the war, sued to get it back. She did not win her case, but the state's appellate court ruled that the original confiscation law was unconstitutional.

As the upcoming primary and general elections near, North Carolinians will express differing opinions. And the Old North State once again will be a political battleground state with national significance. *CJ*

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

## BOOKS BY JOHN LOCKE FOUNDATION AUTHORS



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

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

Go to [northcarolinahistory.org](http://northcarolinahistory.org) for more information.

# Taylor: Apply Incentives To Everyone, Don't Target Them to Just a Few

By CJ Staff

RALEIGH

It's no secret that America's economy hasn't been growing as quickly as anyone would like since the official end of the Great Recession. The economic recovery has been far slower than recoveries from previous economic downturns. Economist John B. Taylor, senior fellow at the Hoover Institution and professor at Stanford University, believes a change in government policies could help produce better economic outcomes. He shared his ideas in a 2015 John W. Pope Lecture at N.C. State University titled "A Renewal of First Principles." Taylor discussed these principles with Mitch Kokai for Carolina Journal Radio. (Head to <http://www.carolinajournal.com/cjradio/> to find a station near you or to learn about the weekly CJ Radio podcast.)

**Kokai:** We should mention that this speech at N.C. State University [was] tied, at least in some respects, to a book you wrote a few years ago titled *First Principles*. What's it all about?

**Taylor:** Well, when I look at the episodes like you just referred to in the beginning, that the economy is not doing as well as it could, which I agree with, I ask, "Why?" And I think it's largely policy. It's actually the kind of policies I teach my students, and that is a deviation from economic policy, too.

So to describe that I wanted to list these principles, the principles of economic freedom, which I think characterizes good economic policy. And when we deviate from those, things don't go so well, and that's how it's been, I think, for the last 10 years or so. And when we're on track with those things, it's much better, and that's maybe the '80s and '90s, until recently.

**Kokai:** For those who have read the book, they will note that there are several principles that are spelled out very easily. Let's talk about some of them. One of them is a predictable policy framework. Why is that important?

**Taylor:** It's essential for anybody deciding on a job, or deciding to start a business, to know what policy is going to be. What's the tax policy going to be, what's the inflation rate going to be, what's the treatment of investment going to be, all those things, and that's what we mean by predictable. You've got to know what's going to happen.

A predictable policy, I think it's probably most important in an area which I like to think about: monetary policy. So what's the Fed up to? Are they going to raise interest rates and how and when? So that predictability helps. Same with taxes. If you keep changing the tax law constantly, you don't know what to do. You don't know what the return is going to be. So predictability of policy is very im-

*"[Y]ou want a general set of incentives that applies to everyone. The targeted incentives that apply to some people in certain circumstances, that goes against the predictability principle, where you know what's going to happen."*

*John B. Taylor  
Senior Fellow, Hoover Institution  
Professor, Stanford University*



portant.

**Kokai:** You also emphasize the rule of law.

**Taylor:** It goes part and parcel with predictability. The rule of law is needed to know what's going to happen when you buy this property. What's going to happen when you open this business? Are you going to be able to have the rights to that in the future? Is the government going to change its policy? What about the health care law: Are they going to change the health care law to exclude something that I took advantage of?

All those things are so important. And I think what's also important, it creates a better economy. It's something that we forget about sometimes. Economists too often don't emphasize the rule of law. But in certain situations like the fall apart of the Soviet Union, we thought it was going to be great as economists, market economy and all that, but there was no real substantive rule of law. And as result, things have not worked well.

**Kokai:** Another pillar that you mentioned is strong incentives, and some people listening will think, "Oh, that means we need these targeted tax incentives or targeted tax breaks." That's not what you're talking about.

**Taylor:** No. In fact, the best way to get incentives, and this is really another principle, is through the market. The market rewards people for making an investment in education so you get a better job. Doing a good job itself so you get a promotion, that's the incentives.

In a way you want a general set of incentives that applies to everyone. The targeted incentives that apply to some people in certain circumstances, that goes against the predictability principle, where you know what's go-

ing to happen. If you happen to have a different profession which is treated differently, or somehow the government gives a break or requires a license for that, that's really not predictable and that's really targeted.

