

Smokestacks Bill Saved Duke From EPA, Audit

Rate freeze protected utility from lawsuit, penalties, and fines

By PAUL CRESSER
Associate Editor

RALEIGH
Contrary to the stated objectives of its supporters, the 2002 North Carolina Clean Smokestacks law — based on controversial environmental assumptions used to espouse questionable health benefits — may have been crafted to help protect the state's two largest electricity suppliers from federal lawsuits and fines.

The plan, signed into law June 2002, was developed by the liberal group Environmental Defense, which had joined the federal Environmental Protection Agency in a lawsuit against Duke Energy for alleged emissions violations at seven coal-fired power plants.

After EPA filed its lawsuit against Duke for its violations, the company entered into settlement negotiations with the agency.

"We explained the details of what EPA and the (U.S.) Department of Justice were looking for," said Bruce Buckheit, former director of the EPA's Air Enforcement Division, "then Duke broke off settlement discussions while they looked into the Smokestacks legislation."

George Givens, a General Assembly analyst who helps write legislation, acknowledged that the Smokestacks law helped Duke with its federal difficulties.

"The work required under, and thus the cost of compliance with, any federally required upgrade would, at least for the most part, overlap the work required under, and thus the cost of compliance with [Smokestacks]," Givens wrote in a memo June 8, 2002, just before the bill became law.

A last-minute change in the law said that if the EPA required stronger controls than the Smokestacks bill, which was highly unlikely, then the costs wouldn't be recoverable under the new state law.

"The intent of this change is to encourage rather than discourage settlement of any litigation," Givens wrote, "ensure that the utilities get the 'benefit of their bargain' under [Smokestacks], and ensure that any costs that may be incurred beyond [Smokestacks] for a violation of federal law will not be covered by [Smokestacks]."



Gov. Mike Easley signed the Clean Smokestacks bill into law at the State Capitol in June 2002.

Asked whether the pending EPA lawsuit influenced Duke's decision to support the Smokestacks bill, company spokesman Thomas Williams said, "Not a bit." When informed of Buckheit's comments, Williams said, "We're not going to comment on settlement discussions that were going on at some point."

Also, as the Smokestacks bill was passed, Duke was under scrutiny from auditors (see article, Page 5) working for utilities regulators in North Carolina and South Carolina.

The Charlotte-based power supplier had been exposed by one of its own accountants for under-reporting its earnings, because Duke was allowed only a 12.5 percent return on its equity by the North Carolina Utilities Commission. The audit found that Duke officials made illegal accounting adjustments in order to hide their excessive earnings.

What Duke got, as well as Progress Energy, out of the Smokestacks law was a promised five-year "rate freeze" from state lawmakers and regulators, which funded the costs of the expected \$2.3 billion pollution controls. Duke's excessive earnings

were also preserved. Without the Smokestacks law, Duke and Progress Energy would have been subject to a N.C. Utilities Commission rate review that would have scrutinized all their expenses, including any new emissions controls. Had a freeze not been implemented, rates for North Carolinians almost certainly would have gone down, perhaps significantly.

"We believe that the goal of the Clean Smokestacks Act should be to protect the citizens

and the environment, not the excessive profits of Duke," said Sharon Miller, executive director of the Carolina Utility Customers Association, which represents industrial and other customers in the state.

EPA files lawsuits

EPA files lawsuits

In November 1999 the EPA and the U.S. Department of Justice announced a new enforcement initiative against some Southern and Midwestern electric utilities. Attorney General Janet Reno filed seven lawsuits on behalf of the EPA against the utilities because of their failure to properly upgrade emissions technology on the smokestacks

of some of their coal-fired power plants. EPA also filed an administrative order against the federally owned Tennessee Valley Authority for its violations.

Ensuing months and years saw some of the utilities enter settlement agreements with EPA and the USDOJ. The first to reach an agreement was Tampa Electric Company, which was forced to spend \$1 billion to install stronger emissions controls on its coal-fired power plants. The company also agreed to pay a \$3.5 million civil penalty and to spend \$10 million to \$11 million on mitigation projects for its emissions.

Other companies later reached costly settlements with the EPA. In April 2003 Virginia Electric and Power Company agreed to spend \$1.2 billion on emissions controls and to pay a \$5.3 million civil penalty and at least \$13.9 million on mitigation projects. Cinergy Corp. of Ohio also agreed to add \$1 billion worth of pollution controls.

In May 2000 EPA issued to Duke Power a Notice of Violations letter for eight of its coal-fired plants, and the following December added the North Carolina utility to its list of lawsuit defendants. The litigation was based on a section of the federal Clean Air Act called New Source Review, which required utilities to implement the best available emissions reduction technology during certain types of upgrades to their plants.

Progress Energy (then called Carolina Power & Light) was also under scrutiny by the EPA, and in 1999 and 2000 received requests for information by the federal agency about eight of its power plants. Company spokeswoman Dana Yeganian said the EPA's pending litigation against the other utilities did not drive Progress to support the Smokestacks bill.

Reduce mountain haze

Concurrently North Carolina residents, especially in the mountains, and environmentalist groups pressured lawmakers and utilities to address their complaints about increasingly poor air quality. Throughout 2000 the groups campaigned for stronger emissions controls on the smokestacks of the 14 coal-fired power plants in the state owned by CP&L and Duke, and crafted an effective postcard campaign from citizens who begged for the controls.

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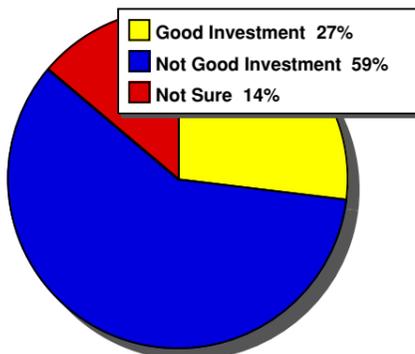
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\$1 Billion for Triangle Rail?



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ON THE COVER

• Contrary to the stated objectives of its supporters, the 2002 North Carolina Clean Smokestacks law — based on controversial environmental assumptions used to espouse questionable health benefits — may have been crafted to help protect the state's two largest electricity suppliers from federal lawsuits and fines. *Page 1*

NORTH CAROLINA

• The North Carolina Clean Smokestacks Plan, the report on which the state's landmark 2002 legislation was built, was written by a leftist environmental group and contained several assumptions based on what some call "junk science." *Page 3*

• When the North Carolina Clean Smokestacks Plan was first presented to the Department of Natural Resources staff, several environmentalist groups and the state's two investor-owned electric utilities already supported the legislation — if they could get cost recovery — according to documents. *Page 4*

• Despite strong evidence that Duke Energy intentionally fudged its accounting in order to preserve its level of earnings, the North Carolina Utilities Commission agreed to allow the utility to freeze its rates for five years. *Page 5*

EDUCATION

• With 26 magnet schools spread around its 650 square miles, Guilford County is feeling the pinch as it deals with disproportionate increases in transportation costs for magnet-school programs. *Page 6*

• In 2000, as Aaron Johnson began his fourth frustrating year in the public school system, a school employee gave his mom a piece of advice she believes rescued her son from a disastrous future: consider homeschooling. *Page 7*

• Lindalyn Kakadelis writes that frustration with bureaucratic ineptitude in public education is fueling an abundance of parental activism across North Carolina. *Page 7*

• The North Carolina Department of Public Instruction announced that the dropout rate for grades nine to 12 is up from 4.78 percent in 2002-03, to 4.86 percent in 2003-04. *Page 8*

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• Dr. Dennis Rondinelli, a professor of management at UNC-Chapel Hill, types on his Dell Computer an editorial explaining why he's worried about a new era of corporate welfare in North Carolina. *Page 23*

• Nathan Tabor writes that expectant mothers who don't want their children need to be given an alternative to abortion, and supporting crisis pregnancy centers can help provide that alternative. *Page 23*

PARTING SHOT

• **CJ Parody:** John Edwards wasn't hired by the Law School at the University of North Carolina at Chapel Hill for political reasons. Really. Honest. Promise. Scout's honor. *Page 24*

Immigration, Trade To Be Debated at Luncheon March 24

On Thursday, March 24, the John Locke Foundation will host a luncheon panel discussing immigration issues, featuring Dan Griswold, director of the Center for Trade Policy Studies at the Cato Institute, and Mark Krikorian, executive director of the Center for Immigration Studies.

Griswold has authored or coauthored studies on, among other subjects, globalization, the World Trade Organization, trade and manufacturing, immigration, and trade and democracy.

He has been published in the *Wall Street Journal*, the *Los Angeles Times*, the *Financial Times*, and other major publications and has appeared on C-SPAN, CNN, PBS, the BBC, Fox News, MSNBC and numerous other TV and radio news and talkshows. Griswold has testified before congressional committees and federal agencies on the U.S. trade deficit, steel trade, immigration, and the costs of protectionism.

Before joining Cato, Griswold was a congressional press secretary and a daily newspaper editorial page editor.

He holds a bachelor's degree in journalism from the University of Wisconsin at Madison and a diploma in economics and a master's degree in the politics of the world economy from the London School of Economics.

Krikorian is executive director of the Center for Immigration Studies (www.cis.org), a nonprofit, nonpartisan research organization in Washington, D.C. which examines the impact of immigration on the United States.

The center is animated by a pro-immigrant, low-immigration vision, which seeks fewer immigrants but a warmer welcome for those admitted.

Krikorian frequently testifies before



Top: Dan Griswold; Bottom: Mark Krikorian



Congress and has published articles in *The Washington Post*, *The New York Times*, *Commentary*, *National Review*, and elsewhere, and has appeared on "60 Minutes," "Nightline," the "NewsHour with Jim Lehrer," CNN, National Public Radio and on many other television and radio programs.

Krikorian holds a master's degree from the Fletcher School of Law and Diplomacy and a bachelor's degree from Georgetown University, and spent two years at Yerevan State University in then-Soviet Armenia. Before joining the Center for Immigration Studies in February 1995, he held a variety of editorial and writing positions.

The cost of the luncheon is \$20 per person.

The event will begin at noon at the Brownstone Hotel in Raleigh. For more information or to preregister, contact the John Locke Foundation at (919)828-3876 or events@JohnLocke.org. Learn about more special events and speakers at www.johnlocke.org.

"The Locker Room"

Every weekday, and sometimes on the slow news days of Saturday and Sunday, staff and friends of the John Locke Foundation discuss breaking news on an Internet weblog called The Locker Room.

President John Hood and *Carolina Journal* writers and editors monitor political and cultural developments in North Carolina and across the nation, and write short commentaries throughout each day and post them on the website immediately.

To get a free-market, conservative perspective on breaking news each day, visit "The Locker Room" at www.johnlocke.org/lockerroom. *CJ*

No Clear Health Reasons Cited for Support of Smokestacks

Continued From Page 1

The utilities, which acknowledged partial responsibility for the state's ozone levels, pushed for less-stringent controls on its plants than environmentalists wanted. CP&L and Duke realized the equipment, called Selective Catalytic Reduction and "scrubbers," would cost hundreds of millions of dollars and require rate increases. The utilities even started a counter-campaign to the environmentalists, asking supporters to write state regulators. According to an October 2000 *News & Observer* of Raleigh article, former CP&L employee W.G. Bowers of Raleigh wrote that "the company shouldn't have to spend millions without any guarantee it will solve the problem."

By March 2001 a dozen liberal activist groups, led by Environmental Defense, backed the North Carolina Clean Smokestacks Plan. The conservationists worked with two Western Democratic legislators from Asheville, Sen. Steve Metcalf (now retired from office) and Rep. Martin Nesbitt (now a state senator), to pressure the utilities and to sponsor the Smokestacks bill in the General Assembly. Nesbitt did not return phone messages seeking comment for this article.

"[Nesbitt and Metcalf] kind of played hardball with the utilities," Michael Shore, Southeast air quality manager for Environmental Defense, told *The News & Observer* in April 2001. Shore authored the N.C. Smokestacks Plan, which served as the basis for the bill.

But the Smokestacks bill did not provide any new meaningful authority for the state to force utilities to reduce their emissions. The EPA's pending litigation and settlement negotiations with Duke would have effectively forced the company to install equipment to reduce its emissions of sulfur dioxide and oxides of nitrogen.

Nor would the bill have improved visibility in the mountains (although on several occasions supporters would promote the bill as doing so), since pollution sources west of North Carolina were primary responsible for that problem. Provisions in the Smokestacks bill for the state attorney general to pursue legal action against other states already existed in federal law.

State senators from both political parties were brought quickly on board, and even signed a letter April 4 (the date the bill was filed in the General Assembly) to President Bush pleading for the TVA to be investigated about its emissions. The letter revealed that the lawmakers understood that the Smokestacks bill would do little, if anything, to improve the visibility problem.

"Even with [the pending Smokestacks bill] the air quality in the western part of our state will not be improved," they wrote. "Until we address TVA, we cannot begin to recover."

Selling Smokestacks at DENR

Shore, who left employment at North Carolina's Department of Natural Resources in 2000, was back meeting with his colleagues in the Division of Air Quality in April 2001. His goal: persuade them to support the bill and get their boss, Gov. Mike Easley, to commit to its passage as well.

Shore's plan — much of it based on questionable data and controversial assumptions (see related article nearby) — was received by DENR Secretary Bill Ross without much scrutiny of the plan's details. Among Shore's claims was that Duke and CP&L's cost of compliance with the new emissions standards would be only a combined \$449 million. Actually, the two utilities will be writing off \$2.3 billion for the equipment in the next seven years.

North Carolina Clean Smokestacks Bill Timeline

1991: Duke Power's last rate review before N.C. Utilities Commission

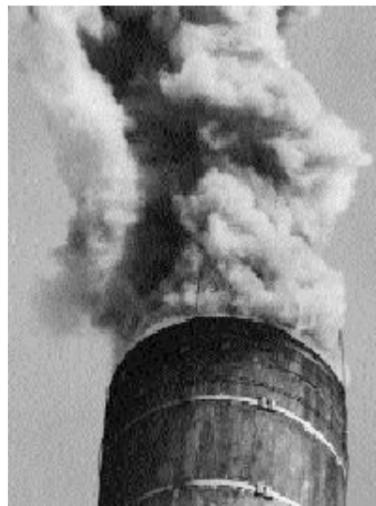
December 2000: EPA sues Duke over violations of the New Source Review provision of the Clean Air Act. Duke & EPA begin settlement negotiations.

Sometime in 2001: Duke leaves negotiating table to "look into the Smokestacks legislation," according to an EPA air enforcement official.

April 2001: Clean Smokestacks bill appears with backing of environmental groups and N.C.'s two major utilities. NC DENR, Gov. Easley & state Senate also quickly support bill, which allows utilities to recover costs for emissions equipment with a surcharge.

April-July 2001: Entities who support Smokestacks struggle to come up with points that show health benefits.

August-November, 2001: Representatives for manufacturers and utility customers refuse to support bill because of higher costs it will bring. Those problems prevent the bill from passage in the House, which leaves Smokestacks in limbo when it adjourns. Surcharge is a sticking point.



Jan. 2002: At the behest of the Utilities Commission, independent audit of Duke begins over alleged under-reporting of earnings.

March 2002: Easley renews push for passage of Smokestacks, bringing in Utilities Commission to help pacify industry groups.

May 2002: Carolina Utilities Customers Association, which said Duke is earning well beyond its permitted rate of return, wants a general rate case review before the

Utilities Commission.

June 2002: Duke & CP&L agree to a rate freeze as condition of adding scrubbers to smokestacks. House approves bill by overwhelming margin.

Oct. 2002: Audit finds Duke under-reported earnings to regulators by \$125 million, and reaches settlement agreement with Utilities Commission to pay customers \$25 million.

August 2003: Federal judge, going against precedent in other similar cases, finds in favor of Duke in lawsuit filed by EPA.

November 2004: Attorney General Roy Cooper, citing provisions from the Clean Smokestacks Act, notifies the TVA of his intent to sue over pollution from its power plants wafting into NC mountains.

Shore and Environmental Defense public information officials did not respond to several e-mails and phone messages seeking comment.

Still, air-quality officials, after a meeting April 3 about the Smokestacks bill near Metcalf's office, began deliberating about how to garner support for it from Easley and the House. In response to a request from Ross, Shore e-mailed a list of points for Ross to use "as you encourage Gov. Easley to support the N.C. Clean Smokestacks Bill." Among Shore's reasons were:

- "Protect public health and the environment... enumerated in the (Smokestacks Plan). This bill is possibly the most significant piece of air quality legislation in North Carolina in decades."

- "The bill is endorsed by both the environmental community and utilities... also quite politically safe consider[ing] that both sides endorse it."

- "Strong support in Senate...."

- "Easley support is critical to passage in the House. If he supports the bill early, he can take credit for this clean air initiative."

- "Easley can... make the Clean Smokestacks his issue, get significant points with the environmental community and the general public, and fulfill a campaign promise."

- "Credit by the press... If he waits for editorials to come out, he will seem like a laggard, even if he eventually supports the bill."

Shore's Plan Based on Dubious Data

By PAUL CHESSER
Associate Editor

The North Carolina Clean Smokestacks Plan, the report on which the state's landmark 2002 legislation was built, was written by a left-wing environmental group and contained assumptions based on what some call "junk science."

Environmental Defense, which produced the plan, usually stakes out positions on issues that are clearly left of center and are often described by critics as "alarmist." The group believes the United States should sign on to the 1997 Kyoto Protocol and used last year's big budget film fantasy *The Day After Tomorrow* as a launching point to warn about the dangers of global warming.

"In the coming years, global warming is likely to increase the frequency of 'killer' heat waves," EDF's website explains, while admitting the movie itself is "implausible, pure fantasy." "During the summer of 2003, the hottest in at least the past 500 years, record heat waves scorched Europe."

Consistent weather records were not kept until the late 19th century. But that tactic is a common one among some environmentalist groups: singling out an atypical weather occurrence in a single year and declaring it a trend. "In 1995 in Chicago a heat wave resulted in 525 deaths during a five-day period..." EDF also warned.

The group's Southeast air quality man-

ager, Michael Shore, employed that device in his Smokestacks plan also: "North Carolina's air quality consistently ranks among the least healthy in the nation. For example, in 1999, the state had the fifth-highest number of unhealthy air days."

In reality North Carolina meets the EPA's standards for carbon monoxide, sulfur dioxide, nitrogen oxides, and "coarse" airborne particulates. Last year in the John Locke Foundation's "Clearing the Air" study, author Joel Schwartz wrote that the state fell short in a small number of "fine" particulate standards and some ozone standards. But just as North Carolina was on the verge of meeting the ozone standards, Schwartz said "EPA moved the goalposts in April 2004."

Schwartz is a visiting scholar at the American Enterprise Institute and has conducted air quality studies for several agencies and nonprofit organizations.

Shore also claimed in the plan that the state's coal-fired power plants release pollution that "causes thousands of premature deaths, hundreds of thousands of asthma attacks... and severe reductions in visibility in the mountains." No known data exist on deaths or asthma linkage to North Carolina sources of air pollution, and poor visibility in the mountains is primarily related to out-of-state pollution sources. Shore and EDF did not respond to several e-mails and phone messages seeking comment.

Continued as "Smokestacks," Page 4

CF

Smokestacks Proponents Backed Bill, Then Found a Reason for It

Continued From Page 3

• “Be a leader among governors in the Southeast.”

Shore also argued that the bill would be good for economic development, but acknowledged that “this bill could put N.C. at a competitive disadvantage because of marginally higher energy prices.”

Health benefits an afterthought?

Documents obtained by *Carolina Journal* largely paint a picture of a bill presented by an environmental group, not the state agencies that address environmental issues. Statements show that support was given based on political considerations rather than real changes in air quality in the state. Only after the bill moved through the Senate and governor’s office did DENR officials search for data to validate the bill’s presumed virtues. In other words, no study or modeling of ambient effects were conducted before the widespread backing for the Smokestacks bill.

“I spoke to Robin Smith (an air quality analyst) at DENR and she told me: This is an [Environmental Defense] initiative,” wrote Phil Telfer of the Department of Justice in an e-mail to two colleagues April 17, 2001. “It is not a DENR bill, but the gov(ernor) has said if it passes in its current form he will sign it.”

