

States 'Streamline' Their Taxes for Internet Sales

States lose \$50 billion in revenue each year, institute's report says

By PAUL CHESSER

Associate Editor

RALEIGH

As of August, 21 states, including North Carolina, had passed legislation that brought their sales and use tax laws into alignment with each other, so merchants in their states could collect levies on purchases made on the Internet.

Online retailing has flourished in recent years, and because merchants don't have to collect sales taxes for states outside of where they maintain their physical presence, governments say they are losing revenue. They say consumers are shopping less at local "brick-and-mortar" stores, in favor of the convenience of browsing the merchandise at home.

Now most states, pressed by traditional retailers, are poised to get all vendors to help them collect taxes on Internet transactions, but first they need an act of Congress in order to enforce their Streamlined Sales and Use Tax Agreement.

Unenforceable use tax

Because rates and laws vary greatly among states and their local governments, collecting taxes based on where customers live would be too heavy a burden for sellers, according to two rulings by the U.S. Supreme Court. Internet retailers, for the most part, don't bother to charge for their customers' local sales tax, causing what brick-and-mortar retailers say is an unfair competitive advantage.

In most states, when a transaction's out-of-state sales tax is uncollectable, consumers typically must pay a use tax on the items they purchase. Citizens are required to pay the tax on their end-of-year tax returns, but state revenue officials and tax experts consider the collection of such use taxes as unreliable and unenforceable.

According to a report released in 2001 by the Institute for State Studies, state and local governments' annual losses attributed to e-commerce sales will rise to \$45.2 billion in 2006 and \$54.8 billion in 2011.

In order to "stop the bleeding," repre-



sentatives from several states and businesses began to develop a system in early 2000 that would simplify, or "streamline," the sales tax system so states that conform could collect levies on online purchases.

In late November 2002, after almost two years of negotiating, 34 states and the District of Columbia agreed to stipulations in the Streamlined Sales and Use Tax Agreement. Soon thereafter states began introducing and passing legislation that changed their sales and use tax laws to conform to the particulars of the interstate pact.

Creating a streamlined system

Since there are about 7,500 state and local taxing jurisdictions in the country, streamlining their codes for retailers was no easy task.

For example, members of the SSUTA need to apply a uniform definition for products that are sold, in order to determine whether they are taxable. Designers of the agreement determined, for example, that items such as aprons, baby receiving blankets, costumes, disposable diapers, and ear muffs would be considered "clothing" for consistent tax purposes. On the other hand, belt buckles, costume masks, patches, and sewing materials would not be defined as clothing items. Meanwhile, whether "goggles" qualify as protective equipment

for work or for sporting purposes is up to the retailer.

SSUTA members also must apply consistent sourcing rules to determine under which jurisdiction a sales tax would apply. For items purchased at a store, the tax rate at that business location applies. But if a customer purchases an item in one jurisdiction and it is then delivered to another jurisdiction, the delivery address is the taxable source. The latter case applies whether the purchase is made over the Internet, on the telephone, or in a brick-and-mortar location.

But uniformity rules are not carried over to the tax rates among the states and localities. States may have as many sales tax rates as they have jurisdictions.

How does that make the collection of sales taxes simpler, or "streamlined," for Internet retailers? SSUTA's supporters say that the agreement standardizes tax bases, rules, administration, and collection, while technology takes care of applying the appropriate rates. Under the agreement, online sellers would adopt technology provided by a SSUTA governing board, which would calculate the appropriate sales tax based on the customer's zip code. According to the National Conference of State Legislatures,

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North Carolina led movement to bring 40 states into agreement

By PAUL CHESSER

Associate Editor

RALEIGH

North Carolina helped pioneer the Streamlined Sales Tax Project, the forerunner of the now established Streamlined Sales and Use Tax Agreement. The agreement now includes 40 states and the District of Columbia as participants.

In 2000, Kansas, Michigan, Wisconsin and North Carolina were allowed by their elected officials to join in the pilot project, which tested the technology that would enable merchants to collect and remit sales taxes for as many as 7,500 taxing jurisdictions. The pilot also intended to:

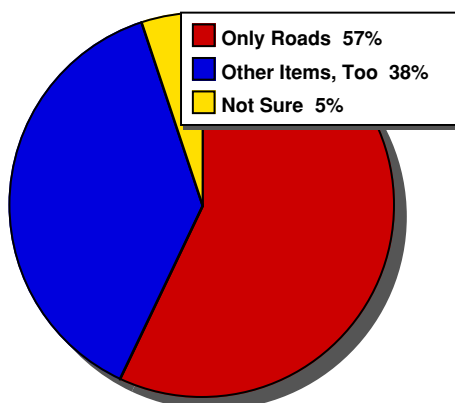
- Evaluate efficiency and cost of the planned SSUTA system.
- Determine feasibility on registration, calculation, and reporting.
- Find ways to protect privacy of consumers and businesses.
- Recommend laws and practices that would reduce tax-compliance burdens for customers and retailers.

According to the National Conference of State Legislatures, the pilot has been a success and now the SSUTA initial members must put together a governing board that will decide on a permanent system for administering the program. Members have met three times this year to develop an organizational structure for the board.

North Carolina enacted most of the SSUTA into its laws during its 2001-02 legislative session, and it finished adding compliance language last year. It is considered one of 21 states that are now compliant with the agreement, while 19 other states are committed to the agreement and moving toward full participation.

North Carolina's local governments are pressing hard for Congress to rubber-stamp the agreement, which would then make compliance for merchants mandatory. The North Carolina League of Municipalities says that by 2006, the state and local governments could lose more than \$1 billion in sales tax revenues because federal law prohibits the collection of sales taxes on out-of-state transactions. CJ

NC Should Spend Gas, Car Taxes On...



% of N.C. Respondents in Oct. 2004 JLF Poll

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Calendar

Locke Foundation to Have Christmas Party in December

Don your festive attire and celebrate the season with an evening of holiday cheer, delightful entertainment, and wonderful surprises sure to knock conventional wisdom on its ear.

On Thursday night, Dec. 9, the John Locke Foundation will host "A Little Night Music" at the North Ridge Country Club in Raleigh. Many surprise special guests from around the Triangle will join in an evening of singing, dancing, and all-around talented musicianship.

Hors d'oeuvres and refreshments will be served at 7 p.m. Entertainment and dessert will follow at 8:30 p.m.

Gold-level sponsorships for the event are \$5,000, silver-level are \$2,000, and bronze-level are \$1,000. Individual tickets cost \$50.

For more information, call Paige Holland Hamp at (919)602-5093. To make reservations online, go to www.johnlocke.org/events.

Fred Barnes of Fox News in January

In January the Locke Foundation will host a luncheon featuring Fox News Channel political analyst Fred Barnes, who is also executive editor of *The Weekly Standard*.

The Standard, cofounded by Barnes, is a leading conservative magazine that began publication in September 1995.

Barnes is also cohost, with Morton Kondracke, of "The Beltway Boys" on the Fox News Channel. He also appears regularly on Fox's "Special Report with Brit Hume."

Barnes has appeared on "Nightline," "Meet the Press," "Face the Nation," and "The McNeil-Lehrer News Hour." From 1988 to 1998, he was a regular on "The



Journalist and TV personality Fred Barnes

McLaughlin Group," where he was known for his humor and sharply worded exchanges with the other panelists.

Insight magazine said Barnes was "a trendsetter... Without slitting a single throat or having to change his hat size, he has quietly become one of Washington's most prominent pundits."

In 1984, Barnes was chosen as a panelist for the first nationally televised debate between President Reagan and Walter Mondale after more than 100 journalists had been vetoed by the two campaigns.

Barnes is a graduate of the University of Virginia and was a Neiman Fellow at Harvard University. He covered the Supreme Court and White House for *The Washington Star* before joining the *Baltimore Sun* in 1979, where he was the *Sun's* national

political correspondent. He also wrote the "Presswatch" media column for *The American Spectator*. From 1985 to 1995, he was senior editor and White House correspondent for *The New Republic*. Barnes has written for *Reader's Digest* (for whom he is a roving editor), *The Public Interest*, *Policy Review*, *Virginia Quarterly Review*, *The New York Times*, *The New York Times Review*, *The Wall Street Journal*, *Washingtonian*, *The Spectator*, and both *The Sunday Telegraph* and *Sunday Times* of London, *The National Interest* and *International Economy*.

The date, time, and location of the luncheon had not been set by press time. Watch for future information coming in next month's issue of *Carolina Journal* or at www.johnlocke.org/events.

"Carolina Journal Radio"

The staff of *Carolina Journal* co-produces a weekly newsmagazine, "Carolina Journal Radio," which appears in syndication on 20 radio stations across North Carolina. You can visit CarolinaJournal.com to locate an affiliate in your area. Also, subscriptions to a monthly CD containing selected episodes of the program are available by calling (919) 828-3876.

Shaftesbury Society

Each Monday at noon, the John Locke Foundation plays host to the Shaftesbury Society, a group of civic-minded individuals who meet over lunch to discuss the issues of the day. The meetings are conducted at the John Locke Foundation offices in downtown Raleigh at 200 W. Morgan Street, Suite 200. Parking is available in nearby lots and decks. CJ

Streamlined Sales Tax Agreement: Competition or Collusion?

Continued From Page 1

once the agreement is in place, "all merchants that collect sales taxes using the state-certified technology would be held harmless for any miscalculations."

Competition or collusion?

Critics of the SSUTA say the deal, and its governing board, would discourage tax policy competition and strip states of their sovereignty. Veronique de Rugy, a fiscal policy analyst for the Cato Institute, a free-market think tank in Washington, D.C., calls the agreement "OPEC for politicians."

"This project is really about creating more sources of revenue for the states by allowing them to start taxing income earned outside of the borders of their state," she wrote in a November 2002 article.

If Congress made the SSUTA mandatory for all participating states, states could coerce merchants outside their boundaries to collect and remit taxes, and be subject to penalties, audits, and lawsuits. Legislation with bipartisan sponsorship is pending in committees in both the U.S. House and the Senate.

"Make no mistake: Under the cover of the [SSUTA], states and local governments are asking Congress to lift the restriction that forbids them to tax extraterritorial income earned by remote sellers," de Rugy wrote. "The extension of sales-and-use taxes to out-of-state sales, no matter how simplified and harmonized, represents a huge threat to taxpayers and economic prosperity."

Opponents say the SSUTA applies an archaic system for sales and use taxation and applies it to the modern, technology-driven economy. "Simplifying" it doesn't seem possible, they say.

"Even if this claim is taken at face value," wrote Adam Thierer, director of Cato's telecommunications studies, "it is important to understand that the simplification process which these groups advocate is, in reality, an attempt to create a collusive multi-state tax cartel."

"Such a result would betray the Founding Fathers' intended model of competitive federalism and would greatly discourage tax competition between the states. In that sense, such 'simplification' proposals can be seen as little more than an attempt to create an Articles of Confederation-style tax system for e-commerce."

SSUTA raises questions about overall taxation on the Internet as well, Thierer said, such as whether it is the consumer or the seller that is being taxed. He suggested four guiding principles for Internet tax policy:

- No redundant or discriminatory taxation: no taxes on the service itself, nor levies that overlap each other.

- No taxation without representation: "companies should only be required to pay taxes in those jurisdictions where they have a substantial physical presence or 'taxable nexus'"

- Promote tax competition, not collusion: "state and local governments should not be allowed to establish collusive tax regimes which discourage vigorous interstate tax competition"

- Protect consumer privacy: tax collection systems should not trace electronic transactions.

A conspicuously absent state

Not surprisingly, one of the few states avoiding the SSUTA (as of September, 40 states had signed on to some degree or another, while five states have no sales tax) is Colorado, which is known for the most

The Streamlined Sales and Use Tax Agreement Questions About the Plan, and Answers from Colorado Gov. Bill Owens, a Critic, and the National Conference of State Legislatures, a Supporter

Colorado Gov. Bill Owens

National Conference of State Legislatures

Is the SSUTA revenue-neutral?

- **No.** The SSUTA's goal of \$440 billion in "new revenue" over 10 years would negate one-third of President Bush's federal income tax cut of 2001.

- **Yes,** if a state so decides. Each state legislature has the authority to make its participation with the SSUTA revenue-neutral.

Will the SSUTA simplify tax compliance for America's merchants, as its proponents suggest?

- **No.** SSUTA would preserve many of the current complexities of calculating and collecting sales taxes and add new ones. A merchant would be subject to up to 7,500 different tax rates on transactions with consumers.

- **Yes,** even if the states did nothing more than adopt the proposed administrative changes contained in the SSUTA, all vendors would enjoy reduced compliance complexity.

Does the SSUTA pose threats to consumer privacy?

- **Yes.** The SSUTA proposes one or more third-party tax collection agents, who will gain automatic access to confidential information about individual consumers and what they purchase.

- **No,** the SSUTA provides that a certified service provider "shall perform its tax calculation, remittance, and reporting functions without retaining the identifiable information of consumers."

Will the SSUTA require your state to forfeit sovereignty over tax policy in your state?

- **Yes.** The SSUTA creates the U.N. of state tax policy. It requires each state to submit its sales tax system to oversight of a "governing board."

- **No,** compliance to the SSUTA is optional for a state. The decision to comply with the provisions of the SSUTA can only be made by each state legislature — and they can withdraw at any time.

Is the SSUTA consistent with the Constitutional doctrine of federalism?

- **No.** The SSUTA would allow participating states to foist their tax and regulatory burdens upon out-of-state businesses and citizens.

- **Yes,** the SSUTA is voluntary for states and merchants. This is not a mandatory compact or violation of the Commerce Clause of the Constitution.

Will the SSUTA reduce tax policy competition between states?

- **Yes.** The SSUTA rewards the least competitive states by allowing them to "dumb down" the tax code.

- **No,** the state legislature in each SSUTA state will decide what is taxed, who is exempt and at what rate it taxes transactions.

Will the SSUTA impede the success of the technology revolution?

- **Yes.** Attaching tax burdens to each online transaction will inhibit people's access to and use of Internet content and stifle technological innovation.

- **No,** the SSUTA provides for technology that will not add any additional forms for the online buyer to complete. The information the buyer provides for the delivery or payment of the product is sufficient to determine the correct sales tax.

Will the SSUTA hurt citizens more than others?

- **Yes.** New on-line transaction taxes will disproportionately punish rural, handicapped or even elderly buyers who cannot easily substitute on-line transactions with traditional purchases at brick-and-mortar retailers.

- **No,** all buyers in a state that complies with the SSUTA will pay the same sales tax on a transaction regardless if it occurs in a brick-and-mortar store or online.

Will the SSUTA create equity between brick-and-mortar and on-line retailers?

- **No.** SSUTA might create equal tax rates for on-line and brick-and-mortar transactions, but creates new inequities in compliance costs and in the availability of certain benefits.

- **Yes,** all transactions regardless of the way they are purchased will be treated the same under the SSUTA and all retailers will receive reasonable and adequate compensation to cover the costs of collection.

stringent tax expenditure limit in the country, the Taxpayer's Bill of Rights. By most measures Colorado's TABOR has been the most effective tax or expenditure limitation in the nation, successfully restraining the growth of government and returning excess tax revenues to its citizens.

Colorado's Gov. Bill Owens, who has been TABOR's biggest cheerleader inside and outside his state, has also become one of the most recognized critics of the SSUTA.

In June 2003 Owens released a report through a think tank he founded, the Center for the New American Century, which raised nine problems with taxation on Internet sales.

Chief among Owens's complaints about

the SSUTA are that it is essentially a tax increase, and that despite its "simplification" claims, the agreement "foists national sales tax collection obligations upon each merchant in America while preserving for each local government in the country its own distinct tax rate."

Based on a study by two University of Tennessee professors, the SSUTA could collect an additional \$440 billion over the next 10 years if it is implemented over all e-commerce.

"Because [SSUTA] takes a broad view of taxable goods," Owens wrote, "additional hidden tax increases could lurk in the esoteric details of the [agreement]. States that currently exempt certain goods from

taxation could be forced to extend sales taxes to currently untaxed products, as an example. And all caps that limit sales tax liabilities would be eliminated."

Owens also says that the effort to streamline, or simplify, across thousands of tax jurisdictions presents inherent conflicts with efforts to preserve state and local sovereignty over tax policies.

"...A merchant will have to calculate up to 7,500 different tax rates on transactions to consumers," Owens wrote. "An Internet or catalogue merchant that opts to perform tax collection functions itself will be subject to 46 different audits...each year to ensure the merchant is properly collecting and remitting its taxes." CF

Around the State

• North Carolina should fund repairs of its deteriorating state highways not with new taxes but by ending wasteful road projects, according to a comprehensive new John Locke Foundation report on highway expenditures and priorities.

The study reviewed 349 major road projects constructed between 1990 and 2003. About \$2.5 billion was spent on projects of questionable value, concluded study author David T. Hartgen, a professor at the University of North Carolina at Charlotte. If that money had been used for road repairs instead, the state's highway maintenance budget could have been 40 percent higher without raising taxes, he found. Major road projects include freeway and arterial widenings, new freeways and arterials, and new exits and climbing lanes. These projects cost about \$7.3 billion, about one-third of the state's highway program of \$20.5 billion since 1990. These expenditures increased by 206 percent over 13 years.

On average, the major highway projects cost about 2.7 cents per vehicle-mile, but they varied widely in effectiveness. Some—such as climbing lanes, urban arterial widenings and urban freeway widenings—were generally worthwhile, Hartgen found. But others—new exits on rural freeways, new rural four-lane arterials and some new freeways—were of questionable worth.

If the projects costing more than 5.3 cents per vehicle-mile (a standard roughly two times the state average) had been delayed or deleted, about \$2.5 billion would have been saved, he said.

"For just nine percent of the capital budget, the state's deteriorating road conditions could have been reversed," Hartgen said. "Essentially, we fiddled while Rome burned."

The study showed that cost-effective and cost-ineffective projects were constructed all over the state.

"We need to spend our highway dollars more wisely, not ask our taxpayers for more of their money," Hartgen said. "North Carolina no longer has the luxury of distributing road funds without regard to need."

The study also found that the state's focus on major projects diverted attention and money away from repair needs, allowing the system to deteriorate even as new roads were added. During the 1990s, the state's roads worsened from eighth best nationwide to 36th, according to Hartgen's analysis. By 2002, the state's rural interstates were rated 44th nationwide, urban interstates 42nd, and rural arterials 45th, the study found.

The study calls for focusing the state's highway program more on maintenance needs funded by savings from better selection of major projects according to cost-effectiveness rather than the geographic criteria presently used. It calls on the General Assembly to increase long-term highway maintenance funding by about 40 percent.

The full report can be viewed on the Internet at www.johnlocke.org.
CJ

Holloman received funds, failed to file IRS returns

State Senator Named in Ballance Indictment

By DON CARRINGTON

Associate Publisher

A federal indictment of former U.S. Rep. Frank Ballance Jr. of Warrenton also alleges that other people and groups cooperated with Ballance in questionable financial transactions. One person featured prominently in the indictment was State Sen. Robert Holloman of Ahsokie.

In early September a federal grand jury indicted Ballance on charges of conspiracy to commit honest services mail fraud, mail fraud of money, and money laundering. The indictment also noted that Ballance's foundation failed to timely file annual federal tax reports. His son, N.C. District Court Judge Garey M. Ballance of Norlina, was indicted on a charge of failure to file a federal income tax return for 2000.

The federal investigation of the Ballances stemmed from news reports and a scathing review of the John A. Hyman Memorial Foundation by the State Auditor's Office in October 2003. The former 1st District congressman helped start the nonprofit drug-abuse prevention and treatment program in Warrenton and served as its board chairman. While in the state Senate, he channeled more than \$2 million in state grants to the organization.

Holloman's wife, Velma Holloman, is a Hyman Foundation board member.

Holloman was elected in 2002, taking the state 4th District Senate seat vacated by Ballance. He is also pastor of Nebo Baptist Church located just outside Murfreesboro. Nebo was a significant beneficiary of the Hyman Foundation and other funds secured by Ballance.

The indictment listed Hyman Foundation grants to Nebo totaling \$218,000 from 1994 to 2002. In addition, according to the indictment, Ballance secured special appropriations of \$100,000 in 2001 and \$75,000 in 2002 for a "community program in Northampton County that works with substance abuse offenders." The funds ended up at Nebo Baptist Church. In total, the indictment documented \$393,000 that Holloman's church received through the efforts of Ballance.

The indictment also described a transaction between Ballance and Holloman on Dec. 31, 2002. On that date Ballance wrote a \$25,000 Hyman check to the Nebo Roads Program. In the memo portion of the check Ballance wrote "mini grant/loan."

Ballance then told Holloman, who had just been elected to the Senate, that if Holloman was able to get a seat on the Justice and Public Safety subcommittee and write his own appropriation for Nebo, the payment would be considered a loan and needed to be paid back. If a continuing appropriation was not provided to Nebo, Nebo could consider the \$25,000 payment a grant from the Hyman Foundation.

Holloman did obtain a seat on the committee and was named vice chairman by Senate leader Marc Basnight. According to the indictment, Nebo did not receive a grant from the committee because of the growing negative publicity about the Hyman Foundation.

In a phone interview, Holloman told *Carolina Journal* that he had not read the Ballance indictment and was unaware that the document contained significant references to him.

How was the money spent? "On drug prevention," he said, and specifically "a counselor and space for a building." Asked whether his church was paid rent, Holloman answered, "Yes." But he said, "It is my understanding that we have not done any-



State Sen. Robert Holloman, D-Hertford



Former U.S. Rep. Frank Ballance

thing illegal or wrong."

Asked about the \$25,000 migrant-loan agreement with Ballance, Holloman said the idea was Ballance's. Asked whether he thought the deal was ethical, Holloman said that it did not raise any ethical concerns and that he did not realize what Ballance was setting up. And what did Holloman think of Ballance's indictment? "I have no comment," he said.

Late tax returns, like Ballance

Like Ballance, his predecessor in the state Senate, Holloman failed to timely file federal tax forms for the Nebo Family Life Center, a state-funded nonprofit organization that he runs. Holloman was a full-time state employee, the pastor of his church, and a Hertford County commissioner at the time his nonprofit received two state grants totaling \$175,000.

Holloman also failed to file financial statements with the Joint Legislative Commission on Governmental Operations and the State Auditor's Office as state law requires for organizations receiving more than \$25,000 a year. The financial information he eventually did file with the IRS is inconsistent with information *CJ* obtained from the N.C. Department of Correction, the agency that wrote him the checks.