Sometimes it's targeted disincentives. You have to go through a lot of hoops to get a license to practice, even to be a hairdresser. And that's not what you want for a good, strong-performing economy.

**Kokai:** We talked about strong incentives. You mentioned the reliance on markets as a fourth principle, and another one was a clearly limited role for government. Why is that so important?

**Taylor:** What we've learned, I think, from history and just from basic economics [is] that there are a few things that government can do well and government should do those. That's maybe national defense. It's the obvious ones that economists talk about.

But there are so many other things that the market does well, or people do well on their own, without the government. And what you have to do is limit the role of government to the things that government is appropriate for. So again, national defense is an obvious one. When government goes beyond that, actually the extreme — runs industries or takes over certain sectors of the economy — then you're in trouble.

Then you lose those incentives. You lose the ability to improve the economy, to grow. It's really the private sector that you want to emphasize as much as you can, because that's where the innovation comes from, the rewards. So that's why you want a limited [government]. It doesn't mean you cut it to zero. You limit it to what government is good at. Use cost-benefit analysis.

**Kokai:** I want to circle back to something you mentioned earlier because people who know you in the economics profession probably know you for monetary policy and something called the Taylor Rule, where you really call for something very different than what we've seen in recent years from the Federal Reserve. Why is the Federal Reserve acting in a way that's contrary to what it should be doing?

**Taylor:** That's a good question. In fact, it's an especially good question since when they acted according to a rules-based policy like this, things worked well in the '80s and '90s, until recently. When they deviated, it hasn't worked well.

I think they're maybe trying to do too much. Perfect became the enemy of the good, and they deviated from the good policy. And then the crisis came, I think, as a result of this deviation. And once a crisis occurs, then all sorts of changes occur. You figure you've got to do this for the special circumstance, special firm, a bailout, an intervention here and there, and suddenly you're deviating from good policy all over the place.

**Kokai:** And what you'd like to see is the Fed set up some sort of, or someone, set up some sort of rule rather than have the Board of Governors of the Federal Reserve making decisions here and there and changing their minds, correct?

**Taylor:** I would like the Federal Reserve itself to set up a process or rule. You know, after all, in the '80s and '90s, they came pretty close to that. ... They followed a fairly predictable, rule-like policy focused originally on getting inflation down and then keeping it steady, and, boy, the economy really did pretty well during that period. In more recent years they haven't done that.

CJ

## COMMENTARY

## States Take The Wheel

When America was a young country, the federal government had a much more prominent role in transportation than it does today. Federal transportation programs required extensive collaboration among the states to ensure consistent standards, interconnectivity of facilities, and sufficient investments for a national infrastructure.

Today, the U.S. Department of Transportation has changed its focus, and now its priority is to promote policies tangentially related to highways such as environmental sustainability, economic expansion, and social welfare.

All levels of government historically have funded transportation. The federal government, via the federal gas tax, funds approximately 25 percent of transportation costs while states and local governments pay for the rest.

Some states, however, rely more heavily on the federal government than others. North Carolina's Department of Transportation receives nearly \$1.2 billion from the federal government, comprising 27 percent of the state's total funding.

The money the federal government disburses for transportation comes primarily from the federal gas tax, yet two-thirds of the programs funded are not highway programs. Due to a reduction in highway miles driven per person, increased construction costs, and more efficient vehicles, the gas tax no longer can cover all of the Highway Fund's transportation needs, especially if some of the money pays for nonhighway projects.

The federal gas tax rate has not increased since 1993, and some are arguing to increase the rate. Congress has decided not to increase the excise tax on motor fuel, and in 2012, the federal legislation authorizing spending on federal highway programs also approved a General Fund transfer to fill the gap left from inadequate fuel tax revenue.

In 2015, the U.S. Department of Transportation warned states that it would need to delay payments to prevent the account balance of the highway and transit accounts from dipping below a required threshold. This is worrisome for many states

that pay for construction projects up front and then are reimbursed by USDOT.

The Congressional Budget Office projects that the highway account will have a shortfall of \$1 billion in 2016, and that shortfall will grow to \$108 billion by 2025, with an additional shortfall of \$40 billion in the transit account. Delaying reimbursements to states could become an annual event.

Since 2012, 21 states, including North Carolina, have approved plans to raise additional transportation revenues. During the 2015 legislative session, N.C. lawmakers changed the way the state gas tax was calculated to make that revenue source more sustainable.