Communications among DENR and DAQ officials in the early days of the bill indicate that real data and health benefits were not a prerequisite for support of the Smokestacks bill. On April 6, a day after the bill was filed in the Senate, air quality director Alan Klimek e-mailed his subordinates seeking information.

“Bill Ross has indicated... that it would be great if we could get some ‘back of the envelope’ number on what a reduction from utilities of 500,000 tons [per year of sulfur dioxide] to 130,000 tons [per year] might do for our future [fine particle pollution] con-



Former State Rep. (now Sen.) Martin Nesbitt, an Asheville Democrat, helped persuade Duke Energy and Progress Energy to support the Smokestacks bill. Department of Natural Resources Secretary Bill Ross (right) helped garner support for the bill from Gov. Mike Easley.

cerns,” Klimek wrote. “I realize we haven’t even started really thinking about this, but it would be a healthy (excuse the pun) reduction.”

Another Klimek e-mail, on April 11, showed that DAQ officials were scrambling in anticipation of having to answer questions from legislators about the bill.

“On the question of how much good this could do for [air quality], do we have a handle on what our annual [sulfur dioxide] emissions are and therefore what [percentage] reduction this means...?”

Other communications among DAQ officials indicate that some sulfur dioxide comes from North Carolina sources, but that “much sulfate is likely transport(ed).”

The Smokestacks bill required that Duke Power and CP&L reduce nitrogen oxides and sulfur dioxide beyond what federal law requires. But the state was already meeting federal air quality standards for those pollutants, and further reductions in emissions would not improve the air where



concerns were greatest — in the mountains.

Still, proponents were pushing the bill as a solution for the cleansing of mountain air. According to an April 24, 2001 report in the *N&O*, state Sen. Steve Metcalf argued that Smokestacks would improve air quality in western North Carolina.

“I have never supported a bill... that I think is more for the children than this bill,” Metcalf said during Senate debate.

Metcalf was a signee to the April 4 Senate letter to the president claiming the Smokestacks bill would do little to clear mountain air.

Finding ‘a unified message’

Even after the bill passed the Senate DENR officials had trouble promoting it.

“Bill Ross discussed with me the fact that the proponents of this bill were not able to make a strong case on its benefits when it was being debated in the Senate,” Klimek wrote in an e-mail April 27 to Shore and

representatives of the two utilities. “He would like us to see if we can get a one-pager together summarizing these benefits. The idea would be to have a unified message to counter the increasing concerns over costs.”

In the following month Shore and officials from DAQ and from the utilities discussed the development of “talking points” (see article, this page) to be used to support the Smokestacks bill. DENR officials discussed the revision of a memo that they would deliver to Easley’s chief legislative lobbyists, Franklin Freeman and Kevin Howell, presumably for them to make the case for the Smokestacks bill to House members.

While DAQ officials wanted to tout air quality improvements and Shore wanted to promote the Smokestacks bill’s health benefits, George Everett, Duke’s vice president for environmental and public policy objected to both points.

“The assessments of the impacts of our emissions included in the Clean Smokestacks Plan do not have a sound basis in my opinion,” Everett, Duke’s, wrote in an e-mail to Klimek on May 1, 2001.

By summertime, environmental groups had increased their lobbying efforts for the bill. They wrote to Easley asking for him to increase his efforts lobbying House members to pass the Smokestacks bill, after he had participated in a Southern regional governors’ summit on mountain air quality.

Also, environmentalists began making a case for year-round reductions in nitrogen oxides, which are a primary factor in the formation of ground-level ozone. However, the ozone season runs from May to October, because warm weather is usually needed for constituent elements to form ozone. The state doesn’t even monitor ozone levels in the state outside those months.

Discussions between DAQ Deputy Di-

Continued as “Customers,” Page 5

Why Did Duke Energy and Progress Energy Support the Smokestacks Bill?

By PAUL CHESSE

Associate Editor

RALEIGH

When the North Carolina Clean Smokestacks Plan was first presented to the Department of Natural Resources staff, several environmentalist groups and the state’s two investor-owned electric utilities already supported the legislation — if they could get cost recovery — according to documents.

Despite the state’s compliance with the EPA’s air quality standards for most pollutants, liberal environmental groups embraced the bill because it required Duke Energy and Progress Energy to place even stronger emissions controls on the smokestacks of their coal-fired power plants.

After the bill won the support of DENR Secretary Bill Ross, Gov. Mike Easley, and the state Senate, environmentalists faced a hurdle in the House. Representatives of ratepayer groups objected to the surcharge in the bill that would allow the utilities to recapture the costs for adding the new equipment, called Selective Catalytic Reduction. So utilities representatives, Division of Air Quality representatives, and Smokestacks Plan author Michael Shore of Environmental Defense began to negotiate “talking points” to promote the bill.

Statements and information culled from e-mails, obtained from state agencies by *Carolina Journal*, show that Duke did not agree that the Smokestacks bill improved air quality. Progress, previously known as

Carolina Power & Light, remained mostly silent about the virtues, and problems, of the plan.

“I do not know of any data to assess the improvements in air quality as a result of our emissions reductions,” George Everett, Duke’s vice president for environmental and public policy, wrote in an e-mail to DAQ Director Alan Klimek on May 1, 2001, “other than the modeling being done by (DAQ).”

DENR officials and Easley embraced the plan before they knew whether the bill would produce real improvements in what was already an improving trend in ozone levels. In addition to the utilities, emissions from other manufacturing plants, from gas-powered vehicles, and from out-of-state sources significantly affect air quality here.

“The assessments of the impacts of our emissions included in the Clean Smokestacks Plan do not have a sound basis in my opinion,” Everett said in the e-mail, which was also sent to Charles Wakild, head of Progress’s environmental department, and to Shore. “Thus any estimates of improvement using the same logic would be compounding the mistake.”

First drafts of proposed talking points emphasized emissions reductions from the plants, which does not necessarily equate with improved air. Under federal law utilities are allowed to emit more pollutants than the EPA standard, but can make up for it by purchasing “credits” from utilities in other states whose emissions fall far below

the standards. The Smokestacks law eliminated the credit buying, forcing Duke and Progress to find other means to meet the reduction standards in the bill. In an e-mail May 4, Klimek conceded that no air quality data informed the Smokestacks bill.

“We did not try to quantify benefits in any more detail (on the talking points) based on having only limited modeling to extrapolate from...,” he wrote to Everett, Wakild, and Shore, “...as well as [Everett]’s concern over using values such as listed in the material sent out by Michael Shore, et al.”

In later drafts of the memo, the negotiators dropped a point that described the cost recovery provisions of the bill as “reasonable,” in order to emphasize air quality benefits. However, cost was a big sticking point for many House members.

Further, Shore told the talking-points negotiators that he was concerned that no health benefits were included. He acknowledged disagreement with the utilities representatives on the benefits, but suggested that “a general health-related bullet” be included: “The emission reductions of both [sulfur dioxide] and [nitrogen oxides] will lower rates of asthma, respiratory illness, and other air-related health problems in North Carolina.”

However, Everett challenged the statement and said it should not be included.

“I have not seen data that supports the statement that Michael Shore proposes,” Everett wrote. “I have never seen a study by

anyone who suggests that reducing emissions will reduce the cases of asthma or other respiratory illnesses.”

Brock Nicholson, DAQ’s deputy director, backed Everett’s assertion.

“George is correct in that there is not general belief that ozone is a causal agent for asthma,” Nicholson wrote, “even though there have been some suggesting that is the case (no demonstrated proof though).”

So if the utilities officials, at least Duke Energy, did not believe there were clear health benefits from Smokestacks, why did they support the bill?

“We [were] asked by leaders in the General Assembly to work collaboratively with the environmental groups and others to comment and help develop the legislation,” Duke spokesman Thomas Williams said in an e-mail. “We said we could support the legislation if:

- The targets were achievable;
- The timeframe was realistic — i.e., we were able to get the reductions done in a realistic timeframe and not have to shut down too many units at once;
- There was a financial plan for us to recover the costs.”

Williams did not explain why Duke’s problems with the merits of the bill were never an obstacle.

Progress Energy spokeswoman Dana Yeganian said the company also supported the bill because it provided for cost recovery and flexibility in implementing controls. CJ

Customers Opposed Smokestacks Bill, Wanted Rate Drop from Duke

Continued from Page 4

rector Brock Nicholson and Marc Bernstein of the attorney general's office illustrated further doubt about year-round nitrogen-oxide reductions. After Nicholson sent out "fact sheets" in support of the Smokestacks bill, Bernstein asked, "Should we include in the... sheet the fact that ozone in NC is not necessarily from NC? This of course is important in the long term when dealing with [Georgia and Tennessee]. But (it) may hurt in the short term for [Smokestacks] so (it) would have to be worded carefully."

Bernstein further questioned Nicholson. "You've mentioned that ozone is formed in greater quantities on hot, sunny days," he wrote. "This supports the argument that year-round controls are not necessary. Can you provide any support for year-round controls?"

As justification for year-round nitrogen oxide reductions, Shore wrote a memo arguing that reduced pollution of soil and water would result, as well as visibility in the mountains, which was refuted by other sources. Still, those requirements ended up in the Smokestacks law, and both utilities accepted it as long as their costs were recovered.

Ratepayers' opposition

But two major groups representing large industrial ratepayers — the Manufacturers and Chemical Industry Council of North Carolina, and the Carolina Utility Customers Association — opposed the bill. Many of their members were enduring difficult economic times and laying off a lot of their employees.

"It was a surprise to us," said Preston Howard, president of MCIC. "We worked hard to keep the bill from coming to the floor of the House."

Howard said his group didn't object to the emissions requirements of the Smokestacks bill, but did oppose the surcharge.

"As you know, both utilities are experiencing record earnings," Howard wrote in December 2001 to Alan Hirsch in Easley's office, "while most North Carolina companies and many employees are simply trying to survive in the current economy."

Howard, as well as CUCA, argued that North Carolina customers, under the Smokestacks bill, would pay the total costs of the emissions controls while Duke's and Progress' South Carolina and wholesale customers would pay nothing. He also said the N.C. Utilities Commission could allow both companies to recover their costs under a general rate review, without need for a special surcharge that the Smokestacks bill would call for.

"Governor Easley should ask the two utilities to 'step up,'" Howard wrote to Hirsch, "they can afford it."

In the late fall proponents made one last "push" for the bill before the legislature adjourned. Ross wrote to House Speaker Jim Black, arguing that the Smokestacks bill would reduce "asthma attacks among our people" and "haze in our mountains," despite contrary arguments from his own subordinates and from state senators.

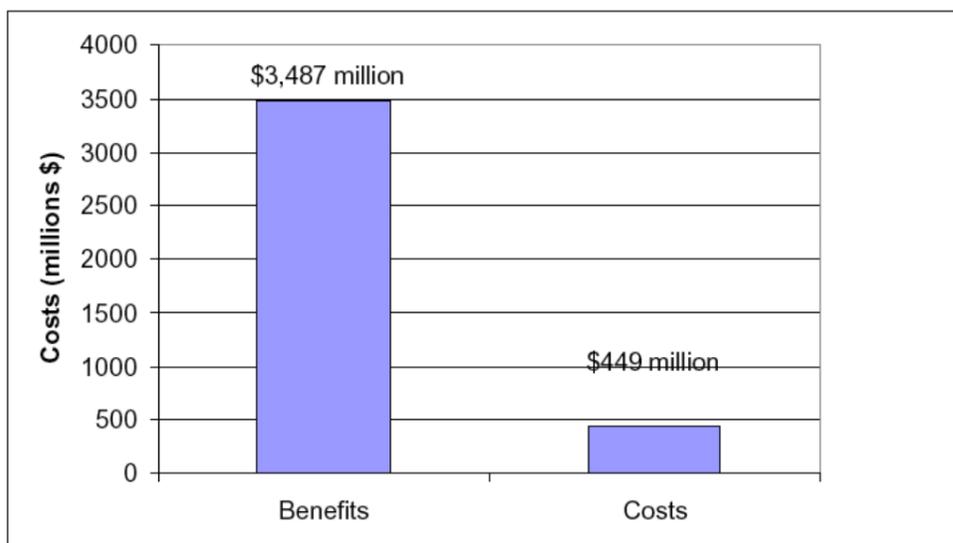
But because the concept of a surcharge to recover costs for the utilities was so objectionable to ratepayer groups, the Smokestacks bill was left in limbo at the end of the 2001 General Assembly session.

Return of Smokestacks in 2002

By February 2002 proponents in Easley's office, in DENR, and in Attorney General Roy Cooper's office were discussing the Smokestacks bill again. Cost recovery for Duke and Progress was the sole remaining

Environmental Defense's Questionable Data

Figure 7. Benefits versus Costs of Reducing Smokestack Pollution



This bar chart was part of Environmental Defense's 'North Carolina Clean Smokestacks Plan,' upon which the landmark state law was based. The costs, represented at \$449 million on the right bar, were actually \$2.3 billion. The plan also failed to substantiate the \$3.5 billion figure promoted as economic "benefits" from the Smokestacks plan.

holdup. One e-mail between Department of Justice officials said Ross was "anxious to try to move this bill and wants our assistance in finding a way around the impasse."

Compounding the problem was the fact that CUCA wanted the Utilities Commission to initiate a general rate case review for Duke, because they believed the utility had repeatedly exceeded its 12.5 percent allowed rate of return on its equity.

CUCA believed a rate review for Duke, even with new emissions controls, would result in an overall rate decrease for customers.

Contributing to suspicions about Duke's earnings was that the company hid excessive earnings (see article, below) from utilities regulators in North Carolina and South Carolina. An audit by accounting firm Grant Thornton LLP determined that Duke management "met and developed a plan to identify expense and revenue items

which could serve as a basis for accounting adjustments which could be made to 'avoid reporting over-earnings to regulators.'" Duke vehemently denied any intentional wrongdoing, and a federal investigation produced no indictments.

While the audit continued and Duke's EPA lawsuit was still unsettled, Smokestacks negotiators discussed the concept of a five-year rate freeze for both utilities in exchange for accelerating writeoffs for the costs of the new emissions controls.

The N.C. Utilities Commission, despite Duke's suspected under-reporting, agreed to allow a rate freeze to become part of the bill. The idea broke the deadlock over cost recovery, bringing Howard in support, but still leaving CUCA in opposition.

However, that was good enough to get the bill passed in the House, where only four members voted against it. Easley signed it into law on June 20, 2002.

Utilities Commission Allowed Rate Freeze Despite Audit

By PAUL CHESSER

Associate Editor

RALEIGH

Despite strong evidence that Duke Energy intentionally fudged its accounting in order to preserve its level of earnings, the North Carolina Utilities Commission agreed to allow the utility to freeze its rates for five years.

Barron Stone, a Duke Power accountant, reported on numerous occasions to his supervisor, and to his employer's ethics line, that the company was unethically adjusting its accounting to show lower earnings than it really had. Duke is allowed only a 12.5 percent return on equity in North Carolina, and a 12.25 percent return in South Carolina.

Stone finally got the attention of the South Carolina Public Service Commission in mid-July 2001, and subsequently the North Carolina Utilities Commission. Both agencies required an audit of Duke's accounting practices, which began in January 2002.

Stone first reported his findings to then-SCPSC Executive Director Gary Walsh, who started as an auditor himself for the agency in the 1970s. Walsh said Stone gave to him memos from Duke executives that explained what needed to be done to accounting entries in order to maintain their higher earnings ratio.

He said he knew what the auditors were likely to find, and informed two offi-

cial at the North Carolina Utilities Commission (NCUC) about Duke's problems.

"Certainly (NCUC general counsel Robert) Bennink, (operations director) Don Hoover and I, when I met with them, I expressed to them what I felt the documents demonstrated," Walsh said.

Auditors from accounting firm Grant Thornton LLP, after wrangling with Duke for access to documents, determined that the company hid \$124 million in excessive earnings by moving money from its regulated business to its unregulated business. Grant Thornton was hired jointly by both states' utility regulatory agencies to perform the audit.

The audit process began in January 2002, after the Clean Smokestacks bill had been left in limbo in the North Carolina House. The legislation was revived again in the spring, and signed into law by Gov. Mike Easley June 20.

But according to Walsh, the North Carolina Utilities Commission staff understood the seriousness of the Duke violations, and was aware of difficulties Grant Thornton had in obtaining information from Duke.

Carolina Journal asked what the nature and content of the N.C. Utilities Commission officials' discussions with Thornton's auditors was prior to the Smokestacks bill's passage. The commissioners' responses were vague. Commissioner Sam Ervin IV responded by reciting official documents and reports issued publicly by the commis-

Duke wins in review and in court

After winning passage of the Smokestacks bill, the Grant Thornton audit report was completed a month later and was released in October 2002. CUCA sought a rate review for Duke from the N.C. Utilities Commission, but the rate freeze contained in the Smokestacks bill prevented that.

According to a report in the Oct. 3, 2003 *Charlotte Business Journal*, Duke's return on equity was 14.43 percent during the year ending June 30, 2003, and had overrun its permitted rate of return for three consecutive quarters. Each percentage point represents about \$55 million, meaning Duke's profit exceeded its permitted rate by more than \$100 million.

Meanwhile Duke, like several other utilities that had been targeted by the EPA that had worked toward settlements while still defending themselves in the lawsuits, obtained a favorable court decision in August 2003. U.S. District Judge Frank W. Bullock Jr., in contrast to rulings by other courts, ruled that the basis for the EPA's actions against Duke were unlawful. The case is now under appeal.

But in the early days of the EPA's enforcement action, Duke, like many other utilities, sought to negotiate with federal authorities.

"We set out our demands," said Bruce Buckheit, former EPA director of air enforcement, "and Duke took off for about six months to a year, and popped up with a bill that very nearly met our demands and had a mechanism where the pollution controls would be paid for."

Buckheit, who retired from the EPA in December 2003, said Bullock's surprise ruling delayed a settlement. Meanwhile Duke officials think the company's legal position is strong in the case and that the Smokestacks bill benefitted all who participated in its negotiation.

"We're happy because we got very healthy cost recovery," Williams said. "We think it's excellent legislation." CJ

National News In Brief

Study faults social promotion

A new study has found ending social promotion leads to significant academic improvement for previously low-performing students, the Heartland Institute reports.

The study, published in December 2004 by the Manhattan Institute for Policy Research, looked at third-grade students in Florida who were required to pass a standardized test in order to be promoted to the fourth grade.

Researchers Dr. Jay Green, a senior fellow at the Manhattan Institute, and Marcus Winters, a research associate at the institute, analyzed data from the Florida Department of Education. They compared the gains among low-scoring third-graders in the first year of the retention policy against similarly low-scoring third-grade students from the previous year, before the retention policy had been enacted.

The study found that students who had been held back improved their reading scores on the Florida Comprehensive Assessment Test by 4.1 percentile points, and their math scores by 9.98 percentile points, compared to similar students who had not been held back.

Commenting on the study, U.S. Secretary of Education Rod Paige said, "For too many years, we automatically passed students from one grade to the next without concern for whether they were actually learning. As a result, our most vulnerable students fell further and further behind their peers... I applaud schools in Florida and across the nation that are working to help our children by stopping the dangerous practice of social promotion."

Gangs move into rural areas

Gangs, once identified mostly with big cities, are showing up more frequently in smaller communities and even rural areas in North Carolina, an investigator of gang activity says.

"We've got kids running around who are gang members in Duplin County," Detective Hunter Glass of the Fayetteville Police Department said.

Glass has investigated gangs for more than a dozen years. He travels around the state making presentations about gang behavior. On Feb. 7 he taught about 300 school administrators gathered in Fayetteville how to spot gang behavior, the *Fayetteville Observer* reported.

Recently, he said, gangs started in California among Hispanics have started showing up in Sanford.

Group to lobby for sex ed

Supporters of comprehensive sex education will push the State Board of Education this year to broaden the sex-ed curriculum beyond its "abstinence-until-marriage" core, the *News & Observer* of Raleigh reports.

They point to a recent Department of Public Education survey to bolster their case.