Holloman said he could not explain details of how the \$175,000 was spent because "most of our stuff is with the Justice Department." Holloman had been called to testify to a federal grand jury in the investigation of Ballance and the Hyman Foundation. Holloman said he would provide information to *CJ* when he retrieved his files from the Justice Department.

According to an overview of the 2001 legislation session prepared by the Fiscal Research Division, the General Assembly appropriated \$100,000 for the fiscal year beginning July 1, 2000 and \$75,000 for the year beginning July 1, 2001, for a "community program in Northampton County that works with substance abuse offenders." Holloman confirmed to *CJ* that the funds went to the Nebo Family Life Center.

While the language in the legislation implies the funding is for people actually convicted of drug offenses, Holloman indicated to *CJ* the program is for all people. The IRS documents he filed also indicated that a large part of the money spent by Nebo was for teen-age pregnancy counseling.

According to IRS rules, a nonprofit must file a return if the organization has annual gross receipts of more than \$25,000.

On Oct. 27, 2003 the IRS received returns from Nebo for the calendar years 1999, 2000, 2001, and 2002. The returns were

postmarked Oct. 24, 2003 — coincidentally two days after State Auditor Ralph Campbell, Jr. released his scathing audit of the Hyman Foundation.

The IRS Form 990, Return of Organization Exempt From Income Tax, is due at the IRS 5 1/2 months after the close of an organization's selected reporting year. Since The Nebo Family Life Center uses the calendar year, all four years were late.

Holloman said he filed the forms late because, "we finally got it together and got it in. This was something new to us. We do not have a lot of professional people. We are trying to help people and we got people volunteering and we just got everything together we needed to do and filed it."

Holloman also could not explain why he listed the state funds as direct public support instead of government grants on the 2000 return. He also could not explain why he showed revenue only in the year 2000 even though the \$75,000 state grant came the following year.

The IRS forms also reflect compensation paid to all seven board members. The amount varied from year to year. In 2002 Holloman received \$2,400; board member Roger Eason of Murfreesboro received \$9,325; and board member Lois Bradley of Woodland received \$18,500.

Before he was elected to the Senate, Holloman was a state employee. He started work with state government in October 1984. When he left in December 2001 he was with the Department of Crime Control and Public Safety as a community service area supervisor in Winton. In early 2002 he filed for the 4th District Senate seat Ballance vacated to run for Congress. In addition to his state government job, Holloman was elected twice to the Hertford County Board of Commissioners. He served from 1992 to 1996 and from 2000 to January 2003, when he resigned to take his Senate seat.

Holloman's current legislative district includes all or parts of Gates, Halifax, Hertford, Northampton, Vance, and Warren counties. He won the Democratic primary this year and is unopposed in the November general election. His district for 2004 has changed and includes all of Bertie, Chowan, Gates, Halifax, Hertford, Northampton, and Perquimans counties.

When the Ballance indictment was announced, U.S. Attorney Frank Whitney said the investigation would continue.

State Auditor spokesman Dennis Patterson told *CJ* that if a nonprofit organization received money directly from the state, the law allows the State Auditor's Office to inspect the organization's financial records.

"If there is a complaint, it is something we may look at," he said. CJ

Luebke bill would prohibit advising the state, then helping business win tax breaks

Durham Lawmaker Wants to End Conflict of Interest on Incentives

By PAUL CHESSEY
Associate Editor

RALEIGH
State Rep. Paul Luebke, D-Durham, introduced a bill earlier this year that would prohibit consultants who advise the state on economic incentive programs from advising businesses on how to obtain incentives under those programs.

The proposed legislation, in this year's short session of the General Assembly, was left for dead in the House Rules Committee while more urgent issues such as budget adjustments were addressed. But Luebke said he will reintroduce the bill in 2005 if he is re-elected, which is likely.

"I...had no time to 'work it' (this year), either to find cosponsors or to ensure that the bill had a hearing before an appropriate committee," he told *Carolina Journal*.

Advising, then benefiting, illegal

The bill would make illegal for a person or business that advises the state "on the creation or substantial modification of an economic development incentive program" to, within two years of the establishment of that program, advise a business or individual that seeks to benefit from those new incentives. A violation would be classified as a misdemeanor, and anyone convicted under the law would forfeit the compensation it received from both the state and the business it advised, and would be forbidden from advising the state or a business for two years after its conviction.

Luebke developed the bill after *CJ* reported that accounting firm Ernst & Young advised officials in North Carolina's Department of Commerce on the structure of its economic incentives, then represented Time Warner, Inc. as the cable giant sought to obtain the brand-new tax breaks offered by the state.

"In my judgment, making money from both sides of the street is a conflict of interest," Luebke said. "Such a conflict should be prohibited, and that's why I introduced the legislation."

Ernst & Young established a cozy relationship with state officials through an incentives bill it helped create in 2001, the N.C. Economic Stimulus and Job Creation Act. The Department of Commerce hired Ernst & Young to study incentives in Southeastern states, and its findings were a significant contribution to the new bill. It was enacted into law in 2002.

As the law was developed, Ernst & Young also advised Time Warner Inc. on how to extract incentives from the depart-



Rep. Paul Luebke, D-Durham

ment, essentially working both ends of the issue.

At the time, the media giant planned to create a campus of 1,100 employees in Charlotte for its cable operations. *The Charlotte Observer* reported that Time Warner's project depended on legislative approval of the program and that the company could reap as much as \$55 million in incentives.

Media scrutiny, and an admission by a Time Warner official that the company had already decided to come to Charlotte, apparently thwarted the deal to get incentives. However, the company announced in March 2004 that it would expand in Charlotte, adding 350 new jobs. Time Warner could receive up to \$4.2 million in incentives related to the expansion.

'Cash cow' a factor

Luebke also cited a *CJ* report about large corporations literally treating state governments as "cash cows" as an inspira-

tion for drawing up his bill. The story told of how companies such as Microsoft, Boeing, and Wal-Mart were exchanging ideas about how to extract as much incentive money as possible from governments as conditions for establishing operations in their jurisdictions.

Comments drawn from a Microsoft PowerPoint document revealed a cynical attitude and a willingness to "milk the system," said Luebke and Republican State Rep. Paul Stam of Raleigh in May.

"I think referring to government as a cash cow is a very cynical way to look at the 50 state governments," Luebke said. "Many, if not all of them, are acting in good faith with the corporate sector."

"It doesn't surprise me that [businesses] would come together to trade notes. But it does strike me as cynical that the hard-earned and reluctantly paid taxes are there for the pickin.'"

Luebke said he might try to add on to this year's version of the conflict-of-interest bill, in order to address problems of economic conflict for state legislators "who hold substantial stock in businesses that are affected by legislation." He said the new bill would prevent a conflict for a member of the General Assembly who might vote on a bill that likely affects the finances of a company that the lawmaker is invested in.

"The voters of North Carolina do not want special economic interests gaining an unfair advantage in the legislature," Luebke said. "My bill would reduce that advantage." *CJ*

Lawyer Wants Cooper Investigated

By DON CARRINGTON
Associate Publisher

RALEIGH
Retired Raleigh lawyer Bernard Harrell has asked the State Board of Elections to investigate Attorney General Roy Cooper's political campaign for not reporting in-kind contributions from nine attorneys and their law firms.

According to his September letter, Harrell thought it was incumbent upon him to call "attention to what appear to be substantial and continuing violations of the campaign laws of North Carolina."

In the November 2000 election the Cooper Committee ran campaign ads about the Republican candidate, Raleigh lawyer Dan Boyce, that members of the Boyce's law firm said were untrue. As a result, Dan Boyce and three members of his firm filed a lawsuit in Wake County Superior Court against the Cooper Committee. The case, which has been going on for four years, is currently at the N. C. Court of Appeals for the second time. The legal work questioned by Harrell was work done by the nine lawyers from three law firms that have defended the Cooper Committee.

Specifically Harrell claims that corporations or business entities like limited liability partnerships (LLPs) cannot make contributions to political campaigns, and that the Cooper Committee has failed to report any in-kind legal services from the three law firms or the nine lawyers.

Harrell said the lawyers cannot be classified as volunteers if their law firms were paying them for their hours on the case.

The individual lawyers and law firms providing in-kind services listed by Harrell were: Jim W. Phillips, David Kushner, and Henry E. Frye of Brooks, Pierce, McLendon, Humphrey & Leonard, LLP in Greensboro; Allison Vanlaningham, James G. Exum, and Alan W. Duncan of Smith, Moore LLP in

Greensboro; and Walter E. Dellinger, Matt Shores, and Pam Harris of O'Melveny & Meyers, LLP in Washington, D.C.

In addition, Harrell claimed in the letter that Cooper hired two of the above law firms to represent the state while those firms or their lawyers were providing the in-kind legal services to his campaign committee. Walter Dellinger represented the state in the congressional reapportionment case with the state of Utah. The Books, Pierce law firm represented the state in the Blue Cross conversion matter.

Cooper faced Republican Joe Knott for re-election. Cooper's campaign manager, Steven Bryant, told *CJ* he was not aware of the allegations and asked *CJ* to fax the document. *CJ* then received the following statement from John R. Wallace, counsel for The Cooper Committee: The law is consistent on this issue and the committee has followed the law in its reporting requirements. The legal costs in this case are being paid by private insurance. The premise of the letter to the Board—that lawyers are contributing services—is wrong. This lawsuit has been going on for almost four years and it's obvious why this issue has been raised so close to the 2004 election."

However, Wallace's explanation only spurred more questions from Harrell, who brought them to the attention of the board in a followup letter.

"If the Campaign Committee itself is not an owner, or a named insured under the policy, any defense provided to it would not be paid by insurers," Harrell wrote. "On the other hand, if insurers are providing policy benefits and indemnity to the Committee, they are clearly making a 'contribution' to the campaign. If legal services are being provided to the Committee without charge, either by the insurers or by insurance-paid attorneys, both instances might be violations of the election laws." *CJ*



For more than 12 years, *Carolina Journal* has provided its thousands of readers each month with in-depth reporting, informed analysis, and incisive commentary about the most pressing state and local issues in North Carolina. With a particular emphasis on state government, politics, the General Assembly, education, and local government, *Carolina Journal* has offered unique insights and ideas to the policy debate.

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Currently broadcast each weekend on 20 commercial radio stations — from the mountains to the coast — **Carolina Journal Radio** is a one-of-a-kind program that seeks to inform and elevate the discussion of North Carolina most critical issues, and to do so in a fair, entertaining, and thought-provoking way.

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NC News In Brief

Textbook adoption

Textbook adoption, the process of reviewing textbooks according to state guidelines and mandating specific books that schools must use, or lists of approved textbooks that schools must choose from, consistently produces second-rate textbooks that replicate the same flaws and failings. So says a study released in September by the Thomas B. Fordham Institute, which found that the 21 states that use textbook adoption perform poorly on national tests. Market incentives caused by the adoption process are so skewed that lively writing and top-flight scholarship are discouraged. Every individual analyst and expert panel that has studied American K-12 textbooks has concluded that they are sorely lacking and that the adoption process cries out for reform, said the report's authors, Chester Finn and Diane Ravitch.

The study found that: Textbook adoption has been hijacked by pressure groups; textbooks are judged not by their style, content, or effectiveness, but by the way they live up to absurd sensitivity guidelines; the adoption process encourages slipshod reviews of textbooks written by anonymous development houses, according to paint-by-numbers formulas; and textbook adoption created a "textbook cartel" controlled by a few companies.

Finn and Ravitch say there is no evidence that textbook adoption contributes to increased student learning. In fact, the vast majority of states that adopt textbooks are also in the bottom half of all states in NAEP reading and math scores.

Vouchers and graduation

A new study conducted by a leading national authority on high school graduation rates finds that Milwaukee students using vouchers to attend private schools graduate high school at higher rates than students attending the city's public schools.

The study, by Manhattan Institute researcher Jay P. Greene, also finds that students using school choice in Milwaukee have higher graduation rates than students in selective Milwaukee public high schools whose students are likely to be more advantaged in their background characteristics.

While early high-quality research on the Milwaukee Parental Choice Program suggested that participating students had higher educational outcomes, it has been almost a decade since those early evaluations, and critics have continued to question whether the program provides students with better educational opportunities. The Greene study, sponsored by School Choice Wisconsin, calculates graduation rates for choice students and students remaining in public schools in order to provide new evidence on whether Milwaukee's voucher program benefits students academically. *CJ*



North Hills Elementary School, in Winston-Salem, was one of seven public schools in North Carolina to be named by the U.S. Department of Education as a 2004 No Child Left Behind - Blue Ribbon School.

NC Schools Awarded 'Blue Ribbon' Status

U.S. Secretary of Education Rod Paige visits Raleigh, announces PE grants

By CAROLINA JOURNAL STAFF

RALEIGH
Seven North Carolina public schools were named 2004 No Child Left Behind - Blue Ribbon Schools by U.S. Department of Education Secretary Rod Paige in mid-September.

Those elementary schools were among 205 public and 50 private schools to achieve the honor.

The public elementary schools that received the prestigious recognition were: Claxton Elementary and Isaac Dickson Elementary in Asheville; Claxton Elementary and Shadybrook Elementary in the Guilford County Schools system; North Hills Elementary in Winston-Salem; Pisgah Forest Elementary in Transylvania County; and Sunny View Elementary, located in Polk County.

"For years, many of our underprivileged children were ignored and prejudged, moved to the back of the room and quietly pushed through the system, with their scores hidden in averages," Paige said. "So we must change our approach, incentives, and expectations. We must foster a climate of academic excellence, enabling all students to reach the highest levels of scholarship."

For the past 22 years, the U.S. Department of Education has recognized many of the nation's most successful schools through its Blue Ribbon Schools Program. Schools selected for the honor model excellence in teaching, curriculum, student achievement, and parental involvement.

On July 28, 2002, Paige announced that schools singled out for national honors must also reflect the goals of the nation's new education reforms for high standards and accountability found under the No Child Left Behind Act.

"In keeping with the principles of the No Child Left Behind Act, we will reward schools based on student achievement results, not process," Paige said at the time. "Schools chosen for the Blue Ribbon will be ones that are meeting our mission to ensure every child learns, and no child is left behind. Blue Ribbon recipients will be national models of excellence that others can learn from."

Blue Ribbon Schools are selected based on one of three assessment criteria:

- Schools with at least 40 percent of their students from disadvantaged backgrounds that dramatically improve student performance on state tests, as determined by the state superintendent;
- Schools whose students, regardless of

background, achieve in the top 10 percent on state tests; and

- Private schools that achieve in the top 10 percent in the nation.

Three private schools in the state attained Blue Ribbon status under the No Child Left Behind Act: Cary Academy, St. Timothy's School in Raleigh, and Providence Christian School in Charlotte.

Of the schools submitted by each state, at least one-third must meet the criterion of having 40 percent of the students from disadvantaged backgrounds and showing dramatic improvement. State education departments nominate public schools for consideration. Once all nominations are received, the secretary of education invites the nominated schools to submit applications for possible recognition as a No Child Left Behind - Blue Ribbon School.

Elementary and secondary schools participate in alternate years, with middle schools participating with high schools in the recognition program. School representatives were honored during a National Recognition Ceremony scheduled for Nov. 4-5 in Washington, DC.

Paige visits Raleigh

On Sept. 28 Paige and other members of the Bush administration encouraged parents and schools to present healthier choices for children to help prevent childhood obesity.

Paige also announced federal education grants to support initiatives that help children eat healthy and exercise.

He made the announcement during a visit to North Ridge Elementary School in Raleigh, where he presented a grant check to the Wake County Public School System for its comprehensive, research-based program to encourage students' lifelong physical fitness and good nutrition.

Wake County Schools are slated to receive more than \$1.3 million over three years in the Carol M. White Physical Education Program. The program, part of the No Child Left Behind Act, provides grants to local school districts and community-based organizations to initiate, expand, or improve physical education programs, including after-school programs, for students in grades K-12.

This year, the program will award a total of 237 new grants worth nearly \$69 million.

"When our children are unhealthy, they are not ready to learn," Paige said. "Millions of our K-12 students are out of shape; many are overweight or obese. And there are many reasons why: consumption of high-fat, high-calorie foods and drinks, consumption of soda, lack of physical exercise, and too much time on the Play Station or watching television or hypnotized by computer games."

Calls for fitness programs

Paige also said that children need exercise, and that parents need to schedule exercise at home for their children. He cited a new report, using data from the Department of Education, which found that only 16 percent of kindergarten programs have daily physical education classes. Almost 60 percent of kindergartners have PE only once or twice a week, he said, while 13 percent provide PE less than once a week. Some schools have no PE classes or time.

"This is simply unacceptable," Paige said in Raleigh. "We commit a great disservice against our children when we ignore their physical well-being and growth. The Centers for Disease Control and Prevention recommends daily PE for all students grades K-12. That should be the standard for every school—PE for all students every day."

Paige said PE is not available to many students from low-income or minority backgrounds. He said the DOE report found that small schools and those with a high percentage of low-income or minority students are more likely than others to have no PE in kindergarten.

"For the children here today, you can help make America healthier," Paige said at North Ridge Elementary. "When you watch your diet and eat right, you become stronger. When you leave the computer and videos, and go outside to play, you will become healthier. And exercise should not interfere with your studies; you have time each day for both. You need to read passionately and conquer mathematics and science. If you can do all of this, you will have a world of opportunities before you."

"We can educate our children and keep them healthy. And it only takes the right incentives, some common sense and a resolute will to make this happen." *CJ*

"Millions of our K-12 students... (spend) too much time on the Play Station or watching television..."

— Sec. Rod Paige



A teacher conducts a More at Four session at a program in North Carolina's Hoke County.

Officials worry about duplication, unfunded mandates

Some Counties Begin to Abhor More at Four

By KAREN WELSH

Contributing Editor

And so the house came to be haunted by the unspoken phrase: There must be more money. There must be more money. The children could hear it all the time though nobody said it aloud."

This quote from D. H. Lawrence's classic essay, "The Rocking Horse Winner" may well describe Gov. Mike Easley's More at Four pre-kindergarten program, designed especially for "at risk" children, after it received a \$9.1 million boost in funds in this year's state budget.

Easley thinks that adding more money from the government coffer will allow 2,000 more children to gain access to the high-minded early-education program. "My commitment to ensure that North Carolina provides a superior education for all our students will not waver," Easley said in a recent press release. "With our expanded funding for More at Four, we will serve over 12,000 four-year-olds this year in high quality pre-kindergarten programs."

Initial testing of children in the More at Four program is showing promise, said scientist Ellen Peisner-Feinberg of the FPG Child Development Institute at the University of North Carolina at Chapel Hill. "Preliminary results from year two of the More at Four program show the children are having better outcomes overall," said Peisner-Feinberg, who is the director of the More at Four evaluation. "There has been significant growth in the kids that we wouldn't see otherwise. The kid's scores are going up and they are progressing at a higher rate through the program."

The More at Four program has risen from a \$6.5 million budget in 2001-2002 to \$51 million in 2004-2005.

The program will need additional revenue to evolve and continue services, said Karen Taylor, also of the FPG Child Development Institute. Taylor was one of several people responsible for compiling information in a Needs and Resources Assessment Survey given to More at Four administrators in 2003.

The results found 83 percent of the respondents did not think they had adequate funding at their site. "Money is a huge factor for the More at Four program," she said. "I don't think it's costing too much."

The survey also revealed "severe" operating challenges needing money to remedy. This includes both the ways and means to transport children to and from the program, and building or acquiring new facilities to serve more children.

Although the program is provided in all 100 counties of the state, it doesn't take into account that More at Four requires, penny for penny, matched or blended funds in order to exist. This places an especially heavy burden on the smaller, more rural counties, where the program is

often needed most.

Jones County is one of the more vulnerable communities where officials cringe at the thought of helping to fund another government-mandated program. "The state makes these rules and then mandates that we pay for it," Jones County Commissioner Sondra Ipock Riggs said of the increase. "I mean it's a burden on us. We just won't be able to do it. It's just not fair. It just cripples us."

Riggs said Jones County has only 10,381 residents living in 5,312 households. They are not able to absorb newer programs because the county is already stretched to the limit, having to pay a yearly \$10 million school bill, \$13 million for Social Services and \$1 million in Medicaid.

It's become so bad, Riggs said, that the commissioners have gone to Raleigh several times to beg state legislators to change their minds on more mandated programs. "I am hot under the collar for the legislature and governor for letting this go on and doing this to our county," she said. "We just can't do it. Unlike [other governments], Jones County cannot work in a deficit. We have to balance our budget every June the 30th. It's devastating and I don't know how we are going to continue."

To add insult to injury, Riggs said, Easley has taken money from the strapped county every year for four years to help pay off the rising state deficit.

Riggs said the county's one salvation would be if the governor studied all of the educational and child-care programs to make sure there aren't any duplications or to rid itself of archaic programs that don't work anymore but are eating up precious fiscal resources.

Peisner-Feinberg said a large philosophical shift in educational thinking might need to occur, too, though of a different kind. She said the state might need to find a way to offer free pre-kindergarten classes to all children in North Carolina. "There is a general trend right now of pushing down education," she said. "Kindergarten looks like first grade and first grade looks like second grade. Schools are increasing the complexity. Children are expected to do more and do better. More at Four helps the at-risk children make that adjustment into school. There is evidence that would say it's beneficial for all kids."

Whatever Easley does, Riggs said, action is desperately needed. She said the governor needs to be held accountable and he can start by answering the compelling question of "how much is too much" to spend on government-mandated programs, even if they have merits.

"The legislatures start these programs and then they can't pay for them," Riggs said. "Then, they fling them back on the counties. We're just a rural agricultural county. We can't compete with the bigger counties when this happens."

Will Freedom Flourish In General Assembly?

Hang on, North Carolinians! The long session of the General Assembly will get under way in January. Raleigh once again will become the hub of activity for House and Senate members, along with hundreds of lobbyists paid to represent their employees' interests. Dozens of reporters will inform, interpret, and spin the daily activity. And let's not forget the countless special-interest groups that will attempt to gain as much public money and media attention as possible.

It will be a time and place where ideas become laws, and a politician's philosophical view of government, or personal advancement, is revealed. This is also the time when individual freedom and choice will be most-threatened.

Usually, a few hundred bills affecting K-12 education are introduced in a long session. Many never make it out of committee, but some are passed and shock the education establishment. An example of grassroots activism was the "save our summers" coalition, which effectively got a bill passed last year. This law now affects every school system's calendar. Local school boards did not listen to constituents' concerns on start dates, so citizens took the issue over board members' heads to the General Assembly.

