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Driving the Market From the Marketplace of Ideas

BY FRED L. SMITH, JR.

Oklahoma Governor Mary Fallin recently came under attack from left-wing activists for meeting with representatives of the American Legislative Exchange Council (ALEC), a nationwide association of conservative state legislators. This is but the latest salvo in a sustained attack on ALEC from the political left. The governor rightly has ignored the attacks, which really are efforts to stifle political speech.

ALEC's critics paint it as a shadowy organization that pushes ready-made legislation to advance a corporate agenda. In reality, the attack on ALEC is part of a much broader attack by those seeking to drive all pro-market voices from the marketplace of ideas. ALEC's critics say they object to its tactics, but what they really seek to attack is its ideological principles: free markets and limited government.

ALEC has never denied that it promotes an agenda. That is why it was founded. Groups promoting an agenda are at the core of the political system envisioned by our nation's Founders. Indeed, such organizations are part of every democracy. Embracing this reality, the Founders "set faction against faction" as a bulwark of freedom. Open political battle among opposing groups armed with equal rights to free speech and assembly would only benefits America.

However, as the attack on ALEC illustrates, in today's highly politicized world, some factions are more equal than others. The campaign against ALEC is part of a greater concerted effort to drive productive economic voices from the policy debate. This campaign involves stigmatizing efforts by the entrepreneurial elements of the business community—and by extension, their policy allies—when they try to explain their side of an issue.

This effort to drive out pro-market voices is far more extensive than the attack on ALEC. Anti-business forces already have succeeded at excluding business experts from governmental policy advisory councils and imposing second-class status on them in academic journals. Any nonprofit political organization that receives business funding comes under constant attack—unless, that is, the funding is aimed at expanding the size and scope of government.

Businesses have every right and, in fact, a responsibility to push back against reckless job-

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>>FROM THE VICE PRESIDENT FOR POLICY

Regulating Obama's Regulators… And Those of Future Presidents

By Wayne Crews

On May 10, President Obama issued a new Executive Order that builds upon and makes permanent the quest for regulatory savings in his January 2011 order, "Improving Regulation and Regulatory Review." The orders seek to ensure that benefits "justify" (alas, that's not as strong as having them "exceed") costs and to emphasize the "least burdensome" means for achieving regulations' purported ends.

While this may be all to the good, the problem is that it barely begins to scratch the surface of the costs the federal regulatory apparatus imposes on the American economy. Cass Sunstein, the head of President Obama's Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB) has touted the $10 billion or so in savings so far as a significant achievement. In fact, it is a drop in the bucket. Regulations impose costs of over $1 trillion annually, according to the Small Business Administration (a figure which OMB and others dispute).

Moreover, OMB owns up to some $5 billion in new annual costs in its yearly reports. So, the Obama order, instead of taking on overregulation aggressively, merely freezes things at best. Furthermore, not only does the Obama administration have no real agenda for pruning overregulation, the federal regulatory state just keeps on growing.

As the newly released 2012 edition of CEI's annual survey of the federal regulatory state, *Ten Thousand Commandments*, shows, the number of rules in the pipeline at agencies is mounting. Major rules—those expected to cost at least $100 million annually—have experienced a particularly strong uptick. Indeed, many rules would have to be cut just to get where we stood a year ago.

These new executive orders are welcome, but they hardly constitute an all-out war on red tape. Unfortunately, the extent of overregulation remains little understood by politicians from both major parties. Incremental measures like the president's recent executive orders—which are really more like suggestions to agencies on how to behave—are not enough. As outlined in *Ten Thousand Commandments,* to seriously tackle overregulation, policy makers need to:

- Implement a bipartisan Regulatory Reduction Commission to annually submit to Congress a package of rules to eliminate, subject to an up-or-down vote.
- Institute a moratorium on rulemaking in matters, such as health and safety, that can be handled by the states.
- Hold hearings on Sen. Mark Warner's (D-Va.) "one-in, one-out" requirement for implementing new rules.
- Improve the requirements for quantifying regulatory costs, including for independent agency rules that escape the reach of executive orders.
- Enlarge regulatory flexibility and exemptions for small business and create a better means of notifying small businesses of upcoming new rules.
- Hold hearings to boost the scope of the Small Business Administration's "r3″ regulatory review program to allow affected businesspeople to recommend rules to repeal.
- Lower the threshold for what counts as an "economically significant" or "major" rule and improve explicit cost analysis.
- Explore, hold hearings on, and devise an annual regulatory budget.
- Impose a sunset requirement on all new regulations after fixed time period, unless they are explicitly reauthorized.
- Reject excessive delegation of legislative authority from Congress to agencies by requiring congressional fast-track approval of major or non-quantifiable agency-promulgated regulations before they can take effect. (The Regulations from the Executive in Need of Scrutiny (REINS) Act, introduced by Rep. Geoff Davis (R-Ky.), which has passed the House but not the Senate, would accomplish just that.)

President Obama's instructions to agencies to review regulations are welcome, but real regulatory reform will require working with Congress to qualify as serious.