The gas tax rate was reduced in stages from 37.5 cents per gallon in 2015 and will wind up at 34 cents per gallon by the end of 2016. Starting in January 2017, the gas tax will be adjusted automatically based on increases in population and changes in the Consumer Price Index.

North Carolina made another important decision to hedge the risk against the federal government's funding shortfall. During the 2015 session, lawmakers ended a transfer from the Highway Fund into the General Fund that had diverted hundreds of millions of dollars away from highway projects over the last few decades. Using transportation money solely for transportation-related projects is necessary to prepare for an eventual cut in our federal transportation allotment.

The long-term solution for transportation needs in America is to shift transportation decisions and funding away from the federal government and to the states. Over the last 30 years, states have been given more discretion over how they spend federal transportation dollars.

In the wake of Congress' continual short-term funding continuations for the Highway Trust Fund, it only makes sense for states to take over their own transportation programs. CJ

*Sarah Curry is director of fiscal policy studies for the John Locke Foundation.*



**SARAH CURRY**



## EDITORIAL

## Keep Reaching For the STARS

Almost 15 years ago, the John Locke Foundation released an education reform plan titled "Reach for the STARS," a five-point agenda arguing that low levels of proficiency in reading and math, particularly among poor and minority students, were robbing the next generation of opportunity and inhibiting our future growth.

Now, 15 years later, North Carolina policymakers have moved in the right direction in four of these areas and are considering action on the fifth.

The acronym "STARS" referred to five elements: standards, tenure, accounts, regulation, and scholarships. The proposals were: 1) adopt more rigorous academic standards and independent, national tests; 2) abolish teacher tenure for new hires and phase it out for others; 3) create education savings accounts into which parents could deposit funds, receive tax credits, and then use the money for educational services; 4) reduce state regulation of local schools by abolishing the statewide cap on charter schools and giving superintendents and principals more flexibility on budgets; and 5) offer private-school scholarships for low-income students and those trapped in low-performing public schools.

On standards and testing, North Carolina's public schools have adopted the ACT battery of tests for all high-school students. Our new state tests in earlier grades are more rigorous, no longer so wildly out of sync with the National Assessment of Educational Progress exams administered to fourth- and eighth-grade students every other year.

Like most states, North Carolina adjusted its Standard Course of Study for public schools to the Common

Core standards in reading and math. In some cases, this was a major improvement. In others, it proved to be either wrongheaded or controversial. The State Board of Education now has the opportunity to revise the reading and math standards to address the flaws. We'll see if they do.

On tenure, North Carolina no longer offers it to newly hired teachers. In the future, superintendents and principals will have the flexibility they need to protect students from the ill effects of ineffective teachers.

On regulation, North Carolina has abolished the charter-school cap and given local districts more budgetary flexibility. Some school systems also have been experimenting with differentiated pay and other innovative practices. Lawmakers are now studying ideas such as student-centered funding and pay-for-performance pilots. That's fantastic.

And on school choice, North Carolina is giving private-school scholarships to thousands of low-income and special-needs students. Competition is just as valuable in education as it is in other sectors. Our voucher plan has withstood legal challenge and should expand to help more families of modest means find the best educational match for their children.

Now it's time to adopt the fifth plank: education savings accounts. At a minimum, all parents should have the ability to take tax deductions for ESA deposits. The money parents spend on their children's education is no less an investment in the future than the money they put in a 401(k) or IRA.

North Carolina should continue reaching for the STARS. Our future depends on it. CJ

## EDITORIALS

# Big Questions

*Right answers are needed*

Public education, health care, and transportation were major issues during the 2015 legislative session. They will continue to be major issues for many years to come.

During the last session, the General Assembly took action on all three fronts. On public education, lawmakers funded the next phase of a strategy to shift the state's teacher compensation system away from irrelevant credentials and seniority in favor of recruiting high performers into the profession. On health care, they finally approved a reform model for the state's costly Medicaid program that will blend provider-led networks and commercial insurers in a new system to provide more fiscal certainty.