Most parents want sex ed to begin earlier, to involve more class time and to include more information about contraceptives and the prevention of sexually transmitted disease, the survey says. Also, the vast majority — 95 percent — think parents and public health officials should set the curriculum; only 6.9 percent think politicians should. CJ

Magnet Schools Attract Controversy

School districts consider whether higher transportation costs are worthwhile

By SAM A. HIEB
Contributing Editor

GREENSBORO
Winter in the Piedmont region of North Carolina presents challenges for school transportation officials, especially in Guilford County. The county is on the dividing line of many weather systems, so it's hard to predict whether it will snow, sleet, or rain. Trying to decide whether the roads are safe to transport students to school is a difficult call.

But this year, there have been many more difficult transportation decisions for Guilford County Schools. GCS has 26 magnet schools spread around the 650-square-mile county, and while there may be little doubt that magnet schools benefit students, GCS is feeling the pinch as it deals with disproportionate increases in transportation costs for magnet programs.

Hub system aroused confusion

At the start of the 2004-05 school year, GCS came under fire from parents and the local media when its newly instituted hub system, designed to transport students more efficiently, didn't work out as planned. Students didn't know which buses to board, many went to the wrong schools, and many didn't arrive home until late in the evening.

"My daughter was somewhere in Greensboro, and I didn't know where," one parent told the Guilford County Board of Education at a meeting addressing the problem.

Superintendent Terry Grier and the board once again found themselves on the hot seat, months after drafting a "school choice" plan for three High Point-area high schools that drew the ire of parents. The movement to oust Grier ("Get Terry Grier Outta Here!" was the rallying cry) and certain board members only intensified.

So huge was the outcry that the school board meeting addressing the problem had to be held in the county courthouse to accommodate the turnout.

At that meeting GCS Assistant Superintendent John Wright laid out several factors contributing to transportation problems:

- Transportation forms were turned into the wrong place, including 600 applications that weren't received until the first day of school;
- Staff failure to enter names and transportation requests into the system;
- Lack of understanding of the transportation system and inadequate staff to handle the overwhelming number of phone calls and e-mails during the first few days of school.

Distance and long bus rides

Then Wright got to the heart of the matter: Guilford's a pretty big county to have so many magnet schools. Getting a kid from Gibsonville, in the eastern part of the county, to Penn-Griffin magnet school, in the southwestern part of the county, is simply going to take a while, he said.

"How large a magnet zone will you allow and still expect timely transportation?" Wright asked the board. "If you don't restrict the magnet zones, you're going to have one-and-a-half-hour bus rides. You need to have some discussions about what you're willing to do and what you're willing to pay to do it."

Of course, one option would be to disband the hub system, but at a cost \$3 million to buy the buses to do so.

Board member Anita Sharpe presented another perspective. "The problem is greater than transportation," Sharpe said. "This board needs to figure out if it can afford magnet schools."

With that in mind, GCS has already begun discussions with the school board about how it will avoid the fiasco that greeted the start of school this year.

"We've got a long list of lessons from last fall," transportation Director Jim Moen said.

Since 1995, GCS has provided what has been called "a reasonable effort basis to transport magnet students." That reasonable effort basis, in the past, has been defined as "creating bus stops for magnet students, period," Moen said.

It helps to realize that, magnet and school choice programs aside, there are annual start-up challenges for transportation staff, such as fluctuating ridership, late school registration, and requests for route changes on the first day of school.

Higher costs of magnets

Moen recently presented the Board of Education with costs related to transportation to magnet schools. Costs will indeed increase; 2003-2004 transportation costs for magnet students was \$3.3 million, compared to \$1 million if every student attended school in their home district.

Moen estimates a cost of \$5.7 million for the 2005-06 school year, including \$1.7 million for acquisition of new buses to accommodate the 700 more students projected to be riding buses.

The hub system will remain in place, but GCS will draw a line that would divide the county into east-west zones, with students being required to attend the magnet school within that zone. Length of bus rides will still be an issue, however, as Moen recommended extending the ride times to some schools from 65 minutes to 90 minutes for students attending programs in the High Point choice plan.

That recommendation concerned some school board members.

"To put that up to 90 minutes one way is going back on our word," said board member Kris Cooke. "I think what that's doing to that plan is not right."

"Give me a scenario where it would take someone in that area 90 minutes to get to school," said board member Susan Mendenhall.

Moen said it can't be helped when there are two or three students in the northwest corner of the county attending magnet programs in High Point. "There are areas along the Forsyth County line where the roads require some difficult routing," Moen said.

Other school systems have already taken steps to make transportation to magnet schools more efficient.



Transportation systems elsewhere

Wake County, which has magnet programs in 47 schools, has what it calls "express transportation," which is similar to Guilford County's hub system. Students provide their own transportation to a designated stop, which may be another school campus, a regional library, etc., and then the student is transported to his or her magnet school.

As for the cost of transporting students to magnet schools, Eddy Adams, transportation operations director for Wake County Schools, said he has been in his position only a short time and has not had an opportunity to evaluate costs of magnet transportation.

Adams is not overly concerned with the cost, saying in an e-mail message he did not "see where the cost would be exorbitant since we would have to be transporting those students anyway."

In Charlotte-Mecklenburg, where 54 schools offer 15 magnet programs, students may apply to any magnet school within the district but transportation will only be provided if the school is within the student's high school feeder area. The system has 14 high school feeder areas.

It should be noted that other factors besides magnet programs put the squeeze on transportation programs in Guilford County and elsewhere.

The federal No Child Left Behind law allows students to "opt out" of schools that don't make academic annual yearly progress, and school systems are struggling with how far they can transport students who choose to opt out.

Last year, GCS made transportation arrangements for 228 students who made that choice. However, school systems weren't informed which schools didn't make annual yearly progress until early August last year, making it "virtually impossible to anticipate the NCLB opt-out choices," Moen said.

Another problem is transporting students to day-care centers. Moen said that half the problems he personally had encountered this past year had been delivering students to day-care centers.

The major problem, according to Grier, is families live and go to school in one area, then request transportation "to a day-care center not on the route, or near the route, but completely across town."

"We want to work with parents where we can, and we want to be reasonable," Grier said.

"But we want the board to understand there are times when requests are unreasonable, and from a practical and financial standpoint, we're not going to be able to accommodate those requests."

Moen said GCS would "set up a list of day-care centers we'll work with, and add more as time goes on. But it can't become a priority." CJ

*Children thrive in positive environments***Home-Schooling Rescues Families**

By DONNA MARTINEZ

Associate Editor

RALEIGH

Editor's Note: *Carolina Journal* agreed to provide anonymity to the home-schooled families featured in this story. Their names have been changed to ensure their privacy.

In 2000, as Aaron Johnson began his fourth frustrating year in the public school system, a school employee gave his mom a piece of advice she believes rescued her son from a disastrous future: consider home-schooling Aaron.

Kathy Johnson had heard of home schooling but knew little of what was involved or required. She spent hours scouring the Internet in a desperate search for a way to avoid the consequences of the alarming conclusion she had reached: Her young son's future was being jeopardized by an inflexible, one-size-fits-all public school system.

Negative attitude at school started early

The frustrating family journey began in Aaron's first-grade classroom when a teacher harshly told the boy his writing was sloppy. Kathy was concerned he was being subjected to negativity that would become a self-fulfilling prophecy. "I didn't want a teacher telling him he couldn't do it," she said.

The situation degenerated over time. Aaron told his mom the teachers didn't help him much. Worried, she began visiting his class and writing letters to the teacher and principal. The school tried to address Aaron's reading deficiency by putting him in special classes. His skills improved marginally, but he fell further behind. Kathy tried to move her son to a magnet school in the Triad, where he had done well in a summer camp program. She was willing to make the 16-mile round trip each day, but the school's waiting list was long. She was told the best she could hope for was the possibility of a seat for Aaron the following year.

As mom and son sat together to share a book, it was clear to Kathy that Aaron could barely read. She was appalled when she realized he was also unable to perform basic subtraction. Even worse, Aaron told her he was being bullied. Unsure of what the future held, but convinced she must take bold action, Kathy accepted responsibility for her son's education and became a home-school mom. That meant learning to be a teacher, shouldering the costs for curriculum and materials, and juggling the school day with her job doing medical transcription from home.

"The first year was hard," she said, shaking her head. "He was frustrated. Math was hard; he would cry." Kathy, a single mom, coped alone with the challenges posed by her new role.

Aaron made substantial progress

Ultimately, it was Aaron's academic progress that kept Kathy's spirits and commitment high. She could tell he was learning, but she had no proof. There was no baseline testing data from his public school days with which to compare his new end-of-year test results — a yearly, nationally normed assessment that's required by state law. By year three, Kathy had plenty of confirmation in hand. Aaron's progress in reading was remarkable. His scores on an Iowa Achievement Test demonstrated three years of gains in just one school year.

Kathy is equally thankful for home-schooling's impact on her relationship with her son. The two have bonded in a way she believes wouldn't have been possible otherwise. Yet despite his progress, and to her dismay, Kathy says neighborhood parents advise her to re-enroll Aaron in public school. She's not about to turn back.

"This mom is my hero," said Lindalyn Kakadelis, director of the North Carolina Education Alliance. "She took control when the traditional education setting, which works for some kids, was failing him." The women became acquainted last year when Kathy contacted Kakadelis for advice on finding financial assistance to buy Aaron's eighth-grade curriculum. The young man who once could barely read will soon study Latin, which is part of the curriculum Kathy has selected.

The average home-school family spends \$500 to \$600 per child per year on new materials, said Hal Young, president of the service and support group, North Carolinians for Home Education. Nearly 30,000 North Carolina



Carolina Journal photo by Hal Young
John Calvin Young (left) and Caleb Young dissect a crawfish at their home.

families have chosen the home-school option for about 60,000 children. Nationally, the number of children who are home-schooled reportedly tops one million.

Some home-school parents question why they can't tap into the taxes they contribute for public education and use the money to pay for home-schooling expenses. Young thinks that action would undermine a fundamental element of the movement: independence from government regulations and oversight.

"The problem you can get into with taking tax money is that the government has the right and responsibility to oversee it," he said.

"Thirty thousand have chosen to step out without state funding, and we think it's worth it." Young said that many families are drawn to the movement for fundamental reasons: the desire to include religious principles in education and concerns over public school curricula and the social environment.

Family seeks flexibility, religious teaching

While Kathy and Aaron came to home-schooling as the last stop on a difficult road, a central North Carolina family made the choice for very different reasons: scheduling flexibility and religion. Kevin and Debbie Morris have six children — five of them school-age. Kevin's broadcasting job requires him to work evenings and weekends. A traditional school schedule would leave little time with his children, and that prospect was unacceptable to the close-knit, religious family.

"Family time can be minimal," Kevin said of the typical family's rushed lifestyle built around getting to and from school and work. "We wanted to raise our kids. We wanted to teach them what we believe."

With stair-step youngsters ranging from 2 to 15 years, there are numerous teaching duties for the couple to share. Debbie focuses on the younger children, while the older siblings study more independently. Dad is the go-to man for math and science. Home-schooling also allows the parents to broaden their children's interests and experiences, when and how they choose. Sometimes that's through their church. Other times, it's by joining community groups. Five children are competitive swimmers, two are orchestra members, and a teen-age son is a burgeoning chef. The family has visited 42 states on frequent road trips — part vacation, part education opportunity. "That's denied in a regular school system because you couldn't pluck the kids out any time of the year to go across country."

Now that the Morris' oldest daughter is 15, the family is preparing her for a more regimented college schedule by enrolling part time in a private school. The older children also plan to learn Spanish at a community college. While some parents may wonder whether the freedom and opportunity translates into legitimate learning, Debbie proudly recites a more traditional measure of achievement to which all parents can relate: her children's impressive test scores.

As home-schooling grows, so does the participation of ethnic minorities. Young estimates that 5 percent of North Carolina home-schoolers are black. Another 1 to 2 percent are Hispanic, and because that demographic group is growing so rapidly, NCHE is preparing to launch an initiative with El Hogar Educador, a Mexico-based group, to bring Spanish-language home-schooling materials to North Carolina. "You've got to learn English, but while you're getting that up to standard, you can be learning in Spanish," Young said.

Empowered Parents Challenge the System

Across North Carolina, frustration with bureaucratic ineptitude in public education is fueling an abundance of parental activism. Some of these empowered parents are seeking to transform the system from within, lobbying for a change in school policies. Others think their only recourse is to remove children from unresponsive schools and proceed with legal action.

As I speak with parents, I hear increasingly of a palpable sense of dissatisfaction with public education, coupled with a fervent desire to effect change. Recently, a mother contacted me about a required book that her 8-year-old daughter had read at school. *Maniac Magee*, by Jerry Spinelli, uses profanity and refers to one home as a "pisshole." In addition, the book's characters "curse," "belch" and "fart." This mother, along with a group of parents, pressured school leaders to remove the book from the reading list. When the school dismissed their concerns, these parents forged ahead, eventually winning over administrators at the district office. The book was purged from the K-third-grade-reading list, but only at this one school.



Lindalyn
Kakadelis

In my book, any parent who takes on the education bureaucracy is empowered. Viewing parental involvement through the lens of power is constructive — many parents feel disenfranchised and powerless when it comes to tackling entrenched school policies, even when (as the above example demonstrates) such policies are grossly inappropriate. In fact, one of the parents who helped to successfully sideline *Maniac Magee* said to me recently, "Thank you for choosing to use the word 'empowered.' Most of the time when I think about this issue, I end up thinking more along the lines of 'hopelessly shut out by bureaucracy.'"

While these parents prevailed in their quest to change school policy, many parents are, in fact, shut out by bureaucracy. Consider the case of a single mother whose child has verbal apraxia, a learning disability requiring intervention through speech therapy. The school system her child attends was refusing to allow speech pathologists to work with students. So she, along with several other parents, retained a lawyer to try to force the system to provide speech help. In the interim, these parents are home-schooling their children, and paying for extensive tutoring. This mother told me, "My son is entitled to the tax money given for his education, but he can only receive it if I allow him to go to an inferior education provider that doesn't meet his needs. I want the system to get fixed, but I cannot allow it to be fixed on the back of my child. Something must change!"

Clearly, these children are not receiving the quality of education guaranteed to them by law. Last year, a number of students, parents and officials in several North Carolina counties sued the state, demanding more equitable funding to receive a "sound, basic education" — the constitutional right established by the court's finding in the *Leandro* case. I wonder how long it will take for dissatisfied parents in our state to file suit demanding "equitable funding" for a "sound, basic education" from schools outside the system.

In fact, a court decision in Georgia could be a legal bellwether, setting a precedent for lawsuits in other states. While Georgia already has a pending case similar to *Leandro*, another case joined the fray in January. Several Atlanta parents are asking that the state's educational system be declared unconstitutional. They think the state should make fundamental changes to increase educational choices.

Around the state, disaffected parents are ready to do battle with public education's bureaucratic behemoth. If current trends are any indication, intransigent school systems may increasingly find their resistance rewarded with fractious legal skirmishes. For now, all eyes are on Georgia.

School News: State

Charters have few dropouts

The North Carolina *Dropout Report* revealed some interesting differences between the state's regular school districts and its charter schools.

For purposes of reporting, charter schools are their own Local Education Agencies (LEAs), a single-school school district. That gives the state 212 "districts" to track in the *Dropout Data Report 2003-04*.

According to the data, about half of the regular school districts in North Carolina experienced an increase in their dropout rates from 2002-03 to 2003-04. Less than 2 percent of the state's charter schools, meanwhile, had higher rates last year.

Teacher fired for poor ethics

Controversy continues to surround the Sallie B. Howard School for the Arts and Education in Wilson. So far, questions remain about the school, its former test coordinator, the two teachers accused of altering test scores, and a teacher who made accusations of wrongdoing in the first place.

Two teachers at Sallie B. Howard were accused, by a third teacher, of altering the answers on students' end-of-grade tests to insure a higher score. Independent investigation confirmed that the test tampering had taken place, and the school's test coordinator, Dr. Laura Edwards, resigned.

The teacher that made the accusations of possible wrongdoing and exposed the tampering case was fired. According to reports in *The News and Observer* of Raleigh, Wilson County public schools said the whistleblower was fired for violations "of both state and school rules of conduct and ethics."

The fired employee must demonstrate that the dismissal was ordered in retaliation for bona fide information. The dismissal will stand if the accusations prove malicious or false.

"No" to land, "yes" to travel

Wake County Schools turned down an offer of 14 acres of free land within the Wakefield Plantation community. According to the *N&O*, the offer came from an owner who hoped Wake County would place a modular school in Wakefield, rather than farther away on a site in Wake Forest.

Recent winter weather conditions in the Triangle underlined the hazards of trying to transport children across long distances when road and traffic conditions become hazardous, according to *WRAL News*.

Parents are concerned about long hours on a bus and the possibility that young children may be forced to stay overnight at their schools if the weather is bad. Some schools are buying blankets and other sleeping gear.

Reassignment in Wake County has also increased many parents' resistance to long-distance travel between home and school. *CJ*

Still, education leaders will toughen graduation requirements

High School Dropout Rate Is On The Rise Again

By KAREN PALASEK

Assistant Editor

RALEIGH

The North Carolina Department of Public Instruction has just released some discouraging news for schools, parents, and students. According to DPI, the dropout rate for grades nine to 12 is up from 4.78 percent in 2002-03, to 4.86 percent in 2003-04. The rate represents 20,035 students, a 1.7 percent increase over the 19,000 students reported as dropouts the previous year.

"Every student who drops out of school represents lost potential for the student, for his or her family, for the community, and for the state," State Superintendent Patricia Willoughby said in a press release in early February. "It is vitally important for all students to earn high school diplomas and to be well-prepared for adulthood."

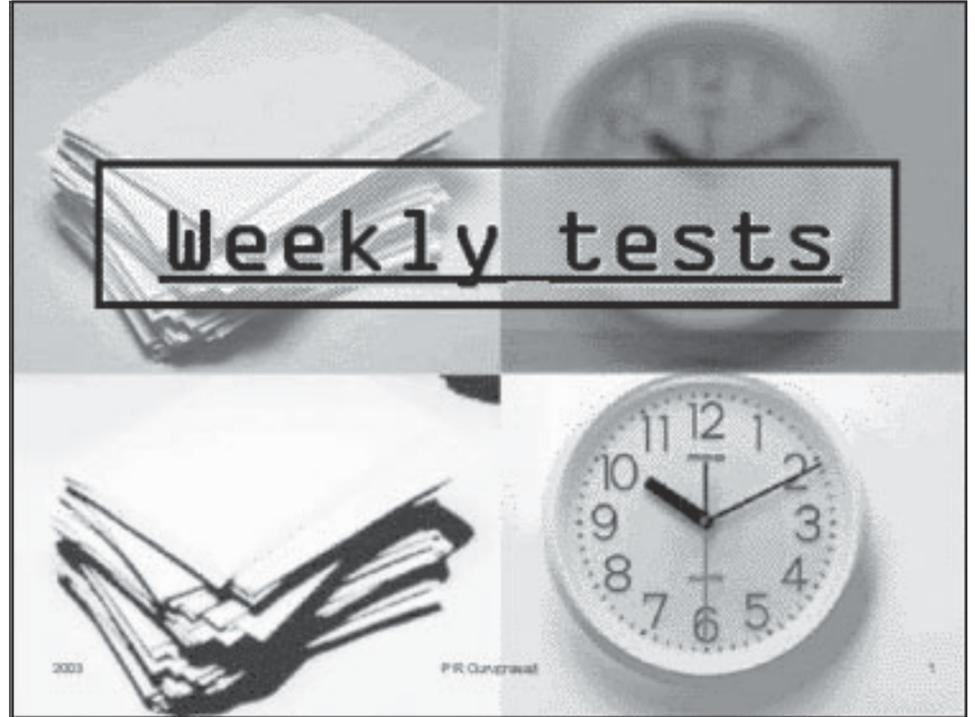
The State Board of Education is not raising an alarm over the dropout situation, but there is renewed interest at the State Board in raising the compulsory school attendance age from 16 to 17 years old. DPI, meanwhile, notes that the grade nine to 12 dropout rate has actually fallen by 28.3 percent since 1998.

Statistics are no cause for alarm

Not so, says Brunswick County parent J. Fanti, who worries that parents of black teen-age boys, in particular, are getting the wrong message with the latest state statistics. "They think there's nothing to worry about," Fanti said, "so they aren't motivated to do anything differently."