During the 2005 legislative session, school choice has the possibility to become a reality.

While choosing a school is not new for families financially able to pay twice (taxes and tuition), the concept of choosing a school for your child is gaining the attention of others. School choice, whereby families have freedom to choose the schools their children attend, is continuing to grow across our state. More local systems allow choice within their jurisdictions, and 99 charter schools provide other options for families. While each is a step toward more freedom and competition, much more can be accomplished. North Carolina's families need effective legislation passed so freedom to choose any school is a reality.

First, the charter school cap needs to be removed. The Charter School Advisory Committee should approve every charter that has a sound business and academic plan. Charter school boards are held accountable to the State Board of Education. If basic safety, financial, and academic expectations are not met, their charters should be revoked. Along with the cap being removed, unnecessary regulations need to be avoided to keep innovation alive. Flexibility with accountability provides the most freedom, greatest ingenuity, and maximum results.

Second, families who choose options other than government schools for K-12 education should receive tax deductions or credits for their financial investment. School choice should not be restricted only to families who can afford to pay twice.

Third, our state could allow education grants and vouchers for families. Currently, North Carolina provides vouchers for low-income families who need preschool care, and for students in higher education. North Carolina students who attend a private North Carolina university receive the N.C. Legislative Tuition Grant, which equals \$1,800 per year, per student, and given regardless of family income.

Ignoring financial assistance for K-12 education options is inconsistent. Could the reason for the discrepancy be the education establishment's political influence and lobbying heft? Could it be this monopoly's expensive and effective marketing campaigns work against the parents' right to choose?

The 2005 legislative session might bring advancements toward education freedom. Or, it might do nothing, or move backward. It will be up to members of the General Assembly and the governor. However, just like the "save our summers" coalition, anything can happen with grassroots activism. Leadership is determining what is right, determining not to stop until it is accomplished, and persuading all your friends to follow you.



Lindalyn
Kakadelis

N.C. News in Brief

Law provides tutoring

Tutors usually come at a cost. Some parents pay private services more than \$2,000 to make sure their children get good grades.

But parents at a small but growing number of public schools in North Carolina can now sign up their children for independent tutoring that costs nothing, *The News & Observer* of Raleigh reported.

They can thank Uncle Sam.

Schools that repeatedly run afoul of the No Child Left Behind Law must now tap federal funding to pay for private or independent tutoring for struggling students whose parents ask for it.

This fall, 10 regular public and 10 charter schools in North Carolina are offering parents the option of enrolling their children in outside tutoring. That number is likely to rise next year as more schools fall shy of federal goals for student performance for multiple years.

The tutoring requirement is one of several ways that President Bush's key education initiative is altering the education landscape in North Carolina and elsewhere by giving parents more say and penalizing schools when test scores don't measure up.

Schools that fall short for two consecutive years in the same subject—reading or math—must allow parents to send their children to a different school. After three consecutive years, schools also must pay the cost of outside tutoring for children whose parents want it.

Principals learn Spanish

Thirty minutes into his Spanish class, Rafael Perez paused amid the laughter of his students and shook his head slowly.

"This group is crazy," he said.

Students might find it hard to believe that Perez was talking to about 15 principals from the Winston-Salem/Forsyth County Schools, the *Winston-Salem Journal* reported.

They weren't acting as wild as Perez, the director of corporate and continuing education services at Forsyth Technical Community College, made it sound. He was jokingly referring to the frequent laughter and how the principals gave each other grief as they tried to learn Spanish.

But they were enjoying the class of conversational Spanish that meets every Thursday at the school system's administration building.

Principals don't expect to master the language, but they hope to learn enough to be able to make Hispanic families feel more comfortable.

Because the Hispanic population is increasing so much each year, school officials say the classes are needed.

From fall 2003 to fall 2004, the total enrollment of the school system grew by 511 students, or 1 percent, to 48,299. However, the number of Hispanic students grew by 13 percent to 5,976.

The increase of 668 Hispanic students more than offsets decreases in such racial groups as blacks, who decreased by 92 students, and whites, who decreased by 263 students. Hispanics make up 12 percent of the total enrollment.

Students More Teachable Despite Disadvantages

Per-pupil spending is up, but academic outcomes remain 'flat'

By KAREN PALASEK

Assistant Editor

RALEIGH

North Carolina students performed better than expected on nationally standardized tests, according to a new study that ranks states and students by a composite "teachability index." The report, "The Teachability Index: Can Disadvantaged Students Learn?" by Jay Greene and Greg Forster of the Manhattan Institute, seeks to separate the effects of being disadvantaged from the effects of education reform and school spending. By doing this, the Teachability Index may be useful for judging the value of school reform.

Nationally, the authors show that students are "somewhat more teachable now than they were in 1970," a 'teachability' gain of just under 9 percent. Most of the improvement has occurred since 1994, and has continued at least through 2001, according to the Manhattan Institute study.

North Carolina has not fared so well in student teachability. Roughly speaking, the index estimates that North Carolina's students are about 14 percent more difficult to teach now than they were in 1970.

Teachability isn't the only thing that determines academic outcomes. The study is quick to point out that in some states school performance and school efficiency more than compensate for harder-to-teach students. North Carolina is one of those states. School performance in North Carolina is, according to the report, about 9 percent better than would be expected, given teachability and other factors, and school efficiency statewide is about 22 percent above expectations.

School reforms, school spending

Greene has become something of an education index guru. He has produced studies that allow cross-state comparisons of measures such as the SAT, graduation rates, educational freedom, and college preparedness. The latest report combines measures from six indexes, including race, family, and community among others, and incorporates 16 different explanatory factors in all.

"If hard-to-teach students can't be brought up to minimal levels of basic skills even by schools that have benefited from reforms, while easy-to-teach students will pick up the same skills even in mediocre schools, then clearly reform is a waste of time," Greene said. In an atmosphere of ongoing concern about student outcomes, discussion about the level and type of reforms we implement takes on added significance.

In 1983 the Excellence Commission on Education produced a report titled *A Nation At Risk*. In it the commission recommended sweeping reforms in K-12 education, both in academics and in structure. The reforms were designed to boost rigor in the classroom and make American students academically competitive with students from other nations.

By 2003, however, it was apparent that the suggested reforms had never really been implemented. American students were still far behind most of the world. This was especially critical in the fields of math and science (*CJ* May 2003). In the followup report *Our School and Our Future: Are We Still At Risk?* the Koret Task Force on Education at the Hoover Institution found little improvement 20 years after the initial recommendations were made.

If academic outcomes have remained essentially constant since 1970, school



Dr. Jay Greene, Manhattan Institute

spending has not. Greene notes that "inflation-adjusted education spending per pupil has doubled in the past thirty years, while student achievement and graduation rates have remained flat."

Student achievement over time

The flat results Greene quotes are from the National Assessment of Educational Progress Long-Term Trends Report. He examines the scores of 17-year-olds on NAEP reading and math exams from 1969 to 1999.

NAEP tests are nationally standardized examinations used to measure student proficiency and make comparisons of students across states. The long history of the NAEP allows for a longitudinal analysis of student achievement in a number of disciplines. Since scores from 17-year-old students are a reasonable reflection of the cumulative effects of public education, and other factors that affect learning, their use makes sense in this type of study. Because of the sampling method of the long-term NAEP assessment, state-level reports are not available for 17-year-olds.

In 1972 the average American 17-year-old achieved a score of 304 on the NAEP math test, but by the time the Excellence Commission began its report in 1982 that score had fallen to 299. In 1999, students achieved a 30-year peak score of 309, but fell to the 1972 level of 300 the following year. The appearance of *A Nation At Risk* in 1983 did not fix the achievement malaise in math scores. Students in 2000 were no more proficient in math than their 1972 counterparts.

Reading performance has been almost literally flat over the 30-year period in the Greene and Forster study. Seventeen-year-olds scored a 285 on the NAEP reading exam in 1972, a 285 in 1983, and a 288 in 2000. Despite huge additional spending, the claim that student outcomes have been 'flat' for three decades seems justified by the NAEP results.

Teachability and other indexes

What is a Teachability Index? Greene's measurement system uses 16 factors to create six preliminary indexes: readiness, economics, community, health, race, and family. By examining these factors separately Greene hopes to explain the role that advantages and disadvantages play in student performance.

Statistical techniques allowed research-

ers to test the relationship between the Teachability Index and academic outcomes. Those outcomes are measured by NAEP scores, the percentage of students with "basic" or above proficiency on the NAEP, and high school graduation rates. To avoid confusing proficiency with spending effects, the analysis controlled for differences in education spending in each state.

A Teachability Index can tell researchers whether schools are facing students with greater challenges and how well they are teaching the students they enroll.

While teachability measures make it possible to estimate how well students can be expected to do, the School Performance Index measures statewide school effectiveness with a given set of students. North Carolina ranks 43rd nationally for teachability, but fifth nationally for school performance, with students scoring 9 percent above expectations on the NAEP tests.

Trying to separate social, economic, racial, and gender effects from spending requires a look at efficiency as well. Here the question is: Which states get the best results per education dollar spent? Cost-of-living differences in each state were factored out using data from the American Chamber of Commerce Research Organization for the third quarter of 2003.

Based both on teachability and spending, the School Efficiency Index ranks North Carolina ninth in the nation. School efficiency, according to the authors, is 22 percent above what the other indexes would lead investigators to anticipate.

Conclusion

If children are forced to focus on personal safety, live in single-parent homes, and deal with untreated health problems, poverty, or issues that are generally adult responsibilities, they will become less 'teachable,' Greene and Forster conclude. Although some states have experienced a decline in the teachability of their K-12 students, teachability is not an excuse for poor performance.

Evidence from states like North Carolina demonstrates that schools can sometimes outperform expectations.

It is also clear that states can underperform. These results undermine the idea that education spending drives results. Since "inflation-adjusted

education spending per pupil has doubled in the past thirty years, while student achievement and graduation rates have remained flat," there is more in the mix than additional spending. "States with low scores on the index do not inevitably produce low-scoring students" and "states with high scores on the index do not inevitably produce high scoring students." Claims that students are harder to teach don't explain a long-term plateau in American educational progress.

One bright spot is a positive correlation between accountability and choice in the School Performance Index. Under Greene's formulation of Education Freedom (*CJ* April 2003), the availability of non-traditional options has a positive effect on learning. Accountability, through student testing, is also positive.

"In explaining school outcomes, education experts have long stressed school inputs—money and students' backgrounds—often to the exclusion of other factors." *Teachability* suggests that they look harder at what they do with those inputs. *CJ*

Inflation-adjusted education spending...has doubled in the past thirty years, while student achievement...has remained flat.

What Works Best in Education**Bank of America, SAS Lead the Way in N.C. Philanthropy**

By PAIGE HOLLAND HAMP

Contributing Editor

We are fortunate to live in a state that has a rich philanthropic history. Perhaps it is because we are in "God's country" and are taught as youngsters to share with those less fortunate or it could be that North Carolina knows corporate philanthropy is just good business. For years companies have provided funding, volunteers, and in-kind resources to support education, health care, and a myriad of other causes with varied levels of effectiveness. Today, corporate philanthropy is a critical part of North Carolina's success in meeting the needs of 7.6 million citizens and a few companies are taking bold new directions in their philanthropic efforts. Two leaders in North Carolina are Bank of America, headquartered in Charlotte, and SAS, based in Cary.

The Bank of America Foundation has one of the largest philanthropic budgets in the United States. It contributed more than \$108 million in 2004.

"The mission of the Bank of America Charitable Foundation is to make a noticeable difference in the communities we serve by identifying local priorities and consistently delivering financial and human resources to address those challenges in order to build Neighborhood Excellence and reflect Bank of America's commitment to Higher Standards," said Andrew Plepler, president of Bank of America Charitable Foundation. Plepler and CEO Ken Thompson said that they believe that strong neighborhoods are the key to prosperity and that they intend to invest heavily in that belief.

In 2005, Bank of America will launch a \$1.5 billion, 10-year Neighborhood Excellence Initiative. There are three significant components to the effort, starting with the Neighborhood Builders program. Nonprofit organizations play critical roles from disaster relief to education to health care. Many basic needs would not be met without this important sector in our communities. Neighborhood Builders will invest \$100,000 a year for two years to help crucial nonprofits build organizational capacity. In addition, Neighborhood Build-

ers will provide professional leadership development to ensure long-term sustainability and effectiveness of the organization.

The second component of the plan aptly named "local heroes" will honor people working within communities to make a difference and, one hopes, inspire others to emulate these heroes. A contribution of \$5,000 will be made to the charity of the winner's choice. The final component, "student leaders," invests in tomorrow. "Education and opportunities for young people are critical to building vibrant communities," Plepler said. "Building the next generation of neighborhood leaders is vital to the long-term health of this country." The student leaders program will provide young people paid internships to work in nonprofit organizations so they will understand the vital role the nonprofits play in a community. Many philanthropic efforts focus understandably on immediate community needs with little thought about the future—Bank of America is changing the paradigm. The Neighborhood Excellence Initiative meets today's most pressing needs and at the same cultivates tomorrow's leaders to take care of emerging needs and keeping communities strong. The first recipients of the Neighborhood Excellence Fund Awards were announced Oct. 15, 2004.

Across the state in Cary, SAS continues to be one of North Carolina's most generous corporate philanthropists. While SAS supports numerous causes, its primary philanthropic focus, education, is a longtime passion of its founders. Just as SAS leads

the way in technological revolutions, it also revolutionizes philanthropic efforts. Understanding that partnerships are a critical element of success in community development, SAS has formed several

high-profile and effective alliances, including the SAS Championship presented by Forbes. The Champions Tour event's economic impact is obvious, as it has pumped more than \$10 million into the Triangle community, but its philanthropic impact is also significant. Knowing that Champions Tour events include a charity partner, SAS leaders went to the Triangle Community Foundation for guidance in identifying a

Bank of America

The SAS Championship is played every year at the Prestonwoods Golf Course in Cary.

charity that would reflect the priorities and values of the company and Communities In Schools of Wake County was selected.

The mission of CIS is to champion the connection of needed community resources with schools and community sites to help young people successfully learn, stay in school, and prepare for life. Working together, SAS and CIS opened the SAS Community Learning Center in the Kentwood public housing community in October 2002. SAS Championship tournament proceeds provided the funding for construction of the facility as well as CIS programming. For the 89 families who live in Kentwood, the Learning Center provides access to educational tools they would otherwise not have available. "The center is important because the students have a place to go that is safe and that can help them with their schoolwork," said Tony Thorton, Kentwood Center director. "It is also a great resource for the adults who search for jobs and work on their resumes in the center's computer lab."

Programming at the SAS Community Learning Center includes after-school tutorials for K-12 students that focus on core skills in reading, writing, and mathematics; preschool classes, computer training classes for adults, and countless others. The students who attend see the center as "their center" and take part in efforts to maintain

and help beautify the center. The surrounding community has also embraced the Learning Center and its important role for the Kentwood families. Working in conjunction with Davis Drive Elementary, CIS hosts "lunch and learn" sessions with parents and school personnel to ensure students succeed in school. The faith community is also an important partner. Triangle Vineyard Christian Center recently held a yard sale with the proceeds benefiting the center.

The SAS Community Learning Center has received a lot of local and national attention. Recently CIS was named the "Champions Tour charity of the year," which brought an additional \$25,000 in funding to support the facility. By creating this high-profile partnership between the Champions Tour, the Triangle Community Foundation, CIS, and their company, SAS has ensured that a high-risk neighborhood has the resources it needs to educate young people and help adults find jobs.

It is exciting to see this revolution of philanthropic giving. As more companies begin to develop philanthropic-giving programs with the same strategic focus that they use to maximize profits, we will begin to see significant systemic changes occur. By moving from donating to charities to investing in communities, they will help to provide a cure, not just a Band-Aid. CJ

**John
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See what one Raleigh paper called "Matt Drudge with Class"

Course of the Month

It's history, not a facts course

This month's winner came to CM's attention via two web sites. One, NoIndoctrination.org, was set up by people who are "disturbed that sociopolitical agendas have been allowed to permeate college courses and orientation programs" and who think there's no place in the classroom for "thought reform," "mandated 'group think,'" and "[b]latant and oppressive bias." (Naturally, the American Association of University Professors finds the site rather "worrisome.") The other, Students for Academic Freedom (www.studentsforacademicfreedom.org), seeks "to end the political abuse of the university and to restore integrity to the academic mission as a disinterested pursuit of knowledge."

Both have discussed Prof. Gerald L. Wilson's course at Duke University: **HIST 97D: AMERICAN DREAMS/AMERICAN REALITIES**

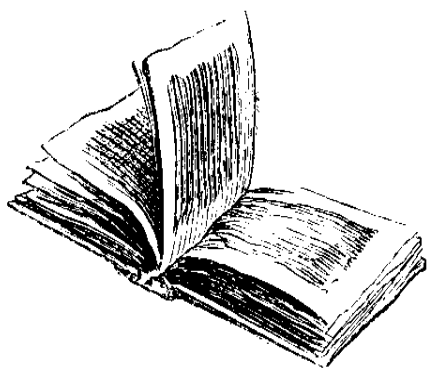
This course examines the role of such myths as "success", agrarian, "city on the hill", "frontier" and the "foreign devil" in defining the American character and determining the hopes, fears, dreams and actions throughout American History. Attention will be given to the surface consistency of these myths as accepted by each immigrant group versus the shifting content of the myths as they chance to reflect the hopes and values of each of these groups.

Duke student Matt Bettis, an engineering student with an interest in history, signed up for this class last fall. This "brought me face-to-face with the worst left-wing bias I've encountered." Bettis was put off by Wilson's joke that "I don't have any bias against anyone ... except Republicans!" (Wilson said that his comment came only from his tendency to use humor to engage students, and that he makes jokes at Democrats' expense, too.) He didn't care for Wilson's overt discussion of his leftist politics, but after Wilson brought up the "three Anglo-Saxon myths: Christianity, Capitalism, and Democracy" that had been popularized in history until recently and quoted Robert Reich, Bettis decided to drop the course.

After doing so, he wrote to Wilson to say he thought the professor's comments "were entirely inappropriate to an academic setting" and "suggested he either remove his course from the 'history' department or teach real history rather than spend class time propounding his personal ideology to a captive (and fearful) audience."

Wilson responded, Bettis reported, by saying that his class was "not a 'facts' course," since "to present the 'facts' is an impossibility."

Bettis reported that "Another student who decided to remain in the course says that the professor later remarked that Republicans should just drop his class." CJ



Campbell concerned that problems may affect other UNC institutions

State Auditor Warns of 'Enron'-like Scandal at the North Carolina School of the Arts

By JON SANDERS
Assistant Editor

RALEIGH
High-level administrators at the North Carolina School of the Arts engaged in "willful, deliberate, and intentional" violations of state law in what State Auditor Ralph Campbell described as "similar to the debacle at Enron." Campbell said the findings at the NCSA were as serious as any his office had uncovered previously.

Among the findings of the State Auditor's Investigative Audit Division were: state and NCSA-affiliated foundation funds used to make car lease payments and country club dues for NCSA administrators; illegal land sales to divert funds and help put a deposit on a new residency for the chancellor; diversion of funds through property sales; use of three secret bank accounts; illegal payments of over \$90,000 to a vice chancellor who attempted to mislead auditors; improper payments to university employees and one sister of a university employee; and paying one employee over \$69,000 in undocumented overtime who worked in a position with a maximum annual salary of \$49,000.

The findings were so devastating, Campbell said, that he recommends that the University of North Carolina Office of the President should review whether the NCSA ought to continue exercising budget flexibility and furthermore, the UNC system should have all UNC institutions report on the activities, including revenues and expenditures, of all their foundations and related organizations.

"Today Enron is financially and morally bankrupt," Campbell said. We "cannot allow" the same thing to happen to the UNC system. He called for "shining a bright light" into the foundations and organization affiliated with the university to provide a "powerful incentive" that those organizations act properly.

"We see this an an opportunity to the university system to clean up financial affairs and bring sunlight to the financial affairs at each of these foundations," Campbell said.

Tipped by suspicious overtime

The NCSA investigative audit was sparked, Campbell said, by auditors' observation of unusual payroll entries from a routine audit for the end of fiscal 2003. Those unusual entries included multiple promotions and pay raises along with exorbitant overtime payments with little to no documentation to justify them. Those turned out to be "just the tip of a very large iceberg," Campbell said.

The findings center on the vice chancellor for finance and administration, Joe Dickson, who resigned during the investigation. Chancellor Wade Hobgood said that he "knew about some of the transactions" but that he didn't know about the secret accounts or how those transactions were made. Pressed on the issue of Hobgood's knowledge, Campbell said, "The question is, 'What did the chancellor know, and other administrators know?' And another ques-



Reporters take note as State Auditor Ralph Campbell discusses findings at the N.C. School of the Arts. (Photo: Wagner)

tion is, 'Why didn't the chancellor know?'"

The investigators learned that Dickson had given Berdette Malloy, an NCSA employee since 1980, several promotions and raises over a 27-month period without following state procedures, ignoring warnings from state officials in the process. During that time, Malloy was also paid more than \$69,000 in overtime pay without proper documentation, an amount including nearly \$23,000 that was calculated incorrectly.

In addition, the investigation found that over \$53,000 in "special onetime payments" were made to several NCSA administrators and other university employees, most of whom were clearly not eligible for such payments (there were six whose eligibility was questionable). Malloy received \$8,500 in two special onetime payments for the same work for which she was also paid overtime. Malloy, under her title as "personnel analyst," also secured special onetime payments of nearly \$4,000 for her sister, working for the associate director of the Kenan Institute for the Arts, and she blocked a \$500 deduction in pay from her sister that was requested to be withheld for three days that were not worked.

The investigation also found three accounts in the records of the North Carolina School of the Arts Foundation, Inc., that were not in the budget or disclosed to foundation board members. Those accounts had nearly \$220,000 in diverted reimbursements and nearly \$180,000 in "inappropriate journal entries." According to the audit, those accounts funded, to the tune of about \$270,000 in expenditures, "lease payments totaling \$15,000 for the lease of a Cadillac Escalade for the Vice Chancellor for Finance and Administration [Dickson], who also served as Assistant Secretary and Assistant Treasurer on the Foundation Board, club memberships, cell phone bills, legal fees, consultant fees, gifts for employees and others, travel and meals."