And on transportation, lawmakers took three steps to reduce the gap between what the state needs to spend on its highway network and what revenue it could expect from existing taxes and fees. They included changing the gas tax to reduce the rate in the short run but keep it higher in the long run, increasing car registration fees to cover departmental expenses, and ending a longstanding annual transfer of more than \$200 million from the Highway Fund. Together, the changes deliver hundreds of millions of dollars a year in additional spend-

ing on roads and bridges.

Even with these gains, plenty of hard work remains.

The General Assembly chose not to enact major changes in North Carolina's academic standards or testing programs. Instead, it asked state panels and commissions to come up with reforms. Some may prove useful. Others passed the buck right back to the State Board of Education or the legislature itself.

As for Medicaid reform, the 2015 legislation only began a process that will take many years. North Carolina's new system will combine statewide options with regional networks. No one knows what all this will look like.

Regarding transportation, the state's funding gap was reduced, not eliminated. We still need billions of dollars worth of new and refurbished roads that cannot be financed at current tax rates. Some policymakers favor higher gas or car taxes, others prefer more reliance on direct user charges, and still others would eliminate state funding for transit systems and political boondoggles.

Even the busy legislative session of 2015 left many big questions on the table. North Carolina's continued growth and development depend on coming up with the right answers. *CJ*

## COMMENTARY

# Most Arts Funding Is Private

Whether you think the National Endowment for the Arts is a wonderful organization deserving taxpayer support or an example of the federal government exceeding its proper bounds, I'm willing to bet you believe the NEA plays a bigger role than it actually does.

Here's the reality, straight from the NEA: Of all the money spent on nonprofit artistic and cultural programming across the country each year, the federal government — the NEA plus other federal agencies — is responsible for about 1 percent of the total. Adding in direct appropriations from state and local governments, plus grants from tax-funded organizations such as the North Carolina Arts Council, increases government's share of total arts funding to just 7 percent.

In other words, 93 percent of the money spent by American nonprofits every year to produce plays, stage concerts and dance performances, exhibit visual art, and finance other fine and performing arts comes from private sources — from ticket sales and other "earned revenue" as well as voluntary contributions from foundations, corporations, and individuals.

Keep in mind that these figures reflect only the nonprofit arts sector. The for-profit sector is even larger, encompassing commercial art, live and recorded music, Broadway, film, and commercial publishing.

The overwhelmingly private nature of the arts in America clearly distinguishes our society from much of the rest of the developed world. On a per-capita basis, the Canadian equivalent of the NEA spends about 11 times what the NEA spends. The English equivalent spends 29 times as much.

Because our sector is overwhelmingly private, it is more innovative, energetic, and entrepreneurial. There is robust competition for talent, ideas, patronage, and audience. And our approach to funding the arts minimizes the extent to which we force taxpayers to fund artistic work about which they feel disdain or a complete lack of interest.

For those of us who consider the arts to be indispensable elements of a thriving culture, then, the freedom I celebrate leads inevitably to a responsibility to act. As president of the John William Pope Foundation, a Raleigh-based grantmaker about to celebrate its 30th anniversary, I've been working to sustain and build on an impressive legacy of support for arts and cultural organizations in our state.

Over the years, the Pope Foundation has given millions of dollars to educational programs, community groups, and institutions such as the Carolina Ballet, the North Carolina Theatre, the North Carolina Symphony, and the North Carolina Museum of Art. Recently the United Arts Council of Wake County recognized the Pope Foundation's efforts with the 2016 Business Support for the Arts Award.

We also just launched a new statewide program, the Joy Pope Memorial Grant in the Arts, to identify creative ways to make one-time gifts with ongoing benefits to artists, students, and their communities. The 2016 recipient of this annual \$100,000 grant is the Fayetteville Symphony, which will use the money to create an instrument lending library for students from Cumberland, Hoke, Lee, Moore, and Robeson counties who participate in its youth orchestra program.

There's plenty of room for additional private support. If you share my view that government's role in this area ought to be limited, then I would urge you to find the cause closest to your heart — teaching children to play classical music, teaching retirees to paint and sculpt, hosting a poetry reading, or producing Shakespeare in the park — and give your time and money to it.