In a discussion with *Carolina Journal* about the lack of role models, lack of parent support, and lack of honesty with parents about the state of education in public high schools, Fanti expressed frustration and annoyance. In his case, teachers informed him that they "didn't want my son to get in trouble," by returning calls he made asking about his child's progress.

As a result, this parent learned about school work problems after it was too late to take remedial action at home. He isn't surprised that kids with absent parents, or ones who don't care, don't make it through



high school at all. Understating the dropout problem doesn't help, he said, and he wants the state to make it clear to parents that there is a graduation crisis among minority students, particularly young minority males.

The dropout rates for some student subgroups were substantially higher than the 4.86 percent state average. American Indians had the highest rate, at 9.78 percent, followed by Hispanics at 8.67, blacks at 5.91 percent, whites at 4.46 percent, and Asians at 2.57 percent.

The most frequent reason for dropping out? Poor attendance, in an overwhelming 59 percent of cases. Moving accounted for about 11 percent of dropouts, while academic problems ranked third, responsible for slightly less than 9 percent of North Carolina's high school dropouts.

How many ways to measure?

Along with parents, education research organizations such as the Manhattan Institute question the validity of using high school dropout rates to measure school success. They insist that the four-year high school graduation rate provides a much more accurate measure of who, and how many students are making it through high school.

Jay Greene and Greg Forster, in their *MI* study "Public High School Graduation Rates and College Readiness Rates in the United States, 2003," determined that North Carolina high schools graduated only 63 percent of the students who started high school four years earlier. Even among the graduates, only 40 percent were "college ready," according to the report.

There is a big difference between a dropout rate and a graduation rate. The North Carolina *Dropout Data Report* counts as a dropout a student who "was enrolled in school at some time during the previous year," and either was

not enrolled on day 20, or has not graduated because of transfer, temporary absence, or death. The state's count is called the *duplicated count* because it is possible to count the same student as a separate dropout every year.

Since the state measure is a year-to-year count, it does not reveal what percentage of students make it through all four high school years. The current dropout rate tells us that for students in grades nine to 12, on average, 4.86 percent fewer students in each grade were enrolled during the 20-day counting period than were enrolled the previous year. It does not mean that 95 percent of students who enrolled in the ninth grade graduated four years later.

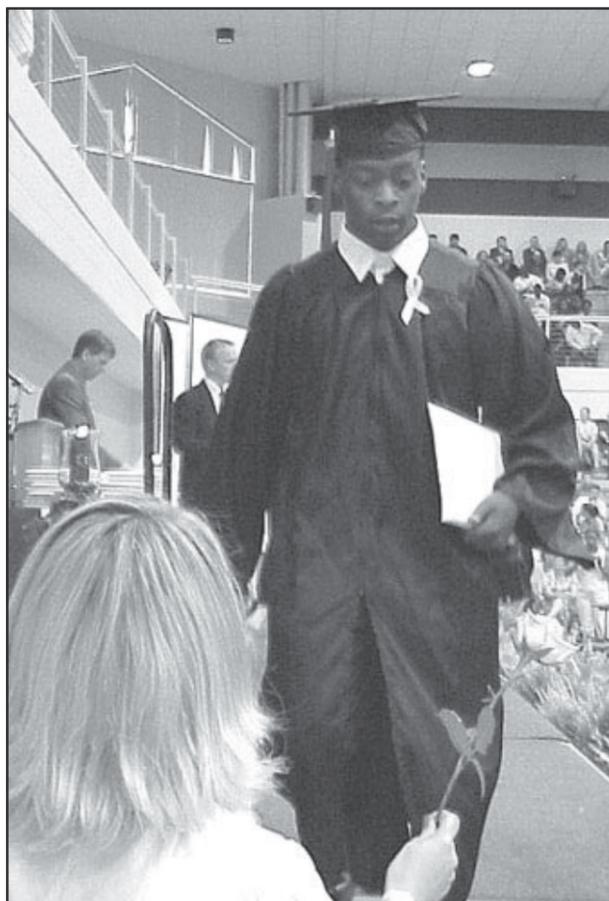
This difference is what has some parents alarmed. In 1999, North Carolina enrolled 116,861 ninth grade students in public high schools. In 2002-03, there were 73,523 12th-grade students enrolled. Based on final enrollment figures, 37 percent, or 43,338 students, dropped out during that four-year period. That means that only 63 percent of the entering class graduated, a figure that sounds far more ominous than the 4.86 percent dropout rate.

A June 2004 Johns Hopkins University study reinforces the sense of concern about graduation, and minorities in particular. According to *Locating the Dropout Crisis*, high schools that serve mostly minority students are five times more likely than mostly white schools to have "weak promoting power" — to graduate 50 percent or fewer freshmen to senior status on time.

Making it tougher to graduate

State education officials are planning to make it tougher to graduate, despite the rising dropout rates. Students will have to pass 20 high school courses, including five core curriculum courses. Potential graduates must also pass reading and math tests geared to eighth-grade competency. In addition, the state end-of-course tests may count more heavily toward passing a course, toward graduation, or both.

According to state officials, if these requirements had been in place in the 2003-04 school year, only about half of last year's high school students would have graduated, and only 20 percent of minority students could have done so in 2003-04. *CJ*



Bunker Hill High School, Catawba County, N.C.

*What Works Best in Education***Communities in Schools Program Addresses the Dropout Problem**

By PAIGE HOLLAND HAMP

Contributing Editor

RALEIGH

Dropping out of school is a hot topic again at the national, state, and local levels. President Bush, in his State of the Union address, asked the First Lady to lead a \$150 million effort to help at-risk youths, with a particular focus on boys, stay in school and have a successful future.

Gov. Mike Easley's Education First Task Force is charged with creating a plan so that all students graduate and have the opportunity for post-secondary education or enter the job market.

News and Observer of Raleigh Publisher, Orage Quarles, is spearheading the High-Five Initiative, which has a goal of reducing dropouts and increasing graduation rates in Wake, Durham, Johnston, Orange, and Chapel Hill-Carrboro Public Schools.

The dropout problem is not new, but to solve any problem, first one needs accurate and timely information. Getting school districts to provide that information has been challenging. There is a significant disparity between reported dropout rates and graduation rates in North Carolina. The N.C. Department of Public Instruction reported a 5.72 percent dropout rate in 2001, but in the same year, the Urban Institute reported that North Carolina's graduation rate was 63.5 percent. Without spending too much time arguing the details, suffice it to say that about four of every 10 students in North Carolina drop out of school. The social and economic implications are staggering.

The costs of dropping out

According to The National Dropout Prevention Center, each year's class of dropouts will cost the country more than \$200 billion during their lifetimes in lost earnings and unrealized tax revenue. The center also reported that more than 75 percent of North Carolina's prison inmates are high school dropouts.

An accompanying report by The Alliance for Educational Excellence explains that we could save \$1.4 billion in incarceration costs annually, or about \$2,100 per male high school graduate, with just a 1 percent increase in high school graduation rates.

The center also identifies several critical components for a successful dropout prevention program, which include: a one-on-one relationship with a caring adult and a safe learning environment. So, is there a solution? Absolutely... Communities In



CIS founder Bill Milliken with CIS Executive Directors Cynthia Tart and Cynthia Marshall

Schools (CIS) and it is efficient, effective, and inexpensive. Don't let that last word throw you... yes programs can be both effective and inexpensive, but let's start with the word that makes that possible.

Communities In Schools works

Communities In Schools is the largest dropout prevention program in the nation. Founded in 1977 by Bill Milliken, CIS serves more than 2 million children across the United States. In a nutshell, CIS, working with school personnel and parents, targets children at highest risk for dropping out and helps them succeed. CIS does not serve all children, however, an entire school climate is enriched when a CIS site coordinator is part of the school team.

Jimmi Williams, executive director of CIS of Greater Greensboro, says it best: "CIS works. It works because it's simple (not to be confused with easy). It is a way for the community to invest time, money, and energy into the success of children by tapping existing resources and getting them to the kids who really need them."

And there you have it: the heart of what CIS is all about. CIS identifies the highest-risk students, determines the impediment keeping them from succeeding, and helps fix the problem. If a child doesn't have a caring adult in his life, CIS gets him a men-

tor. If a child is struggling with math, CIS gets him a tutor. If a child is failing because he can't see the blackboard, CIS gets him glasses. CIS has one goal to keep kids in school so they will succeed in life. CIS uses whatever strategy is needed to reach that goal and does not employ the one-size-fits-all mentality that permeates our education system.

CIS is also effective. While CIS students are those at the highest risk of dropping out, once part of the CIS network, 96 percent of the students stay in school; 92 percent were promoted to the next grade, and 95 percent of CIS seniors graduate from high school. The best way to understand how effective CIS is, is to meet one of the young people the program serves.

Acton Archie is a fine young man and a former CIS student from Charlotte. Growing up, Acton moved from one public housing development to another — 12 times in 12 years. His father was murdered when Acton was a second-grader; his mother was a drug addict. Each day was a struggle, walking past drugs and crime on the way to and from school, and waking up with no power or water in the house. Acton remembers that many days he worried about whether he would even have a home when he returned.

As a teen-ager, he made some bad choices, struggling through the ninth grade, often absent, with no direction, personal

interests, or career expectations. A caring grandmother and a strong faith in God kept him going — and CIS provided a helping hand as well. The CIS site coordinator at Acton's high school made sure he had transportation to school, dental and health care, and connections to community support personnel. She also became a mentor and a friend. He was exposed to college and career experiences and encouraged to form goals for himself.

Did it make a difference? "Without CIS I would have probably ended up like my friends," Acton said, "either dead or in jail." But thanks to his own dedication and hard work, and a little help from CIS, Acton is now a senior at North Carolina State University, majoring in business management. Acton is definitely prepared for life.

CIS comes at a bargain price

That leaves the third word: inexpensive. Governed by a savvy board of business leaders and led by a top-notch entrepreneurial staff, CIS uses existing resources, leverages investments, and relies on an army of volunteers to meet the goal of keeping kids in school. For every \$1 invested by the state, the CIS network raises an additional \$16 in goods in services.

In addition, last year 13,665 volunteers contributed more than 250,000 hours of manpower. That is why CIS is inexpensive. CIS spends an average of \$220 per child per year. In stark contrast, SmartStart spends about \$2,000 per child served annually and since 1993 the state has invested \$1.5 billion in SmartStart. Mike Stephens, chief operations officer of CIS of NC, said, "If we received a \$1.5 billion investment, we could put a CIS program in every county with a coordinator in every middle and high school for over 40 years."

CIS is working hard to serve North Carolina's children. CIS has programs in 32 counties and serves more than 76,000 students. But there are 350,000 children who need CIS services. So to those in leadership positions, to solve the dropout problem the answer is, in the words of Jimmi Williams, "simple" ... invest in CIS.

"The Communities in Schools track record of helping young people prepare for life has is absolutely amazing," said Graeme Keith, chairman of the Board of CISNC. "The CIS program is the finest that has ever been developed to prevent school dropout, and we must find a way to continue expanding this program throughout our state." *CH*

While CIS students are those at the highest risk of dropping out, once part of the network, 96 percent of students stay in school.

NORTH CAROLINA Education
Alliance

Today's Study Questions:

- Do We Need Standardized Testing?**
- Should Parents Have More Choice of Schools?**
- Do Good Teachers Get Paid Enough?**
- Does North Carolina Have a Solid Curriculum?**
- Are School Districts Equitably Funded?**

You can look up the answers to these and other questions in North Carolina education policy by visiting NCEducationAlliance.org, the site of the North Carolina Education Alliance. Each day it brings you the latest news headlines, opinions, and research reports on one of the most critical issues facing our state and nation.

Go to www.NCEducationAlliance.org

**John
LOCKE**
FOUNDATION

Your Home on the Web for North Carolina Public Policy

The John Locke Foundation's brand new, completely redesigned home page is your best source of research, analysis, and information on the critical public policy issues facing North Carolina state and local governments.

A fully searchable, comprehensive database of reports, studies, briefing papers, datasets, press releases, events notifications, and articles can provide an excellent starting place for those drafting legislation, researching policy issues, preparing news stories, planning political or lobbying campaigns, or seeking information with which to be an informed voter and citizen.

Bats in the Belltower*A twisted consistency in belief*

The Chapel Hill indymedia types are busy ignoring freedom coming to the Ukraine and Iraq by gazing wistfully southward toward the Castro beneath Castro, Hugo Chavez.

On Feb. 3, the "news" service — brought to you on your dime through three departments at UNC-Chapel Hill: the School of Journalism and Mass Communication, the School of Information and Library Science, and Information Technology Services — breathlessly "reported" their new favorite tyrant's recent pronouncement.

"Everyday I become more convinced, there is no doubt in my mind, and as many intellectuals have said, that it is necessary to transcend capitalism. But capitalism can't be transcended from within capitalism itself, but through socialism, true socialism, with equality and justice. But I'm also convinced that it is possible to do it under democracy, but not in the type of democracy being imposed from Washington"

It's a trademark of Marxist tyrants to speak grandly of transcending or somehow moving beyond capitalism. Nevertheless, rather than doing so in practice, they become the worst capitalists on the planet — after all, they're the ones who try to usurp all the capital for themselves.

Chavez's mention of "democracy" is rather humorous, since — in the proud tradition of Marxist tyrants, of course — he thwarted democracy when the voters turned against him.

Last August, Chavez appeared to survive a recall vote despite exit polling showing him losing by a nearly 2-1 ratio.

Former President Jimmy Carter and election observers from the Carter Center were on hand and, despite the anomaly, immediately declared the election valid.

A study conducted shortly thereafter by Massachusetts Institute of Technology economists Ricardo Hausmann of Harvard and Roberto Rigobon provided strong evidence that Carter and Venezuela voters were, as the Sept. 9 headline in *The Wall Street Journal* put it, "Conned in Caracas."

Hausmann and Rigobon showed with over 99 percent confidence that the election had indeed been stolen.

Also on Feb. 3, our publicly supported citizen-reporters took issue with the idea that "communism was a failure-and that any hopes of a radically different and liberated alternative to capitalism are a false hope." In fact, they "reported", "communism was no shipwreck!" *Mirabile dictu!* There was much more to this "news," but here is a highlight:

"Bursting through the cracks of the 20th-century lumbering imperialist death machine, the workers and peasants in Russia in 1917 and in China in 1949 made revolution and accomplished amazing things. They went from unspeakable poverty and misery to becoming the people who, for the first time in history, started to consciously transform society and themselves."

One can see a twisted consistency between believing capital is "transcended" by being absconded and believing people and society are "transformed" by being tortured and starved to death. CJ

Report Questions Tuition Waiver Program For Grads of NC School of Science and Math

By BRIAN SOPP

Editorial Intern

CHAPEL HILL

A study recently released by the John W. Pope Center for Higher Education Policy argues that a North Carolina tuition program is discriminatory and wasteful.

The report, "Tuition Waivers at the N.C. School of Science and Math: How NC wastes money on a tuition grant program" (Inquiry No. 19-Jan. 26, 2005) was written by Shannon Blosser, staff writer for the Pope Center, and George Leef, executive director of the center.

Blosser and Leef argue that the waiver program, passed in 2003 by the General Assembly for graduates of NCSSM, "produces no public benefit, costs the state money, and unfairly discriminates in favor of NCSSM graduates."

There are two reasons given for the waiver, Blosser and Leef note. One is that it supposedly has a positive effect on North Carolina's economy by keeping bright students in the state and thereby improving the quality of the state's labor force. The report quotes Sen. Kay Hagan of Greensboro, who pushed the waiver because NCSSM students "are going to be the entrepreneurs and business leaders and the really hard workers" of the state.

The other is that it would also positively affect recruiting efforts at NCSSM. Gerald Boarman, president of NCSSM, supported this argument, saying that it would compensate students for the "sacrifices" of attending NCSSM, living away from home and not being able to keep a car on campus.

Blosser and Leef, however, find both arguments to be erroneous. They argue that the waiver program will not help the state's economy because North Carolina is not a single economic entity but one part of the free market. North Carolina businesses compete for employees in an international labor market, Blosser and Leef point out, so it does not matter where workers are educated. Similarly, because college graduates are part of an international labor pool, attending a state university does not necessarily mean that students will remain in the state.

Furthermore, the authors argue that the waiver is unnecessary to keep students in North Carolina.

"From 1998 to 2003, before the tuition waiver was enacted, 663 NCSSM graduates chose to attend a UNC system school. An additional 494 graduates enrolled in one of the state's private institutions," they write. "Therefore, the tuition waiver means that the state foregoes the tuition payments from many students who would have remained in North Carolina anyway."

In a subsequent article for the Pope Center, Leef wrote that "the projected cost for the tuition waiver is about \$3 million per year once four graduating NCSSM classes are in college."

As for recruitment at NCSSM, Blosser and Leef show that from 1999 to 2003, NCSSM enrolled less than half its applicants. "The school was turning away applicants prior to the institution of the tuition waiver," they write, "so it is impossible to give credence to the notion that it is necessary to have it to overcome the sup-



The Watts Hospital on the campus of the N.C. School of Science and Math. (Photo: NCSSM)

posed sacrifice of attending."

In addition to questioning the reason for tuition waivers for NCSSM graduates, the report examines further the "economic benefits" argument in favor of the tuition waiver [which] is based on the premise that NCSSM is a markedly superior school." The authors give evidence of declining quality at NCSSM in several areas.

Inflated grades, falling SAT scores

Grade reports show that grade inflation is taking root at NCSSM. The report shows that between the graduating class of 1999 and the graduating class of 2003, the percentage of A's given rose from 43.5 percent to 52.9 percent. One teacher, speaking on the condition of anonymity, told Blosser and Leef that administration officials told her in a meeting that the school wanted grades for students that colleges can look at.

"There is a lot of overturning of grades," one faculty member told the authors. As they write, "teachers whose grades have been 'too low' have had to meet with school officials in closed-door sessions and told to avoid being 'strict' with their grade distributions."

The report also finds SAT scores at NCSSM dropping. The average score for the 2004 graduating class was 13 points lower than that of graduating class of 2002. While NCSSM's scores have been on the decline, scores at other North Carolina schools have

been rising. The scores at Raleigh Charter High School, for example, have risen 51 points since 2002.

The report also cites recruitment tactics as a possible reason for the decline. Rather than simply accepting the most academically qualified students, the administration has been pushing for more diversity. Blosser and Leef state that NCSSM's "increased emphasis on student racial diversity is working at cross-purposes with the objective of recruiting the top students in North Carolina to the school."

Finally, the authors claim that the move from a semester system to a trimester system effectively makes the school less rigorous academically. Boarman favored the move on the basis that students were overworked under the old system and needed a change.

Blosser and Leef argue that few students left the school, suggesting they are not being overworked. "The trimester system has reduced the class time that teachers have to instruct students in their subjects," they write. They quote a faculty member who complained that the trimester system allows only for two-thirds of a course to be taught.

Blosser and Leef conclude that the tuition waiver for NCSSM graduates is unjustifiable, and they advise the General Assembly to consider repealing this "costly and discriminatory" program. Not only does it not help the state economically, but also it puts an additional burden on taxpayers to pay NCSSM graduates' tuitions at UNC schools while "reward[ing] a school that has allowed its standards to fall."

The report is at www.popecenter.org/research/display_story.html?id=1514. CJ

Faculty whose grades were "too low" were told by school officials to avoid being "strict" with their grade distributions.

Other states have made similar moves

Virginia Higher Education Plan Would Seek Greater Autonomy Among Institutions

By SHANNON BLOSSER
Contributing Writer

CHAPEL HILL

While North Carolina may soon consider possible increases in general fund appropriations for the University of North Carolina system, Virginia is considering a plan that would grant institutions more autonomy while reducing their money from the commonwealth.

The Virginia Senate has overwhelmingly approved the comprehensive legislation, known as the Restructured Higher Education Act. It began simply as a proposal for the University of Virginia, Virginia Polytechnic Institute and State University, and The College of William and Mary, but it has grown to include all colleges in the commonwealth. The proposal now goes to the House of Delegates, where it is expected to be approved.