Investigators also uncovered \$90,000 in illegal payments from the NCSA Foundation to Dickson over 13 years that included a monthly stipend for his "Dickson and Associates" consulting firm and an annual expense allowance of \$6,000.

Dickson also met with the N.C. Dept. of Transportation to negotiate a deal over a 0.65 acre right-of-way project involving land owned by the NCSA Foundation. Dickson subsequently transferred the land without authorization from the foundation's board of directors, and the NC DOT paid \$108,000 to the NCSA Program Support Corporation. Expenditures based

on these diverted funds went to "debt service payments, a \$25,000 down payment for the new NCSA chancellor, and various other expenditures." Dickson also sold five houses donated to the NCSA Foundation to the NCSA Program Support Corp. without authority from the board.

Finally, the investigation revealed that Dickson and the dean of the School of Film-making, Dale Pollock, were paid more than \$67,000 in "consulting fees" by the NCSA Unity Development Corporation. Dickson received more than \$38,000 and Pollock received over \$29,000 during a 10-month period. UNC regulations forbid senior officers from receiving payments for "any services rendered to any institution-related foundation, endowment, or other University-related enterprise."

Saying he "regret[s] these audit findings," Hobgood, in a statement on the arts school's web site (www.ncarts.edu), said that every penny of misallocated foundation money would be returned. Hobgood said he would ensure that the arts school implemented the actions identified by the investigative audit.

"Mistakes were made," Hobgood said. "A primary error was to leave the School of the Arts Foundation in the dark while one of our administrators allocated a great deal of Foundation money without the Foundation's knowledge or mine." He apologized on behalf of the school to the foundation board, the executive committee and its officers, and to the donors.

Hobgood was adamant that "No endowment money was affected. Our donors' money is safe."

Hobgood made one defense against the findings in the investigative audit, which was of Pollock. Hobgood said that Pollock was "blameless" in receiving money as a consultant on the Unity Place development project. "To ensure separation of Unity work and [Pollock's] responsibilities as dean, I required that he work outside of School hours and be paid by outside sources," Hobgood wrote. "He gave a written accounting of his activities to me to ensure that was so. The audit itself quotes me saying that, based on our conversations with UNC General Counsel, I believed Dean Pollock had permission from UNC to work as he did."

Campbell said the seriousness of the findings warranted reporting them to the State Bureau of Investigation, the attorney general, and Winston-Salem and Forsyth County officials for further investigation.

The report is available online at www.ncauditor.net. CJ

Donors, Scholars Nationwide Work to Bring Western Civilization Back to Universities

By SHANNON BLOSSER
Contributing Writer

With universities focused on multicultural and cultural-diversity requirements, a nationwide movement has grown to try to bring the traditional liberal arts and Western civilization back to academe. That's according to National Association of Scholars President Steve Balch.

Balch spoke at a recent Shaftesbury luncheon at the John Locke Foundation, where he discussed the joint release of a study with the Pope Center for Higher Education Policy. Among other things, the study, "How Solid is the Core?: A Study of General Education Requirements at 11 North Carolina Institutions," found that students in the University of North Carolina system are far more likely to be required to take a cultural diversity course than they are to study Western history or civilization or even introductory literature.

To bring about change to course curriculum may take some time, however, Balch said. To restore liberal arts education, people should begin by working within the universities to make improvements and build "islands of excellence" — particular programs ran by good faculty members that can recover for those students who are interested an opportunity to study serious subject matter."

Already, several institutions have recently opened programs that focus on studies of Western civilization of a more traditional form of a liberal arts education. Most include faculty and staff members working with fellows and others to discuss Western political thought or law among other ideals.

One of those programs is in the Triangle area. Duke University has what it calls the Gerst Program, which is

devoted to study Western civilization.

According to the Gerst Program's web site, the program "aims at fostering an understanding of the central importance of freedom for democratic government, moral responsibility, and economic and cultural life." The program includes a freshman "Focus Program" on "Visions of Freedom," which includes courses in political economy, English, philosophy, and history. The focus program involves 30 students who live together and take two of the four seminar courses in their first semester. The program also requires a writing course. The students meet weekly for dinner with faculty and a speech by a guest speaker.

Balch said the Gerst Program was an imaginative effort that is generating enthusiasm among Duke donors.

There are other programs that are similar to the Gerst Program. Those programs include one at Princeton University called the James Madison Program in American Ideals and Institutions. It promotes "a greater appreciation of the Western tradition of legal and political thought," according to the program's Web site. The James Madison program offers a Junior Fellows Forum for undergraduates to interact with the program's fellows. It also offers conferences, seminars and lectures.

The program has raised more than \$4.5 million in contributions, according to Balch.

Balch said the University of Colorado is close to opening a Center for the Study of Western Civilization as well, which will be similar to programs at Princeton and Duke.

"We can start from the outside building out to revive liberal education in our institutions," Balch said. "To do something wider than that means to essentially change the composition of the faculty in a wide scale. You can't begin there. There is no means to which that can be done with one stroke." CJ

Anti-War Protester Takes and Burns American Flag of College Republican at UNC-Chapel Hill

By SHANNON BLOSSER
Contributing Writer

Richard Bean was off to the distance near Lenoir Hall on Oct. 6 at University of North Carolina at Chapel Hill, talking with some friends, when he heard a commotion.

The commotion came from a few yards down the bricked-paved walkway near The Pit where College Republicans had set up a table to advertise candidates. With the group was Bean's large American flag, which he had purchased at the beginning of the school year.

At first, Bean, a student at UNC-Chapel Hill, thought a fight had broken out. Bean began to walk over to the table, where he noticed some of the members holding down a man, later identified as Kevin Sellers, a 40-year-old homeless man. Sellers had taken Bean's flag and set it ablaze. A corner of it had been destroyed before the College Republicans could put it out.

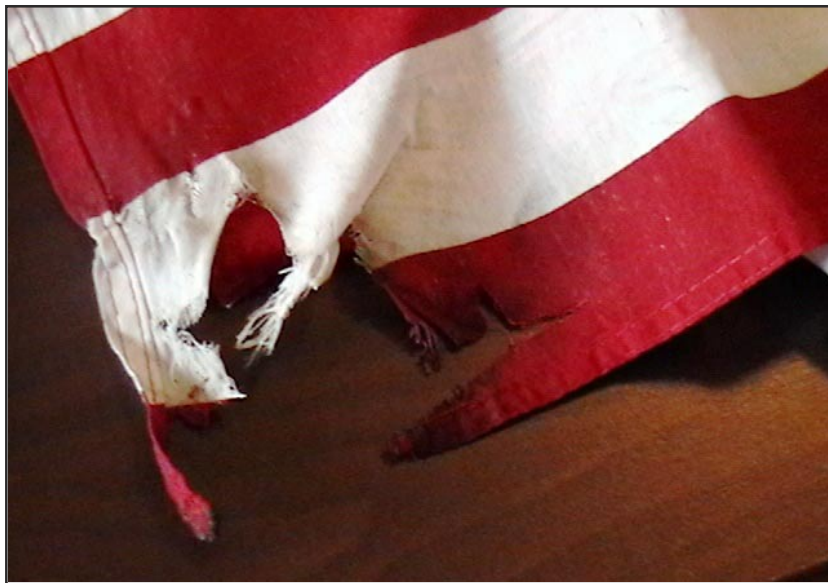
By the time he arrived at the table, Bean said, "the flag had already been burned."

According to reports, when he burned Bean's flag, Sellers harangued witnesses with a diatribe about the war and the draft. He was arrested and confessed to police to burning the flag. Sellers faces a felony charge of burning personal property. His next court appearance is scheduled for Nov. 18 in Orange County District Court.

"It doesn't surprise me on this campus," Bean said of the incident. "I was upset that he burned my flag. I respect his right to burn the flag. I don't respect his right to burn my flag. It wasn't about his right to free speech. It was about my personal property being burned."

The incident, he said, represented a growing problem at UNC-Chapel Hill where liberals are considered always right and conservatives are criticized for anything they do. "Chapel Hill is a community of liberal ideas," Bean said. "There is a dislike of anything conservative here."

Afterwards, Bean and the College Republicans were criticized in *The Daily Tar Heel*, in opinion columnist's Matt Compton's words, for "watch[ing] a man go to jail"



Damage to Richard Bean's American flag. (Photo: Blosser)

and "forfeit his right to vote" when Sellers burned Bean's flag.

Criticizing the Republicans for their fondness for the American flag, Compton cheered Sellers' action. "I finally saw one man stand up and announce to all those who could hear that he had as much claim to that flag as anyone else," he wrote.

Compton did acknowledge that, "in the eyes of the law, Sellers had no right to do what he did." Nevertheless, Sellers said things people "needed to hear," especially the College Republicans, Compton wrote.

Compton said the College Republicans have "become more and more small-minded, constantly spinning their message until they've become dizzy and disoriented." He accused them of "walking around with a siege mentality."

Bean has not decided what he will do with the flag. He wants to keep the flag and store it in a case, but has yet to find one to fit his flag. If he can't find a proper case, Bean said he plans to donate it to a local Boy Scout group so that Scouts can learn how to properly dispose of the flag, or he will give it to the UNC-Chapel Hill ROTC.

"It symbolizes to me all that is wrong with the extreme left of this college," Bean said. CJ

UNC Downplays Actual Harassment

Last week the U.S. Department of Education's Office of Civil Rights issued a ruling that a lecturer at the University of North Carolina at Chapel Hill had sexually and racially discriminated against, and harassed, a student in her class last fall. I repeat: the OCR found that, at UNC-CH, a teacher abused her authority to discriminate against and harass a student based on the student's race and sex.

The fact that this news did *not* preclude a deluge of civil-rights activists mugging for TV time on campus may be explained by the victim here being, in the words of his abusive teacher "a white, heterosexual, [c]hristian male."

The OCR did, in fact, exonerate UNC-CH for how it responded to the harassment by English lecturer Elyse Crystall. Nevertheless, there is something in UNC-CH's culture — not unique to UNC-CH, I would argue, but pervasive throughout academe — that made a lecturer like Crystall believe she was right to engage in sexual and racial discrimination and harassment. A wonderful example of that pervasive environment appeared in a Sept. 30 letter to the editor of *The Daily Tar Heel*.

Written by UNC-CH Faculty Council Chairman Judith Wegner, the letter bore the headline "Professor's conduct was inexcusable, unprofessional."

At last, one would think upon reading that headline, *the faculty respond properly to Crystall's actions*. Several quotations are right on the money:

- "Professors have ethical obligations to their students. We are duty-bound to teach knowledgeably, respectfully and effectively. We also function as role models whose actions have powerful symbolic significance."

- "It's not a question of First Amendment rights ... It's about impeding student learning, burdening their growing self-concept as scientists and undercutting their joyful struggle to engage in new ideas and challenges—whatever their gender, viewpoint or personal attributes."

- "It's about being an ethical professional"
- "It's about cleaning up messes caused by behavior that can't be justified, explained or excused."

But it turns out Wegner wasn't writing about Crystall. Her letter was about a chemistry professor, Malcolm Forbes, who allowed his home to be used as a site for a *Playboy* magazine "Girls of the ACC" photo shoot.

If Wegner can find dire ramifications to the classroom when a professor opens his home to students volunteering to pose for *Playboy*, then what has she to say about a lecturer *using the classroom* to subject a student of hers *involuntarily* to racial and sexual discrimination and harassment? Hardly anything, it turns out, and nothing approaching her ire here.

In the *Durham Herald-Sun* Sept. 22, she said, "The teacher made a mistake." In *The Daily Tar Heel* Sept. 23, she said, "People make mistakes." In *The News & Observer* Sept. 23, she said, "Teachers can make mistakes, and so can other people, so I think there have been some lessons learned."

A pervasive ideology that finds a professor's actions in his home "inexcusable" and something that "can't be justified, explained or excused," but that easily excuses away racial and sexual discrimination and harassment when the victim is "a white, heterosexual, [c]hristian male" is what enables such discrimination and harassment. Crystall is still teaching at UNC-CH, showing how unconcerned UNC-CH is by her actions. The lack of response on campus to the OCR report — other than to crow about how the institution was exonerated — shows how far removed it is from the realization that what Crystall did to her student was atrocious, execrable, and offensive.

Yes, UNC-CH did the right things administratively after learning of Crystall's deeds. Now it's time it did something about the enabling mindset behind them. CJ



Jon Sanders

Bats in the Belltower

We Must Act to Stop Conservatives From Saying We Want to Stop Them

Before the Pope Center for Higher Education Policy's conference on academic freedom, held at the McKimmon Center of N.C. State University, the following e-mail was sent to N.C. State faculty in the College of Humanities and Social Sciences (the full text of this e-mail is at www.popecenter.org/features/article.html?id=1453):

Dear CHASS Faculty:

Dean Linda Brady met with CHASS faculty senators today to start thinking about how we can all best communicate with one another and with you about issues of importance to our college. ... The most critical issue before us this month is the arrival of conservative activist David Horowitz on campus for a day-long conference tomorrow. ... Horowitz, who founded Students for Academic Freedom more than a year ago, is the leader of a movement claiming that universities are overwhelmingly dominated by a liberal ideology, that conservative students and faculty are being harmed and punished for their views, and that universities and colleges should voluntarily adopt measures to correct this imbalance. If they do not, Horowitz and others say, universities and colleges should have such measures imposed upon them — either by university boards of trustees, or by state or national legislation. Georgia State Senate passed a non-binding resolution using the language of the Academic Bill of Rights; university administrators in Colorado adopted the provisions voluntarily in exchange for having the bill pulled out of the legislature there; it is in committee in the U.S. House of Representatives.

A number of us on Faculty Senate have good reason to believe that the Pope Center for Higher Education, a self-appointed watch dog over higher education in North Carolina, is planning to introduce a bill very similar to Horowitz's into the state General Assembly. The Pope Center is sponsoring Horowitz, among others, at its day-long conference tomorrow (Oct. 16) at the McKimmon Center, entitled "Freedom and the American Campus." If you visit the Pope Center's website at <http://www.popecenter.org>, you'll be able to read at greater length the general philosophies behind the Pope Center's support of Horowitz and others, as well as view the speakers and topics featured at this conference.

The Faculty Senate had already started to play an active role in ensuring that if this "Academic Bill of Rights" is introduced in North Carolina, it does not go far. Tuesday, Oct. 5, it passed a resolution on Academic Freedom. ...

The carefully chosen language of Horowitz's Academic Bill of Rights does not fully expose the agenda behind it. If you visit Students for Academic Freedom ... you will more fully understand the bill's mission. SAF's motto is "You can't get a good education if they're only telling you half the story." ...

We should note here that the University of North Carolina Board of Governors' code on academic freedom includes protection of students specifically in its wording.

The American Association of University Professors, which has fought consistently and hard against this bill, has also

consistently held that academic freedom can be maintained only so long as faculty remain autonomous and self-governing. Notes the AAUP: "We do not mean to imply, of course, that academic professionals never make mistakes or act in improper or unethical ways. But the AAUP has long stood for the proposition that violations of professional standards, like the principles of neutrality or nonindoctrination, are best remedied by the supervision of faculty peers."

By repudiating this basic concept of faculty autonomy, the Academic Bill of Rights alters the principles of neutrality and nonindoctrination in ways that contradict academic freedom as advanced in standards and practices that the AAUP has long endorsed. Horowitz's bill even demands that professional societies — not under the control of state legislatures — "should maintain a posture of organizational neutrality with respect to the substantive disagreements that divide researchers on questions within, or outside, their fields of inquiry."

The oft-stated reason for the need for this bill is that conservative students are being abused or indoctrinated by university professors and administrators. This charge has been vastly exaggerated for political gain. ...

It is the responsibility of the faculty, in cooperation with administration, to ensure compliance with professional standards. No one is claiming here that abuses do not ever occur. The question is who is best able to set standards and follow through. ...

Courses and curriculum go through a lengthy process of review and transformation within the university system. While we should not pretend that every single course meets our own personal view of what is a worthy object of study, it is the scholarly peer process that should reign — not intervention by a small minority of outsiders bent on controlling and transforming the university system. Of course, this is the real agenda — imposing political litmus tests on course content.

A final charge launched is that the university is dominated by liberals, and that conservative professors are either not hired, or actively punished for their views during the promotion and tenure process. Our system of hiring and tenuring faculty, while never perfect, is complex and multifaceted. Research productivity and quality, teaching ability, and departmental needs, emphases and visions are only a few of a multitude of factors that go into the hiring process. The promotion and tenure process is even more complex. ...

To conclude, we all look forward to a robust and multifaceted conversation on these issues. We believe that the true principles of academic freedom will ultimately be victorious. But we as faculty need to take action in what is sure to be a struggle over the future of higher education.

Best,
Cat Warren
CHASS Faculty Senator
Assoc. Prof., Department of English
Director of Women's and Gender Studies

cj

The Secret Is Out — N.C. State Announces Its New Chancellor

By SHANNON BLOSSER
Contributing Writer

CHAPEL HILL

After a search marked by secrecy, North Carolina State University has a new chancellor — someone who is familiar with the institution.

Dr. James Oblinger, 58, who has served at NC State for nearly 20 years — including most recently as the school's provost since May 2003 — was named the school's 13th chancellor. Oblinger replaces Marye Anne Fox, who resigned to take a similar position at the University of California at San Diego. Oblinger will officially take over as chancellor on Jan. 1.

After being selected, Oblinger spoke of N.C. State's "unique place in the history, quality of life and economic development of North Carolina. N.C. State takes seriously the public's trust and our role in addressing the relevant needs of the state," he said.

Oblinger was promoted following a five-month search for a new chancellor and debate over how much money to pay the new chancellor. Members of the University of North Carolina Board of Governors approved Oblinger's nomination during the

board's October meeting.

"During nearly two decades of service to NC State University, Jim Oblinger has developed a deep understanding of the institution, its special relationship with the citizens of this state, and its vast potential for even greater service to the state and the nation," UNC President Molly Corbett Broad said.

"While rising through the administrative ranks from associate dean to chief academic officer, he has proven himself to be a collaborative, consultative leader, one who has earned the trust and respect of his colleagues, the students, and other key campus constituencies."

Oblinger began his career at the University of Florida in 1972 as a food microbiologist and assistant professor of food science and human nutrition. He left the college in 1984

to become the University of Missouri-Columbia's associate dean and director of resident instruction in the College of Agriculture. Oblinger joined NC State in 1986, taking a similar position.

Since joining NC State, Oblinger had served as dean of the College of Agriculture and Life Sciences and executive director of agriculture programs.



Dr. James Oblinger

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Addressing the state of the university

How UNC-Chapel Hill Could Show Real Leadership Among UniversitiesBy **GEORGE C. LEEF**
Contributing Editor

On Sept. 29, UNC-Chapel Hill Chancellor James Moeser delivered his State of the University Address. Throughout his speech, Moeser talked repeatedly about the importance of the university showing leadership. Leadership would be indeed a splendid thing if it were in the areas central to the university's educational mission.

Unfortunately, the leadership that Moeser wanted to discuss had little to do with the teaching of students. No, the leadership Moeser has in mind is of a different sort — a variety of programs in initiatives that are supposed to benefit the state as a whole. For example, he wants the university to lead by creating jobs and expanding the state's tax base. Toward that end, UNC has created an Office of Economic and Business Development.

The OEBD is supposed to improve the ability of entrepreneurs and business managers to invest and expand in the state by "matching faculty and campus resources with statewide needs."

Sounds nice, but chambers of commerce around North Carolina are already quite adept at providing businesses with assistance, and to the extent that UNC might have faculty members or information that could be valuable, people in business already have both the means and motive to search for what they need. How much business growth will occur because of the OEBD that otherwise wouldn't have happened? My guess is extremely little.

What we have at UNC (and also at many other big universities) is a case of mission creep. That is, taking on functions that are outside their responsibility. Businesses that behave that way, diversifying into many different markets outside of the one where they're very good, often wind

up being mediocre to poor in everything. A university that succumbs to the temptation to expand into areas other than education is apt to have the same result.

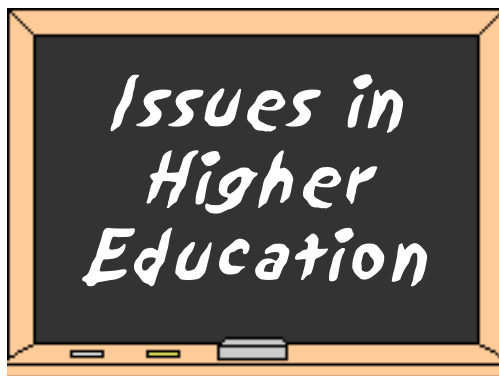
Instead of trying to expand the state's economy or deal with other problems that are outside its core mission, UNC should take leadership in something that is at the absolute heart of its reason for existence — ensuring that students make significant gains in the skills and knowledge they will need when they enter the world of work.

Wait a minute — if students are able to earn enough credits to graduate, doesn't that pretty well show that they have learned a lot? Not necessarily. An increasingly common complaint among professionals and business managers is that many college graduates they hire are weak in some crucial respects.

The most important of those is writing. If they can't write clearly, they're going to encounter difficulty in a wide array of jobs. But as a recent report by the National Commission on Writing found, there is considerable dissatisfaction in the business community with the writing ability of college graduates.

Here's a typical comment. "Recent graduates aren't even aware when things are wrong (singular/plural agreement, run-on sentences, and the like). I'm amazed they got through college."

The problem is that at many colleges, students are infrequently given written assignments, and when they are, the work is not rigorously critiqued and graded. Consequently, many students enter with poor



writing skills and graduate without having made much improvement.

Since just earning a bachelor of arts degree no longer signifies much by itself, I think it's time for UNC to lead by coming up with a way of demonstrat-

ing academic value gained by students. What I have in mind is an exam to assess student abilities in such universally important areas as language skills, reasoning, and mathematics, given to incoming freshmen and graduating seniors. That would give us a before-and-after picture of student capabilities.

Testing for success

Doing well on the exam would be an added competitive advantage for UNC students — provided that the exam was written and administered in a fashion that inspired confidence in it. A strong set of scores would say to potential employers, "This student will be a good asset and you won't need to spend additional money on training."

Furthermore, with the inducement of getting a stronger graduation score, students would probably tend to take courses that they think would augment their writing and thinking abilities, rather than, as some students admit to doing, just looking for courses that are relatively easy and fun. Useful learning would become more highly valued and fluff courses would become less attractive to students.