Among its many lessons, art teaches how to connect our past to our future. "Without tradition, art is a flock of sheep without a shepherd," Winston Churchill once said. "Without innovation, it is a corpse." Private initiative sustains both tradition and innovation. Let's have more of it. *CJ*

*John Hood is chairman of the John Locke Foundation.*



**JOHN HOOD**

# N.C.'s Good Example

*We cut spending, D.C. didn't*

If you think government is too large and wields too much power, then you have plenty of reasons to be dismayed by recent national developments. But if you live in North Carolina, there is some good news mixed in with the bad.

Since the onset of the Great Recession in 2007, the federal government has expanded vastly. Although federal spending peaked in 2011 at 23.4 percent of gross domestic product and has declined a bit since then, it remains elevated. In the 10 years before the Great Recession, federal spending averaged 18.6 percent. During the current 2015-16 fiscal year, the Obama administration estimates it will be 21.5 percent.

In North Carolina, the Republican takeover of the state legislature in 2010 and the election of Gov. Pat McCrory in 2012 have led to a different result. The state's General Fund expenditures — the portion of the

state budget funded through generally applied taxes and fees, rather than from federal funds or highway taxes — have risen 10 percent since 2010. But the state's economy has grown faster.

As a share of GDP, the state's General Fund budget has gone down. During the current 2015-16 fiscal year, it will be approximately 4.1 percent of North Carolina's GDP. By comparison, on average state General Fund spending was 5 percent of GDP from 1997-2008.

In Washington, the next president and Congress should eliminate low-priority spending such as corporate welfare, reduce annual growth rates of entitlement programs such as Social Security and Medicare, and devolve programs such as Medicaid and transportation to the states. Bringing federal spending down to the pre-recession average of 18.6 percent of GDP may balance the federal budget. *CJ*

## MEDIA MANGLE

Reporters  
And Sources

In another life I was a governor's press secretary, during the campaign and then after he took office.

I came to the job directly from a newspaper job. I'd never been a flack before. And I brought with me the same values that reporters, at least 30 years ago, brought to the job of journalism.

My feeling was that you could answer a question three ways: 1) You could lie, 2) you could say "no comment," and 3) you could answer truthfully. Since I was incapable of the first, I used the other two.



JON  
HAM

The other set of rules governed when what I said could be reported by people interviewing me. My rules were pretty elaborate. I would explicitly, before answering or telling something to a reporter, say whether it was free to be used with attribution to me; whether it was free to be used as information that must be confirmed by someone else; whether it was for use only as background in their reporting, with no connection to be made to me or the governor's office; or whether it was never to see the light of day, and was being told only as a friend to a friend.

I would never take a nod or a blank look as assent to my stated rules, but required in advance a verbal promise from the reporter to abide by them. Looking back, I can say not one reporter ever stabbed me in the back by ignoring our agreement.

I was reminded of all this after reading a column at Medium.com (<http://bit.ly/205bjIO>) in which the author, a marketing professional, stated categorically, "Never, EVER say ANYTHING you don't want to see in print. Period. That's it."

He went on to say that reporters' first duty is to inform the public, so they will freely ignore your "off the record" admonitions in order to perform that duty. Maybe that's the case today, but it never happened to me.

Several reporters responded in comments that the column writer was off base, and that reporters do, and must, respect such rules from sources if they are to maintain a relationship with that source.

I know reporters have a reputation that can't get much lower, but the marketing professional who wrote the column assumes that reporters will lie to your face, feign agreement on your rules for use, and then turn around and do the opposite. I never found that to be the case.

Some confusion no doubt comes from a lack of specificity on the part of the news source. You can't just say "this is off the record" and think that covers all bases. And you can't assume that a smile or a nod from the reporter is assent. Make them say it out loud.

There's also another motivating factor for playing it straight. In 1991 the Supreme Court ruled that a newspaper loses First Amendment protection from a lawsuit if it reneges on a promise to keep a source confidential. CJ

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

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## N.C. May Borrow to Build

North Carolinians are being asked to consider a big mortgage for the state. Totaling \$2 billion, the mortgage would allow the state to build a variety of projects, including university and community college facilities, water and sewer infrastructure, and recreational offerings.

There are two key questions for voters to ponder. First, is mortgage financing appropriate? Second, are the projects worthy?

To address the first question, consider a newly married couple named the Smiths. They are renting now, but they've decided to start a family and think owning a home would be preferable.