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destroying policies. If the for-profit sector cannot participate in political debate, practical voices will be excluded in favor of those motivated only by ideology. History has provided lesson after lesson of the damage that those with the very best of intentions can do when they put ideology before reality.

Of course, there is nothing wrong with ideology, which informs politicians of principles to uphold based on a commitment to economic freedom. Organizations such as ALEC and CEI fight market-distorting policies, such as subsidies and regulations. But public policy isn't made in a vacuum. It needs to be informed by the real-world experiences of those affected by it. It is not enough to have good ideas. We also need to develop ways to apply them and communicate them—to make *good policy, good politics*.

For that reason, it is unfortunate that so many businesses see discretion as the better part of valor when their backing of pro-free-market groups such as ALEC comes under attack. Such a retreat simply reinforces the short-term approach that leads too many businesses to neglect the policy arena, allowing anti-business voices to rise unchallenged. America needs more CEOs willing to stand up for free enterprise itself. Support for groups like ALEC is a valuable way to make that stand.

ALEC plays a valuable role in ensuring that state policy makers consider how legislative and regulatory initiatives affect the main role of business—wealth creation. It advocates for pro-market policies through publications, conferences, and model legislation—in other words, by presenting ideas. As for the value of those ideas, legislators and the public are free to make up their minds.

Our democratic republic runs on the fuel of open debate. If those who want to limit the free market have a powerful argument, it should be easily able to overwhelm the ideas of those with a different view—without trying to stifle opposition using strong-arm tactics. ALEC's opponents' thuggery shows they have no such case and little respect for the American tradition of open debate.

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OBAMACARE'S KILLER DEVICE TAX

BY HENRY I. MILLER

Much of the political conversation inside the Beltway these days concerns innovation, job creation, and competitiveness. But talk is cheap, and elected officials must enact policies that enhance economic activity and job creation. The medical device industry is an example of Washington doing exactly the opposite.

Medical device manufacturing is one of America's most dynamic and vibrant industries. The United States is the global leader in medical technology innovation, which is one of the few major industries with a net trade surplus. This industry is directly responsible for more than 400,000 American jobs—and indirectly responsible for almost 2 million more which supply and support this highly skilled workforce. Most importantly, its products are essential elements of modern medical care. They include everything from CT scanners and pacemakers to blood pressure cuffs and robots used by surgeons.

Yet instead of protecting this paragon of American ingenuity and innovation, the Obama administration and Congress view the industry as a cash cow from which they could milk profits to help pay for the president's health law. So, they added to the Affordable Care Act a 2.3-percent excise tax on medical devices that will take effect at the beginning of 2013.

This tax is especially pernicious because it is assessed on sales, not profits. To put this in perspective, imagine that you manufacture medical devices and one year have sales of $1 million. After all your costs and expenses—everything from materials and labor to research and development—your profit was $100,000. The excise tax would be $23,000, wiping out nearly a quarter of your profits.

Many medical device companies have to ramp up sales before they become profitable. Due to the long, draconian and sometimes unpredictable regulatory process that must be negotiated before a product can be sold, it can take from $70 million to $100 million in total sales before these businesses make their first cent of profits. Yet, they would have to pay the excise tax on their revenue even as they operate in the red.

The nation's medical device industry is not comprised of behemoths and is therefore highly vulnerable: 80 percent of its companies have 50 or fewer employees. These are the very businesses we need to help turn the U.S. economy around. The new excise tax comes amid increasing regulatory delays and uncertainty, and as many device firms are shutting down or moving abroad to take advantage of the more favorable tax and regulatory climate in Europe. The tax will force companies to lay off employees, cut back on research and development, diminish capital investment, or undertake a combination of these.

The governors of five prominent states—Tom Corbett of Pennsylvania, Mitch Daniels of Indiana, Nikki Haley of South Carolina, Robert McDonnell of Virginia, and Scott Walker of Wisconsin—agree. "As governors of states with a significant concentration of medical technology manufacturers, we believe that this tax could harm U.S. global competitiveness, stunt medical innovation, and result in the loss of tens of thousands of good-paying jobs," they wrote in an April 30 letter to congressional leaders.

Anticipating the excise tax, several companies already have announced layoffs or withheld investments. Recent surveys show that medical technology executives are examining a host of other undesirable options, including passing the added costs on to their clients through price increases. Even if the market would tolerate that—which is questionable given the current pressure to drive down costs—it would, ironically, raise the costs of medical care. That was not supposed to be an outcome of ObamaCare.

The U.S. remains the global leader in medical device development and manufacturing, although reports from PricewaterhouseCoopers and others show that its lead is tenuous, in part due to regulatory uncertainties and dysfunction that thwart innovation. If we allow foreign competition to seize the lead, it will be difficult to regain it.

We need to create a more nurturing entrepreneurial climate, one in which ingenuity and innovation are rewarded, not penalized. Legislation has been introduced in both the House and Senate to repeal the medical device excise tax. That would be a good start.

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Why Is Team Obama Making it So Hard to Hire Highly Skilled Foreign Workers?