If UNC were to take this step, it would most likely spread quickly to other universities. Graduates with solid proof of their

intellectual capabilities would have an advantage over students with nothing more than a bachelor's degree. Wanting to provide their students with similar evidence of readiness for employment, other schools would follow UNC's lead.

This exam would also be of great use within UNC. Suppose that the first few years of the exam showed that many students were not progressing much in the areas covered. That ought to provoke a reaction, such as a directive from the chancellor to the deans telling them that they should do more to improve student writing, or wherever the weaknesses were most notable.

The exam would also make it possible for the administration and students to see which programs within the university tended to promote the strongest gains and which ones were weak. Knowing that could influence students in their choice of major.

UNC (and other colleges and universities) have been acting like businesses operating without any quality-control procedures. Their "outputs" — graduates — get a stamp of approval just because they've made it through the system. That was adequate 50 years ago when getting into college was hard and staying in required considerable perseverance, but at a time when higher education has become a mass consumer product, we need to institute some means of educational quality assurance.

In his book *How to Succeed in School Without Really Learning*, Professor David Labaree writes that college degrees have become merely a credential to many students. "The payoff for a particular credential is the same no matter how it was acquired, so it is rational behavior to try to strike a good bargain, to work at gaining a diploma, like a car, at a substantial discount."

If UNC could defeat credential mania, that would be leadership I'd applaud. *CL*



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Town and Country

Durham party houses decried

Loud parties and trash-strewn yards long have been a fact of life in many Durham neighborhoods where groups of college students pool money to rent a house.

Now some people see a little-used city regulation as a potential solution, the *Herald-Sun* of Durham reported. It's called the maximum-occupancy ordinance, and it says no more than three unrelated people may live in a residence zoned for single-family homes.

The ordinance is a tool residents sometimes use when calling the police or holding an old-fashioned, neighbor-to-neighbor powwow fails to solve a problem, says City-County Planning Director Frank Duke. People caught violating the ordinance usually move out to avoid fines.

That's why the ordinance is particularly appealing to some residents in neighborhoods surrounding Duke University's East Campus, said Trinity Heights resident Chris McLaughlin.

"To me it's one of the few tools we have left that might be successful at attacking the root problem of these party houses, and that is that landlords are making a profit from this kind of behavior," McLaughlin said.

The problem, officials say, is the ordinance is hard to enforce.

In order to cite violators, the city must have a legal document showing more than three people are living in a home.

"I can't just go in and cite someone because someone says they've got more than three people living there," Frank Duke said.

The ordinance has been in place since at least 1979, which is as far back as Frank Duke has been able to track it. He says only two citations have been written during his nearly three years as director.

One was issued recently to five students living in a house at 708 Buchanan Blvd.

Town delays zoning permits

Developers will have to wait until February to get permission to build large projects inside Summerfield limits, the town council has ruled, according to the *News-Record* of Greensboro.

Council members voted 4-0 to enact a building moratorium on certain types of development, mostly large-scale developments and projects that would require changes to the town's ordinances.

Summerfield Mayor Dena Barnes told those gathered at a town council meeting that the moratorium was meant to give the town's new planning staff a chance to take over duties from Guilford County planners. The county planning department has been providing planning services for the town, but Summerfield is establishing its own department.

The moratorium will also give the town time to revise its zoning ordinance.

The moratorium does not apply to new developments of four houses or fewer, small business developments under certain size limits, government projects, and most kinds of revisions to plans that have already been approved. CJ

Alamance County Passes Up 'Gold Mine'

Privately operated landfill would have generated loads of revenue, officials say

By DONNA MARTINEZ

Associate Editor

RALEIGH

Coming to pressure from environmental activists, the Alamance County Board of Commissioners has rescinded its initial approval and is prohibiting its county manager from investigating a public-private partnership that could create a multimillion-dollar revenue stream for the county by turning its solid-waste landfill into a regional operation. Just weeks after giving its unanimous approval, only retiring Chairman John Patterson supported County Manager David Cheek's recommendation to pursue interest by four waste management companies in operating the Austin Quarter Landfill near Saxapahaw.

The 4-1 vote in September all but guaranteed Alamance County residents will be hit with multiple property tax rate increases over the next several years as the county struggles to fund public services supported by residents and commissioners. The policy turnabout capped a contentious period that began in August when commissioners gave Cheek's office the go-ahead to look into regionalizing and privatizing the landfill. But when opposition surfaced, primarily from the Coalition for Environmental Responsibility & Education through Synergy (CERES), Patterson said commissioners got nervous, especially those running for re-election.

"I don't think they realized how much vocal opposition there would be," he said. As a result, rate increases are inevitable, Patterson said, something he tried to avoid by looking at the landfill opportunity. "We had a real gold mine there," he said. "I wish I knew how many millions we just passed up."

County must pay somehow

So does Cheek, but he said it's nothing more than speculation now that the idea is off limits. What he does know is that the county faces a long list of expenses: student population growth, a \$36 million school bond referendum on the November ballot, the construction of a \$10 million jail, and a Medicaid burden that is trending up. "My motives for wanting to push this idea were purely business, financial motives to help fund government and some of the services that citizens keep demanding but yet don't want to pay for," he said.

Property taxes account for 50 percent of the county budget and Cheek said the tax rate is the only item the county can move up or down to significantly affect resources. The current rate is 51 cents per \$100. He anticipates a 4-cent jump before fiscal 2006-2007 unless other revenue is secured.

Cheek has tried to keep the county's property tax rate low. In fiscal 2001-2002, it was 52.5 cents per \$100. The next year, it was lowered to 42 cents to keep it revenue-neutral after a property revaluation. But in fiscal 2003-2004, the rate was increased to 50 cents per \$100, in part to make up for \$3.5 million in local reimbursements withheld from the county by Gov. Mike Easley. Cheek anticipates the rate will jump to at least 52 cents in 2005-2006 to make debt payments on a new 240-bed jail.

If the school bond passes, it will force an additional half-cent jump, he said, pushing the rate to 52.5. Cheek projects fiscal 2006-2007 will likely see another increase of 2.5 cents for school bond expenses and correctional officers at the jail, scheduled to be completed in 2006.

Despite the commissioners' decision,



A truck dumps its trash at the Alamance County Health Department's landfill.

Cheek continues to look for other cash sources. For example, he hopes to lease unused beds in the new jail to other agencies.

He regrets not being able to pursue landfill options but said he understands his job is to implement board policy. That means sticking with a county-owned and county-operated facility, which employs nine and receives about 100,000 tons of trash per year.

The county generates \$3.6 million in landfill revenue annually and, after expenses, nets \$400,000, which goes into a fund for future costs related to closure and post-closure of the facility. Yearly operational expenses include \$860,000 paid to Santek Environmental Inc, which uses its equipment and employees to compact and cover the trash.

Cheek is convinced the county could produce more profit by being creative and working with a private firm to fill the need for a regional landfill. In addition to four companies that recently expressed interest, Santek inquired in 2001 about expanding its relationship with the county, but information presented to commissioners went nowhere.

"Citizens came out of the woodwork as they did two months ago," said Cheryl Dunson, vice president of marketing for Santek. She said the firm's 2001 proposal would have reduced the county's expenses by more than \$11 million over 10 years and, eventually, provided as much as \$4.1 million per year back to the county.

Santek would have accomplished that, Dunson said, by marketing the landfill to haulers, accepting trash from outside the county, and sharing revenues with the county. "There was a lot of misconception at the time," she said. "The public perceived the county to be losing control of the landfill, but the county would have owned it."

Sampson County's example

Cheek points to Sampson County as the model he used as his recent guide to Alamance County's potential. Sampson's regional landfill is owned and operated by Waste Industries and generates about \$1.3 million per year in host fees for the county, said Susan Holder, assistant county manager.

That cash has allowed officials to pay down debt, improve community college facilities, reduce proposed property tax rate

increases, provide residents free access to the landfill, and pay for regulatory costs for monitoring the landfill when it closes in 30 to 40 years. She said the county also benefits from taxes paid by Waste Industries employees and on the vehicles used by firms associated with the landfill's operation.

Holder said there was opposition from residents in 1992 when Sampson officials signed the agreement with what was then BFI, but some were supportive once they understood the services the regional landfill would fund.

Today, the landfill is well-manicured and attracts little attention. "If you didn't know it was a landfill, you wouldn't know it when you drive by," she said.

Lined landfills go unnoticed

That's the irony of the not-in-my-backyard mentality, said Chris Roof, general manager of MRR Southern, a Raleigh firm specializing in construction and demolition landfills.

"Public chaos is created because of perceptions of old town dumps. That's not the case," he said, noting that EPA regulations govern lined landfills.

He likens their design and safeguards to "dry entombment." They don't attract attention, he said, explaining that a northern Wake County landfill was established when the area was undeveloped but its neighbors now include schools and homes.

Roof experienced the NIMBY phenomenon firsthand when his company proposed a municipal solid-waste landfill to Lee County officials in the spring of 2003. Public opposition was stiff.

Accusations flew about groundwater contamination and out-of-control truck traffic. Things got so politically charged that Roof rescinded the application later that year. "It would have been an excellent opportunity," he said.

That sentiment represents more than his opinion; the law of supply and demand is at work. The state's annual report on solid waste management for fiscal 2002-2003 notes that while North Carolina has 41 operational municipal solid-waste landfills, much of the capacity "is not widely available due to permit conditions, franchise arrangements, political decisions, and distance."

"We're handcuffed by local government," Roof said. CJ



The Charlotte Knights are seeking money from local government to move from Fort Mill, S.C. to Charlotte proper.

Developer, arts, baseball seek support

Special Projects Seek Charlotte's Help

By MICHAEL LOWREY

Associate Editor

CHARLOTTE
Running a city of 600,000 people is a big-budget enterprise. Yet even by the standards of North Carolina's largest city and county, Charlotte and Mecklenburg County have recently faced a large number of requests for assistance in financing high-visibility projects. Developers, local arts groups, and the city's minor league baseball team have recently proposed a combined \$160 million in public funds for various projects.

Too successful to shop

The situation Charlotte faces is different from what many communities today are experiencing. Charlotte is a rapidly growing city featuring a vibrant central business district, completely with an ever-increasing number of skyscrapers. Tens of thousands of workers commute on a daily basis into uptown Charlotte. The streets are even increasingly lively after hours, and a number of successful bars, clubs, and restaurants operate in the area.

Perhaps the most obvious signs of success are the high land values in and around downtown Charlotte. Paradoxically, this is also perceived as a problem. The high land prices, as compared to more outlying areas, have made downtown Charlotte unattractive for retail development.

As Wachovia economist Mark Vitner said to *The Charlotte Observer*, "If you simply try to recreate a suburban shopping experience in a downtown area, that's doomed to fail."

And Charlotte's vision of itself, or at least the vision of those Charlotteans that guide public policy, most definitely includes stores located near uptown. To address this perceived shortcoming, both the city and county have been willing to make deals with developers.

Earlier this year, the city and county reached an agreement with Spectrum Properties on a plan to convert the city's old convention center into a retail and entertainment hub, featuring among other attractions, a movie theater. The public contribution over time may approach \$7 million, although the project would have to succeed for Spectrum to get nearly half the funds. Spectrum had originally requested the city provide \$4.8 million in infrastructure improvements, \$420,000 a year in city money for 10 years to subsidize parking, and a deferral on property taxes.

Putting the old convention center to some productive use was a long time in coming. The building has sat unused since 1995. The city's previously attempt at selling the building in 2000 fell through when the developer the city selected was unable to fund the project.

City and county leaders are reviewing a proposal for \$17 million in tax breaks over 10 years for a separate project to redevelop Midtown Square, an old shopping mall near downtown Charlotte. The core tenants would be a Home Depot EXPO Design Center and a Target store. A second phase of the project would add additional retail and office space plus a mid-rise condominium complex.

Under the proposal, 90 percent of the tax revenue generated by the project would be go back to the developers.

And the arts and sports...

While the money developers are seeking is substantial, even greater requests for public funds have come from arts and sports groups. Previous city decisions mean that any funding, even to improve existing city-owned facilities, would likely result in a tax or fee increase of some sort.

The critical event was Charlotte's attempt to keep a National Basketball Association franchise. By the late 1990s, the owner of the Charlotte Hornets was unhappy with the team's home at the Charlotte Coliseum and was considering moving elsewhere. In a last-ditch effort to keep the team, the city put to a referendum a plan to build a new arena, a new stadium for the Charlotte Knights minor league baseball team, and fund five arts-related capital projects. Bundling the disparate elements together was widely regarded as a means of gaining support for its largest and least popular element, the arena. Funding would come from the city's hotel-motel taxes and new car-rental and ticket taxes.

The referendum failed and soon thereafter the Hornets were on their way to New Orleans. The NBA, however, agreed to award Charlotte an expansion franchise, contingent upon the city contributing heavily toward a new arena. To pay for the new building, Charlotte City Council voted to borrowed money against the entirety of the city's future hotel-motel tax receipts.

Not discussed at the time was how — or even if — the city should fund future tourism-related projects, given that the traditional and most logical funding source had been fully committed for the foreseeable future.

In May, the proverbial other shoe dropped. The Arts and Science Council, an umbrella agency for Charlotte's arts groups, presented the city with its visions for the future. The plan came to \$190 million, with \$88 million from private sources, \$88 million to come from the city, and the county asked to contribute land worth \$14 million. While some of the special proposals, such as remodeling the Discovery Place science museum, were part of the arena bundle, others were new.

The city has formed a committee to examine the request and identify potential funding sources.

The other party to the arena bundle, the Charlotte Knights class AAA baseball team, has also made numerous requests for public money. Despite their name, the Knights actually play across the state line in Fort Mill, S.C. The team averaged only 4,081 fans per game this past session, the second lowest attendance in the 14-team International League. Not surprisingly, the team's owners have decided that their revenue stream would be enhanced if they could move into Charlotte proper. Since 2000, the team has regularly forwarded proposals to both the city and county seeking public dollars to help with a new, in-town, ballpark. The Knight's latest proposal would have them pay half the \$34 million cost of the new park proper, with local government providing both the land and covering the other half of the construction cost. The club's previous proposal had the team contributing about \$5 million. Though the county has agreed to look at the proposal, the club's previous proposals have not generated much public attention or support, making public funding likely a long shot. *cl*

Localities Grow, Freedom Withers

While I was watching the vice presidential debate the other night the subject of poverty in Cleveland, Ohio came up. Cleveland was recently declared as the most poverty-stricken large city in the nation by the U.S. Census Bureau. It was followed by Newark, N.J. and Detroit. Apparently, poverty was one of the few subjects that both Vice President Dick Cheney and Democratic vice presidential candidate John Edwards agreed upon. As my mind raced, I started thinking back to earlier research I had done on tax increment financing and then it hit me, "If tax increment financing (Amendment One) as proposed is such a good idea, then how could Cleveland possibly be this bad off?"

You see, the following quote came from a press release in April from Cleveland, "This streetscape project will help to revitalize our downtown," said Mayor Jane Campbell. "It's also unique because we're using tax increment financing to make these necessary streetscape improvements." Cleveland is no stranger to this form of financing, and it would do us well to look back at what has happened there to understand why Amendment One is bad for North Carolina.

There are many similarities between the Cleveland of the early 1980s and North Carolina today. Cleveland was devastated economically when the steel industry dried up and manufacturing losses hit the area hard, not unlike what has happened here with our manufacturing losses of recent years.

Cleveland's response to the losses was to begin a host of tax increment financing districts to "spur economic development." The same strategy employed to push TIF financing districts in Cleveland is being used here to pass Amendment One. Some examples used in Cleveland are the Third Federal S&L project, the Colonial Market Place, The Old Arcade, the Lee Harvard Shopping Center, and the Shaker Square Shopping District.

All required millions of dollars in tax increment financing. The results, however, were not good. The city recently laid off hundreds of police officers and firefighters and reduced trash pickup to save money. Cleveland officials are even pushing a \$68 million bond for education.

This is a city that relied on the belief that tax increment financing would "provide jobs and usher in new economic development." Cleveland officials did so at their own peril, and they are still using this tool even more aggressively now as they seek another \$2.9 million for the new Superior Avenue Streetscape project. Incidentally, Cleveland's unemployment rate now tops 12.2 percent, more than double the national average.

Amendment One allows local politicians to sell bonds and borrow money without taxpayer approval. Study after study has concluded that this creates a situation where taxpayers will ultimately subsidize the services provided in the new Tax Increment District. But this is a dangerous political season, in which the No. 1 issue in North Carolina is jobs, and Amendment One proponents are taking advantage of this to falsely argue that this new form of government debt, unlike all others, will create additional employment opportunities.

The fact is that every one of the top 10 most-impooverished cities in the United States use tax increment financing. Newark and Detroit, Nos. 2 and 3, respectively, on the poverty list, have extensive TIFs for economic development and have both borrowed their way into poverty.

New economic development is necessary in North Carolina. The way to bring about this development is to foster entrepreneurship with lower taxes and reduced regulations. What we don't need are more ways for government to borrow money. *cl*



Chad Adams

Local Innovation Bulletin Board

'Smart Growth' Study Flawed

An Environmental Protection Agency report offered, what it said, was evidence of the benefits of "smart growth" communities—less congestion and less pollution. However, complaints from another government agency over the accuracy of the report forced the EPA to retract its findings.

According to researchers Wendell Cox and Ronald D. Utt, the report compared urban areas that have promoted smart-growth practices—such as high-density housing, pedestrian-friendly streets, and mass transit—with "control group" cities (those that are auto-oriented and low-density).

The report concluded that three smart-growth cities—Philadelphia, Pittsburgh, and New Orleans—had less traffic congestion and more transit ridership than control-group cities such as Houston, St. Louis, and Charlotte, however:

The EPA failed to mention that the three smart-growth cities selected have higher unemployment rates than the control-group cities; for example, Charlotte has 20 percent more employment per 1,000 people than does New Orleans.

Also, the populations of the smart-growth cities have declined since the 1990s: Philadelphia, 4.3 percent; Pittsburgh, 9.5 percent; and New Orleans, 2.5 percent.

The EPA report also left out one of the most controversial smart-growth cities—Portland, Ore., which has the worst traffic congestion of any metropolitan city its size.

The report selected smart-growth cities that generally had stagnant economies and population declines. Such characteristics obviously have an impact on reducing congestion, because fewer people travel to and from jobs, Cox and Utt said.

Reported by the Heritage Foundation.

Urban hardship down

Urban hardship dropped by nearly 75 percent in the nation's largest cities between 1970 and 2000, according to a study by the Nelson Rockefeller Institute.

The study analyzed 55 metropolitan areas with respect to unemployment, dependency, education, income level, poverty, and housing conditions from 1970 to 2004. Using this data, researchers composed a hardship index, where a score of 100

represents the worst conditions. The authors found more than 36 percent "improved" their hardship levels over the last three decades. Another 38 percent "greatly improved" their hardship index score by 20 percent or more. Only 18 percent of cities, or fewer than one in five, either "declined" or "strongly declined" in signs of economic prosperity during the three-decade study period.

The three North Carolina cities in the study, Raleigh, Charlotte, and Greensboro, all were among the seven cities with the least hardship in 2000.

The researchers say the cities with lowest hardship benefited from having elastic city boundaries, an ability to cap-

ture a moderate share of metropolitan-area population, comparatively high levels of newer housing, and less-intense pressures from high rates of racial segregation, poverty, limited education, and unemployment than other cities.

Wildlife birth control

As land becomes more developed, wildlife populations are mingling with people and infrastructure, the *New York Times* says. Florida's monk parakeets, which are believed to number up to half a million, are nesting on the infrastructures of power grids, which creates power outages, fires, and dangers to electrical workers. Canada geese number at about 3.5 million in the United States; their numbers have increased an average of 14 percent per year along the Atlantic Coast.

However, the killing of wildlife through hunting or humane methods (such as gassing Canada geese) has drawn shrill protests, so researchers are developing alternatives to prevent animals from multiplying. Among them:

- The human cholesterol-lowering drug diazepam has been found to prevent birds from reproducing by reducing the cholesterol necessary for producing birds' reproductive hormones.

- Nicarbazin is being tested on Canada geese. The drug prevents egg hatching by affecting yolk membranes.

- A vaccine known as PZP has been effective in horses by preventing sperm from fertilizing an egg.

The techniques are not without challenges, however. Researchers are still trying to determine the proper doses to administer, and the vaccine PZP requires two shots, meaning that animals must be captured twice.

Eminent domain

For years, governments have taken private lands with almost no thought to constitutional limits or the injustice of their acts. The nation's highest court may soon bring this to an end, the *Investors Business Daily* reports.

The Supreme Court recently agreed to take *Kelo v. New London*, the case of a group of working-class homeowners who are fighting the city of New London, Conn., which has plans to demolish their houses to make way for a private development.

The Institute for Justice documented more than 10,000 cases between 1998 and 2002 of governments abusing the power of eminent domain. That power was intended at the birth of the United States to let authorities condemn private property for public—not private—use, but not without the just compensation required by the Fifth Amendment.

Should the appropriate ruling be made, governments' habit of taking property for use by other private interests is likely to be halted. There would be no more cases like the one in New London, where the city has tried to seize homes to help a commercial development that officials favor because it would generate more tax revenues. CJ

The EPA failed to mention that the smart-growth cities selected have higher unemployment rates than the control-group cities.

From Cherokee to Currituck

Cabarrus County Quadruples Fee For New-Home Construction

By MICHAEL LOWREY

Associate Editor

CHARLOTTE

One of North Carolina's fastest growing counties is quadrupling its home-building fee. The move by Cabarrus County is an effort to generate additional revenue to pay for additional school construction and limit growth.

"We do not have an option as a county whether or not we fund school construction," County Commissioner Bob Carruth said to *The Charlotte Observer*. "We cannot put kids in tents."

The action by the county Sept. 20 raises the per-lot fee from \$1,008 to \$4,034. The fee will also automatically increase to account for additional school construction needs as they arise. The fee had been as low as \$500 as recently as August 2003.

The county is also considering imposing a \$1,331 fee per unit for new multifamily-housing construction.

The impact-fee increase was backed even by some conservatives on the county commission, who regarded the impact-fee increase as less objectionable than a raise in the property tax.

Cabarrus County's population was estimated to be 143,433 as of July 1, 2003, an increase of 12,370, or a 9.4 percent, over that of April 2000. Cabarrus ranks in the top 10 counties in the state in population growth since 2000 in both absolute and on a percentage basis.