Yet the problem the Smiths face is money. The home they want to purchase is priced at \$200,000. Although the Smiths have some money saved, it would take them several years — maybe 20 — to have enough for the full purchase price. And by that time, the home's price would be more and interest rates may be higher.

The alternative for the Smiths is to borrow most of the purchase price through a long-term loan called a mortgage. They repay the mortgage in monthly payments — each payment pays interest on the loan as well as a part of the original loan amount — over several decades.

Using mortgage financing, the upside for the Smiths is they get the home now, and they are able to use and enjoy the home while paying for it. If they had to wait perhaps 20 years until they could pay cash for the home, their children could be in college!

The big downside of mortgage financing is the Smiths will pay more total dollars over time to purchase the home. If they bought the home with cash, they would pay \$200,000. Using today's interest rates and a 30-year repayment plan with a \$200,000 mortgage, the Smiths would pay \$340,000 over three decades. Recognize, however, most financial analysts argue the two amounts aren't directly comparable because the dollars are paid at different points in time when the purchasing power of the dollars

are different.

Bond financing of state projects is exactly like mortgage financing of a home. By borrowing the money, the state gets to build the projects now and pay for them while residents benefit from the projects. The alternative is to wait until the state has saved the money to pay cash, meaning the projects will not be developed until years later. However, with such "build as you have the cash" financing, interest costs are avoided.

This difference in financing methods leads to the second question: How worthwhile are the projects to be financed by the state bonds? If the Smiths have decided an owned home is the best type of residence for raising their children and aging into midlife, then the sooner the Smiths can have the home, the better for them.

North Carolinians have the same question to answer about the bond package: How important is it to have the projects funded by the bonds built now rather than later?

Advocates point to several factors. The state is expected to add 3 million new people over the next several decades. This means more use of state parks, more flows through our water and sewer systems, and more students learning at our public community college and university buildings — all functions that would receive funding for expansion from the bonds.

Two-thirds of the bond money would pay for higher education construction projects. Many futurists think higher education facilities will be crucial for training a 21st-century work force.

Then there is the cost of the bond financing. Interest rates are now at near-historic lows. But the Federal Reserve already has announced a plan to raise interest rates in the future. So borrowing now could lock in today's relatively low rates.

Still, even with the low interest rates, there will be extra dollars paid in interest costs using the bond financing. So, just like for the Smiths, the essential question is: How much do we want the projects funded by the bonds? Do we want them now, or can we wait until later? CJ

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

# Growth, Equality Issues Will Shape Campaign

It is clear, even several months before the parties' nominees have been selected, that a central feature of this year's presidential election will be an intense debate over growth and equality.

The Republican nominee will advocate policies directed toward stimulating our anemic economy, one that barely has expanded since the Great Recession. The Democrat will reiterate President Obama's assertion, made during a 2011 speech in Osawatimie, Kan., that dramatic and widening economic disparities constitute "the defining issue of our time."



**ANDY  
TAYLOR**

We know all this because, although the primary campaigns have seen some quite nasty intramural fighting, the economic plans forwarded by Republicans are strikingly similar; those by Democrats share the same themes. There are, of course, some meaningful within-party differences, but the goals are always the same.

For the GOP, taxes must be reduced and simplified, spending cut. Job and wealth creation will occur

only with economic growth, a force unleashed not by government but a robust business community with resources available to reinvest in capacity.

On the Democratic side, self-proclaimed "socialist" Bernie Sanders has a spending wish list estimated at \$18 trillion over the coming decade. It includes a single-payer health system, tuition-free public higher education, and paid family and medical leave. Although, according to Joe Biden, a "newcomer" when it comes to the issue of inequality, Hillary Clinton has focused on taxing capital gains and slapping a surcharge on the rich. Both she and Sanders want to raise the minimum wage to at least \$12 an hour and oppose the liberalizing Trans-Pacific Partnership trade deal pushed for by Obama. The principal Democratic goal is to increase the incomes of those near the bottom.

This debate is reminiscent of one that has taken part in philosophical circles over the past half century and that I discuss in my classes. In his famous 1971 book, *A Theory of Justice*, John Rawls essentially argued inequality should reflect the amount of relative personal deprivation individuals were willing to tolerate to avoid entering a lottery to determine their wealth and social standing. By way of response Robert Nozick, who became a leading libertarian intellec-

tual on the back of such work, stated inequality was unimportant so long as commercial exchange was voluntary and economic outcomes reflected the distribution of effort and talent across individuals.

