

spotlight

No. 407 – February 15, 2011

TIME FOR A CHANGE

New legislature should realign its positions on environmental issues

KEY FACTS: • Over the last decade North Carolina has led the way among southern states in advancing a more extreme environmentalist agenda.

- Bills passed include the Clean Smokestacks Bill, the establishment of the Legislative Commission on Climate Change, and Senate Bill 3, which caps the amount of electricity that can be generated from lower-cost fuels and places a limit on electricity usage.
- SB 3 has all of the negative effects of a cap-and-trade program similar to those that the Republican Party at the national level have opposed.
- All of this legislation was passed with overwhelming support from Republicans in both houses of the state legislature.
- The new Republican majority should put environmental policy into the context of the ideas of liberty, personal responsibility, and economic growth that the party ran on last fall.
- Among other things, it should repeal SB3.
- Also, no new environmental regulation or tax should be considered unless there is a real and identifiable problem to be solved.
- Any new regulation or tax must actually solve or ameliorate the problem in a scientifically verifiable way.
- It should be demonstrated that the benefits associated with solving or ameliorating an environmental problem outweigh the costs imposed by the regulation or tax.

200 W. Morgan, #200
Raleigh, NC 27601
phone: 919-828-3876
fax: 919-821-5117
www.johnlocke.org

The John Locke Foundation is a 501(c)(3) nonprofit, nonpartisan research institute dedicated to improving public policy debate in North Carolina. Viewpoints expressed by authors do not necessarily reflect those of the staff or board of the Locke Foundation.

Over the last decade North Carolina has led the way among southern states in advancing a more extreme environmentalist agenda. Not only had this agenda been supported by the ruling Democratic Party, but it is clear that the GOP had also been mesmerized by the environmentalist vision. Now that the Republicans control the legislature, they need to align their

[more >>](#)

positions on environmental issues with the principles of freedom and limited government that most of the new legislators ran on during last year's election.

I. Some Legislative History

A. The Clean Smokestacks Bill

What might be called the eco-decade for North Carolina began in 2002 when the legislature passed the Clean Smokestacks Bill (CSB). The CSB came to North Carolina via model legislation drafted by the New York City-based environmental pressure group Environmental Defense (ED). At the time, ED was shopping the legislation around the country to as many states as they could. North Carolina was the only state to adopt the bill, which included extreme requirements for nitrogen oxide (NO_x) and sulfur dioxide (SO₂) emissions and a section requiring the state to study the possibility of regulating carbon dioxide (CO₂).

Republicans in the General Assembly overwhelmingly supported the bill. Only four Republican House members and one Republican Senate member voted against it.

The costs of complying with the NO_x and SO₂ requirements, which were originally estimated to be \$2.3 billion, have now swelled by almost another billion dollars. Unfortunately, it appears that North Carolina is getting little if any benefit from these expenditures.¹ While air quality has shown significant improvement over the last decade, comparative data suggest that North Carolina's improvements are no better than those of its neighboring states, all of whom rejected the legislation.

Beyond tighter emission requirements, the North Carolina Department of Environment and Natural Resources (DENR), in compliance with the section on CO₂ in the Clean Smokestacks Bill, established the Climate Action Plan Advisory Group (CAPAG). As demonstrated in a series of *Carolina Journal* reports,² the work of this body was completely corrupted when DENR hired the Center for Climate Strategies, another leftwing environmental pressure group,³ out of Pennsylvania to run the operations of the CAPAG and perform the "research" that guided its deliberations.

B. The Legislative Commission on Global Climate Change

In 2005, the General Assembly continued to push the environmentalist agenda by establishing the Legislative Commission on Global Climate Change (LCGCC). The commission was dominated by environmental pressure groups, who were united, and business groups, each with its own narrow set of priorities. There was no representation from free-market or taxpayer organizations.

Even though it was clear from the outset that, given the commissions leadership and makeup, it would be completely biased in favor of the global warming alarmist agenda, the Republicans in the General Assembly voted overwhelmingly in favor of the LCGCC. Fifty-five percent of the House Republicans and almost eighty percent of the Senate Republicans voted to establish the commission.