While the most obvious impact of the higher fee would be to generate additional revenue for the county, it is also expected to reduce future home construction. By making new homes more expensive in the county, fewer people will be able to afford them. Starter homes should be especially hard-hit because the fee is charged per lot; the same payment is charged for a new \$100,000 house as it is for a new \$1 million home.

"When you put a \$4,000-to-\$5,000-increase on a home," said Richard Suggs, the only county commissioner to vote against the higher impact fee. "It puts a great percentage of people out of the market for buying homes."

"I think it will have an impact on affordable housing, for sure," interim Kannapolis City Manager Mike Legg said to *The Charlotte Observer*.

Speed-camera controversy

Within two months of their introduction, speed cameras are generating controversy in Charlotte, *The Charlotte Observer* reports. The flak comes from the cameras being employed in a manner different from what was generally described before they entered service this summer.

Charlotte recently obtained approval to experiment with cameras that photograph vehicles exceeding the speed limit. The cameras are installed in three specially equipped vans and are operated by police officers. The cops set the cameras to capture the license-plate numbers of vehicles that go a certain amount over the posted speed limit.

The penalty for being photographed going too fast is a \$50 fine; there is no effect on a driver's license or insurance.

Before the vans entered service, it was

widely reported that they could operate only along 14 specially marked corridors. In addition to permanent signs stating that the speed limit was "photo enforced" along these streets, the Charlotte-Mecklenburg Police Department would also put temporary signs up to notify drivers that a speed camera was ahead. Drivers would get 1,000-foot notices of the cameras. The presumption, including among elected officials, was that the mobile signs would give drivers enough time to slow down before a camera.

In actuality, there is nothing in state law that requires the temporary signs if drivers have notice through the permanent street signs. And while the Charlotte-Mecklenburg police have been using the mobile signs, officers have at times placed them 50 feet or less from the camera vans.

"If you're not speeding, you have nothing to worry about," Capt. Dave Haggist, who oversees the speed camera program, said to *The Charlotte Observer*.

Haggist has, however, reminded his officers of his previous order to place the portable signs at least 200 feet ahead of the vans.

Reidsville funds development group

Despite facing a difficult financial situation that forced it to lay off workers, Reidsville's town council voted, 4-3, to continue contributing to a public-private economic development agency in Rockingham County.

The Partnership for Economic and Tourism Development, as the agency is called, is a 2-year-old project that also receives funds from all other Rockingham County municipalities. Reidsville is donating \$37,000 to the group this fiscal year.

"We had to lay off eight human beings this past year, and now it sounds like our dollars are going to be used to hire someone with the partnership," Reidsville Mayor Jay Donecker said to *The News & Record* of Greensboro. Donecker is opposed to continuing to fund the partnership.

"When we lay people off and eliminate jobs, we have to have a higher standard for what we are going to fund," he said. Donecker argues that economic development is a county responsibility and that his town has already spent large sums recently on economic development.

The town did, however, place conditions on the funding. Reidsville wants to be represented on the partnership's executive committee.

While municipalities are represented on the group's full board of directors, the executive committee has a representative from each community. The representative may be a town council member or a private citizen.

Reidsville also wants to have some say in the wording of the group's bylaws, get monthly updates from the organization, and obtain a copy of its budget.

Lisa Perry, president of the partnership, described Reidsville's decision to the *News & Record* as "the right decision for Reidsville and the right decision for Rockingham County."

"Perhaps it indicates a more positive shift in the leadership in Reidsville," she told the newspaper. CJ

Alan Charles Kors: Double Standards in 'Academic Freedom'

By CAROLINA JOURNAL STAFF

RALEIGH

Alan Charles Kors is a professor of history at the University of Pennsylvania and is the cofounder and chairman of an organization called FIRE, the Foundation for Individual Rights in Education. Kors is a historian of 17th and 18th century ideas, the history of ideas, and is the editor-in-chief of the Oxford Encyclopedia of the Enlightenment. He's been involved in this debate about freedom and freedom of thought and expression on college campuses for many years.

Kors has fought for academic freedom since his arrival at the University of Pennsylvania. In 1993, he defended Eden Jacobowitz in the infamous "water buffalo case," which led to the writing of The Shadow University (1998) and to the foundation of FIRE, both with Harvey Silverglate. Kors has been elected four times to University and School Committees on Academic Freedom and Responsibility by his colleagues. He has received two awards for distinguished college teaching and numerous awards for his defense of academic freedom. He is a contributing editor of Reason magazine, and he has written and lectured widely on the assault upon liberty and freedom of conscience on America's campuses.

Last month the topic of freedom on college campuses was the theme of a conference sponsored by the Pope Center for Higher Education Policy. While Kors was in Raleigh for the conference, he was interviewed by Carolina Journal's John Hood.

Hood: Should we be worried about the status of the protection of freedom on college campuses today?

Kors: We should be profoundly worried about it. A nation that does not educate freedom will not long preserve it and will not even know when it has lost it.

Our colleges and universities are the scene of a ferocious assault upon freedom of speech, freedom of conscience, freedom of association, freedom of debate, diversity, of ideas.

Hood: Professor Kors, when people hear that and maybe they're not that — they're not on campuses every day and they're not involved in the debate, that statement that you just made sounds very jarring.

Isn't a college a place where kids go off and engage in too much freedom and there's too much weird things being expressed and college professors have freedom to teach whatever they want?

The popular perception may be very different from what you're describing.

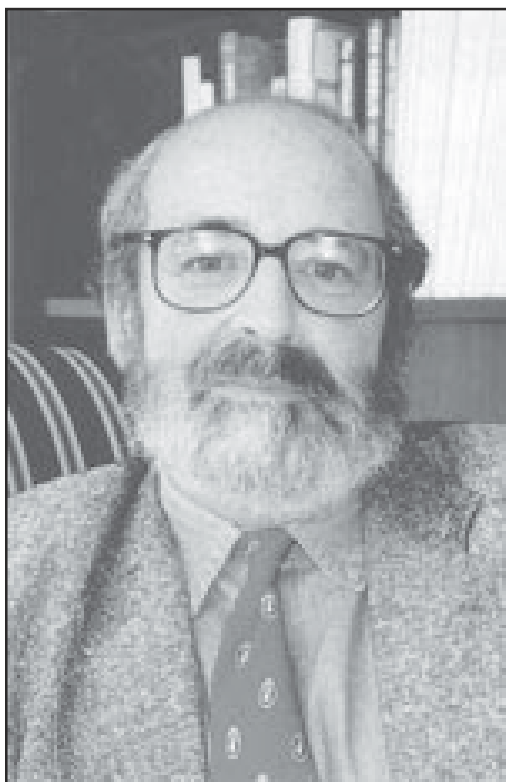
Kors: The generation of the 1960s that led the free speech movement, the late 1960s and secured adult status for themselves, that generation, now in power on college campuses, and seeing students who don't accept them as political and moral gurus and leaders, has decided to save American college students from American society. And they see themselves as having four years to undo the wickedness...

Hood: Oh now realistically it's five or six!

Kors: ...of American society.

So in the 60s the same people who said, "Don't trust anyone over 30" have changed that motto now that they are themselves in power, to "Don't trust anyone under 30."

On campus after campus we have moved from their free speech movement to speech codes that selectively and for partisan purposes, squash one-half of the debate and give some people sets of rights on campuses and other people almost no rights in terms of the sharp expression of their points of view.



Hood: What is a speech code? We ought to break this down a little bit.

Kors: In the beginning colleges sometimes put what they called speech codes into their student codes of conduct.

Now what they've done in the face of public criticism is to enact what they call harassment codes that have nothing to do with common law understandings of harassing other people, but rather protect people selectively from being offended.

And they will ban what they call verbal behavior or verbal conduct. Verbal behavior and verbal conduct means speech...

Hood: I'm not sure what else it could mean other than yodeling or something.

Kors: ...that offends, that offends people in protected categories: by race, by sex, by sexuality.

So we have at hundreds upon hundreds of American colleges and universities, speech codes that even when unchallenged at public universities, are manifestly unconstitutional.

And every time we've challenged, four so far, they have been found unconstitutional.

Hood: Because in a public university obviously the First Amendment protections apply.

Kors: Now a private university, as is true of any private voluntary association, may enact whatever rules within the law it chooses to follow. But it can't engage in false advertising and breach of contract.

What our private universities do is advertise academic freedom but then deliver selective censorship and repression.

On the FIRE website (www.thefire.org) we have a site you can go to called speechcodes.org that takes you through right now about 300 of our nation's leading colleges and universities, their codes. Redlight for schools that absolutely ban free speech, orange light for schools that if they applied their code they way it sounds, you would not have free speech, green light for schools that protect free speech. There are almost no green-light schools.

Hood: Out of 300?

Kors: Out of 300!

And what universities have in these harassment codes would truly startle people. A prohibition, a criminalization of — this is hundreds of schools — "sexist or heterosexual remarks or jokes."

There are schools that ban "any speech

"There are hundreds of campuses that ban speech that offends people on grounds of ethnicity or religion or sex or sexuality. And the criterion is, 'is someone offended?' Harassing speech is speech that makes someone feel harassed."

— Alan Charles Kors

that intentionally or unintentionally causes a loss of self-esteem."

Hood: You mean like that term paper you turned in wasn't good enough?

Kors: Well, your point is exactly on target. Honest criticism causes a loss of self-esteem.

There are hundreds of campuses that ban speech that offends people on grounds of ethnicity or religion or sex or sexuality. And the criterion is, is someone offended. Harassing speech is speech that makes someone feel harassed.

Now think about our colleges and universities. These codes could not exist for

one second without a double standard. The minute that a feminist professor was summoned to account for her harassment of male students because she stereotyped, one of the forbidden categories of harassment policy, she stereotyped male students, or a radical professor because he offended the children of veterans or indeed of people who gave their lives for their country or a culturally left professor who offended Catholic students in a class.

The moment that happened the whole faculty would be out with banners proclaiming free speech, academic freedom. Without the double standard these codes would not exist for one second. If I can give an example...

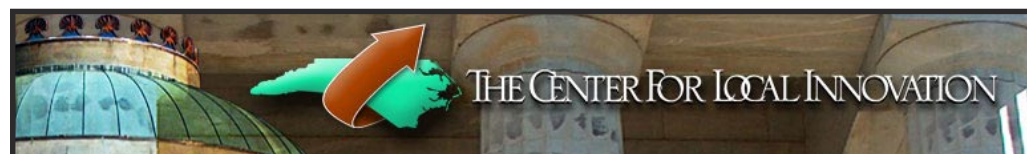
Hood: OK.

Kors: One of the most widely traveled and honored exhibits was a sculpture paid for by taxpayer dollars by Andre Serrano that was crucifix immersed in urine, in the artist's own urine.

When Christian students would invoke harassment codes and say nothing could be more offensive to us than this, universities replied, "But you're at a university! This is a place where we can't protect you from offense. This is a place of freedom and if you are offended then you have a right to engage in speech against something."

If you could imagine what would happen on American campuses if someone immersed a portrait of Martin Luther King, Jr. in urine, the university would close for days of conscience, heads would roll and sensitivity training would become mandatory.

But America is a country in which we take our chances with freedom and we do it with legal equality. cj



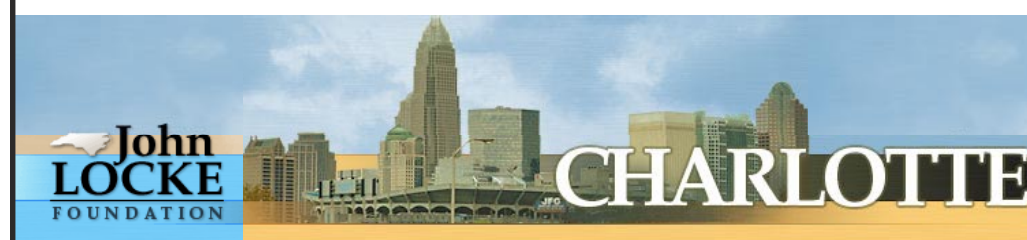
Attention City & County Officials

And others with a strong interest in local government issues

You now have some handy new ways to track the latest news, analysis, commentary, and policy research on city and county governance.

The Center for Local Innovation, a special project of the John Locke Foundation, has launched a new website: www.LocalInnovation.org. Updated daily with headlines, opinion columns, interviews, and links to new studies from a variety of sources, **LocalInnovation.org** is a great place to start your day if your interests include such issues as local taxes and budgets, land-use regulation, privatization and competition, transportation policy, annexation, and other local matters.

Also this summer, the John Locke Foundation unveiled the first in a series of specialized pages within www.JohnLocke.org devoted to regional news and issues in North Carolina. Its "JLF-Charlotte" page is regularly updated with original articles and links to other news and information about Charlotte, Mecklenburg, and surrounding cities and counties. In the future, similar pages will be devoted to the Triangle, the Triad, and other parts of North Carolina — so stay tuned!



From the Liberty Library

• The three vital, unanswered questions of the War on Terror, Richard Minter says, are: Where is Osama bin Laden?; Why hasn't there been another terrorist strike inside the United States since Sept. 11, 2001?; and Is President Bush winning the war? *Shadow War: The Untold Story of How Bush is Winning the War on Terror*, answers these questions, as it unfolds the 911 days after the attacks in New York and Washington, D.C., to the March 11, 2004 bomb blasts in Madrid, Spain.

It is a story of many clandestine victories against al Qaeda. More than 3,000 al Qaeda operatives have been seized or slain in 102 countries since Sept. 11. Learn more at www.regnery.com.

• In *Unholy Alliance: Radical Islam and the American Left*, David Horowitz confronts the paradox of how so many Americans, including the leadership of the Democratic Party, could turn against the War on Terror. He finds an answer in a political Left that shares a view of the United States as the "Great Satan" with America's radical Islamic enemies.

This Left, which once made common cause with Communists, has now joined forces with radical Islam in attacking America's defenses at home and its policies abroad. From their positions of influence in the university and media culture, leftists have defined America as the "root cause" of the attacks against it. Also from Regnery.

• In *Dawn Over Baghdad: How the U.S. Military is Using Bullets and Ballots to Remake Iraq*, Karl Zinsmeister goes into Iraq's urban neighborhoods, rural villages, and guerrilla snake pits, and shows exactly how young American soldiers are quietly but inexorably choking off a terrorist insurrection and planting the seeds (sometimes at great personal cost) of a dramatically different Middle East. His account is built on weeks spent re-embedded with U.S. soldiers in the most dangerous parts of the Sunni Triangle in early 2004, direct polling of Iraqis, and unmatched reporting on combat raids, interrogations, daily diplomacy, and reconstruction heroics.

Zinsmeister brings home an intimate and insightful story missed by the major media: With the quiet cooperation of millions of everyday Iraqis, the U.S. is approaching something historic — success in a tough guerrilla war. More at www.encounterbooks.com.

• In *Our Oldest Enemy: A History of America's Disastrous Relationship with France*, John J. Miller and Mark Molesky demonstrate that the cherished idea of French friendship has little basis in reality.

Despite the myth of the "sister republics," the French have always been our rivals, and have harmed and obstructed our interests more often than not. This history of French hostility goes back to 1704, when a group of French and Indians massacred American settlers in Deerfield, Mass.

The authors also debunk the myth of French aid during the Revolution: contrary to popular notions, the French did not enter the war until very late and were mainly interested in hurting their traditional rivals, the British. Details at www.randomhouse.com/doubleday.cj

Book review

Against Leviathan: Government Strangles Liberty

• Robert Higgs: *Against Leviathan – Government Power and a Free Society*; Independent Institute; 2004; 405pp.; \$18.95

By GEORGE C. LEEF

Contributing Editor

RALEIGH

Readers familiar with the writings of the 16th century English philosopher Thomas Hobbes will immediately understand the thrust of this exceptional book. Hobbes attempted to justify an all-powerful state as being necessary if human beings were to avoid the supposed terrors of "the state of nature." He called his model government (an unlimited monarchy) the Leviathan. Like many moderns, Hobbes erred in simultaneously overestimating the problems with freedom and underestimating the problems of government. The U.S. Constitution was, of course, an effort to avoid the Leviathan state by placing strict limits on governmental authority. Alas, constitutional restraints on governmental authority have been largely eviscerated by Supreme Court justices sympathetic to the socialistic vision of a highly planned and regulated society and we have been moving toward Leviathan for more than a century.

No friend of government

Historian Robert Higgs is as steadfast an opponent of governmental interference with liberty as one will ever find. In *Against Leviathan*, he has collected 40 of his trenchant essays that deal with a wide array of topics pertaining to state power. As Higgs explains in his introduction, he has arrived at the conclusion that government in the United States is mostly a useless, parasitic growth that thrives only because few people are able to see through its web of deception. Here is what he says:

"If I had to use a single word to describe what is fundamentally wrong with government today, I would use the word fraud. Certainly nowadays — perhaps in every age — government is not what it claims to be (competent, protective, and just), and it is what it claims not to be (bungling, menacing, and unjust).

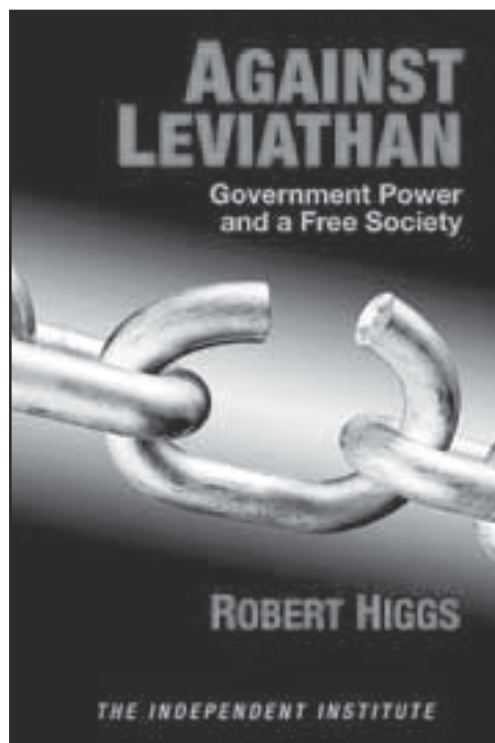
"In actuality, it is a vast web of deceit and humbug, and not for a good purpose, either. Indeed, its true purposes are as reprehensible as its noble claims are false. Its stock in trade is pretense. The velvet glove of its countless claims of benevolence scarcely conceals its iron fist of violence and threats of more violence. It wants to be loved, but it will settle for being feared. The one thing it will not do is simply leave us alone."

Strong words indeed, but I defy anyone to read the book and then provide a serious argument that all the politicians and bureaucrats who to such a great extent now run our lives are doing so because they're so committed to making life better for all of us. Our latter-day Hobbesians will shrink away from this book like vampires from garlic.

Book contains seven sections

Against Leviathan is divided into seven sections: Welfare Statism, Our Glorious Leaders, Despotism, Soft and Hard, Economic Disgraces, The Political Economy of Crisis, Retreat of the State? and Review of the Troops. It wouldn't be possible to do justice to the scope of Higgs' erudition even if I had a whole issue of *Carolina Journal*. All I can do is to provide a tour through some of the material I find most striking.

The first essay in the book is a well-chosen initial broadside. In "Is More Eco-



Robert Higgs

nomic Equality Better?" Higgs takes on one of the central assumptions of modern liberalism, namely that the closer to perfect equality in individual wealth and income in a society, the more just it is.

To the welfare-state egalitarians, the author replies that "the societal distribution of income or wealth itself, whatever else it might happen to be, is morally neutral: Neither an increase nor a decrease in the degree of inequality has any unambiguous moral meaning. Everything hinges on why the distribution changes."

Higgs proceeds to show that there could be numerous reasons for an increase in equality (he devises seven scenarios, but there could be far more) all of which would be undesirable except for the ridiculous allure of egalitarianism. He concludes by nailing down the intellectual error that underlies the mania for income equality, namely the anthropomorphosis of society. That is, viewing society as if it were a human being itself, capable of moral choice and action.

"Society is nothing more than an abstraction, a concept, an intellectual invention," he writes. By demolishing the central precept of the notion of "social justice," Higgs obliterates the intellectual fortifica-

tion that protects much of the Leviathan's actions.

Demythologizing FDR

The book's section on "Our Glorious Leaders" will provoke plenty of outrage among conventional historians, for Higgs throws down the gauntlet to their penchant for regarding as "great" presidents who were stupendous failures. Franklin D. Roosevelt has been turned into a revered figure by admiring statists. Textbooks covering American history in the 20th century invariably fawn over FDR's supposed achievements. I'd dearly love to sneak a copy of Higgs' chapter "The Mythology of Roosevelt and the New Deal" into every American history text.

The students would discover that FDR was nothing more than a political conniver who "did not trouble himself with serious thinking." Most importantly, Higgs hits the bulls-eye with his explanation as to the continuing relevance of FDR's New Deal: "The legacy of the New Deal was, more than anything else, a matter of ideological change. Henceforth, nearly everyone would look to the federal government for solutions to problems great and small, real and imagined, personal as well as social."

Another gem that, to my mind, stands out in the book is Higgs' argument that we would be better off without all the official government statistics. Americans are bombarded almost daily with statistics on the poverty rate, unemployment rate, trade deficit, and so forth. Our author does not merely quibble that this or that statistic is imperfectly collected or analyzed, but argues forcefully that they should not be collected at all. He writes, "A just government, one that confines itself to protecting the citizens' rights to life, liberty, and property, has no need for figures on the distribution of personal income; no need for data on international trade and finance; no need for national income and product accounts."

All of those statistics, Higgs explains, serve as pretexts for endless government meddling in our lives. I remember a "mainstream" economist some years ago defending the federal government's production of reams of statistics by saying that "we couldn't do public policy without them." Higgs would reply, "Dump the statistics and the public policy in that circular file."

Surveying the political landscape he has so ably painted, Higgs is not optimistic about our future. The culture of obedience to Big Government is, he fears, too deeply imbedded in America for there to be much hope of a return to a free society.

He says, in my view correctly, that "few people in the United States today really give a

damn about living as free men and women. After a century of fighting a losing battle against their own governments, the American people have finally accepted that the best course open to them is simply to label their servitude as freedom and concentrate on enjoying the creature comforts that the government still permits them to possess."

Still, there is a Nockian Remnant in America, trying hard to convince the rest of the populace that Big Government is a snare and a delusion. With *Against Leviathan*, Bob Higgs has made that task a bit easier. *cj*

George C. Leef is executive director of the Pope Center for Higher Education Policy.

Higgs... has arrived at the conclusion that government in the United States is mostly a useless, parasitic growth...