The effort has been spearheaded by U.Va. President John T. Casteen, III, Virginia Tech President Charles Steger, and W&M President Timothy Sullivan. Virginia Republican State Sen. Thomas Norment is the lead sponsor of the bill.

"While structured to strengthen every public college and university, the initiative has the flexibility to accommodate and enhance the wonderfully distinctive institutions of our system," Sullivan said. "Open to the participation of all institutions, the proposal presents a menu of options that can be individually negotiated and adjusted to suit the particular needs of [Virginia] and the individual strengths of colleges and universities."

If approved, qualifying institutions would be known as chartered universities. Each would be allowed more autonomy in setting tuition rates, selling property, entering into contracts, and appointing professional and faculty staff. In return for the increased autonomy, each institution would receive a reduced amount of appropriations from the commonwealth.

Each institution must also prepare a six-year plan, which would be reviewed annually, that would be based on the premise of not receiving additional general-fund appropriations outside of incremental support for in-state tuition costs.

The plan would also include the school's academic, financial, and enrollment plans for the period as well as anticipated tuition and fee charges.

The plan is nothing new to Virginia and to other states that have already approved similar proposals. In 1996, Virginia approved legislation to give Virginia Commonwealth University's medical school the same autonomy that the current legislation calls for. Colorado, Maryland, and Massachusetts have also approved similar autonomy agreements.

Sullivan said the plan is a better alternative to a centralized higher education system similar to that of the UNC system and a similar system in Maryland. He said a centralized system would have meant bigger institutions, but not necessarily better.

"If Virginia has the most diverse system of higher education in the nation — and I believe that we do — then it is because you were willing to reject the one-size-fits-all approach and opt for a system tailored to institutional individuality and initiative," Sullivan said in the meeting with legislators in October.

Steger said, in a letter last year, the plan would allow universities more options when faced with cuts in general-fund appropriations.

"If the state cannot fund us, we ask for greater flexibility in managing ourselves to address the funding problem," Steger said.

Nothing like the Virginia plan is under consideration in North Carolina, which spends nearly \$1.9 billion annually to fund the UNC system. Of that, North Carolina State receives \$410 million, or \$18,018 per undergraduate student, while UNC-Chapel Hill receives \$325 million, or \$19,667 per undergraduate student.

Dr. Gretchen Bataille, senior vice president for academic affairs for the UNC system, said the system is paying attention to what is transpiring in Virginia. However, she said, the system is not interested in using the Virginia plan as a model in North Carolina.

"We [at UNC] have a lot more state funding," Bataille said. "Our campuses, I don't think, are interested in becoming private institutions. They would lose a lot of state support." CJ

Resolution Before the U.S. House Would Support Military Recruiters' Access to College Campuses

By SHANNON BLOSSER
Contributing Writer

CHAPEL HILL

Rep. Robin Hayes, R-N.C., was among the leaders of a recent U.S. House resolution to express support for the continuation of a federal law that denies federal funding to colleges that do not allow military recruiters on campus. The resolution is in response to a U.S. District Court of Appeals ruling in November that struck down the law.

Hayes was one of 24 cosponsors of the bill, which was introduced by Rep. Mike Rogers, R-Ala. The resolution offered continued support for the Solomon Amendment, which was adopted in 1994. At the time, the amendment to the Department of Defense appropriations bill called for the Department of Defense to deny federal funding to colleges that do not allow military recruiters the same access as other employment recruiters.

Since the amendment was first introduced, it has been expanded to include other branches of the government.

"I am a strong proponent of allowing our military recruiters the same access that other potential employers have on campus and believe that their ability to recruit should be unimpeded," Hayes said.

Twelve of North Carolina's 13 members of the House voted for the measure when it was approved Feb. 2, 327-84. Rep. Mel Watt, D-N.C., was the only member of the North Carolina delegation to vote against the resolution.

"By denying recruiters the chance to offer these young men and women the opportunity to serve, these colleges and universities are doing a disservice to the safety and security of the United States," Rep. John Kline, R-Minn., said in a press statement in January.

Even with the resolution, the Solomon Amendment stands in limbo through the legal process. Members of the Forum for Academic and Institutional Rights and other groups sued the government, claiming the Solomon Amendment was a violation of the First Amendment right to free speech.

According to court documents, FAIR claims that law schools have a long-standing practice to bar employment recruiters from companies that discriminate on the basis of sexual orientation. Law schools were barring military recruiters because the military does not allow homosexuals to join the military.

A U.S. District Court upheld the Solomon Amendment arguing against FAIR's claims. A three-judge panel of the Third District U.S. Court of Appeals ruled that the Solomon Amendment, on appeal, violated First Amendment protections.

Writing the majority opinion, U.S. Circuit Judge Thomas Ambro wrote that law schools can bar the military from recruiting students.

Law schools, Ambro wrote, have a right to express the views they deem appropriate and the government, in this case the military, cannot force an opposing view on a law schools. Doing so would be a free speech violation, Ambro wrote.

"The Solomon Amendment requires law schools to express a message that is incompatible with their educational objectives, and no compelling government interest has been shown to deny this freedom," Ambro wrote. "While no doubt military lawyers are critical to the efficient operation of the armed forces, mere incantation of the need for legal talent cannot override a clear First Amendment impairment." CJ

What Do You Give A Failed Candidate?

Just three months after his campaign to become the vice president of the United States ended, former Sen. John Edwards has been given a new job that seems designed to keep him, at least occasionally, in the public eye.

Edwards will become the director of a new Center on Poverty, Work, and Opportunity, officially a part of the Law School at UNC-Chapel Hill. His title will be university professor. He will give occasional guest lectures and do whatever directing the CPWO entails. For that work, he will be paid \$40,000 annually.

According to UNC's press release, CPWO will bring together "UNC-Chapel Hill faculty and other national public policy experts to examine innovative and practical ideas for moving more Americans out of poverty and into the middle class." But what kind of ideas are all those "public policy experts" apt to find innovative? Practical ones aren't likely to interest the CPWO experts because they don't involve government, except to shrink it.

That language — "moving more Americans out of poverty" — is perfectly consistent with the leftist view that poverty isn't something individuals need to overcome by their own efforts, but a condition that society has imposed on some and which they can be moved out of with the right, "innovative" government policy. Edwards is full of such ideas. The press release says, "Edwards spent six years in the U.S. Senate. In that time, he championed policy initiatives such as raising the minimum wage, expanding the earned income tax credit, creating matching saving accounts for low-income families, and providing incentives for teachers to teach in low-income schools."

Good grief. Appointing someone who believes that raising the minimum wage is a way to move people out of poverty, is about as sensible as appointing someone to head the National Institutes of Health who believes that bleeding patients is a good way to cure disease. Economists have known for at least a century that if the government artificially raises the price of labor, less labor will be demanded. The minimum wage is a feel-good antipoverty nostrum that's actually counterproductive.

The CPWO is supposed to be nonpartisan, but I'll bet that it won't be nonideological. Would Edwards consider for a second any study exploring the possibility that government is the obstacle to success for many of America's poor? There are mountains of evidence that the only way to stimulate economic growth and job creation is reducing government's drag on the economy by tax and spending cuts, deregulation, and freer trade. Edwards, however, has never had anything good to say about those policies, which don't fit in with his populist image.

Praising the selection of Edwards to direct the CPWO — was anyone else was considered? — Law School Dean Gene Nichol called him "one of the best lawyers in America." But lawyers don't have any particular expertise in the policy issues the CPWO is supposed to analyze. All Edwards brings is high name-recognition and a penchant for pushing pie-in-the-sky ideas to voters who mistakenly believe that any problem can be solved as long as the government has good intentions and spends enough money.

On the off chance that Edwards is really interested in policies that will help reduce poverty and give people greater opportunity to improve their circumstances, I recommend that he start by reading Henry Hazlitt's classic book *The Conquest of Poverty*. He should then proceed to Charles Murray's *Losing Ground*, which explains how the federal government's great "war on poverty" actually made things worse.

Edwards loves to say that poverty is a "moral issue." I'm inclined to agree with him in this way: It's immoral for politicians to continue policies that harm poor people. If the CPWO ever advocates the repeal of any such policies, I'll be amazed. CJ



George C. Leef

Course of the Month

A Near-Perfect Example of This Section's Favorite Things

This month CM would like to salute a class in sociology at North Carolina State University that has provided a tidy illustration of several major problems in academe: leftist bias in the classroom, dumbing down of course content, barely literate students who somehow gained admission to a major research institution, and academically disengaged students.

Here is the class:

SOC 202: PRINCIPLES OF SOCIOLOGY

Introduction to sociology. Analyses of key processes and institutions including interaction, inequality, organization, socialization, and social change. Includes core sociological concepts, methods, theories.

A section of this class came to CM's attention Jan. 25 by way of an Internet discussion forum for NCSU students, on a thread titled "Outraged girl in class." The opening post discussed an incident in the day's class. Here is that post verbatim:

"Ok so we are sitting in class, and at the end the professor usually plays music video stuff. Well today he played a music video saying basically the war is about oil. We are sheeps of society that watch tv, yada yada. This girls (definatly a conservative) stands up saying this is not what the war is about. This is not what it means, crying. Honestly shee looked as if it was her first election she ever voted in in teh first place. Are you kidding me. PLease talk amongst yourselves, all i could do is laugh."

Several subsequent posters discussed the girl, the idea of crying in class, and other instances of people losing control during class. One asked, "your prof was playing 'Counting Bodies Like Sheep To The Rhythm Of The War Drums' from A Perfect Circle wasn't he[?]" to which the answer was "Yeah exactly!!"

Shortly afterward someone asked the question CM had been expecting: "wtf

class do you watch music videos in[?]" (For the uninitiated, "wtf" is Internet shorthand for "what the [expletive]?") At first, the only answer given was "soc."

Another student from the class then posted about the "hilarious" student: "i was sitting there saying 'someone is gonna be offended by this' and not 4 seconds later did she turn around to her friend saying THIS IS REDICULOUS," she wrote, adding "when we were walking out of class she started saying 'I CANT BELIEVE PEOPLE THINK THIS WAR IS ALL ABOUT OIL[.]' I was laughing right behind her repeating what she said[.] soooooooooooooo funny when she started crying in the brickyard and her friend had to console her[.]"

She summed up her impression: "i mean really....why get worked up...atleast he stopped lecturing to play some [expletive] music."

Later on, a poster asked, "who's the professor? is it Dr. Tom? he always used to play cool music videos in class[.]"

The answer was in the affirmative, and other students chimed in with their impressions of the professor. He's "so chill," "didnt care what party you were reppin' just make a change," "hardcore hippy, cool as [expletive] though." Also, "just wait until he starts talking about his pro-marijuana movement."

One poster wasn't satisfied with knowing only that the class was in the Sociology Dept. He pressed for more detail: "Hey, what class was this in?? I wanna know what I can take to watch music videos of bush-slamming."

The first response he received to his question was rather abrupt, however. It began with a profanity, then advised him to "blindfold yourself, flip to a random page in a TRACS book [the book listing the courses offered at NCSU], and stick your finger somewhere on the page. chances are, you'll get a liberal pinko professor[.]" CJ

Bush Higher-Ed Agenda Involves Pell Grants, Community Colleges

By SHANNON BLOSSER
Contributing Writer

CHAPEL HILL

Although most of President Bush's State of the Union address Feb. 2 dealt with reforms of Social Security and spreading freedom throughout the world, the president also discussed his higher-education goals.

During his fifth State of the Union address, Bush advocated increasing Pell Grant funding as well as providing more funding for workforce training initiatives for community colleges. Both proposals were ways, Bush said, "to make our economy stronger and more dynamic."

Bush had earlier outlined his plans for higher education in a Jan. 14 forum at Florida Community College in Jacksonville, Fla. During that speech, Bush said he wanted to increase Pell Grant awards by \$100 a year during the next five years. That would raise the grant to low-income students to \$4,550, an estimated \$15 billion investment over time. An additional \$1,000 would be available to students who take a rigorous course load. The proposal also seeks to eliminate a \$4.3 billion shortfall in the program by changing how student loans are gathered and administered.

Bush also proposed spending \$100 million for a Presidential Math and Science Scholars Fund. The fund would provide \$5,000 in grants for 20,000 Pell-eligible students to study science or math.

Regarding community colleges, Bush aims to spend \$125 million in the fiscal 2006 budget to promote a dual-enrollment program that would allow high school students to earn college credit at community colleges. He plans to spend \$250 million to continue the Community-Based Job Training Grants to train workers in skills in demand by local employers.

Some of Bush's proposals have already been introduced in Congress. Both houses of Congress have introduced separate pieces of legislation regarding Pell Grant increases. The House bill (H.R. 507) would seek to expand Pell Grant awards to as much as \$5,800 per award, simplify the college aid application process, and reduce fees students pay on loans. A similar bill failed during the previous session.

"The Higher Education Act's first mission is to improve college access for low- and middle-income students," said Rep. John Boehner, R-Ohio, chairman of the House Education and the Workforce Committee. "It has drifted away from that focus over the years, at the expense of the very students it was written to serve. We've got to change that."

Boehner said the proposed legislation would stop the government from "robbing Peter" to pay Paul. "This bill will reverse that transaction," Boehner said, "by shutting down excess subsidies to lenders and non-students, and restoring fairness in distribution of student aid." CJ

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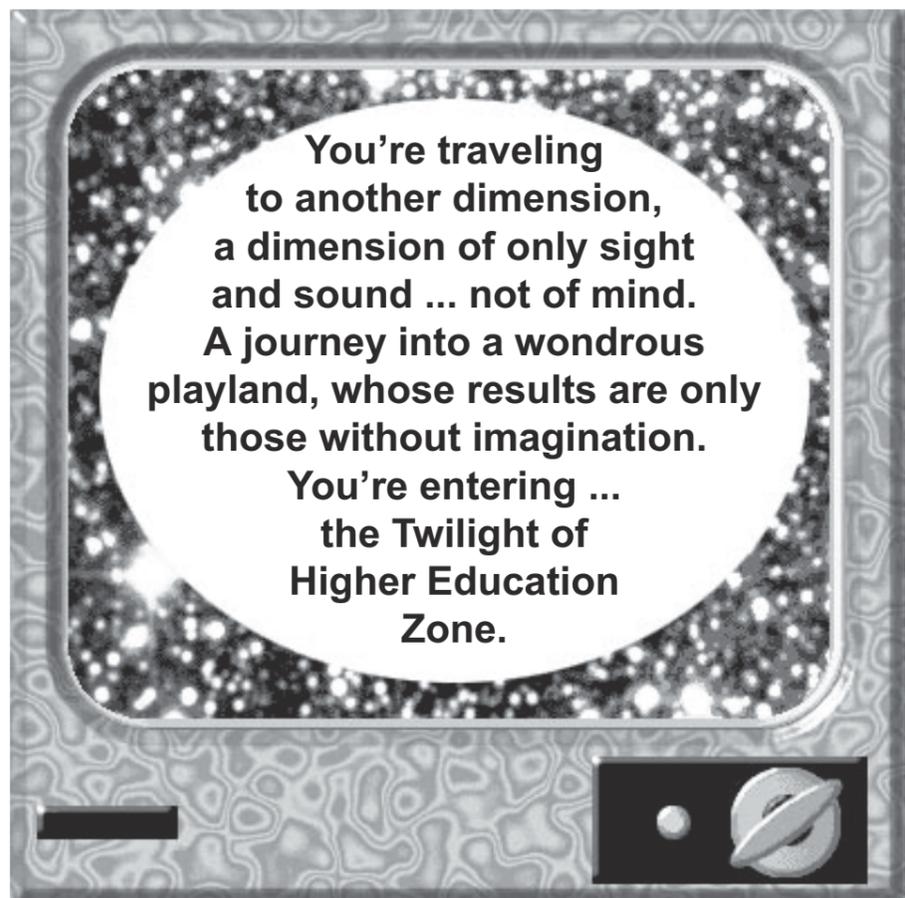
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The annual silliness of 'The Vagina Monologues'

Guilt and Genitalia — How College Leftists 'Celebrate' Valentine's Day

By JON SANDERS
Assistant Editor

RALEIGH
Whenever Eve Ensler's "The Vagina Monologues" (TVM) comes to campus, several things occur. TVM advocates and women's centers do vulgar promotions that sound like lame hijinks by drunken fraternity boys. Student columnists ape TVM literature and write seriously as if TVM were a revolutionary work that challenges the unquestioned existence of a Big Evil Male Hegemony that keeps women from saying the word "vagina." And, of course, anyone on campus with a sense of decorum or logic who dares question such absurdities is well-shrieked at.

The movement arrogates the holiday Valentine's Day to supplant that historic celebration of romantic, selfless love with its own focus on genitalia and denouncing violence against women. It appears that the saint has a name that begins with the same consonant as vagina and violence. No misogynist could have crafted a more offensive parody of feminism, but never mind that. Again, anyone who dares to question their tactics are personally attacked, while the substance of his or her criticism is A-voided.

In February, TVM made appearances at, among other places, the University of North Carolina at Chapel Hill and Duke University.

At UNC-CH, a full week was set aside in preparation for the play. The group "Carolina V-Day Initiative" announced Feb. 7-12 as "V-Week," calling it "A week to celebrate Vaginas, to raise your Voice against Violence against women (in all forms), to go see The Vagina Monologues, and to support local organizations that work to end Violence against women!" It continued, "Look for us in the pit next week to buy tickets to The Vagina Monologues, raffle tickets for a bunch of great prizes, I Heart Vaginas t-shirts, and to get more info on V-

Week events! All profits from sales go to support the Orange County Rape Crisis Center."

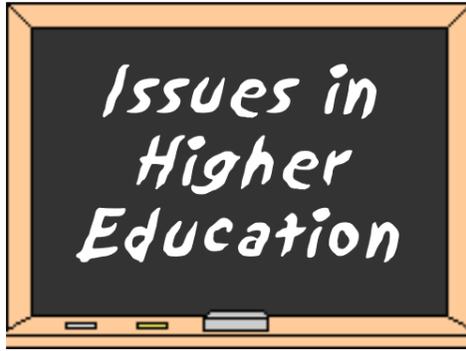
The announcement listed several events before TVM. One was a documentary and discussion of female genital mutilations. There was also a "fun and informative sex-positive party!" It featured a "[p]resentation on fun and safe sex techniques (for all sexualities) given by the Center for Healthy Student Behaviors, make your own Vagina Swirl to eat, Safe Sex and Period Party Bags will be given away, as well as tantalizing prizes." There was also a symbolic gesture called "Gentle Hands" in which men "pledge not to harm women by putting your hand print and signature on our banner."

So much more than one's genitalia

Meanwhile, at Duke, on Feb. 10 the first obligatory TVM column ran in the *Duke Chronicle*. This one hit the requisite high notes: "I'm so much more than my vagina, but it has and will always shape my life," wrote student columnist Bridget Newman. "Until we talk more about vaginas, we can't progress to a world where all of us are safe, happy and respected."

That was the conclusion of the article, however. Earlier, Newman delved into areas outside the TVM. What she presented was utterly, utterly pitiable.

"While other children innocently colored pictures of butterflies and flowers,"



Newman wrote, "my mother pointed out the similarities between these and vaginas and she told me that vaginas were just as beautiful."

That's odd, but nothing compared with, "When I was four years old, a teenage family

member tried to molest me." Newman concluded that her family was dysfunctional.

Then she concluded that *your* family is dysfunctional, too.

"I think we live in a nation of dysfunctional families," she wrote. "From my conversations with other women I have discovered that the woman who has not been raped or molested or abused is in the lucky minority" (emphasis added).

What can one say to a person who reasons thus?

It is a shame that she was nearly molested, yes, but to conclude that her experience is normal? In doing that, Newman goes well beyond even the rape-scare stats (the soundly-discredited-but-still-repeated "factoid" that one in four college-aged women will be raped) that feminists at Duke and elsewhere are so fond of.

Newman was merely getting started, however. Having established that a majority of women are raped and abused, she started to place blame —

and being in an American institution of higher education, she naturally finds her enemies among guess who. Right — men, the rich, the religious, and whites.

"We don't want to admit that our families are so dysfunctional or that we loved

our rapists and abusers," Newman said.