BY DAVID BIER

Sen. John Cornyn (R-Texas) recently introduced a bill that would allow more Ph.Ds, scientists, and other high-skilled workers trained at U.S. universities to remain in America. The bill (S. 3185) would increase the H-1B visa quota by 55,000, but for some, the proposal doesn't go far enough. Speaking at a California economic conference this month, former President Bill Clinton proposed taking "the lid off the H-1B Visas"—to finally remove the decades-old quota system entirely. "It's easier to start a business here," he said. "And we're still the center of [research and development] in the world."

Clinton is right—to remain on top, America needs access to the skilled talent its businesses need. The current H-1B program is woefully inadequate to meet the highly skilled labor needs of a country that wants to compete internationally.

On April 2, the U.S. Citizenship and Immigration Service started receiving H-1B applications for next year. They are already more than half gone. Trends indicate that by June 25, the Master's degree quota will be filled, and by July 12, the regular quota will be exhausted. All this indicates that the economy is ready to grow, but quotas and restrictions hinder growth. As Microsoft founder Bill Gates told Congress back in 2008, "The jobs are going to exist somewhere, and the jobs around them are going to be created wherever those uniquely talented people are, so even though it may not be realistic, I don't think there should be any limit [on H-1Bs]."

Gates knows firsthand how immigration restrictions can send jobs elsewhere. In 2007, H-1B restrictions forced Microsoft to open a campus in Vancouver, British Columbia, calling it a "home to software developers from around the world." Microsoft employees aren't the only highly skilled workers heading north. Canada has also claimed thousands of other skilled U.S. workers over the last decade. From 1998 to 2008, Ottawa alone has seen the number of U.S. skilled workers double from 1,969 to 4,085. And in 2008, Alberta made H-1B visa holders automatically eligible for permanent residency. By contrast, America expels foreign skilled workers after just six years.

> *"Burdensome regulations are making access to H-1B visas even more difficult. The Obama administration recently raised the H-1B fee from $325 to over $2,000 for large employers."*

Simply put, America cannot cut itself from the international labor market and succeed. In 2009, the Technology Policy Institute (TPI) found that restrictions forced 300,000 H-1B visa holders out of the country during 2004-2007, lowering GDP by $23 billion in 2008 and cutting tax revenues by about $5 billion. In addition, TPI found that 182,000 science, technology, engineering, and math students left due to restrictions, costing the economy an additional $13.6 billion in lost GDP and $3 billion in uncollected taxes.

These workers are not taking American jobs—they are helping companies expand and pull the economy out of a recession. A 2009 National Foundation for American Policy (NFAP) study found that, "[E]ach H-1B request in labor condition applications was associated with an increase of employment of five workers." And that's just for large firms. For small firms with less than 5,000 employees, NFAP found a 7.5 employee increase. In other words, companies don't use H-1Bs to downsize and replace American workers—they use them to grow.

Burdensome regulations are making access to H-1B visas even more difficult. The Obama administration recently raised the H-1B fee from $325 to over $2,000 for large employers. Employers usually need to hire a lawyer—typically for about $3,000 per applicant—to ensure that the application is submitted correctly, and then wait three to four months to hear if it has been approved, which it often is not. In other words, the government forces businesses to take risks with thousands of dollars just to get these workers to come to the United States. Then, if the worker is dismissed—even in cases of negligence—employers must pay for the worker's return trip.

America's job market has changed a lot in the four decades since the quota system was first created. Manufacturing employment has given way to software engineering, finance, education, and health care. Today, America's most important resources don't come from the Earth, but from the human mind. The president who occupied the White House during the prosperous 1990s is right. To continue to prevent American employers from obtaining this human capital wouldn't just be a policy mistake—it would be an economic disaster.

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THE AWFUL TRUTH
About the Highway Bills

BY MARC SCRIBNER

If you ever needed additional proof that the politics of Washington are not just broken, but soaked with gasoline and set ablaze in a ditch near Baltimore, take a look at Congress's recent dog-and-pony show known as the highway bill.

The Senate passed the obnoxiously titled Moving Ahead for Progress in the 21st Century (MAP-21) bill on March 14 in a 74-22 vote. While ostensibly passed in a bipartisan fashion, it soon became clear most of the Senate Republicans who voted for MAP-21's passage had no clue what was in the bill and how it would be paid for.

Gary Hoitsma, a transportation analyst who previously served as a senior aide to Senate Environment and Public Works Committee ranking member James Inhofe (R-Okla.), has done yeoman's work in his analysis of MAP-21's funding provisions. Despite the bipartisan rhetoric enabled by Sen. Inhofe—who admits he is a fiscal conservative on everything other than infrastructure and national defense—Hoitsma's analysis shines a much-needed light on some of the jaw-dropping fiscal gimmickry contained in MAP-21.

For instance, rather than attempting to fix the revenue-outlay imbalance that is driving the federal Highway Trust Fund into insolvency, the two-year, $109-billion MAP-21 relies on a series of one-shot revenue transfers that, once used, cannot be relied upon again. This includes a multi-billion dollar general revenue transfer, redirecting revenue from tariffs on foreign automobiles, and completely emptying the Leaking Underground Storage Tank Trust Fund of the $3 billion in it now.