I tell my students I believe Rawls has an "incentive" problem because predetermination, an inevitable effect of forced equalization, leads to free-riding and a decline in collective productivity. Nozick has an "original position" problem. To what extent do inherited social advantages, rather than business acumen or a person's effort and talent, shape economic results?

I think Americans today find themselves somewhere between Rawls and Nozick and possibly close to this year's Nobel Prize winner in economics, Angus Deaton. Deaton's work on global health and wealth reveals inequality to be valuable in that it fosters aspiration and innovation among those lower down the pecking order. Extreme inequality, however, can place so many burdens on those toward the bottom that emulation is worthless, diminishing social mobility and economic competition.

In fact, several of the presidential candidates on both sides recognize this middle ground. Republicans do worry about inequality — as demonstrated by John Kasich's call to expand the earned-income tax credit, Marco

Rubio's proposed new child care credit, and Ben Carson's and Donald Trump's plans to exempt people in roughly the bottom third from paying any individual income tax at all. Some Democrats understand that growth is important — Clinton speaks of a "growth and fairness economy" in which government investment in things like infrastructure and education stimulates economic activity. Republicans believe there can be greater equality only with growth; Democrats counter that growth follows equality.

We desperately need growth. Republicans tend to get that better than Democrats. Without it, efforts to equalize outcomes become punitive and divisive. Firms become uninterested in generating genuine wealth and instead chase profits through rent-seeking or lobbying government officials. To get growth, policymakers need to assess regulations, invest strategically in infrastructure, and cut taxes, especially on corporations. But we simultaneously must find a way for those near the bottom to believe once again that they can rise to the top. CJ

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## Occupational Licensing Reform and Freedom

Over the last four years, comprehensive reforms have turned our state around, with higher-than-expected state revenues, growing income statewide and per resident, and the creation of 234,000 net new jobs. North Carolina has become a model, not only in our region, but also for the nation.

But until every North Carolinian has the opportunity to find a job, until every barrier to succeed is removed, until the freedom to choose is open to all, there is still work to do.

A recent U.S. Supreme Court decision struck down a North Carolina Dental Board licensing requirement for people who whiten teeth but perform no other dental services. The General Assembly is taking a hard look at North Carolina's occupational licensing laws to clean up a very messy system.

North Carolina has one of the more restrictive occupational licensing regimes in the country — 154 licensed job categories, compared to South Car-

olina, with only 49.

There are inconsistencies throughout the system. It costs \$300 for a license to practice law but \$923 to become a sign language interpreter. It takes 169 hours of training to earn an emergency medical technician license but 1528 hours for a barber.

Some requirements for state licensing leave you scratching your head. Makeup artists, landscape contractors, and travel guides must be licensed in North Carolina.

These restrictions ripple through our economy, preventing people from pursuing their dreams and driving up the costs of services.

Who benefits? It's often those already in a profession who want to protect what they perceive as their turf, keep out competition, and inflate costs for their financial and professional benefit.

But it's also complicated. We want to open opportunity while ensuring public health and safety. It's a balance between appropriate government oversight and the freedom to choose your occupation.

That's something we've been studying at the John Locke Foundation. There is a lot of research on occupational licensing — from the General Assembly's Program Evaluation Divi-

sion, the state auditor's office, the Institute for Justice, the Mercatus Center at George Mason University, the Goldwater Institute, and even the White House.

The findings are pretty consistent:

- When it's harder to enter a profession, there are fewer employment opportunities, excluded workers earn lower wages, and consumer costs rise.
- Inconsistencies within professions and variations across states create barriers for workers to relocate, and inefficiencies for businesses are a drag on the economy.
- The cost of licensing falls disproportionately on low-income workers.
- Well-designed and carefully implemented licensing requirements can benefit consumers while allowing qualified workers to pursue freely the occupations they choose.

Implementing a system that balances safety and freedom will make North Carolina a model in occupational licensing, just as North Carolina has become a model in other reforms.

The need for reform goes beyond data. Reform can help every North Carolinian who is shut out of opportunities to pursue his or her dreams.