"I speak as a working-class 'heartland' American when I say that this population needs to check its values," she later wrote. "Many working class whites uphold an image of ourselves as moral, pious people but this hides an all too common reality of abuse, incest and rape. Instead of addressing the real issues in our communities, we transfer our own filth and pain onto people of color."

Campus press love fest

The following day, the *Chronicle* announced that this year at Duke, the V-Day celebration would have a new twist: "the debut of the Vagina Lock-In." The article described the change to a particular scene in which "an older woman ... shamefully discusses her feelings on 'down there.' In last year's show, the woman was the only actress on stage, and her delivery was aimed solely at the audience. This year, however, the rest of The Vagina Monologues cast gathers around the grandmother-figure as she tells her story, responding in much the same way as children would to a riveting tale." Gather 'round vulvas, and you'll hear a tale...

One of the directors, Dylan Parkes, said that TVM would continue "until it is necessary to stop. We need The Vagina Monologues until conversations that are being reenacted and performed for us begin occurring on an everyday basis between real people."

On Monday, Feb. 14, known outside the campuses as Valentine's Day, *The Daily Tar Heel* reported on UNC-CH's presentation of TVM. Again, the news article was full of cant, with one comment about attendees having "bought tickets to hear about vaginas, a part of the female anatomy so taboo and unmentionable in global society..."

Of course, the *DTH* gave the news article the headline "Crowd wowed by touching 'Vagina.'"

CF

"Until we talk more about vaginas, we can't progress to a world where all of us are safe, happy and respected."
— Bridget Newman

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Town and Country

Developers sue Wilson

A lawsuit filed in February in federal court by two developers accuses the city and county of Wilson of helping a rival by promising more than \$2 million to land a Target store, the *Daily Reflector* of Greenville reports.

David James and Russell Hesmer, who filed the lawsuit, are owners and developers of Wilson's West Village shopping center.

The rival is Heritage Place, a shopping center planned for 90 acres in Wilson County. Under a deal worked out last year, the developers of Heritage Place agreed to pay Target Corp. \$2 million to put one of its stores in their center.

The city and county would reimburse Heritage Place the \$2 million, plus interest, once Target opened and raised property values.

James and Hesmer said they got no such incentives when they put a Wal-Mart in Wilson a decade ago. They want a permanent injunction prohibiting the city and county from making the payments.

The lawsuit is believed to be the first challenging incentives in North Carolina since the state Supreme Court in 1996 held that local governments could offer cash, tax breaks and other perks to new and expanding businesses.

The lawsuit accuses the city and county of "acting as surrogates for local consumers and adopting the presumed brand preference of some local citizens as official government policy."

Water permit for FedEx hub

A state review panel has upheld a water quality permit needed to build the FedEx hub at Piedmont Triad International Airport, the *News-Record* of Greensboro reports.

The N.C. Environmental Management Commission ruled Feb. 10 that the state's Division of Water Quality was correct in issuing the water quality permit in 2003.

That permit allows PTI to fill in wetlands and streams along Brush Creek as it builds the hub. The permit declares that the project would not severely affect the creek and streams that are part of Greensboro's water supply if the airport takes preventive steps.

But opponents, who said they might continue their appeal of the permit, feel the amount of storm-water runoff and pollution will be more than the state or airport anticipates. Fifteen individuals and two hub opposition groups filed the appeal.

A state administrative law judge upheld the permit in August. The Environmental Management Commission was required by law to review the case and either uphold the judge's decision or send it back to the judge for a full hearing.

David M. Clark, a lawyer representing the opponents, argued to the commission that the hub would increase the amount of storm-water runoff and flood properties near the creeks and streams. He also argued that the hub would pollute the waterways with oil, dirt, and chemicals from de-icing planes. *CJ*

Durham County's Impact Fee Festers

County appeals rejection by lower court, continues collecting the fee

By MAXIMILIAN LONGLEY

Contributing Editor

A recent decision by a local trial court that Durham County's impact fee on new housing, levied for the support of the public schools, is illegal has revived the dispute over the controversial revenue-raising method.

Meanwhile, the county is appealing the trial court's decision to the N.C. Court of Appeals. The county is allowed to continue collecting the fee, depending on further court action. If the Court of Appeals says the fee is illegal, developers or homeowners who paid the fee will get refunds (a total of \$2.2 million). The impact fee actually imposed by Durham County is \$2,000 for a new single-family unit and \$1,155 for a new multi-family unit. The lawsuit is *Durham Landowners Association v. Durham County*.

The consulting firm of Tischler & Associates, which prepared a report for the county in September 2001, evaluated what level of impact fee would be "supportable" in light of the costs imposed on public schools by each student and the number of students generated by single-family housing units and by type of units (generally meaning apartment building). The consultant's maximum supportable impact fee for a single-family detached housing unit was \$4,936. The maximum impact fee for any other type of housing unit was \$2,851.

When the Durham County commissioners were first debating the impact fee, the Home Builders Association claimed the fee would slow housing growth. A *News and Observer* of Raleigh article Jan. 24 purported to cast doubt on the prediction. The article cited a 3.8 percent increase in residential building permits in 2004 (when the ordinance was in force) over 2003. Opponents of the impact fee assert it was too early to rule out the idea of an adverse impact on home sales, and added that there is certainly going to be an impact on lower-income buyers.

Homebuilders oppose fee

Nick Tennyson, the former Durham mayor who heads the county's Home Builders Association, was not a party to the lawsuit but he is following it and is encouraged by the trial court's decision. He says the impact fee is based on a "completely wrong assumption" about how public schools should be funded. Since "public schools are an indivisible good," they should be "jointly funded" by everyone in the community.

Tennyson said he thinks that if one group (in this case new-home buyers) has to pay more than other groups to support public schools, the fee is "like tuition." "The government may as well charge an impact fee on people who reach their sixty-fifth birthday in order to pay for the social services they will receive as they get older," Tennyson said. In any event, Tennyson said he thinks that, in the long run, growth produces enough tax revenue to pay for the extra school costs associated with such growth.

Tennyson asserts that "[m]ost new homeowners are already residents of the county." Tony Craver, president of the Durham Regional Association of Realtors, agrees with this claim. He said that most of his clients who move into new homes are moving within the county, and that people moving in from outside the county tend to purchase existing homes rather than newly built ones.

Heidi Duer, the assistant county manager for Durham County who is responsible for administering impact fees, said her

office doesn't track who is new to the county, so she can't say how many new homes are being bought by new residents and how many are being bought by established residents of Durham.

A resolution by the Durham County commissioners allows some of the impact fees for low-income housing to be paid out of the county budget.

According to the resolution, a 501(c)(3) nonprofit group that provides housing to low-income buyers or renters can make an application to the commissioners to have their impact fee for a particular housing unit paid out of the county budget. The commissioners may grant the request, resources permitting.

The commissioners have granted applications from 50 nonprofit groups to avoid having to pay the impact fee, and have only denied one group's application, Duer said.

Rich Lee, executive director of the Durham Affordable Housing Coalition, said his group is trying to persuade Durham County to expand the terms of its low-income housing impact-fee policy so as to benefit for-profit groups that build low-income housing, rather than solely benefiting nonprofit groups as is the case now. Lee cites several for-profit companies that are interested in building housing in Durham for low-income people. The impact fee, Lee said, is "one of the disincentives" that discourages for-profit organizations from providing low-income housing. The coalition has "not reached agreement... with the county" on the matter.

Legislature allowed exclusive fees

A key issue in the litigation over Durham's impact fee is that the General Assembly has specifically authorized school impact in two counties — Orange and Chatham — but has not made any specific authorization for other counties to have such fees. Opponents of Durham's fee assert that by giving specific permission to two specific counties to impose impact fees, the Assembly is implicitly withholding permission from other counties, including Durham.

Tim Kent, executive vice president of the North Carolina Association of Realtors, said Durham's impact fee is a "direct challenge to the North Carolina General Assembly's authority."

Realtors and homebuilders have worked together since the late 1980s to prevent the legislature from authorizing local governments to enact impact fees and transfer taxes (taxes on the transfer of real estate), he said. Such levies "drive up the cost of housing and put housing out of the reach of many North Carolinians," Kent said. If Durham County won the court case, it would "open the floodgates for every other county in North Carolina" to put this allegedly unfair taxes on homebuyers.

An examination of the impact fees in Orange and Chatham Counties shows some of the same issues involved in Durham's impact fee.

Assistant Orange County Manager Rod

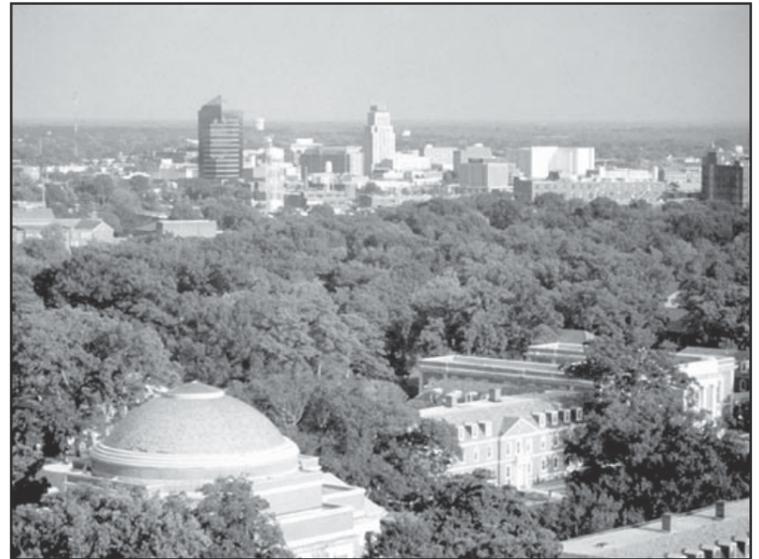


Photo courtesy of Flying Fotos and Durham Convention and Visitors
Downtown Durham's skyline, as seen from the Duke University campus.

Visser explains the background of his county's legislatively authorized school impact fee.

In the 1980s, the legislature authorized Orange County to impose an impact fee, denying the county's original request for a graduated tax on new homes. Orange County first exercised its legislative-granted power to impose impact fees in 1993, and impact fees have remained in place to this day, during a time of increased residential growth and growth of the student population in local public schools. Some observers could say the impact fee did not appreciably dampen the county's growth, Visser said. Reimbursement to affordable-housing nonprofits is allowed for as in Durham County's scheme.

Bunkey Morgan, chairman of the Chatham County commissioners, said that the county's impact fee is a "necessity for us because of schools." He said that he's "glad that we got" the impact fee, because schools have to be paid for one way or the other, and that without an impact fee the county would have to raise property taxes.

Morgan supports a proposal to vary the impact fee for new single-family homes, depending on which portion of the county the home is built in. Instead of the current uniform fee of \$1,500, Morgan proposes variable rates, from no fee in the southeastern part of the county to \$4,000 in the county's northeast portion. The proposal, justified by differential growth rates in different parts of the county, has been deferred by the commissioners.

Keith Megginson, director of the Chatham County Planning Department, reviews the history of the impact fee in his county. The county commissioners enacted the impact fee in 2000, but they had obtained legislative authorization in the 1980s. Chatham's fee is \$1,500 for new homes and \$500 for new apartments. Housing for the elderly (people over 65) is exempt from the fee so long as children are excluded from living there. Nonprofit groups that provide housing to low-income people can apply for reimbursement of their fee on a case-by-case basis, just as in Durham and Orange.

Megginson said he hasn't noticed that the fee has had any effect on the number of building permits issued in the county. Homebuilding in Chatham is "rolling right along." The county's overall rate of growth hasn't been slowed, but Megginson mentions the possibility that the impact fee "may have eliminated some [lower income] people from the [housing] market."

Chatham County authorities have sought permission from the legislature to change the impact fee to a graduated tax, but the Assembly has not responded, Megginson said. *CJ*

*N.C. Court of Appeals ruling***Court Allows Laurinburg Internet System**

By MICHAEL LOWREY

Associate Editor

RALEIGH

North Carolina's second highest court in a ruling Jan. 18 clarified under what circumstances a city or town can engage in activities that private business ordinarily provide.

The ruling comes in a case about the legality of the fiber-optic network Laurinburg was using to provide Internet access to itself and outside governmental and institutional users. The Court of Appeals held that because the wording of state law defining what constitutes a cable television system was ambiguous, the town could operate the network, even if it didn't offer cable TV.

In 1996, Laurinburg established a fiber-optic link between its city hall and its public works building. Two years later, it laid additional fiber-optic lines to create what amounted to a 19-mile loop. The town soon entered into an agreement with School Link, Inc, under which the company would become the town's Internet service provider. To generate the volume of business needed to make the arrangement feasible, Scotland County government, the Scotland County schools, St. Andrews College, and Scotland Memorial Hospital also hooked into the town's fiber-optic lines and received their Internet service from School Link.

Though technically able to carry cable television signals via its network, Laurinburg has never offered that service and has no plans to.

BellSouth, which had previously been the ISP for most of the governmental and institutional users that School Link serves via the town's network, sued contending in part that Laurinburg lacked the legal authority to offer the service.

What are municipalities allowed to do?

The answer to whether the town could legally offer the service depends greatly, the Court of Appeals acknowledged, upon how one views the powers of municipal government. North Carolina has traditionally followed "Dillon's Rule", named after the 19th century jurist John Dillon:

"[A] municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation,— not simply convenient, but indispensable."

In 1971, however, the General Assembly adopted N.C. Gen. Stat. § 160A-4, which states that municipal charters "shall be broadly construed and grants of power shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect."

North Carolina appellate courts have been less than clear in the past in reconciling the two visions of town authority; indeed, the N.C. Supreme Court had carefully avoided addressing the issue in several past rulings.

As a first step in determining whether Laurinburg could operate the system, the Court of Appeals addressed this issue. "The narrow Dillon's Rule of statutory construction used when interpreting municipal powers has been replaced by N.C. Gen. Stat. § 160A-4's mandate that the language of Chapter 160A be construed in favor of extending powers to a municipality where there is an ambiguity in the authorizing language, or the powers clearly authorized reasonably necessitate 'additional and supplementary powers' 'to carry them into execution and effect'", wrote Judge Douglas McCullough for the court. "However, where the plain meaning of the statute is without ambiguity, it 'must be enforced as written.'"

What's a cable system?

The appeals court then turned to the language of the 1971 law allowing towns to operate cable television systems. The statute defines a cable television system as: "any



St. Andrews College was among the users that connected to Laurinburg's network

system or facility that, by means of... wires or cables alone, receives, amplifies, modifies, transmits, or distributes any television, radio, or electronic signal, audio or video or both, to subscribing members of the public for compensation."

The Court of Appeals noted that the law does not restrict a municipal cable system to any particular technology or define or limit the content of the electronic signals.

"Stated differently," wrote the appellate court, "the language of this statute is ambiguous as to whether the fiber optic network run by Laurinburg falls within its contours. Thus, we apply N.C. Gen. Stat. § 160A-4's broad rule of construction."

"Laurinburg's network is run over fiber optic 'wires or cable,' providing a 'system' for 'transmit[ting]' and 'receiv[ing]' electronic signals capable of being converted to 'audio' and/or 'video' streams of information... We believe this fits within a broad construction of the definition of a CTS."

The court thus found that Laurinburg was authorized to operate the system.

Entering new fields

"We acknowledge that Laurinburg's fiber optics network was most likely not something the legislature envisioned in 1971 when they enacted the statute allowing a municipality to operate a CTS as a public enterprise," wrote Judge McCullough.

"However, if Laurinburg were currently offering the kind of cable programming in place in 1971, and doing so over their fiber optic network, they clearly would be authorized to offer the current bundle of network services over these same lines as 'additional and supplementary powers that are reasonably necessary or expedient.'"

"Without authority to offer the bundled CTS services, no municipality could effectively operate in today's market. Moreover, just as BellSouth is able to leverage its telephone infrastructure to provide low cost DSL broadband services in the market, so too should a municipality be able to leverage its CTS infrastructure.

"We believe it would elevate form over function, against the intent of our legislature's mandate for broad construction, to first demand 1971-type cable programming be in place before a 2004 CTS could be authorized as a public enterprise. Rather, the legislature's intent in 1971 was to enable the municipality's public enterprise to grow in reasonable stride with technological advancements, as it is this advancement which marks the ever-approaching horizon of necessity."

Rulings by the N.C. Court of Appeals are controlling interpretations of North Carolina law unless overturned by the N.C. Supreme Court. Because the ruling by the three-judge panel of the appeals court was unanimous, if BellSouth seeks further review before the N.C. Supreme Court, the high court would not have to hear the case unless it chooses to.

The case is *BellSouth Telecomms., Inc. v. City of Laurinburg*, (04-145). The Court of Appeal's decision is available online at <http://www.aoc.state.nc.us/www/public/coa/opinions/2005/040145-1.htm>

The 'Pillow Effect' Softens Budgets

If you've ever served as a local elected official, you're probably familiar with the "pillow effect." It might be called something different. You may even have your own name for it, but essentially, in the city-county manager form of government it has long been used as a tool to protect or enhance the position of your local manager.

So what is it? Essentially it works like this: The county tax manager prepares a forecast as to what the coming year will bring with respect to revenues. The tax manager prepares the report for the county manager. If they're smart, the pillow effect has already begun. Thus the tax manager essentially underestimates revenue slightly so that actual revenues will run above his projections and make everybody happy.



Chad Adams

The city-county manager then looks at the forecast from the finance director and tax manager so they can grasp what's going on, not only with property taxes, but also with sales taxes and other fees or grants. In this budget picture there is again an incentive to build in a pillow as well.

So, by the time local elected boards begin their budget debates (ultimately it's all about the tax rate) both the manager and the tax man have built in some degree of assurance that actual revenues will be better than predicted. This system seems to keep everybody happy and protect the longevity of the manager.

But there's another pillow effect that often occurs at the county level that has to do with education. The K-12 system also builds into the budget picture some cushion based on the mixture of federal, state, and local funding. Most have a permanent cushion called a "fund balance" that they are typically trying to build up as a result of unspent money from the previous year.

Briefly, the fund balance is that wonderful area of the county budget whence revenues that have been deposited flow back to pay for county government. The state sets a guideline for counties to have 8.5 percent of their overall annual budget in their undesignated fund balance. This was primarily done when property taxes were collected once a year. It ensures that when a rough time hit, a county would have enough to cover debt and expenses to stay solvent.

Many counties keep more than the minimum required, and in the coming years, because of changes in tax collections, the 8.5 percent minimum may be lowered. When counties go below that amount they receive a curt letter from the Local Government Commission telling them to get their financial house in order because they may be jeopardizing their bond ratings.

Schools aren't required to keep a fund balance, but do so anyway despite the fact that they have no bond-selling capacity or debt. When looking to save money, ask your local school board members how much they have in their fund balance. The public deserves to know.

When counties enjoy good financial times you might think that the pillow effect is somewhat unethical and ultimately leads to wasteful spending and an arbitrarily high tax rate. While there may be a hint of truth to that, I would also caution you that in the past four years when counties and cities have had some of their worst budgetary pictures, the pillow was lean beyond comfort. In some instances, had the pillow not been there, the budget would actually have forced the fund balances to drop far below 8.5 percent and caused substantial property tax increases.

So, as our economy continues to transition and improve in North Carolina, it might be worthwhile to take into account the truth about your local pillow effect and ask about the local school board's fund balance. It might make some folks uncomfortable, but it is important to recall that it isn't their money. CJ

Local Innovation Bulletin Board

Urban Growth and the Military

The nation's military bases face an ever-encroaching threat — suburban development. The need to protect base land for military training has the brass forming an unlikely alliance with conservation groups, observers say.

Albeit for different reasons, the military and conservation groups share the same goal: to preserve open space. Conservationists say that the 25 million acres owned by the Defense Department is home to almost 330 endangered species, while the DOD needs the land for valuable training exercises.

As a result, states are trying to balance the needs of the military, conservation groups, and homeowners, observers say:

- In Fayetteville, the Army and state and local conservation groups formed a partnership to protect 9,100 acres near Fort Bragg for training and woodpecker habitat.