Since this merely reallocates spending from other federal programs to the Highway Trust Fund, MAP-21 crafters were supposed to find "budget neutral" offsets. Unfortunately, the bill's backers failed not only in finding the necessary offsets, they used every last-ditch funding trick available to preserve their excessive level of transportation spending. Once these tricks are used, they cannot be used again. The Senate's bill, rather than resolve the very serious fiscal issues facing the Highway Trust Fund, merely kicks the can down the road for 15 months.

The House bill is not much better. While the five-year, $260-billion American Energy and Infrastructure Jobs Act (H.R. 7) doesn't embody the same sort of budget sophistry as its Senate counterpart, its pay-fors are even shallower. Notice the "Energy" portion of the title; this is because House Republican leadership, in its infinite wisdom, decided to tack on domestic energy exploration legislation to its highway bill. This "but the kitchen sink" approach is bad enough, but Speaker Boehner (R-Ohio) and Company sought to use nonexistent drilling lease revenue to bail out the Highway Trust Fund.

The House Republican obsession with creating a transportation-energy-jobs legislative centipede did not end when H.R. 7 died before reaching a full floor vote. Since then, the ninth extension to 2005's surface transportation law—the downright absurdly titled Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)—has been enacted and House Republicans quickly began working on another short-term extension.

Those hoping for a clean extension and thoughtful debate on the serious issues facing federal surface transportation programs will be disappointed. The latest extension bill, which passed the House on April 18 in a 293-127 vote (including 69 Democrats), includes an amendment mandating the completion of the controversial Keystone XL pipeline.

While the Keystone XL pipeline is undoubtedly a good thing—many environmentalist critics are cynically lying to the public about its supposed environmental impacts—it has absolutely nothing to do with federal highway policy. House Republicans are adamant about tying Keystone XL to the highway bill to accomplish one of two goals: 1) force President Obama to follow through on his veto threat in order to use the pipeline as a political cudgel against him in the runup to the 2012 election; or 2) see the White House flip-flop on Keystone and throw its environmentalist base under the bus.

As much as I like seeing well-funded greens thrown out of the Big Boy debates like yesterday's recyclables, the future of our transportation system is far too important for petty political brinkmanship.

The House and Senate have now gone to conference. While many observers have been wondering about to square the Keystone XL pipeline with President Obama's solar-powered vision, the real head-scratching ought to be focused on trying to figure out why anybody—progressive, conservative, libertarian, communist—would support whatever hellish Frankenstein bill emerges from conference.

The only sensible path forward is for both the House and Senate to give up on both MAP-21 and H.R. 7 and start over with a blank slate. Going down the current path will just make our existing transportation problems worse.

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President Obama Pledges To Recycle His Campaign Pledges

BY WILLIAM FREZZA

In a bold move aimed at reviving a renewable energy program struggling to bounce back from a string of bankruptcies (investing in the future isn't easy), President Barack Obama once again promised that if elected he will not only give courageous speeches on immigration reform similar to the ones he gave in 2007, 2008, 2009, 2010, and 2011, but will recycle entire paragraphs of his old remarks in order to conserve teleprompter electrons.

The Romney campaign was quick to condemn the president, pointing out that Mitt would never recycle campaign pledges, preferring instead to promise bold new initiatives designed to repeal programs he once favored.

Pivoting off criticism that many of his speeches and promises are starting to sound familiar, the president assured prospective voters that this is all part of a carefully thought-out "campaign pledge sustainability program"—the real objectives of which he'll be able to share as soon he doesn't have to worry about reelection.

White House Press Secretary Jay Carney fended off requests to clarify that remark. "This is the most transparent administration that has ever occupied the White House," Carney repeated. And repeated. And repeated. Until an alert staffer had the presence of mind to reset Carney's animatronics programming unit.

An overnight Rasmussen poll of 500 registered voters who responded to robotic phone calls asking them to, "Press one if you believe in campaign pledge recycling" indicated massive support for dredging up unfulfilled past promises. Sixty-eight percent responded positively to a series of recycled campaign pledges that included the word "fairness," while a strong plurality was willing to swallow any repeat promise that ended with the totemic phrase "shared sacrifice." Women were much more willing to believe recycled promises even if they had been broken several times, while the young seemed unaware that all of the promises reviewed in the poll had come around before. Elderly voters were unsure what they remembered.

The Rain Forest Alliance praised politicians who promised to recycle past campaign pledges, calculating that 20,000 trees could be saved during the current election cycle if journalists and editors followed suit and recycled their news coverage. *The New York Times* editorial board immediately endorsed the idea, pointing out that star columnist Paul Krugman has been recycling the same three columns for years.

"Let's face it," recycled political analyst James Carville was overheard mumbling into an open mic at a recent Democratic National Committee fundraiser for socially conscious millionaires and billionaires. "Most voters are dumb and lazy. There is no downside to promising the same things over and over as long as you can make the poor fools believe that they can eat someone else's lunch before someone else gets a chance to eat theirs."

Recycled threats and tried-and-true fear mongering initiatives are also expected to play a prominent role in the increasingly negative presidential campaign. "There is something timeless about telling old folks that the other guy is going to take away their Social Security," offered political comedian Jon Stewart. "This is actually pretty ironic when you consider the fact that Congress made off with the entire Social Security trust fund years ago."