Quite predictably, the LCGCC heard testimony almost exclusively from global warming alarmists, including the UN's Intergovernmental Panel on Climate Change (IPCC) chair, Rajendra Pachauri. After he testified to the Commission, it was shown that Pachauri stood personally to benefit financially from the kind of regulations he was advocating, and there have since been calls for his resignation from the IPCC.⁴ The LCGCC relied heavily on his testimony in its final report, even though these controversies came to light before it was submitted.

Equally predictably, when the LCGCC finished its work, it recommended a laundry list of higher taxes and regulations. It also ignored its mandate to show how its recommendations would impact global temperatures. It thus avoided acknowledging the fact that there is nothing that the state could do that would have any impact on the climate.

C. Senate Bill 3: Cap Without Trade

The last of the environmentalist trilogy came in 2007 with the passage of Senate Bill 3 (SB3). This legislation mandates that 12.5 percent of electricity should come from renewable sources like wind and solar, known as the renewable portfolio standard (RPS), and includes the possibility of a maximum of 5 percent out of that 12.5 percent coming from reductions in energy usage.⁵ This is what is typically referred to as “energy efficiency,” even though the concept has nothing to do with the concept of efficiency used in economics.⁶ Economic efficiency relates to getting more production from fewer inputs, like energy. Energy efficiency, used correctly, would imply getting more production while using less or the same amount of energy and, importantly, reducing the average cost of production. Energy efficiency, as used in SB3, simply refers to using less energy regardless of its effects on overall levels or costs of production.

In principal, SB3 is a “cap and no trade” program. It imposes a cap on the proportion of electricity that can be generated from fossil fuels.⁷ The idea is that energy generated from renewable sources, such as wind and solar, will substitute for energy generated from coal, natural gas, and nuclear sources. But, unlike cap-and-trade programs proposed at the federal level, SB3 has no trading provision to allow for flexibility. Indeed, if the legislation operates in the way that it is intended to, SB3 is a “cap and no trade” bill that imposes a tax on the state’s economy, in the same way as the proposed federal cap-and-trade legislation would for the national economy.

Again, among Republicans there were only five “no” votes in the House and just one in the Senate. SB3 passed without cost/benefit analysis and without analysis of its impact on employment or economic growth.

Since SB3 became law, economists from Suffolk University’s Beacon Hill Institute estimated that it would cost the state about 3,500 jobs, \$140 million in real gross state product, \$57 million in real disposable income, and \$43 million in state and local tax revenue by 2021.⁸ There has been no analysis quantifying any social or environmental benefits to the legislation. And while many of SB3’s supporters have suggested it would have an impact on the climate, the fact is that even drastic measures like the UN’s Kyoto Protocol or the massive cap-and-trade programs considered by Congress over the past two years would induce no noticeable change in either near- or long-term global temperatures.

In addition to the RPS and energy-efficiency portion of the legislation, SB3 contains a host of breaks to special-interest groups. Probably the most egregious of the special giveaways is the “construction work in progress” (CWIP) provision.⁹ It allows electricity monopolies to pass the costs of new nuclear facilities on to their customers as they are incurred, even if the facility is never completed and never generates electricity. It forces electricity customers rather than company shareholders to bear the risks of new investments. Of course, this encourages utilities to take risks on the construction of new nuclear power plants that may not otherwise be justified. Other provisions include special tax breaks to farmers and manufacturers and for contributions to environmental pressure groups that purchase or lease property used to generate renewable energy.

The only group that didn’t catch a break in the process of passing SB3 is the consumers of electricity, who have to foot the bill.

II. Going Forward

The new Republican majority in the General Assembly needs to differentiate itself from its Democratic peers on environmental issues. Environmental policy should be put into the context of the ideas of liberty, personal responsibility, and economic growth that the party ran on last fall.