- In Florida, the Defense Department and conservation groups are working to create buffer zones, protected from suburban development, for the flight paths of five Air Force and Navy bases.

- The army and environmental groups in Fort Carson, Colo. are working with ranchers to limit the development of nearby rangeland, which would impede the Army's artillery and tank warfare training.

Fifteen states allow local governments to restrict development around military facilities. Not all suburbanites like the idea of restrictions, claiming that such zoning reduces property values and prevents land from being used for more profitable economic uses.

However, military observers argue that bases that are restricted from training exercises because of the disruption to nearby neighbors will be subject to another round of base closings, which also

drains local economies, observers say. Reported in *USA Today*.

Lingering effects of 1960s riots

Cities struck by race riots during the 1960s have suffered a number of long-term economic consequences: lower male employment, reduced black family income and a fall in property values, the *New York Times* says.

Between 1964 and 1971 there were more than 750 riots, killing 228 people and injuring 12,741. After more than 15,000 incidents of arson, many black urban neighborhoods were in ruins.

Compared to similar cities that had little or no rioting, economists from Vanderbilt University found that cities with major riots had depressed economic indicators. The median black income dropped by about 9 percent from 1960 to 1970. From 1960 to 1980, male employment dropped 4 to 7 percentage points.

The impact on property values is even more striking. In cities with severe riots, researchers found, the median value of black-owned homes dropped from 14 percent to 20 percent, compared with cities that experienced little or no rioting, from 1960 to 1970. The median

value of all central-city homes, regardless of owner, dropped 6 percent, to 10 percent.

The racial difference is not surprising, because both riot damage and the perceived risk of future riots were concentrated in predominately black neighborhoods.

Again, these numbers reflect not just immediate property damage but long-term declines. If it is more expensive or less desirable to live or work in a particular neighborhood, property prices will drop, the economists say.

Being a pedestrian is dangerous

Walking is the most dangerous form of transportation, accounting for 11.3 percent of transportation fatalities nationwide, according to the Surface Transportation Policy Project.

In 2003 a total of 4,827 pedestrians were killed while crossing the street and an additional 70,000 were injured.

The most dangerous cities, STPP says, are characterized by wide, high-speed arterial roads that are hazardous for pedestrians.

The majority (about 52 percent) of pedestrian fatalities occurred on arterial roads, while less than 15 percent occurred on interstates and freeways, however, more than 40 percent of pedestrians were killed in areas where no crosswalk was available.

Between 2002-2003, three Florida metropolitan areas topped the list of the three most dangerous cities to walk: Orlando, Tampa-St. Petersburg-Clearwater

and West-Palm Beach-Boca Raton. Ironically, the Orlando and St. Petersburg areas spend more federal funds per capita on pedestrian and bicycle facilities than any of the 50 largest metropolitan areas.

STPP notes that between 1994 and 2003, pedestrian fatalities

have declined by almost 13 percent, however, the percentage of people walking to work declined at an even greater rates.

North Carolina had 178 pedestrian fatalities in 2002 and 150 in 2003 for an average of 1.96 annual pedestrian fatalities per 100,000 residents.

Within the state, pedestrian fatality rates varied widely. In the state's three large urban areas, pedestrian fatalities accounted for 10.2 percent to 12.6 percent of all traffic deaths.

By contrast, in the Wilmington area, 24 percent of those killed in 2002 and 2003 in traffic accidents were pedestrians, an average of 3.65 annual pedestrian fatalities per 100,000 residents. The STPP also rated Goldsboro and Rocky Mount as particularly dangerous places to walk along streets.

At the other extreme were the Greenville, Asheville, and Jacksonville metropolitan or micropolitan areas. In the Asheville MSA, only 7.3 of traffic fatalities were pedestrians. The rate was even lower, 3.9 percent, in Jacksonville. Jacksonville also had the lowest rate pedestrian fatality rate per 100,000 residents in North Carolina at 0.68. Asheville was second at 0.87. CJ

From Cherokee to Currituck

Charlotte Considers Limiting Length of Stay in Public Housing

By MICHAEL LOWREY

Associate Editor

CHARLOTTE

Charlotte is considering overhauling its public housing policies in an effort to reduce reliance upon government handouts. The move comes as federal dollars have become scarcer and the city's waiting list to get into public housing has grown rapidly.

A key element of a draft plan being developed by Charlotte Housing Authority Chief Executive Officer Charles Woodyard is a time limit on how long residents can stay in public housing. Woodyard has not decided what the time limit would be. In any case, it would not apply to disabled and elderly residents. The proposal would also require the approval of federal housing officials.

"The current system tends to trap families here for years," Woodyard told *The Charlotte Observer*. Housing authority records show that the average stay is eight years, though some families stay far longer.

Democratic Charlotte City Councilman James Mitchell agreed. "There is a cycle that seems to exist," he said to the newspaper. In some cases, he said, "you have three or four generations of families that stay in public housing."

The proposal is consistent with the housing authority's vision to eliminate traditional public housing by 2030. The focus would instead be on mixed-income housing built in part by private developers.

The proposal comes as the housing authority's waiting list exceeds 2,500 applications. The authority currently has 3,200 tenants plus 4,500 more families in Section 8 housing.

Woodyard is also considering asking for federal approval to change how much rent the authority charges. Federal rules require the residents pay 30 percent of their income in rent or a minimum of \$25 per month. Woodyard would like to set a fixed monthly amount, so rent doesn't go up as a family's income increases.

Fayetteville transit tax?

Fayetteville's transit director has recommended that Cumberland County adopt an additional half-cent local sales tax to pay for a bigger bus system. The tax would generate an estimated \$12 million a year, with most of the money going to offset higher operating losses from a transit system which, under transit director Jerome Brown's proposal, would more than triple in cost.

Brown's recommendation comes in response to a decision by city leaders last year to increase the Fayetteville Area System of Transit's ridership. Under the proposal, FAST would grow to a \$12.9 million-a-year operation with a yearly operating deficit of nearly \$10 million. The current system costs \$3.9 million to operate with a \$1.3 million deficit covered by Fayetteville taxpayers.

The additional funds would allow FAST to increase hours of operation and serve outlying communities such as Eastover, Hope Mills, and Spring Lake.

"I think we have to be very cautious about adding taxes, but upgrading the transit system to make it more effective is a good

idea," County Commissioner John Henley said to *The Fayetteville Observer*.

The additional sales tax would also have to be approved by the General Assembly.

Raleigh traffic lights

Raleigh will spend \$28 million over the next six years to design and install a state-of-art new traffic signal system. When completed, drivers will spend less time waiting at red lights, enjoy faster commutes, and spend less on gasoline. Air pollution will also be reduced.

"This will do more for air quality than anything else we could possibly do," Joe Bryan of Knightdale, chairman of the Capital Area Metropolitan Planning Organization, said of the new system to the *News & Observer* of Raleigh.

The backbone of the new system will be a 185-mile-long fiber-optic network.

"Once you put a fiber system together, you can hang all different types of technology off it," said Eric Lamb, Raleigh transportation services director.

Traffic engineers will be able to get real-time data on traffic conditions from traffic cameras and pavement sensors. They can then adjust the timing of signal lights to optimize traffic flow. The fiber-optic system can also be used to relay information to drivers via roadside signs, the Internet, or future technologies so they can avoid congested areas ahead.

It will take two years to design the system and another four years installing it. Drivers will start seeing benefits as the network comes online in different parts of the city.

Raleigh officials had tried for a number of years to get state money to upgrade its traffic lights but road projects kept winning out. Most of the money for the new system will come from a federal program aimed at reducing pollution and congestion; the city's share of the cost is \$7 million.

Greensboro recycling cashes in

Greensboro city officials are extremely pleased with the returns this year from its recycling program. While recycling has in the past often been a financial nonstarter, recent increases in demand for recycled paper has turned the program into a money-maker for the city.

Revenues were \$858,417 for fiscal 2003-04, up more than threefold compared to only two years earlier. And this year should be even better, with revenues of \$429,545 through the fiscal year's first three months. The money goes into the city's general fund and helps keep taxes down.

"All of the mills are loudly demanding more (recyclable) materials," said Bill Leonidas, a spokesman for FCR, the company that manages the city's recycling program. "The problem has been flipped. Supply no longer exceeds demand."

"The biggest factor is the influence of the export market," Ken McEntee, the editor and publisher of the *Paper Stock Report*, said to the *News & Record* of Greensboro. "China has a lot of demand, and they're coming here to get it." McEntee's publication reports that in 2004 China bought 1.3 million tons more of U.S.-generated scrap paper. CJ

The proposal is consistent with the housing authority's vision to eliminate traditional public housing by 2030.

Fox News' Fred Barnes: The Republican Moment is Now

By CAROLINA JOURNAL STAFF

RALEIGH

Fred Barnes is the cohost of Fox News' "Beltway Boys," and a regular panelist on "Special Report with Brit Hume" on Fox News. Barnes also helped found *The Weekly Standard* in 1995, a magazine covering politics in the United States and elsewhere. He was a recent speaker at the Headliner luncheon series hosted in Raleigh by the John Locke Foundation. When Barnes was in town, John Hood interviewed him for *Carolina Journal*.

Hood: You talked in your remarks to the John Locke Foundation about President Bush, the 109th Congress, and what's happening now in Washington. What do you think are President Bush's top priorities in the next three months?

Barnes: He has a lot of huge issues on his agenda, but two stand out. One, in the foreign policy area, is Iraq, where there is an election on January 30th. There will be two more elections this year. And Iraq is moving, amidst great violence, toward a democracy and he wants it to be a stable, permanent democracy. On the domestic side, it's Social Security reform — to allow people to invest some of their payroll taxes in private accounts that they'd own, and also, to make it solvent throughout the rest of the 21st century.

*Hood: We've talked on this program before with lots of different folks about Social Security's fiscal problems, the economic attraction of accounts, the political attraction of having a new investor class in America. You've written recently in *The Weekly Standard* about the political prospects of the actual bill that would come out of negotiations. What are some of the factions that are going to influence the outcome?*

Barnes: Social Security is never the third rail of politics that it used to be — you know, touch it and you die. President Bush has touched it a number of times and has been re-elected. But the first thing he has to do is get Republicans together. There are a number of Republicans who don't want to have anything to do with it. They say, "We've gotten this great majority in the House and the Senate, why jeopardize it by going after Social Security?"

Hood: There was one member of Congress that said, "Who cares about 2042? I'll be dead."

Barnes: Yes, that was Rob Simmons of Connecticut, and I think he'll come along and be on the president's side. You have another group that doesn't want to do anything. It doesn't want to meet the solvency challenge at all. They want to have the accounts — the individual accounts for people to use their payroll money to invest in stocks or bonds and so on. And then there is the president, who wants to take on — who wants to create the accounts, but also do something on the solvency side, which may involve slowing the growth of benefits, which, of course, grow at a faster rate than inflation.

Hood: Because they are indexed to wages not to prices.

Barnes: Right.

Hood: We assume wages grow faster than prices, or else we are in bigger trouble than we are.

Barnes: What I'm suggesting is what the first thing the president has to do is get Republicans together, and I think that's achievable. And then he will probably have to pick off a few Democrats. He's not going to get many. They are dominated by reac-



Fred Barnes of Fox News spoke at a John Locke Foundation luncheon recently.

tionary liberals who think that every program that was created during the years of liberal hegemony, you know, from the '30s right into the '90s, has to be saved or expanded.

Hood: And they probably have a particular attraction to preserving Social Security in its current form, because they view it as sort of the touchstone of the welfare state as created in the 1930s. If Bush was able to succeed in moving Social Security in at least a moderately market-oriented direction... They are worried, I think, about the precedent that was set.

Barnes: It would set a precedent. And Democrats are not very excited about the creation of a larger investor class, because they think investors are people who are interested in markets, and will tend to move to the Republican Party rather than stay in the Democratic Party. But here is what I think is important right now in Washington. *The Wall Street Journal* has written about a Republican Moment. And this is a Republican Moment where you have a strong, ambitious, tough president who is very engaged. You have majorities for Republicans in the House and the Senate. And you have this large agenda. Now is the time. This is the time for conservative Republicans who are in charge in both places — the White House and Congress — to move. It's not room for excuses by saying, "Well, we'll get the Social Security later."

Hood: You'd have to have a filibuster from the majority or something like that.

Barnes: Exactly. It is these two years that they have to act in. These moments don't come very often. Remember, for FDR it came from 1932 to 1934. He was not able to do nearly as much after that. We had an episode from 1964 to 1966 when Lyndon Johnson was president and installed the Great Society and did so many — and Medicare — to enlarge government's role in American life. There is a chance now, an opportunity, for this to be one of those moments to move in a conservative direction — to free up government, to move government from something where bureaucrats decide, but where individuals have more choice and control over their health care, over their money and so on.

Hood: I think Jack Kemp, perhaps, the former vice-presidential candidate, and some other Republicans argued that Bush may be acting too quickly, or at least too aggressively in scenarios like making changes in Social Security on the benefits side. They say, "Just create accounts, but don't do anything on the benefits side."

Barnes: Well, their argument is simply that we're not going to get these new accounts if we tinker at all on the benefits side. It's a political argument. And the president is

now, and the White House, is trying to fashion a bill that all these factions will agree on. The ones who don't want to do anything, you can just sort of beat them into submission, but Newt Gingrich and Jack Kemp and those people are important and are taken seriously.

Hood: Another issue that President Bush talked a lot about during the re-election campaign that gets a lot of conservative hearts aflutter is the idea of fundamental tax reform. If we understand that Social Security is taking the front seat, and tax reform going to a national sales tax or a flat income tax or some version of that is sort of the middle of the bus. Is that the way you hear it and does that make sense?

Barnes: Well, I'm not sure where these different ideas are in the bus. If this is really tax reform, the president has, in effect, put off until 2006, and I agree with that. You don't want to try to everything in one year. This is the year — 2005 is for Social Security re-

form. So he created a commission headed by two former senators, John Breaux the Democrat and Connie Mack the Republican, who is a supply-sider and a real tax reformer. Here is what you want from tax reform. You want a simpler system with lower rates. If you don't get that, it's not real tax reform. And I think that is what we're going to get from this commission.

Hood: We've talked some about President Bush and the Republicans, let's talk for a moment about Democrats. What is their response going to be to the Republican agenda?

Barnes: Well, I think so far we've seen what their response is, and that is they are going to be obstructionists, and they don't seem to have learned the lesson of Tom Daschle, and they have fewer members. I think it is going to be harder in the Senate for them to block Republican measures than it was over the last several years with Tom Daschle, who was aggressive, obsessive, and certainly highly opposed anything that President Bush or Republicans came up with.

Hood: What happens if Howard Dean becomes the DNC chairman?

Barnes: Probably not much. Dean, you know, back before he got all intoxicated with running for president and being the champion of the left in the Democratic Party, was actually more of a centrist governor.

Hood: He got a B once from the CATO Institute for his fiscal management.

Barnes: He did. I've talked to Steve Moore who was at CATO then and making these ratings. And he thought Howard Dean was pretty good for a Democrat. We'll see. Maybe he'll return to that.

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

• These days the Constitution is no restraint on our out-of-control Supreme Court, writes radio talk show host and legal scholar Mark Levin. The court imperiously strikes down laws and imposes new ones on its own arbitrary whims, and even though liberals are repeatedly defeated at the polls, the majority on the “allegedly conservative” Supreme Court reflects their views and wields absolute power. In *Men in Black: How the Supreme Court Is Destroying America*, Levin dissects the judicial tyranny that is robbing freedoms and stuffing the ballot box in favor of liberal policies. Learn more at www.regnery.com.

• Since his appointment to the Supreme Court in 1986, Associate Justice Antonin Scalia has become perhaps the best-known justice on the Supreme Court today and certainly the most controversial. Yet most Americans have probably not read even one of his several hundred Supreme Court opinions. In *Scalia Dissents*, Kevin Ring, former counsel to the U.S. Senate’s Constitution subcommittee, lets Scalia speak for himself. The volume showcases the quotable justice’s take on many of today’s most contentious constitutional debates, including affirmative action, religious freedom, judicial activism, and abortion. Ring’s compilation contains more than a dozen of the justice’s most controversial opinions, and the author-editor also provides helpful background on the opinions and a primer on Scalia’s judicial philosophy. Also from Regnery.

• Natan Sharansky believes that the truest expression of democracy is the ability to stand in the middle of a town square and express one’s views without fear of imprisonment. He should know. A dissident in the Soviet Union, Sharansky was jailed for nine years for challenging Soviet policies. During that time he reinforced his moral conviction that democracy is essential to both protecting human rights and maintaining global peace and security. Sharansky was catapulted onto the Israeli political stage in 1996. In the last eight years, he has served as a minister in four different Israeli cabinets, including a stint as deputy prime minister, playing a key role in government decision making from the peace negotiations at Wye to the war against Palestinian terror. Drawing on a lifetime of experience of democracy and its absence, Sharansky writes in *The Case for Democracy* that only democracy can safeguard the well-being of societies. More at www.publicaffairsbooks.com.

• Nationally syndicated talk-radio host and film critic Michael Medved has gone from liberal activist to outspoken conservative. In *Right Turns: Unconventional Lessons from a Controversial Life*, Medved chronicles the adventures that taught him many lessons — the startling events that propelled him from Vietnam protest leader to optimistic promoter of American patriotism, from secularism to religion, from adventurous single guy to doting husband and father. In the process he skewers leftist orthodoxy, revealing why the Right is right and why his former colleagues on the Left remain hopelessly wrong on every cultural, political, and social issue. Details at www.randomhouse.com/crown/forum.html. CJ

Book review

Winning the Future: God and Military to the Fore

• Newt Gingrich: *Winning the Future: A 21st Century Contract With America*; Regnery Publishing, Inc.; 2005; 243 pp.; \$27.95.

By JOHN PLECNIK
Contributing Editor

RALEIGH
Newt Gingrich’s *Winning the Future* starts with the proposition that 21st century America could be destroyed. The fivefold threats of terrorism, secularism, lack of patriotism, declining technological prowess, and overtaxed entitlements loom on the horizon. Gingrich posits that these threats, capable of crippling our society, can be overcome, but only by fighting an entrenched political system and news media.

Gingrich’s sweeping scope of issues

Stylistically and substantively, the text is well-written. Gingrich, who organized the book topic by topic, hits most of the major issues of our time and purports to provide solutions to each. Everything from education to environmentalism and energy policy is covered. More often than not, the former West Georgia College professor puts his doctorate in history to good use and includes an academic discussion of the past. This book proves that Gingrich is qualified to be president (of a major American university).

Seriously speaking, Gingrich is right-wing and right on the money. In response to these five deadly threats, the former speaker of the U.S. House demands a stronger national defense, acknowledgment of God as the source of our inalienable rights, an informed love of country, better schools with more students of math and science, and private-sector ingenuity to replace costly government bureaucracies.

Winning the Future should be a primer of choice for college Republicans and young conservatives. Complex issues such as the constitutionality of judicial activism are discussed in great detail, but at a level that laymen can easily understand. Even the Kyoto Treaty is broken down from statesmen’s gibberish to dollars-and-cents common sense. It’s best to give credit where credit is due: Gingrich knows his stuff (or at a minimum, has good ghostwriters).

With the release of *Winning the Future*, rabid speculation ensued that Gingrich is running for president in 2008. Heh. Newt versus Hillary: I can almost see the bumper stickers. A good bit of press was undoubtedly cooked up to promote book sales. However, the speculation is understandable. Chapter by chapter, Gingrich opines on virtually every hard policy question that a presidential candidate is supposed to answer. He also speaks of mass-movements and grassroots campaigning. In fairness, this book could be seen, and may well be, early groundwork for a presidential run.

More likely, however, the presidential feel flows from Gingrich’s authoritative style. It’s been said that Gingrich acted like he was president from 1994-95, when serv-

ing as House speaker. Love him or hate him, Gingrich is self-confident and opinionated.