In signs of evident panic as the campaign pledge recycling program gains momentum, Mitt Romney released a 79-point study that showed that campaign pledges have no correlation with actual legislation once a candidate wins office. "In my own personal experience, running for office has nothing to do with actually governing," stated Romney. "Campaigning and governing are completely different problems requiring completely different solutions. Now that I'm the presumptive Republican presidential candidate, you won't see me repeating any pledges I made to win the nomination. In fact, it won't be long before most people start to wonder whether I'm even the same guy."

"I could think of no better way to outline the central dichotomy that lies at the heart of this historic election," offered recycled history professor and thrice-married wedding vow breaker Newt Gingrich. "Would voters rather hear a comfortable and familiar set of lies eloquently repeated by a lifelong politician who has proven himself phenomenally ineffective at actually accomplishing anything or a fresh new set of ever-shifting lies delivered by a gaffe prone, part-time politician who has spent most of his career outside of Washington getting rich by methodically achieving his objectives?"

Jimmy Carter was unavailable for comment.

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The European Central Bank vs. Reality

BY MATTHEW MELCHIORRE

The four-year charade of central bank bailouts is starting to come undone. Reacting to rising European bond yields in a Saturday meeting with world leaders, U.S. Treasury Secretary Tim Geithner called on the European Central Bank (ECB) to "aggressively" prop up Europe's solvency as its various countries try to "stay ahead of markets." Oblivious to the fact that the ship upon which he stands is sinking, Secretary Geithner threatens to take everyone down with him by clinging to the false hope of monetary stimulus.

Europe's problem is the same as America's—insolvency. The past 17 years have seen the greatest expansion of global credit in the history of the world. But this didn't happen because the world economy became more prosperous. While the world slept, central bankers around the globe went on a money-printing spree to fuel the booms of the past two decades. The inevitable result will be an even greater bust than the current one.

The ECB has more than doubled the supply of euros since its inception in 1999, according to data from the Organization for Economic Cooperation and Development (OECD). Interest rates have plummeted accordingly. The European interbank rate fell from 5 percent in 2000 to a low of 2 percent throughout 2003-2005. The ECB allowed the rate to gradually ratchet upward toward 4 percent in 2007—popping the very bubble created from the low interest rate policy of the mid 2000s—but it has since torpedoed it to below a rock-bottom 0.5 percent.

What Geithner and the European Central Bank don't understand is that manipulating interest rates through monetary policy has immense distortionary consequences. The interest rate is the price of borrowing money. The amount of savings in an economy determines that price. But when central bankers set an interest rate, they decouple the interest rate from savings and replace it with politics.

The problem with an artificially set interest rate lies in the disruption of a basic economic principle. Savings equals investment. Peoples' savings are an economy's source of finance. The interest rate rises as savings become more scarce and falls as savings become more abundant.

But the interest rate has fallen despite a shrinking pool of real savings. The euro zone's savings rate persistently decreased from 7.5 percent in 2000 to 5.8 percent in 2007. Europeans are saving less, but the interest rate—controlled by the central bank rather than market forces—says they are saving more. This paradox is fatal.

Businesses take advantage of the lower interest rate to invest in long-term projects that would never seem like good ideas at their true prices. This is malinvestment. People are not saving more of their income to finance these new business ventures. They are not cutting back on present consumption to finance future consumption. In the boom, the businessman does not know that his previously unprofitable project was indeed unprofitable. The prices lied to him. This false optimism does not come from consumer behavior, but from a central bank's printing press.

Data from the OECD show a steady increase in the growth rate of euro zone prices of capital goods—used for long-term projects—after the recession in the early 2000s until the 2008 crisis, when it plummeted. Eurostat, the European Union's statistical agency, reports steady increases in consumer good prices during the same period. Despite declining savings and rising present consumption, Europe experienced greater long-term investment. That was not sustainable. Enter the bust.

The solution is to (pardon the cliché) stop the presses! Instead of being bailed out, malinvestment must be liquidated before Europe and the rest of world can hope to end the stagnation caused by nearly two decades of excessive monetary expansion.

Political leaders and Eurocrats would rather have the ECB dish out another round of stimulus so they can put off the painful restructuring they never allowed to happen in 2008. This cannot continue indefinitely. Despite printing over €1 trillion ($1.25 trillion) since the crisis began, the euro zone faces recurring financial turmoil through its weakest link: the periphery.

Trying to beat markets is a losing game. Geithner and his European cohorts have yet to realize that. As central bankers continue to expand their balance sheets in pursuit of an impossible goal, they worsen the impending crisis during which their mistakes will be corrected.

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A Free-Market Solution for Fisheries Management

BY IAIN MURRAY AND ANDREW LANGER

When humans first shifted from hunting and gathering to agriculture thousands of years ago, the establishment of private property rights yielded enormous benefits to natural resource conservation. People could finally address the problem ecologist Garrett Hardin came to call "the tragedy of the commons." The owner of a resource takes responsibility for its long-term conservation. If the owner fails to act, the resource ceases to be of any value to anyone. Likewise, if no one owns a given resource, everyone has an incentive to abuse and deplete it.