Book Review

Protecting America's Health: A Strong Dose of Superficiality

• Philip J. Hilts: *Protecting America's Health: The FDA, Business, and One Hundred Years of Regulation*; Alfred A. Knopf; 2003; 410 pp.; \$26.95

By SAM KAZMAN

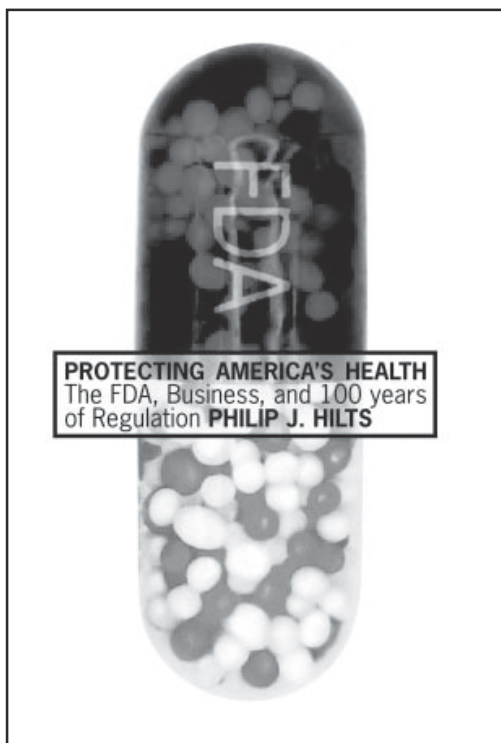
Guest Contributor

WASHINGTON, D.C.

Milton Friedman, I think, once compared regulating on the basis of corporate misdeeds to a competition where you select the second singer after listening only to the first. When it comes to food and health, Phil Hilts, a veteran medical reporter, runs the same sort of abbreviated audition. His latest book is an eminently readable, amply documented history of the U.S. Food and Drug Administration, from its origin nearly a century ago to its current status as regulator of nearly one-fourth of American consumer expenditures. Unfortunately, it is also a boneheadedly one-sided book.

Let's start with something simple, such as ketchup. Hilts' first regulatory hero is Dr. Harvey Wiley, a government chemist who in the early 1900s began campaigning for a ban on many food preservatives. Wiley came close to getting President Teddy Roosevelt's backing for a prohibition on benzoate in ketchup, but failed. Hilts closes the chapter with Wiley being supposedly vindicated by history, as the firms that originally opposed him eventually stopped using the chemical.

You won't learn it from this book, but Wiley's views of benzoate's risks turned out to be wrong; even today, the chemical is widely used as a preservative. Banning benzoates in Wiley's time might well have in-



creased ptomaine poisonings. And finally (for you public choice fans), it's likely that the few ketchup companies that supported Wiley, such as Heinz, had more than the public interest at heart. Yes, they used better tomatoes and production methods, but they also charged more — Heinz cost more than twice as much as regular ketchup. Wiley's ban would have helped Heinz competitively, while punishing people who had better use for their money than high-priced ketchup.

Medicine is more complicated than ketchup, but Hilts' simplistic approach doesn't change here. In his world, corporate greed is to blame for all defective drugs,

FDA's incentives are always beneficial, and the few government mistakes that he acknowledges could be cured by more funding. As for the lives lost due to FDA delays in approving new therapies, those are a figment of the New Right conspiracy to dismantle the agency.

For example, Hilts excuses FDA's three-year delay in approving Interleukin-2 for advanced kidney cancer because, he says, the drug "was useful to only a small number of patients" and, during the delay, the agency provided "early availability for those who felt they needed to take the risk." Now it's true that Interleukin-2 produced temporary remissions for only 15-20 percent of those taking it, and that the drug itself was highly dangerous, but many patients preferred that to the 100 percent death rate of the disease itself. As for its alleged pre-approval availability, the head of the National Kidney Cancer Association had a one-word comment at the time: "bullshit."

Compare this to Hilts' stirring account of how FDA's took only six weeks to approve the first of the protease inhibitors for AIDs. FDA didn't insist on data of reduced mortality, because such information would have taken far more time to collect and demanding it was viewed as unethical given the life-and-death situation of AIDS patients. Instead, the agency approved the drug on the basis of preliminary data that showed improved cellular function.

AIDS patients were highly organized; kidney cancer patients were not. If they had been, they probably would have been treated better by FDA. When access to new therapies is controlled by government, political clout may well be a factor in who gets

better service. But this issue doesn't fit into Hilts' framework.

Corporate wrongdoing has certainly been a factor in such medical disasters as thalidomide and the Dalkon Shield, but regulatory delays inflict at least as much damage. When FDA approves a lifesaving therapy, some number of people had to have died waiting for the agency to act. Hilts, however, refuses to even acknowledge this. He characterizes as "grotesque" the argument that FDA's focus on preventing bad drugs may lead it to delay or deny useful drugs. But this risk is clear. While defective drugs and delayed drugs both have adverse medical consequences, their political impacts are incredibly different. Drug recalls are the subject of news stories and congressional hearings. Drug delays, on the other hand, rarely get noticed; all that their victims know is that their doctors couldn't do more for them. The skewed regulatory incentives that result were acknowledged by former FDA head David Kessler, another of Hilts' heroes, who wrote that "speeding access to urgently needed products was not nearly so deeply ingrained in our culture."

In its emphasis on drug recalls and its rationalizations for drug delays, *Protecting America's Health* unintentionally demonstrates this very point. It's unfortunate that, in a book of this scope, this issue gets a bum's rush. CJ

Sam Kazman is general counsel of the Competitive Enterprise Institute (www.cei.org), a Washington, DC-based free-market advocacy organization.

Book Review

Government Failure: Author Reverses Course, Supports Free Market

• Edited by James Tooley and James Stanfield: *Government Failure: E. G. West on Education*; Institute for Economic Affairs; 2003; 201pp.; \$15 (paperback)

By ANTONY FLEW

Guest Contributor

READING, ENGLAND

This illuminating book was designed to commemorate the achievements and to spread the ideas of the late Edwin G. West. Professor West, who lived from 1922 to 2001, did pioneering work in the economics and history of education and his studies have been critical in refuting the pretensions of government education. Those who wish to show that government fails to educate students well and to restore a free market in education will find that E.G. West was one of their greatest allies.

Gathered here are nine of West's essays on education. Professor James Tooley, who has made great contributions to the debate over government provided education himself, writes in his introduction that he initially approached West's work with the intention of refuting it. As he read and thought about West's arguments, however, he found himself being won over. "For me, the fact that governments rightfully intervened in education was a taken-for-granted norm — so taken for granted that it didn't really come up in discussion," he writes. "Any deviance from the status quo — such as moves towards markets in education — needed to be justified, not state intervention itself. E. G. West's argument threatened to completely overturn this cosy presumption."

West's first discovery — till normally



ignored in schools, departments, and institutes of education — was that, before the Forster Act of 1870 established the first tax-funded schools in England and Wales, school attendance and literacy rates were well above 90 percent. The educational situation in the United States at about the same time seems to have been sufficiently similar for Milton and Rose Friedman, while they were working on their book *Free to Choose*, to change their minds about government compulsion and funding by examining the works of West. Friedman would later recommend that the Hoover Institution give West the first Alexis de Tocqueville Award

for the Advancement of Education Freedom. Friedman himself made the presentation.

West's wider international influence appears to have been greater than his effective influence on either the United Kingdom or the United States. The movement toward educational choice in the United States has been minimal, owing to the vociferous opposition of the education establishment of any movement whatever away from the status quo. In the United Kingdom, under the government of John Major, a limited voucher system known as Assisted Places was established, but, as the editors appear to have overlooked, it was immediately abolished by the incoming Blair administration in 1999.

The prime evidence of West's wider influence is provided by the fact that he was commissioned to produce, and duly produced, two papers for the International Finance Corporation (the private finance arm of the World Bank). Those papers were entitled "Education with and Without the State" and "Education Vouchers in Practice and Principle: A World Survey." They actually succeeded in persuading the IFC and World Bank to revise their education policy to favor a greater role for the private sector.

Much of West's work was focused on the economics of politics (or public choice economics, as it is now called). As he said, "benevolent government does not exist. The political machinery is... in fact, largely... operated by interest groups, vote-maximizing politicians and self-seeking bureaucracies." As the writings of Myron Lieberman have taught us, the teacher unions are among the most powerful of such "self-

seeking bureaucracies." West led the way in demonstrating the utter folly of expecting good educational results from a system dominated by the producers rather than the consumers of education services.

A particularly fascinating contribution in the current volume is Chapter 5, "The Economics of Compulsion," in which West used his knowledge both of history and public-choice economics to show that the compulsion to attend school has never been a major cause either of increased school attendance or any general improvement in human behaviour.

The final essay in the book, "Education Without the State," speculates as to how much better off education consumers would have been if Britain had not taken the steps to establish universal tax-supported schooling. He concludes with these words of advice, "The choice of school movement, it is maintained, has been to a large extent misinformed. What is needed is choice in education."

The work of West is being continued by the E.G. West Centre, based in the School of Education at the University of Newcastle. Established in 2002, the Centre is the only university research centre in the United Kingdom dedicated by developing market solutions in education.

Those who seek to move away from government schooling monopoly, whether in the United Kingdom, the United States, or elsewhere in the world, will find this book to be of enormous value. CJ

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Democratic Party, Draft Go Together

Some Democrats and allies of the John Kerry campaign tried to scare voters, particularly parents and college-age students, by suggesting that President Bush had a secret plan to bring back the military draft if he was re-elected. The rumors found their way into MTV get-out-the-vote ads and stories on the evening news. But anyone who knows the history of the draft in modern times (over the past 100 years) also knows that it was much more likely that the Selective Service System would be revived under a Democratic administration rather than under a Republican administration.

During the 20th century the draft or registration was instituted or reauthorized six times. Three of those were during periods of peace. But a closer look at the record reveals that all six were during Democratic administrations.

The first was during the World War I presidency of Woodrow Wilson. This progressive-era Democrat was so wary of a volunteer army that when he instituted the Selective Draft Act of 1917, he simultaneously outlawed volunteering for the military. Consistent with the central planning mentality of the Democratic Party, both then and now, it was feared that to allow any choice when it came to military manpower would yield less-than-efficient results.

The first peacetime draft was instituted in 1940 by Franklin D. Roosevelt and reauthorized after the beginning of WWII. The second peacetime draft was sponsored by Harry Truman and reauthorized at the beginning of the Korean War. Interestingly, the first real opposition to the draft during the 1960s came not from the antiwar movement but from conservative Republican presidential candidate Barry Goldwater, who ran antidraft ads and made opposition to the draft a central part of his 1964 campaign.

The only time draft legislation was actually repealed was in 1973 during the Republican Nixon administration. Gerald Ford went a step further by granting clemency to all draft resisters. When peacetime draft registration for all 18-year-old males was brought back in 1980, it was due to the efforts of Democratic President Jimmy Carter. Most recently the loudest calls to renew the draft have come from Charlie Rangle, D-N.Y., who is the primary sponsor of legislation that has been languishing in Congress for two years. In fact, all 14 co-sponsors of this legislation are Democrats.

None of this should come as any surprise. There is nothing inherently inconsistent between left-wing ideology and conscription. After all, the draft simply pushes socialism to its logical conclusion — it nationalizes human beings. The egalitarian nature of the draft, especially one based on a lottery, has always had an inherent appeal to the left. The liberal argument for the draft, which has been adopted by Rangle, is that the all-volunteer army exploits the downtrodden and minorities. Allegedly, people who have no other options for employment flock to the military to fight and die while “rich kids” sit back and enjoy their lives.

The fact is that left-wing opposition to the draft during the 1960s was an anomaly. Unlike Goldwater's position, it was not rooted in opposition to involuntary servitude or coercion, but in opposition to a particular war. One must remember that since the end of the military draft in the 1970s many on the left, including Sen. Edward Kennedy and Carter, have actually spoken in favor of coerced, universal service, which would force young adults to devote a year or two of their lives to either the military or to a government-approved humanitarian cause such as the Peace Corps.

CJ

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Roy Cordato

Editorials

No TRESPASSING

Private property, economic development

Two runaway money trains that promised to deliver economic development at all costs — to taxpayers, that is — recently crashed into a couple of serious judicial roadblocks. If early indications hold true, taxpayers stand a good chance of derailing a couple of big government's most-lucrative flimflams.

The judicial decisions — one in Ohio, and the other in Washington, D.C. — although heard in separate venues, actually are related. The Ohio decision could eventually deter economic development “incentives” in other states, including North Carolina. The other case, in the U.S. Supreme Court, could reject (or sanction) the seizure of private property, taken supposedly for the public purpose of stimulating economic development.

Specifically, in the first development, a federal appeals court ruled that economic development incentives given by Ohio to automobile manufacturer Daimler-Chrysler violated the interstate commerce clause of the U.S. Constitution. In the other development, the U.S. Supreme Court agreed to decide whether local governments may seize people's homes and businesses against their will to make way for projects such as shopping malls and hotel complexes that produce more tax revenue. Both policies impose extreme sacrifices on taxpayers.

Kelo v New London

The Supreme Court case, known as *Kelo v New London*, originated in Connecticut. But the rights of all home and business owners hang in the balance, according to the Institute of Justice, which is representing private citizen Susette Kelo. Kelo is the owner of a home and a beautiful stretch of waterfront property situated along the Thames River. Unbeknownst to Kelo when she bought the property, the city of New London, the New London Development Corporation, and Pfizer Corp. had reached an agreement that Pfizer would build a new facility nearby. The NLDC would take all the land in Kelo's neighborhood and transfer it to a private developer, who in turn would build an expensive hotel for Pfizer visitors, expensive condominiums for company employees, an office building for biotech companies, and other projects to complement the firm's project. The state and the city would contribute millions of dollars. The only thing standing in the way was Kelo and her neighbors.

Kelo is not alone, the IJ says. “All across the country, state and local governments are abusing the power of eminent domain to take private homes and businesses for

the benefit of other, more politically favored private businesses who promise more jobs and taxes. In just five years, the government filed or threatened condemnation of more than 10,000 properties for private parties.”

In a 4-3 decision earlier this year, the Connecticut Supreme Court ruled that even if there was nothing wrong with your home, your business, or even your neighborhood, the government can use eminent domain to take your land and give it to the developer for his private gain.

“This ruling is an invitation to disaster,” the IJ says, “because every business generates more taxes than a home and every big business generates more taxes than a small one. If the ruling stands, any property can be taken through eminent domain.”

It's hard to envision a government policy more evil than one that allows the government to steal someone's private property and give it to another private party.

When writing the U.S. Constitution, the nation's Founders understood that the human right in property was the basis of freedom. They based their belief on the teachings of English philosopher John Locke, the intellectual father of the United States. Locke and the Founders believed that government existed solely for the purpose of protecting property rights and preserving public order. Too many government officials nowadays practice that principle in reverse.

Today citizens live in fear of a leviathan — their own government — that rather than protecting their property, tries at every turn to steal it. The larceny is done under a contortion of the takings clause of the Fifth Amendment of the Bill of Rights, which says “...nor shall private property be taken for public use without just compensation.” The operative phrase is “for public use,” which up until recently, meant just that: PUBLIC use. Until the last few years, public uses were interpreted strictly to mean highways, government buildings, and other government projects. But more frequently “public” is being liberally interpreted to mean anything that will generate extra revenue for gluttonous government.

While North Carolina so far hasn't followed the pattern of other states of seizing property for economic development, it appears that, given a little more time, our state leaders will begin doing so. And then they will sing the old refrain: “We don't like doing it, but if we are going to compete with other states, we have to step up to the plate.”

For the sake of individual rights, and freedom as it is known in America, every citizen should pray the Supreme Court rules for the citizenry and stops the immoral theft of property and tax revenue for the sake of economic development.

As Supreme Court Justice Potter Stewart observed in 1972: “the dichotomy between personal liberties and property rights is a false one. Property does not have rights. People have rights. In fact, a fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have meaning without the other.”

CJ

FUTURE IS HISTORY

State museum should tell freedom's story

The future of history is now in North Carolina. OK, so that statement is a little chronologically confusing. The point is that there is a clear need for leadership on the issue of history education. The fact is that we continue to graduate generations of North Carolinians from our schools and colleges who do not have a firm grounding in the history of our country, the history of our state, and how our founding principles and experiences affect — or should affect — our lives today.

History matters — and not just in a “Jeopardy,” quiz bowl, instant-recall, when-was-the-War-of-1812 sense. It may seem hackneyed to ask this, but how can we move forward as a state or a nation unless we have a clear picture of where we have been? The international and national challenges we face, the controversial social and moral issues of the day, the dramatic changes we are experiencing in such areas as industry, trade, finance, medicine, and technology — none of these sprang up suddenly, as Athena from the head of Zeus. They all have antecedents and causes stretching into past decades and centuries.

History and the electoral process

It is particularly important in this election season to consider the role that history plays in forming and framing our political sentiments. Some voters still bear allegiance to one party or another based on fond remembrances of long-dead presidents.

Not a few North Carolinians, no matter how they actually vote, still instinctively recoil from the Republican Party of Abraham Lincoln. Others, with good reason to revere Lincoln, nevertheless recoil from the GOP because of Joe McCarthy or Richard Nixon. Still others have reasons deeply rooted in history for their antipathy of Democrats. You can make a similar point about voter attitudes on issues as disparate as Social Security, Iraq, health, abortion, or same-sex marriage. These attitudes often reflect longstanding assumptions, valid or not, about historical events, trends, and personalities.

At its core, a representative form of government is workable over time only if voters are informed. Without a firm grounding in political, economic, and social history, voters will too often lack the ability to put issues in context, to evaluate contrasting claims and discern truth from fiction.

That firm grounding appears to be lacking. In the most recent statewide test in U.S. history, only 55 percent of North Carolina high-school students scored at the proficient level — itself not likely to be a particularly rigorous standard given what we know about the questions and scoring of tests in lower grades.

On the National Assessment of Education Progress, where the standards are set more appropriately, a shocking 57 percent of American students in 2001 lacked even minimal history knowledge. Only 11 percent were at or above the proficient level. While not enough students were sampled to provide NAEP data by state, it is likely that North Carolina's performance would be at or below that dismal national showing.

How the state museum can help

What can be done? Certainly we need to expect more of our schools in teaching history and the related subjects of civics and economics. But other institutions can do their part, too. A good example would be the North Carolina Museum of History in Raleigh. A beautiful building in a courtyard that also features the state's natural science museum, the museum currently has five long-term exhibits. They cover the history of health and healing experiences, the life of Carbine Williams, a “sports hall of fame,” a collection of history projects from North Carolina students, and a display of the museum's holdings concerning the Civil War. Temporary exhibits at this writing include “A Celebration of North Carolina Craft,” “Pioneers of Aviation,” “Man-Made Marvels,” “North Carolina Indians Past and Present,” and a tribute to Clay Aiken.

It's not that some of these exhibits aren't interesting or informative. But are these the priorities that we want visiting schoolchildren to embrace? Museum visitors learn little about the entrepreneurs and business leaders who developed the state's major industries. They learn little about past political leaders and their successes and failures. There is no coherent or memorable narrative.

Here's an idea: What if the museum devoted significant space and resources to telling the compelling story of

North Carolina's struggle for liberty? Imagine a “First In Freedom” exhibit that begins with pre-Columbian artifacts and tells the story of how and why people came to settle North Carolina — some seeking religious freedom and economic opportunity, others forced in chains to a distant and unfriendly shore. You'd see the Wars of the Regulation, the Revolutionary War, the Civil War, and North Carolinians' experiences overseas in the 20th century wars against tyranny. You'd see slaves struggle to their feet, cast off their chains, and demand their economic and civil rights. You'd see women overcome prejudice and economic barriers to achieve equality and realize their potential.

The main justification for having a tax-funded history museum in the first place is to continue and amplify the mission of public education. We need to inspire students to care about their past, and to appreciate how it influences their lives today. The museum can help do that, and serve as a catalyst for a broader movement to make history education a priority in North Carolina — a movement powered not by words but by action.

Esse quam videri.

RISING TIDE

Conservatism growing in North Carolina

The parent organization of *Carolina Journal*, the John Locke Foundation, released its Agenda 2004 poll Oct. 21. The results were fascinating, illuminating, and all over the map.

The poll, taken Oct. 18-20, had Bush ahead of Kerry, Burr and Bowles tied, and Easley ahead of Ballantine. It showed increasing anger about state taxes and diverting highway funds to nonhighway uses — causes typically associated with right-of-center folks — but also increasing support for targeted economic incentives and increasing opposition to school choice. The complexities continued.

But there was one unmistakable trend across the years that JLF has conducted the Agenda 2004 poll. Since introducing a bare-bones question in 1998 on political philosophy, it has found a steady increase in the percentage of North Carolina likely voters who identify themselves as “conservative.”

In 1998, 41 percent of North Carolina respondents were moderate, 35 percent conservative, and 18 percent liberal. In 2000, it broke down as 44 percent moderate, 38 percent conservative, and 13 percent liberal. In 2002, moderates and conservatives were tied at 39 percent, with liberals at 20 percent. Now, in 2004, conservatives have broken out of the pack at 45 percent, leaving moderates at 37 percent and liberals at 13 percent.

What's going on here? Obviously, poll numbers bounce around. And remember that these are just snapshots of moving targets. The poll isn't asking the same people the same question over six years. It draws a different sample each time, slightly more or less Democratic, slightly more or less male or white, etc. Finally, these are self-imposed labels. The poll question does not define the terms. It is up to voters to interpret these political labels as they will and affix them accordingly.

Explaining the conservative trend

Still, it would be difficult if not impossible to spin the trend into insignificance. A fair reading, it seems to us, is at least that North Carolinians have increasingly becoming comfortable with the label “conservative” to describe their political leanings. Perhaps this reflects the continued influx of immigrants into our state from frostier climes where conservatism has not borne quite the racially tinged connotation that it once did in North Carolina. Perhaps the growth of conservative talk radio, Internet sites, and institutions such as *Carolina Journal* and the John Locke Foundation have helped to create a more congenial atmosphere for conservatives in the electorate — if not actually expanded the universe of such conservatives through news, analysis, commentary, and public-policy debate.

One piece of evidence, though its statistical significance is iffy, is that in the Agenda 2004 poll younger people were more likely to identify as conservative (including 51 percent of those 18 to 25 and 52 percent of those 26 to 40) than were Baby Boomers (about 40 percent) and elderly voters (46 percent). These younger conservatives are probably newly minted as well as newly arrived.