It's for the young man who wants

to open a barber shop in his low-income neighborhood and provide access to a quality service at an affordable price — but with 1,528 hours of experience and training required to get a license, plus passing three different exams, becoming a barber is out of reach.

It's for the military spouse who has worked as an optician in one of the 28 states that do not require a license and finds that when her spouse is transferred to Fort Bragg, her experience is irrelevant. She must log 3½ years of apprenticeship training, pay a \$250 fee, and pass various exams to get a license here. Continuing in her profession is out of reach.

It's for the handyman dad who wants to open his own business — installing security alarms. But with 1,095 days of training and experience required to obtain a license, the obligations of his current full-time job, and his family commitments, the dream of starting his own business is out of reach.

North Carolina's restrictive occupational licensing requirements create barriers for real people. That's why reform is absolutely necessary. CJ

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



**BECKI  
GRAY**

# CSX Plans to Buy and Close I-95 Attractions, Say Documents (a *CJ* parody)

By CASEY JONES  
Railroad Correspondent

RALEIGH  
Even though the administration of Gov. Pat McCrory has called the controversial proposal by CSX to build a railroad terminal in Johnston County near Selma “not viable,” the rail giant continues pursuing the project as one component of a larger plan to buy out entertainment attractions along the Interstate 95 corridor between Washington, D.C., and northern Florida, *Carolina Journal* has learned.

The Johnston County proposal, known as the Carolina Connector, reportedly would cover 450 acres and serve as a cargo hub linking containers brought by rail from coastal ports to the highway corridor, where the containers would be transferred to trucks. The project drew media attention when several landowners in the project’s footprint told reporters that CSX officials had threatened to use eminent domain if they would not agree to the company’s offers to purchase the property.

A Jan. 26 statement by McCrory spokesman Graham Wilson said the administration would work with the company to pursue “alternative sites.”

But CSX has shown no interest in other locations. The Carolina Connector is not the only project CSX is considering along I-95. Based on documents *CJ* has obtained, CSX and the Jacksonville Chamber of Commerce,



The South of the Border attraction just across the N.C. state line in South Carolina has cost Florida and Jacksonville “millions of dollars over the years,” say Florida and CSX officials, and is at the top of the list of entertainment attractions they want to buy and then close. (CJ file photo)

aka the JAX Chamber, plan to acquire and then demolish several venues in the I-95 corridor, including one at the Selma site. The documents say the purpose is to shift entertainment-related tourism closer to the railroad company’s headquarters in Jacksonville, Fla.

“It is the goal of the company and the JAX Chamber to ensure that tourists seeking entertainment and attractions along the I-95 corridor make as few stops as possible between Virginia Exit 177C [the George Washington Parkway exit] and Florida Mile Marker 362 [the Jacksonville International Airport exit],” a CSX document marked

“Confidential” stated.

The documents list four attractions for acquisition and destruction: the Kings Dominion theme park near Ashland, Va.; the Roanoke Rapids Theatre (formerly the Randy Parton Theatre) in Roanoke Rapids; the Farm, a small entertainment venue within the Carolina Connector’s proposed location in Johnston County; and the South of the Border tourist attraction near the North Carolina-South Carolina state line.

“Based on the JAX Chamber’s economic model, removing these competing attractions from the northern

portion of the corridor will boost the economy of Northeast Florida by \$16.5 billion annually and create 2,700 jobs in the region,” another CSX/JAX document stated. “The company’s cost of land acquisition, particularly if some of the cost is offset by state and local government incentives, will pale in comparison to the economic development the region and the company will enjoy. Our goal is to obtain as much support from governments outside Florida as possible to reduce our capital outlays and risk.”

One CSX employee, who asked not to be identified, said one attraction in particular has been a problem. “That damn Pedro and all his signs have cost Florida and Jacksonville in particular millions of dollars over the years,” he said. “Yankees spend all their money on novelty items made with cypress, like outhouses and roach killers, and they don’t spend as much down here.”

The Carolina Connector project has an anticipated cost of \$272 million. CSX documents say the project would not be viable without \$100 million in transportation funding from the state of North Carolina.

Publicly, CSX has compared the Carolina Connector proposal to other rail hubs the company owns in Pennsylvania and Ohio, but company officials also have confirmed that those projects did not require eminent domain and did not receive significant state subsidies. *CJ*



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