Today, that insight is the cornerstone of free market environmentalism—a way of looking at society's concern for protecting natural resources that is consistent with private property rights and capitalist prosperity. Comprehensive studies of private conservation show the benefits of a property rights-based approach relying on private stewardship.

Today, the world's ocean fisheries are an extremely valuable commonly held resource that is a source of great environmental concern. That is because it's not just domestic producers who are putting pressure on a depleted resource as they seek to extract its riches. America's fishermen are up against the world's. Can the principles of private conservation be applied here as well?

Research suggests it can. A decade ago, scholar Michael De Alessi offered some initial ideas to the United States on this approach in his groundbreaking work "Fishing for Solutions." Over the past decade, De Alessi's ideas have begun to be applied in a policy known as individual fishing quotas, also called "catch-shares." The idea is simple: give fishermen an ownership stake in a particular fishery through the assignment of quotas, which can be traded. The quotas give individual fishermen—not bureaucrats—responsibility for managing each fishery. They, in turn, will work to maximize the longevity of that fishery, as it is in their long-term interest to do so.

Government steps out of the way and owners are allowed to be the stewards of the resources on which their livelihoods depend. The principles of property rights, free markets and environmental conservation all come together—and it seems to be working in practice.

For example, in New Zealand, the value of fishing exports has increased from $469 million in 1986, when the program began, to $923 million today. Fish landings have significantly increased. Almost all the fish stocks originally included are now above sustainable levels.

It is also important to note that the property right involved is constitutionally protected—it cannot be taken away by an arbitrary decision of government, as happened in Iceland in 2010. Fishermen will not be persuaded that catch-shares are a benefit to them and their families unless they can also be persuaded that bureaucrats will not revoke their rights to manage the fisheries they own. Indeed, one of the advantages of true catch-share programs is that they get bureaucrats out of the way. The bureaucratic approach has failed for the Endangered Species Act—under which only a handful of species have recovered—and it would undoubtedly fail here.

Catch-shares allow fishermen to own fish stocks and manage them themselves, rather than depend on government bureaucracy. They are an innovative—perhaps revolutionary—solution, and they don't require us to reinvent the wheel. If we want to save fish, genuine catch-shares are the answer. The principles of private conservation underpinning them work and will protect sea life for decades to come. More government bureaucracy is the last thing America's—and the world's—fisheries need.

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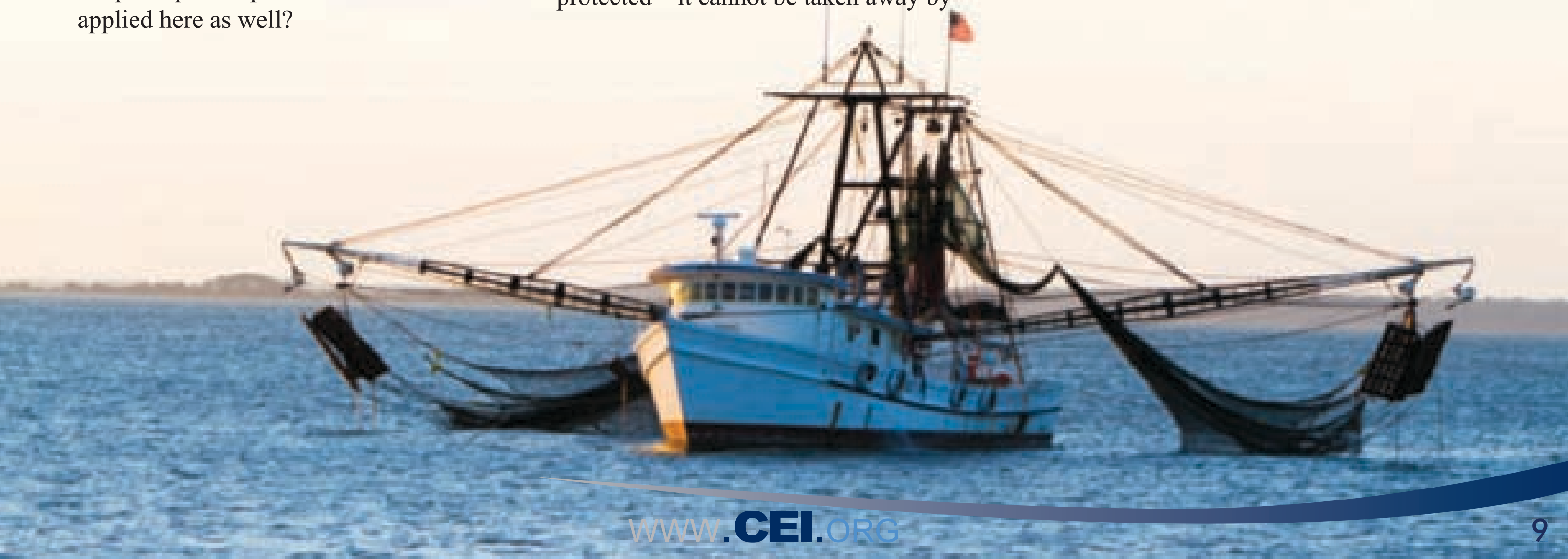