First, no new environmental regulation or tax should be considered unless there is a real and identifiable problem to be solved. Second, the regulation or tax must actually solve or ameliorate the problem in a scientifically verifiable way. And third, given that the first two conditions are met, it must be demonstrated that the benefits associated with

solving or ameliorating the problem outweigh the costs imposed by the regulation or tax. Unfortunately, none of the environment regulations imposed in North Carolina over the last decade have been subjected to these simple tests.¹⁰

In the immediate future, the most important change that the new legislature can invoke is to repeal SB3. In doing so, it will send a strong message to North Carolina's industries and consumers that they are no longer willing to impose excessive costs on the state's economy in pursuit of nonexistent environmental benefits. Furthermore, it will signal a rejection of the social and lifestyle engineering mentality that SB3 and the environmental movement represent.¹¹

Next, the GOP should pledge to reject all of the recommendations of DENR's Climate Action Plan Advisory Group and the LCGCC, recognizing that the commission was intensely biased and started its work with a set of preconceptions that precluded any conclusions other than those that were reached. Specifically, the LCGCC ended up recommending most of the proposals that were suggested by DENR's Climate Action Plan Advisory Group, which, as noted, was completely controlled by the Pennsylvania-based environmental pressure group The Center for Climate Strategies. Besides the fact that these policies would have no impact on the climate, they would stifle individual liberty and creativity, increase the cost of living, and kill economic growth and job creation.¹²

Finally, with respect to the Clean Smokestacks Bill, it is too late to do anything about the incurred costs of the legislation's SO₂ and NOx requirements. Those are what economists call sunk costs and cannot be recaptured for consumers. Going forward, the new legislature should clarify that nothing in current law, including the CSB, authorizes state-based regulation of greenhouse gases such as CO₂. In light of the recent EPA decisions that forces states to regulate CO₂ emissions, the legislature should make it clear that DENR can regulate CO₂ only to the extent that it is required by the EPA. If for some reason, possibly due to court challenges or federal legislative action, the EPA's authority to regulate CO₂ is rescinded, then any programs put in place by DENR to comply with EPA rules will likewise be automatically dissolved.

Conclusions

The GOP should start anew on environmental issues. Environmental pressure groups in the state and the agenda that they advance are inconsistent with the principles of freedom and free enterprise that the Republican Party was so proud to espouse as they were swept into office last November. Going forward, a great way to show their dedication to these principles is by examining their own past on environmental legislation and turning a new leaf.

Dr. Roy Cordato is Vice President for Research and a resident scholar at the John Locke Foundation.

End Notes

1. Roy Cordato, "The Clean Smokestacks Bill: A Retrospective," John Locke Foundation *Spotlight* No. 383, March 5, 2010, www.johnlocke.org/research/show/spotlights/234.
2. See articles by Paul Chesser, *Carolina Journal Online*, www.carolinajournal.com/exclusives/series.html?id=33.
3. See Roy Cordato, "Who is the Center for Climate Strategies?" *Carolina Journal Online*, June 8, 2007, [carolinajournal.com/exclusives/display_exclusive.html?id=4115](http://www.carolinajournal.com/exclusives/display_exclusive.html?id=4115).
4. See Roy Cordato, The Locker Room blog, Dec. 20, 2009, www.johnlocke.org/lockerroom/lockerroom.html?id=22913.
5. The entire bill can be accessed at www.ncga.state.nc.us/Sessions/2007/Bills/Senate/HTML/S3v6.html.
6. See Daren Bakst, "Energy Behavior Modification: The Failure and Arrogance of Centrally Planned Energy Efficiency Programs," John Locke Foundation *Spotlight* No. 357, August 21, 2008, www.johnlocke.org/research/show/spotlights/208.
7. For details of how the cap is phased in over time see *op. cit.*, note 5, section § 62 133.7 b.
8. David G. Tuerck, Michael Head, and Paul Bachman, "The Economic Impact of North Carolina's Renewable Energy and Energy Efficiency Portfolio Standard," Beacon Hill Institute, published by the John Locke Foundation, August 2009, www.johnlocke.org/research/show/policy%20reports/202.
9. *Op. cit.*, note 5, Sections 6-8.
10. Daren Bakst, "Regulating the Regulators: Seven Reforms for Sensible Regulatory Policies in North Carolina," John Locke Foundation *Policy Report*, February 2010, www.johnlocke.org/research/show/policy%20reports/207.
11. Roy Cordato, "Demand Management: Social engineering by any other name..." John Locke Foundation *Spotlight* No. 402, Oct. 28, 2010, www.johnlocke.org/research/show/spotlights/253.
12. David G. Tuerck, Paul Bachman, Alfonso Sanchez-Penalver, and Michael Head, "The Economics of Climate Change Legislation in North Carolina," Beacon Hill Institute, published by the John Locke Foundation, May 2008, www.johnlocke.org/research/show/policy%20reports/169.