Just because the philosophical inclinations are shifting a bit doesn't mean that there are any necessary political or policy outcomes. Most but not all conservatives said they opposed tax increases and supported school choice. Most, but not all, liberals said the reverse. The trend is food for thought, though, don't you think? CJ

Let's Fight Fat — Not Freedom

Obesity is a growing health problem in North Carolina. I hope that state policymakers can resist temptation of a different sort by saying no to any policy responses that imperil freedom and personal choice.

With the release of an annual report card on child health in late October, the trend became a bit clearer. About 23 percent of children ages 5 to 11 were considered overweight in 2003, up from 17 percent in 1998. While I tend to agree with those who argue that commonly measurements of excessive weight are biased — some muscular adults, at least, are wrongly being labeled overweight — the problem remains real and is likely getting worse.

Among adults, some analysts forecast that it won't be long before diseases related to obesity and lack of exercise kill more American each year than disease related to tobacco abuse. They are already a more deadly scourge that alcohol-related crashes and diseases, by a long shot. When you add to the mortality figures the other deleterious consequences of being overweight — the other health problems, lack of mobility, concerns about appearance and self-image — the situation is a dire one, indeed, for many people.

The public-policy dilemma arises because these costs are not all borne by those who, for whatever reason, find it difficult to keep off the excess weight. In my view, a free society allows individuals to make their own decisions and reap the rewards and punishments. But when Americans today make choices that lead to unhealthy lifestyles, for adults or children, government programs impose some of the costs on others. Medicare and Medicaid, for example, serve to socialize health risks. No matter how much of one's health conditions are the result of personal behavior, “free” treatment is available from tax-funded programs.

It sounds compassionate, but be careful. If treating your disease is now my responsibility as a taxpayer, I have every moral right to start asking you some tough questions. When are you going to start exercising? How many nights a week do you pig out at the pizza parlor? How's that low-carb diet coming?

Before you say it's none of my business, check your premises. Your personal health certainly is my business if I'm being coerced to pay for your care.

It is this principle that has led some activists to propose highly intrusive public policies. We already have motorcycle-helmet laws and other intrusions because, the argument goes, those who choose dangerous behaviors shouldn't be allowed to impose costs on us. The principle is no different with fatty foods and sedentary lifestyles. Some have argued for steep excise taxes on high-fat foods, restraints on restaurant and grocery advertising, and punitive damages in court. Having nabbed Big Tobacco, they now want to bag Big Farm and Big Mac.

By all means, let's spread the word about the consequences of obesity. I do not, however, want to see local, state, or federal governments attempt to engineer our weight through fat taxes, restrictive school lunches, draconian development rules designed to force us out of our cars, and other assaults on personal freedom. If the goal is to reduce the harm that the poor choices of some impose on everyone else, let's focus our attention on the government programs that socialize risk and invite dangerous encroachments upon our liberty. CJ

Hood is president of the John Locke Foundation, publisher of *Carolina Journal*, and a syndicated newspaper columnist who is currently attempting to find time to finish his third book, *Selling the Dream: Why Advertising is Good Business* (to be published by Praeger), without giving up exercise altogether.

John Hood

Editorial Briefs

Poor democracies show more progress

Contrary to the assertion that "economic development makes democracy possible," a group of social scientists say the best way to promote prosperity is to first establish democratic foundations.

Historical data from the World Bank show that poor democracies, countries with gross domestic product per capita of less than \$2,000, have grown at least as fast as poor autocracies (countries with dictators, absolute monarchs or one-party rule), and have significantly outperformed the latter on most indicators of social well-being.

Aside from eastern Asia, the median per-capita growth rates of poor democracies have been 50 percent higher than those of autocracies. People in low-income democracies live on average nine years longer than their autocratic counterparts. Poor democracies suffer 20 percent fewer infant deaths than poor autocracies.

Low-income democracies are also better at avoiding calamities: Since 1960, poor autocracies have experienced severe economic contractions twice as often as poor democracies.

The reason for this success is that democracies are open. This spurs the flow of information and ideas and reduces the scope for corruption. Also, democracy improves adaptability. In other words, democracies enhance political stability by establishing mechanisms for the smooth succession after the death or defeat of a leader.

Reported in *Foreign Affairs*.

"Job lock" and health insurance at work

Economist Scott Adams says that because employers are the primary providers of health insurance in the United States, some people who would prefer to leave their current jobs may remain to avoid losing health benefits. Some legislation has been put in place to reduce this phenomenon, called "job-lock."

Adams suggests job-lock is inefficient because it impedes the optimal allocation of labor, so it's important not only to identify whether it exists but also to quantify its impact.

In his research, Adams finds that among men ages 25 to 55 with spouses, there is an approximate 22 percent to 32 percent reduction in job mobility stemming from health insurance coverage. Slightly more job lock is found among married women.

It is estimated that job lock has increased since 1988.

Overall, Adams's results are consistent with earlier studies that found job mobility was reduced by 26 percent to 31 percent because of the lack of portability of employer-provided health coverage.

Reported in *Contemporary Economic Policy*.

Changing political demographics

Changes over the past decade in fertility rates among major American ethnic groups may well have a strong political impact, observers say.

Groups that traditionally tend to vote Democratic are having fewer children. Between 1990 and 2002, fertility declined by 14 percent among Mexican-Americans and 24 percent among Puerto Ricans. African-Americans now have a lower average fertility rate than whites, and they are no longer producing enough children to replace their population.

Conversely, religious-minded Americans are having far more children than those who tend to be more secular. In Utah, where 69 percent of all residents are Mormon, fertility rates are highest in the nation: The state produces 90 children for every 1,000 women of childbearing age. By contrast, Vermont, the only state to send a socialist to Congress, and the first to embrace homosexual unions, produces only 49 children for every 1,000 women of childbearing age.

Overall, fully 47 percent of people who attend church weekly say that their ideal family size is three or more children, while only 27 percent of those who seldom attend church want that many kids. All of this is to suggest that, because religious Americans are more likely to vote Republican, the GOP will have a decided evolutionary advantage over the Democratic Party in determining the political landscape.

Reported in *The Washington Post*. CJ

Using Free Market to Help Pay for College

By GEORGE C. LEEF

Contributing Editor

More students than ever are attending the nation's colleges and universities, but we nevertheless hear a lot about how terribly expensive it is. Even with the very low in-state tuition charged by UNC schools, the cost of a year in college, including housing and living expenses, can be a strain on the budget for low-income families. It can be a strain for not-so-poor families too, if they haven't saved enough money.

People who complain about the high cost of college often look to the government to ease the burden. The obvious problem with further governmental subsidies is that the money for it has to come from taxpayers. Demanding that government take care of our personal desires with money forcibly taken from others is our worst national habit. We ought to look instead to the voluntary processes of the free market. It's surprising how many of our problems can be solved if we let freedom work.

Could students obtain money for college by entering into contracts with investors? That is precisely the idea behind a New York company named My Rich Uncle. Formed in early 2000, the firm pools money from investors and gives it to students (both undergraduates and grad students) who need additional funding for college or grad school costs. The money is not a loan. In order to get the funds they need, applicants must enter into a contract which obligates them to repay a certain percentage of their earnings once they are working full time. Here is how it works.

A contract with My Rich Uncle

Let's say that Bill Smith wants to study engineering at N.C. State, but his family doesn't have the money to afford putting him through school. Fortunately, the family hears about My Rich Uncle. Instead of delaying college or enrolling in a school close enough to home that Bill could eliminate the cost of living on campus, the Smiths get the additional \$20,000 they figure they will need from MRU. Bill signs a contract obligating him to pay MRU 4 percent of his taxable earnings for 15 years after he graduates.

Bill earns his degree and gets a job with an engineering firm. In his first year of work, he has taxable income of \$40,000, and writes a check to MRU for \$1,600. As his income rises for the next 15 years, so does the amount he

pays under the contract. But if, for some reason, his income should decline, he pays less. That's the risk the investors take.

Human capital contracts like this are very appealing, for several reasons.

First, they don't depend on the government. No tax dollars are involved. The risks are borne entirely by parties willing to bear them.

Second, they are not an entitlement. Students can apply for educational funding through MRU, but the company can and indeed must be selective.

Discrimination? You bet!

If a student with a mediocre academic record wants a lot of money to pursue studies in a field that has bleak economic prospects, MRU would probably decline to offer a contract. So if Wanda asks for funding to major in Women's Studies, she would have to pay a higher rate, if she were given money at all.

But that's discrimination! Yes, and we should stop regarding that word as a pejorative. Discrimination means making choices and not all choices are equally sensible. If investors are willing to put their money behind students who want to go into engineering, but not behind students who want to go into Women's Studies, that is a perfectly reasonable discrimination based on economic realities. There is a far greater demand for people who've been taught to build things than for people who've been taught to complain about the supposed unfairness toward women in society.

In other words, the more we fund higher education through equity contracts, the stronger is the market's feedback loop as to the viability of different courses of study.

And that leads to a third benefit. Not all colleges are equally good at imparting useful skills to their students. As information accumulates on the success of graduates of different schools, the tendency will be to favor those whose graduates tend to do the best in the marketplace. That would help to steer students away from colleges that are just selling credentials without imparting much knowledge.

The concept of equity contracts to finance college is still quite new, but an indication of its viability is the fact that My Rich Uncle just went public. CJ



George C. Leef

George C. Leef is executive director of the Pope Center for Higher Education Policy.

*Retiree unable to afford health care in U.S.***So Long America, You're Still the Best Hope for the World**

By PETER MORCOMBE
Guest Contributor

Now that my family is planning to leave the USA within a few weeks, it seemed a good time to take stock and ask why this country is so attractive. How is it that so many countries express hatred toward America and yet their people yearn to come here?

While I can speak only for myself, I suspect that my experiences may be similar to those of many other immigrants. In what follows it may seem that my personal decision was based simply on economics, but I am acutely aware that the material success of the USA is rooted in this nation's remarkable respect for individual liberties, the same liberties that truly inspire most immigrants.

I was born in Pembroke Dock in Pembrokeshire, a county in the southwest part of Wales. The first thing I can clearly remember is the Luftwaffe raid on my hometown in August 1940. The Royal Navy fuel store at Llanreath was set on fire and it burned for many weeks. In British history, this fire is second only to the Great Fire of London in 1666. To avoid the air raids, my family moved to Tenby, a seaside resort with palm trees (thanks to the Gulf Stream) and in 1944 I met an American for the first time. I was 6 years old, and like all the other kids, was awestruck. In a country where sugar was rationed and candy was scarce, can you imagine how popular the GIs were, given their generosity with all kinds of goodies? My guess is that GIs and kids in Iraq have the same kind of relationship today.

On graduating from high school, I spent some months in Pakistan, including a visit to the Khyber Pass and then returned to the United Kingdom for my "national service." It was my intention to join the Royal Air Force as an aviator, but after being turned down on medical grounds, I joined the Royal Tank Regiment (currently located in Basra, Iraq). Most of my service was spent uneventfully in Detmold, Germany, until the regiment was posted to Suez. It takes quite a while to move a tank regiment, and the whole thing was called off before we got there.

After "demobilization" from the army, I studied physics and electrical engineering at Cambridge University and eventually found a niche setting up high-technology manufacturing facilities. My wife and three children felt cramped in the industrial heartland of England, so we moved to Belfast in 1966. We liked it so much in Northern Ireland that we created our own business with the intent to stay for

good. Our dreams were shattered in the early 1970s when civil disobedience mutated into terrorism.

The house of a friend across the street was blown to pieces, showering glass all over our living room; another friend was shot five times, yet he lived to become a judge. I was shot at on my way from work and two of my children stumbled on an unexploded bomb. Although the bomb was defused by the security forces, this scared me enough to sell my business at a loss with the intent to emigrate to the USA.

On arrival in this country we suffered culture shock. In our first year we paid more in state and federal income taxes than our gross income in the United Kingdom. This was a matter for rejoicing, as my salary was three times higher in return for significantly less effort on my part. On arrival in the USA years after 29 years of striving in the U.K., our family net worth was less than \$10,000. Since then our net worth has increased by at least that amount every year even though my job responsibilities never matched those of my U.K. employment. Three of my adult children live in the USA, and two served in the U.S. military. I am proud that one served in both Afghanistan and Iraq.

I worked for the ITT corporation building manufacturing operations in Europe, Taiwan, Australia, New Zealand, Mexico, and many states in this country. Suddenly, my family was not struggling to make ends meet. My wife and I felt blessed that we did not need to work ourselves into a state of exhaustion just to pay the bills. For the first time in our lives we were able to accumulate assets and have ample leisure time as well. We purchased a house in the Chapel Hill-Carrboro City School District because it was far and away the highest-performing school district in North Carolina.

We settled in Carrboro in 1997 solely owing to the No. 1 reputation of the district schools. For more than five years we were "fat and happy" but then we discovered that the much-vaunted school district had lost its focus on academic excellence. The district was pursuing initiatives that had failed dismally in California, Chicago, New York, and Boston. "Outcome-based education," "whole language," "reading recovery," "developmentally appropriate practice," "multiculturalism," and many more. These fads undermine academic excellence and help to maintain the black-white "achievement gap."

On our arrival in the USA, nobody in our family had ever been politically active, yet we were so outraged by

the miserable performance of the North Carolina public schools that we devoted much of our leisure time to promoting education reform. We supported many initiatives that were blocked by the education establishment, but following the Republican ascendancy in the N.C. House in 1995, the Department of Public Instruction headcount was reduced by 400 and 100 charter schools were authorized.

Ten years later we have had a hand in creating seven charter schools. We have helped to introduce "science-based reading research" into over 100 elementary schools in North Carolina. We continue to work for parental choice in public education. We would like to see a public school system that embraces competition between schools, as in New Zealand. In 1986, the "tomorrow's schools" legislation in New Zealand eliminated the Department of Education and placed all public schools under the control of locally elected boards of education.

Given that everyone in my family loves the USA and we are very much engaged in community affairs, why are we emigrating? In a word, the answer is "retirement." Although I retired two years ago, my family has been surviving very comfortably on my wife's salary. However, we knew that when my wife retired we could not afford to stay here. You might guess that we are returning to the U.K. where universal health care is available at a nominal cost, but you would be wrong. Having experienced socialized medicine at first hand for many years when I was healthy, the prospect is even less appealing now that my health is failing. The solution that my family found follows the ideas set out in the "Sovereign Individual" by James Dale Davidson and William Rees-Mogg.

People who do not want to leave the USA can choose a jurisdiction such as Florida or Texas to avoid state income tax, but medical costs can still eat most of your pension. Retirees can do much better if they are prepared to emigrate. For \$1,300 per month you can live very comfortably in many countries. If you don't want to consider Asian destinations, Panama offers the best deals for retirees. We would be headed to Panama but for the fact that the areas with an agreeable climate do not have the schools we need for our 10-year-old child. While there are places in Mexico and Ecuador that meet our needs, we plan to emigrate to Costa Rica.

One last thing. God bless America and Americans, this decent and generous nation is still the best hope for the world. *CJ*

*The 'Price of Government'***Why Can't Government Be Operated Efficiently Like a Business?**

By MICHAEL L. WALDEN
Contributing Editor

During this year's political campaigns, many candidates will talk about operating government like a business. The implication is that businesses operate more efficiently, are less wasteful, and receive greater customer satisfaction than government. So, if government can follow business principles, the thinking continues, it could do more with fewer taxes and citizens would be happier.

But some say government can never be run like a business for the simple reason that government doesn't have the single objective driving business — to make profits. In fact, many of the services and programs provided by government are incapable of turning a profit.

So does this mean we have to give up on bringing business principles to government? Not necessarily, according to the authors of a new book, *The Price of Government*. David Osborne and Peter Hutchinson are longtime government-efficiency experts, and in their book they give several recommendations for making government run smarter and cheaper. Here are some highlights:

1. Prioritize what government does. Businesses constantly prioritize what they do, always searching for products, promotions, and programs that will contribute most to profits.

Government does many things, but like business, these functions aren't of equal importance. Also similar to business, government has limited funds to spend at any time.

RALEIGH



Michael L. Walden

Therefore, it's logical for citizens, through their elected representatives, to explicitly prioritize the functions of government and decide how much to spend on each function. Some governments actually publish a list of government activities in numerical order of importance.

Then, when hard times hit, such as with a recession, and government revenues fall, government functions at the bottom of the priority list can be discontinued, and spending is preserved for the most important government functions. This is an alternative to cutting all government programs by a certain percentage.

2. Measure and monitor government performance. Accurate and up-to-date information is at the core of any successful business. Top businesses continually monitor their costs and revenues and how they are affecting the bottom line of profits.

Even though government doesn't make profits, it does have measurable objectives, such as improving students' academic performance, reducing crime rates, filling potholes quickly, and rapidly responding to citizen requests for assistance.

It's important for government to frequently collect and access indicators of success in meeting stated goals. In some cities, these indicators are reviewed on a daily basis and changes are made if progress is stalled. Governments that collect and respond to such information have seen their approval ratings soar.

3. Treat citizens as customers. Good businesses are attentive to customer needs and issues because they know dissatisfied customers can take their spending elsewhere. Although for most government services and programs

there are few alternatives, citizens can still voice their dissatisfaction at the polls, on talk radio, and in the editorial pages.

So an obvious way to increase citizen happiness with government is for public agencies and workers to treat citizens as customers whose support must be constantly won. Adapting government schedules to meet the time needs of today's households (night hours for government offices), giving citizens options for dealing with government paperwork (using the Internet versus standing in line), and simplifying access to government agencies (establishing single-number phone access to all government offices) are some simple, yet effective, ways to do this.

4. Allow government workers to share in improved efficiency: Financial incentives are a major tool used by business to motivate workers. Performance bonuses are common for workers who exceed goals and expectations.

A way to bring this same idea to government is through "gainsharing." As defined by Osborne and Hutchinson, gainsharing means workers in government agencies that meet or exceed agency objectives without spending the entire budget receive part of the savings as salary bonuses. Thus, gainsharing gives government workers a financial stake in improving government efficiency.

Government at all levels spends almost one-third of total income. Hence, anything that improves the effectiveness of this spending can substantially increase our collective standard of living.

Maybe we can get more from less! *CJ*

Michael L. Walden is a William Neal Reynolds distinguished professor at North Carolina State University and an adjunct scholar with the John Locke Foundation.

A Yankee Doodle Dandy of a Program at UNC

University proposes a minor in Yankee/ette Studies to promote cultural awareness and diversity

By JAMIE CAGNEY

Lower Education Correspondent

RALEIGH
Seeking to expand UNC-Chapel Hill's worldwide reputation as the leading public university in America, a group of faculty members have proposed a new minor that they say would greatly enhance cultural awareness — Yankee/ette Studies.

The new minor was discussed in a Curriculum Committee meeting yesterday, where it aroused some controversy. Still, Professor Arthur E. Wormet, spokesman for the group advocating the new minor, was optimistic that it would be adopted. "North Carolina is experiencing a great in-migration of Northerners, known as Yankees and Yankeeettes. Their numbers are so great that it reminds you of a locust plague. Why, cities like Hartford, Buffalo, and Cleveland are practically ghost towns because so many of their people have moved down here," Wormet said.

Professor Sheila Sabatikal added, "How are North Carolinians ever going to be able to understand these different people unless we study their culture? We cannot just ignore Yankettes and Yankees, or treat them like The Other. If UNC's deep and profound commitment to cultural diversity and awareness means anything, it demands that we give our students the opportunity to study and learn about Yankee/ette culture."

Under the proposal offered by Wormet, students would earn the minor in Yankee/ette Studies (YS) by completing at least five courses out of 19 designated as qualifying for YS credit. Several of the courses would be new, while others are already in the catalogue.

Among the new courses would be:

YS 101: Introduction to Yankee/ette Culture. This course encompasses Irish-American Studies, Swedish-American Studies, Polish-American Studies, and much more, synthesizing an approach to the subject that invites



investigation into the mutual influence of and transculturation between different groups of northerly situated peoples. We will employ the lens of parametric differentiation to help answer such questions as "Why is Ben and Jerry's the right ice cream to buy?" "Why are bagels different from doughnuts?" and "Why is North Dakota above South Dakota?"

YS 215: Yankette Speech. This course, employing the tools of linguistic phenomenology, will investigate the meanings, apparent and hidden, of Yankee/ette locutions such as "blizzard" and "icicle." Time will be devoted to analysis of the cultural significance of the failure of Yankees/ettes to adopt "y'all" or some other handy second-person plural.

YS 419: Music as Culture, a History of Yankee/ette Music. This course will focus on music in the framework of its social, political, economic, and cultural contexts. Topics to be covered will include class and gender discrimination in the polka, Liberace as a victim of intolerance, and the role of the accordion in McCarthyism.

Existing UNC courses that would qualify for YS credit include Anthropology 391 (American Driving Customs, with emphasis on the understanding that Yankee/ettes are

not rude, but merely "differently polite"), History 262 (Yankee/ette Colonial Experience, examining such questions as "Was Yankee exploitation of women, Native Americans, and animals all that much better than slavery?") and English 344 (Speciesism, Ableism and Crypto-fascism in the novels of New England Writers of the 19th Century).

Professor Wormet, whose book *Deconstructing the Stitches: The Hidden Meaning of Quilts Produced in 17th Century Connecticut* was recently published by University of North Carolina Press, offered a grand view of the future once the new minor is approved. "It will usher in a new era of understanding between Tar Heels and Yankees/ettes. And if we can get the administration to see the great value in the program, it could later become a major. In fact, I look forward to the day when there will be a doctoral program in Yankee/ette Studies."

Students who were asked their opinions of the new minor were much in favor of it. Said sophomore Allison Gritzmacher, "I have relatives who live up in one of those way Northern states — New Hamster, I think — and if I took the Yankee/ette Studies minor, it could really help me to relate to them on a far deeper level."

Her sentiments were echoed by junior Craig Olderman, who said, "I think UNC students ought to have to take all these minors in cultural studies so they can eliminate all prejudices and misunderstandings with the people they might come in contact with. I'd like a course in Tahitian culture. That ought to be put into the curriculum, too."

Some faculty members, however, were not so enthusiastic about the proposed Yankee/ette Studies minor. Professor Ruthenia Goodley-Baddley, dean of the School of Women's Studies, said, "This is a terrible idea. Why, Yankees/ettes are not an oppressed minority. Approval of this minor would send the wrong message." Getting into her BMW 745, she added, "Besides, it would divert a lot of money into a program of questionable academic value." □



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