THE GOOD

CEI-Led Coalition Urges Repeal of Harmful Credit Union Regulations

In late April, leaders of 14 pro-free market organizations urged the U.S. Senate to lift regulations that greatly restrict the commercial lending activities of credit unions. "Doing away with these regulations would inject over $13 billion into the economy and foster the creation of up to 140,000 new jobs in its first year, all at no cost to taxpayers," the groups wrote in a letter to Senate Majority Leader Harry Reid (D-Nev.) and Minority Leader Mitch McConnell (R-Ky.), calling on them to support the bipartisan Small Business Lending Enhancement Act. The regulatory state is a major focal point for the center-right movement, and indeed much of America," said CEI Senior Fellow John Berlau, "so supporting this deregulatory action regarding credit unions and their ability to lend to the entrepreneurs among their members is entirely consistent."

THE BAD

Highway Bill Conference Fails to Address Meaningful Reform

After the Senate passed its 15-month reauthorization of surface transportation law, the House entered the conference committee with the 10th 90-day extension of the currently law, 2005's SAFETEA-LU. While this essentially means anything is possible in terms of the bill that may emerge from conference, one thing is clear: Real reform is not on the minds of House and Senate leadership. Devolving more federal funding responsibility to the states is the proper fiscally conservative approach, but this has been all but abandoned. Instead, provisions of the Senate bill will greatly add to regulatory compliance costs, including electronic recorder mandates for heavy trucks, and restrictions on state tolling and contracting with private partners. The bill also relies on 10 years of revenue to pay for 15 months of spending, something House Transportation and Infrastructure Committee Ranking Member Nick Rahall (D-W.V.) admitted amounts to a fiscal "sleight of hand."

THE UGLY

Justice Department Sues Apple over E-Book Pricing

The Justice Department sued Apple and several publishers on April 11, alleging the firms colluded over e-book pricing. CEI Vice President for Policy Wayne Crews blasted the Obama Department of Justice, arguing that this is a fishing expedition and political power play. "The complaint against Apple seems to be that collusion and smoke-filled rooms paved the way to a deal by which Apple gets a 30 percent cut of the publishers' e-books sold for Apple devices, while other vendors are forbidden from selling below that pre-specified price," said Crews. "Such ordinary business deals, you see, involve a now-disparaged free market instrument called a 'contract.' This arrangement appears to have been a normal response to Amazon's deep discounts of e-books below physical book prices."

*Media*MENTIONS

Compiled by **Nicole Ciandella**

Labor Policy Analyst Ivan Osorio explains the costly pension problems left over from the Ma Bell era:

"Communism," comedian Lenny Bruce once quipped, "is like one big phone company." This dated joke refers to the monolithic phone company known as "Ma Bell," which enjoyed a government-granted monopoly over America's communications sector until being broken up in 1984. But while Ma Bell is long dead, its legacy of unsustainable pensions remains alive and well.

Now, one of Ma Bell's successors, AT&T, is seeking to renegotiate its pension plan with the Communications Workers of America (CWA), the union representing a large segment of its workforce.

Why now? Because the Pension Benefit Guaranty Corporation (PBGC), a federal agency tasked with insuring private pension plans, has long encouraged large companies to delay needed changes to their retirement plans in order to bring labor costs under control.

-March 27, 2012, *Forbes*

Director of the Center for Investors and Entrepreneurs John Berlau praises the JOBS Act:

In truth, the JOBS Act, which President Obama is set to sign today, is neither meager nor radical. It will reduce some significant regulatory barriers to job creation, most notably the accounting mandates of the Sarbanes-Oxley Act of 2002. The IPO Task Force—an Obama-coordinated gathering of entrepreneurs, investors, and academics—found that the regulation-induced decline in the number of U.S. initial public offerings over the last decade may have cost the economy as many as 22 million jobs.

Is election-year politics playing a role in the Obama administration's sudden concern about red tape? Certainly, and Sarbanes-Oxley regulations are a politically smart choice as a target, since the act burdens the high-tech and "green tech" companies Obama champions, as well as many other firms. Also, whereas several other major regulatory efforts were signed by Obama himself—such as Obamacare and Dodd-Frank—Sarbanes-Oxley was signed in 2002 by George W. Bush. (In fairness, the JOBS Act does contain a modicum of Dodd-Frank relief as well.)

But politicians' mixed motives should not detract from the fact that this bill, which does not spend a dime of taxpayer money, will do more to create jobs—by getting out of the way and letting the private sector create jobs—than most every so-called stimulus package that Congress has passed over the last few years.

-April 5, 2012, *National Review*

CEI President Fred L. Smith, Jr. defends the role of the business community in public policy debate:

When businesses seek to expose and reduce the harmful consequences of capricious legislation, that is both their right and good for democracy. When market voices are excluded from the policy debate, the only voices left are those motivated purely by ideology. And as history shows, the greatest harm to nations comes from ideologues who believe they know what's best for everybody.

Our Founders gave us a system based on the battle of ideas. If critics of the free market believe they have a strong case, they should seek to win that battle openly, rather than by silencing the opposition through intimidation. What ALEC's opponents seek is nothing less than the sabotage of democracy. It is especially unfortunate when businesses retreat from backing free-market groups like ALEC when they come under pressure. America needs more CEOs willing to stand up for free enterprise. Readers who agree should let those CEOs know now.

-April 25, 2012,
The Wall Street Journal

Warren Brookes Fellow Matt Patterson and Policy Analyst Trey Kovacs report on union leaders' dubious attempts to keep workers from leaving unions:

Labor bosses are fighting to keep people in unions against their will, forcibly collecting dues from unwilling members and using those dues to line their own pockets. In effect, labor leaders have imposed their own system of "involuntary servitude" on recalcitrant union members.

In California, for example, Service Employees International Union (SEIU) bosses in Fresno are engaged in a war to keep disgruntled members from defecting. Worker disenchantment with SEIU representation began in January, when Fresno County officials were forced to cut public workers' wages by 9 percent in light of the government's dire financial straits. Outraged SEIU bigwigs reacted in typical fashion by calling for a three-day strike.

-May 10, 2012, *The Washington Times*

Vice President for Strategy Iain Murray discusses the European Union's current fault lines:

Consider what would happen if Greece were on the verge of default. The fear of successive default by the other shaky economies—Spain, Portugal, and Italy—would lead to rapid capital flight from those countries to Germany. The Bundesbank is probably able to absorb the effects of Greek default and capital flight, but it simply could not absorb the capital flight from other countries. Germany may well be forced to leave the euro rather than subject itself to this risk. This could all happen extremely quickly.

Should Americans be worried? Yes, because the United States will be caught up in a crisis it could have helped prevent. The European Project that now stands on the precipice of self-inflicted destruction was enthusiastically supported by successive U.S. presidents, who all urged Europe down the path to union for the simple reason of diplomatic convenience. If the scenario I have outlined above comes to pass, we may see a banking crisis that could make 2008 look like a walk in the park.

-May 8, 2012, *The American Spectator*

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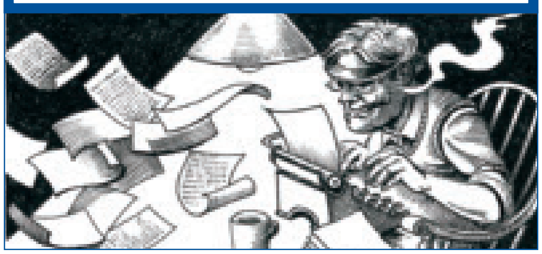

GAO Releases Study about Studied Studies

The Department of Defense—the same folks who issued an official 26-page brownie recipe—recently released a study about studies. Now the Government Accountability Office (GAO) has produced its own study about that study about studies. Here's the back story, courtesy of Yahoo! News: "The study of a study of studies began in 2010 when Defense Secretary Robert Gates complained that his department was 'awash in taskings for reports and studies.' He wanted to know how much they cost. Two years later, the Pentagon review is still continuing, which prompted Congress to ask the GAO to look over the Pentagon's shoulder."

Worst Tenants Ever?

We have all heard horror stories about malevolent landlords and deadbeat tenants, but a New Jersey couple takes freeloading to a whole new level. Josue Chinchilla and Michele Callan vacated the house they had rented in Toms River and filed suit seeking the return of their $2,250 security deposit. According to an outfit called NJ Paranormal Investigators, the rental property is the site of "an active or intelligent haunting," which is "one level above a residual haunting." A local priest has also claimed the home is inhabited by evil demons. Dr. Richard Lopez, who owns the house, has filed a countersuit in which he alleges Chinchilla and Callan have recently suffered financial problems and could no longer afford to rent the home. Which version of events is more plausible?

Scotch-Canadians Declare Victory over Vancouver Bagpipe Ban

Street musicians were recently banned from playing bagpipes in Vancouver, British Columbia, and Mayor Gregor Robertson was not happy about it. He takes great pride in his Scottish heritage—he wore a kilt to the swearing-in ceremony for his second term. So when Vancouver's engineering department went over his head, he vowed to fight back. Most city council members are from Robertson's Vision Vancouver party, and they agreed to review the bagpipe ban. Just in time for the city's Scotland Week celebration, Robertson happily announced that the ban was lifted.

California: Regulating Things Before They even Move

CEI transportation policy analysts recently had the opportunity to test-drive Google's prototype self-driving car. The technology is as amazing as it sounds, and Google expects it to be ready for consumers in a mere three to five years. But leave it to California to be a wet blanket of overregulation and techno-pessimism. In late May, State Senator Alex Padilla (D-San Fernando Valley) introduced a bill that would require licensed drivers in the driver's seat until the National Highway Traffic Safety Administration (NHTSA) establishes nationwide rules. The problem is that NHTSA is not expected to consider beginning a rulemaking until late next year at the earliest. Insiders expect this process, once started, to take at least three years, and potentially much longer. By 2015, it may be possible for many Americans to digitally hail a driverless, empty ride-share car from their smart phone—just not in California.