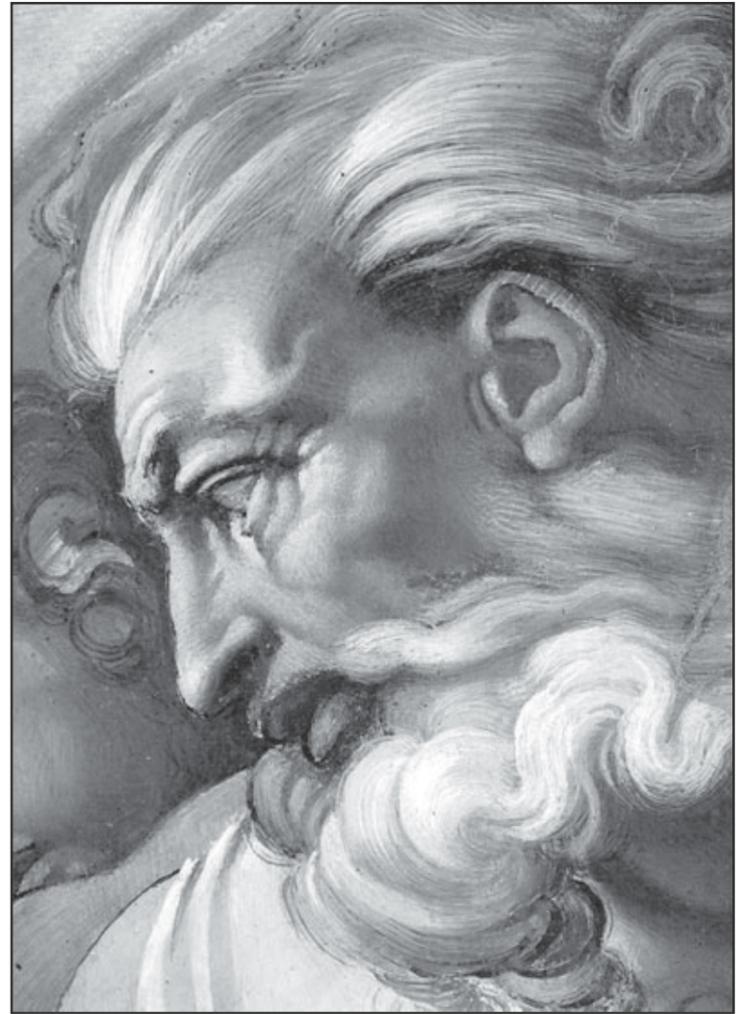
As such, Gingrich throws political correctness out the window before he even finishes his book’s introduction. At the outset, readers are asked to take a test in order to find where they stand on the “growing gap between traditional American values and the secular liberalism of the Left.” Each question consists of a social, economic, or religious statement of the conservative persuasion. Readers are asked how strongly they agree or disagree with each statement (i.e. whether they “believe in God”). Notably, “recent poll numbers” accompany the questions to reflect public opinion, and the least popular statement received 73 percent approval. Gingrich tops off his pop quiz by asserting that those scoring at least 51 out of 100 points should read on because, “[t]his book is about how you can protect and defend America’s traditions and values.”

A continuous theme, throughout *Winning the Future*, is the centrality and importance of God in America’s past and present. Though an entire chapter is devoted to this topic, it pervades the whole text and seems to be part of Gingrich’s central thesis. For instance, he bemoans how liberal judges, on the 9th Circuit and Supreme Court, are free to misinterpret the U.S. Constitution with impunity. One of the chief misinterpretations he cites is the conceptual fabrication of the separation of church and state.

When Gingrich discusses America’s duty to its poor and infirm, he immediately brings faith-based initiatives to the forefront, saying, “Faith provides hope, guidance, and self-discipline while bureaucratization and welfare encourage

ages passivity and undermines and embitters people...” He goes so far as to say that a phone number “as universal as 911” should be established to link the nation with faith-based organizations.

Gingrich includes a special feature in Appendix B, “Our Creator in the Capital: A Walking Tour of God in Washington, D.C.” The feature functions like a do-it-yourself tour guide and outlines numerous references to God, everywhere from the Library of Congress to the World War II Memorial.

*Cataclysmic threat of terrorism*

On the topic of terrorism, Gingrich focuses our attention on weapons of mass destruction, ranking nuclear devices as the most worrisome, followed by biological and chemical, then electromagnetic pulse. He notes how a “Nobel Prize winner told [him] that an engineered biological attack could kill 140 million Americans.” As such, Gingrich characterizes the war on terror as a war of survival. Adding emphasis to the danger, he writes “and we could lose that war.”

Referring to al Qaeda’s followers as “Irreconcilable Islamists,” Gingrich talks of defeating the radical wing of Islam in Bush-like terms. He says that the terrorists hate our way of life and hence, are “irreconcilable” with America. Gingrich also sees two immediate opponents: terrorists, and the rogue dictatorships that empower them.

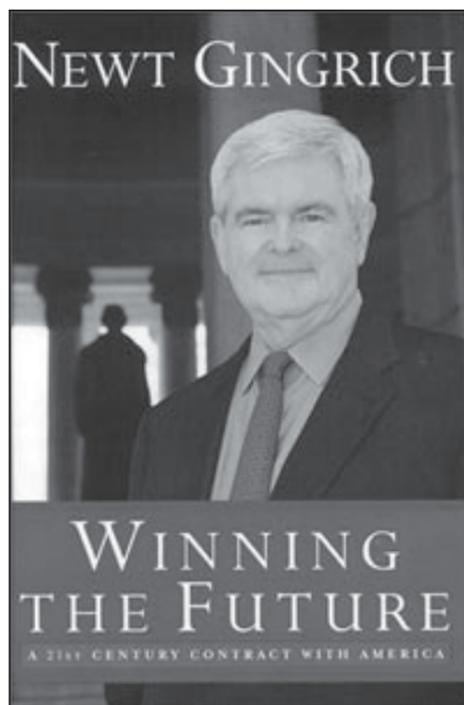
Like Bush, Gingrich focuses on beefing up the U.S. intelligence community, while allowing increased cooperation between various homeland defense and crime-fighting organizations such as the FBI, Border Patrol, and Coast Guard.

Gingrich also sees the need for a larger, stronger military — desiring forces capable of handling wars in two or three theaters at once.

Gingrich hazards some guesses as to when the war on terror will end. Gingrich cites 2070 as a “reasonable estimate,” but speculates that an optimist could make the case for winning by 2025 or 2030. Like a true politician, however, he covers his bet by positing that the conflict could last several centuries like the Catholic-Protestant wars during the Reformation and Counter Reformation.

On the whole, *Winning the Future* is well-written and right on the issues. Gingrich gives conservatives quite a wish list for 2005 and beyond. If enough voters believed the Gingrich could deliver the reforms he advocates, the man would be nominated for president.

My verdict on Gingrich’s latest: It’s worth the read, and worth keeping. Not bad, Mr. Speaker. CJ



Book Review

Abuse of Power? Government Routinely Puts Land to 'Better' Use

• Steven Greenhut: *Abuse of Power: How the Government Misuses Eminent Domain*; Seven Locks Press; 2004; 276 pages; \$17.95

By **GEORGE C. LEEF**
Contributing Editor

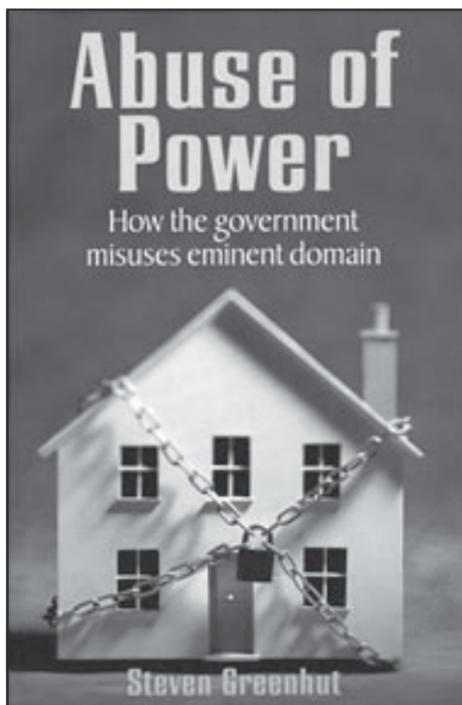
The essential difference between a market economy and a socialist one is that in the former, individual owners decide how to use the resources they own, whereas in the latter, government officials make the resource use decisions.

The market system is consistent with individual liberty and works well without the use of coercion. The socialist system is not consistent with individual liberty and works poorly because it necessitates the use of coercion.

America at one time was a market economy, but as the country has aged, we have slid toward socialism in many respects. It's like the aging of a human being with a slowly advancing case of arteriosclerosis caused by a long procession of bad dietary decisions.

Government grabs the land

Among the ways we're sliding into socialism is the loss of freedom of landowners to control the use of their land. That's the case with farmers, for example, who must abide by government regulations on the crops they may grow. It's the case with urban land owners, who must abide by zoning regulations. And it's also the case when land is taken from owners under what is called eminent domain. Eminent domain is the subject of *Abuse of Power* by journalist Steven Greenhut, who has fol-



lowed this subject for years. What Greenhut gives us is a thorough investigation of the rampaging growth of this assault on private property that frequently leaves the reader shaking his head in disbelief at the villainy of the process.

The original concept of eminent domain sanctioned in the Constitution is that government may take private property where it is necessary to do so for a public use, and then only if just compensation is paid to the owner. Even that is a dangerous departure from libertarian principles; government should no more make anyone "an offer he can't refuse" than should criminals. So long as eminent domain was limited only to property seizures only for true pub-

lic uses — roads, for example — the amount of damage was fairly small, however.

The problem, Greenhut informs us, is that eminent domain is now routinely used to take land from people not for some actual public use, but instead to advance anything that might vaguely be called a public purpose. By eliminating the restriction that eminent domain may be used only for public uses, the courts (naturally, the U.S. Supreme Court is the main culprit) have allowed an almost limitless expansion of eminent domain.

As Greenhut shows with many, many cases, eminent domain is now routinely used to transfer land from one owner to another simply because politicians believe that it will be put to "better" use by some party other than the original owner. "Better" here simply means "paying more in taxes."

An old house or a small business brings in a small tax take. Condemning the property and forcing its sale in order to hand it over to a big commercial enterprise that will generate far more in tax revenue is regarded by many politicians as a public purpose and they have no qualms about slapping the label "blighted" on people's homes or businesses so they can force them out.

Forced transfers to satisfy politicians and well-heeled developers are appalling enough, but the other side of the transaction is also terrible. The requirement of "just compensation," Greenhut contends, is often ignored. "Almost always," he writes, "the government tries to lowball the property owner, in many cases offering a fraction of the property's value." The unfortunate property owner usually loses. Even if he hires a lawyer to contest the amount

offered, the legal expenses involve generally mean a considerable net loss in wealth for him.

Judges join in the takeover

Where is the judiciary in all of this? Won't judges step in to stop these seizures for what is obviously private use or at least compel just compensation to the dispossessed owners?

Unfortunately, Greenhut demonstrates, no. Judges are often indifferent to the plight of individuals targeted for removal. Many of them seem to share the mindset of the politicians that people who fight against eminent domain are greedy opponents of social progress.

Not even churches are safe from eminent domain. Actually, tax-exempt property is among the least desirable of all uses from the standpoint of tax-hungry politicians. Greenhut's cases where churches have been eminent domain victims will raise the reader's ire further.

An instructive side lesson is that many of the politicians guilty of eminent domain atrocities are "liberals" whose campaign rhetoric oozes with "compassion" for the supposedly downtrodden citizens.

They don't mind trodding all over real people, however, if it will enable them to achieve the supreme objective of an expanded tax base, enabling them to spend more on their favorite projects and constituencies. Eminent domain is another piece of evidence for the Public Choice economists.

At the book's end, Greenhut offers helpful advice to people who find that they need to fight back. It can be done. Bravo to the author for showing how. *CL*

Book Review

No So Wild, Wild West: Things Ran Well Until Government Showed Up

• By Terry L. Anderson and Peter J. Hill: *The Not So Wild, Wild West*; Stanford Press; 2004; 250 pages; \$24.95

By **GEORGE C. LEEF**
Contributing Editor

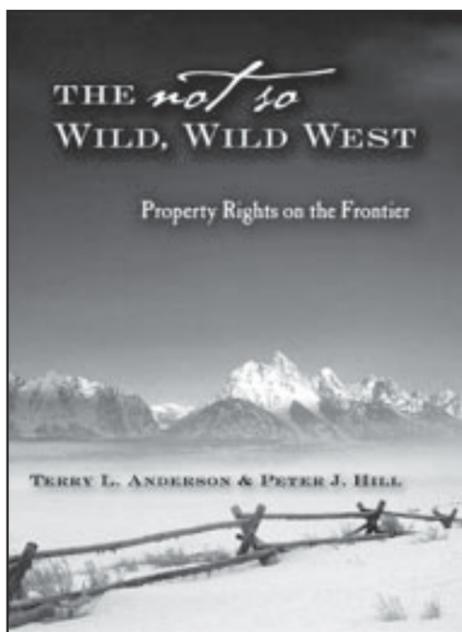
Iremember very well the images of the American West I received as a child. Movies, TV shows, and books convinced me that the West was excitingly wild and violent, with wars and gunfights staples of everyday life. No doubt, millions of others have grown up with the same idea, and a corollary — that the West was tamed by the extension of governmental authority into the region to bring about order and peace.

Guess what? It's a fable.

In their book *The Not So Wild, Wild West: Property Rights on the Frontier*, economists Terry Anderson and Peter Hill masterfully demonstrate that the West was not at all like the common view. Not only was violence not particularly prevalent, but also stable socio-economic relationships arose spontaneously before there was much governmental presence.

In fact, Anderson and Hill repeatedly show, the arrival of governmental authority usually made matters worse, as politicians and interest groups were able to upset the arrangements that people had worked out to maximize the benefits they could derive from the land and its resources and minimize conflict.

Writing from the vantage point of "new institutional economics," the authors explain that "cooperation dominated conflict



because the benefits and costs of institutional change redounded to small, well-defined groups or communities. As long as new institutions evolved locally and voluntarily, the costs of conflict and the benefits of cooperation were internalized by the decision makers." Whether the issue was cattle, mining claims, water, or anything else, people were remarkably good at devising efficient rules and structures in order to make the most out of the conditions they faced. Putting it in a nutshell, the American West was a laboratory in which Hayekian ideas about the benefits of spontaneous order were put to the test and found to hold true.

Anderson and Hill look at the West from numerous angles, all yielding fascinating insights. Their chapter entitled "Property Rights in Indian Country" dispels the myth that Indians lived in a kind of socialistic utopia with no taint of private property rights. Depending on their circumstances, which varied greatly in different regions, Indian tribes developed property rights institutions ranging from communal to "systems hardly less individualistic than our own." Indian cultures devised private property where resources required long-term investments and care to avoid what we now call the tragedy of the commons. Among the Paiute, for example, groves of pinon trees were treated as family property subject to inheritance and they had rules against trespass. The romantic leftist notion that American Indians prove the superiority of socialism has lain in intellectual ruins for years. If you need a cogent refutation (perhaps to use against teachers who use the Chief Seattle myth to push students into opposing capitalism), you can't do better than this book.

What about all the warfare with Indians? Most readers will be surprised to learn that there wasn't much of it in the 18th and well into the 19th centuries. In those years, trading and negotiation were the norm and warfare rare.

The famous Indian wars of the 1870s and 1880s had to do mainly with the arrival of the regular U.S. Army. "Maintaining a standing army, as opposed to raising local militia, shifted the cost of fighting to others and predictably increased the number of battles," Anderson and Hill say. For one

thing, the incentives of the Army were aligned with combat — the more of it, the more the chance for higher rank and pay. The authors quote General Sherman, who once lamented how hard it was to "make a decent excuse for an Indian war."

More importantly, those who were interested in taking Indian land could spread the cost and risk among the rest of the population, and didn't hesitate to do so. The book makes it clear that the problem wasn't "the white man," but rather the fact that some white men were in a position to make others bear the cost of aggression when they could use what Franz Oppenheimer termed "the political means" (organized coercion) to achieve their objectives.

Rationality rather than conflict was similarly the rule with frontier mining claims and the allocation of water rights. The book also has a wonderfully insightful chapter on the economics of wagon trains, and its discussion of the irrationality, inefficiency, and utter folly of federal intervention with the natural order that had previously arisen should be imported into college economics and public policy courses.

The *Not So Wild, Wild West* is a beautifully written and printed volume that teaches us much about the American West, but also about human nature and the economic way of thinking. Congratulations to Terry Anderson and P.J. Hill for an outstanding book. *CL*

George C. Leef is the executive director of the Pope Center for Higher Education Policy and a contributing editor of Carolina Journal.

Christians Should Pick Their Battles

Christian conservatives have a problem, and it's not SpongeBob SquarePants, Barney, or even Buster Baxter.

The cartoon characters, some of which have been embraced as icons by the homosexual culture, have been accused by Christian activists of indirectly promoting the acceptance of same-sex relationships to young children. SpongeBob and Barney are two of dozens of popular children's TV heroes featured in a video redo of the disco hit "We Are Family," which will be distributed in March to 61,000 public and private schools.

The third character stars in PBS's "Postcards From Buster," part of the federal Ready to Learn program, which was designed to promote diversity. New U.S. Secretary of Education Margaret Spellings, whose department sponsors the series, busted the bunny for spreading the diversity message to include children with homosexual parents.



Paul Chesser

Upon Spellings' objections, PBS intercepted the gay-friendly Buster broadcast before it hit the airwaves nationally, although some local public broadcasting stations will still air it. Other episodes have featured children from Muslim, Jewish, Mormon, and evangelical Christian families.

"The show is about children," said Brigid Sullivan, vice president for children's programming at WGBH in Boston, which produces it. "It's not about the parents. It's about letting children validate children as children, regardless of the family they live in."

Fair enough. Children need to be taught to be nice to children, regardless of their religion and family structure. Can't conservative Christians even agree with that value of the diversity movement, and that it's something that needs to be taught, not assumed?

Public schools, after all, can be cruel, and undoubtedly children from homosexual homes can become targets of both verbal and physical taunts and threats. This is not the way responsible parents, Christian or otherwise, want their children to behave or to be treated.

But peer pressure, prejudices, and misconceptions do stir mean-spirited behavior in kids who don't carry that sensitivity gene, training, or whatever you want to call it. You can't count on every child's parents to instill civility, so educators feel compelled to use gimmickry to teach it themselves. They want to show it's equally wrong to pick on the kid with same-gender parents as it is to pick on the one wearing a turban or yarmulke.

Hence the problem for Christians, who seem perpetually poised to whack public educators every time they accommodate homosexuals even in the slightest manner. In this case, despite their intentions, Christian activists are excessive in their protestation. The "We Are Family" video is harmless, which Christian leaders acknowledge, but those such as Dr. James Dobson warn of an underlying motive.

Evangelicals' deeper problem, which most of them say or do little about, is that they continue to place their children in public schools. It's an old theme, but government institutions are going to draw from the melting pot of society without regard for heritage or moral background. That's not going to change and the schools will always have the good and bad. Kids have to go to school somewhere.

Whether the diversity advocates' intent extends beyond the video's message is irrelevant. If the issue is about their own children, then conservative Christians, who in large numbers object to gambling, roll the dice every time they place their children in public schools. Beyond simple lessons in diversity, they are subject to chance meetings with any number of teachings, influences and experiences that are objectionable to their values. That goes for everybody: homosexuals, Mormons, Muslims, etc.

Yes, Christian activists must still oppose indoctrination efforts from immoral interests in public education. But they should let the civility lesson go forward, and get worked up when the message has more clearly gone awry.

CJ

Editorials

GETTING IT RIGHT

Court ruling in ballot dispute draws fire

Once again, the N.C. Supreme Court is at the center of controversy, this time over its Feb. 4 ruling on provision ballots. The high court held that existing state election law does not allow the use of provisional ballots in state and local elections by those attempting to vote on election date at some place besides their assigned precinct.

The ruling came in the disputed race for state superintendent of public instruction. Republican candidate Bill Fletcher sought to have at least 11,310 out-of-precinct provisional votes thrown out. Fletcher trails Democratic candidate June Atkinson by about 8,500 votes.

The reaction by portions of the political class, plus several of the usual suspects in the media, to the Supreme Court decision was instructive. Preening like peacocks, they proudly proclaimed to all who would listen the great achievement that the General Assembly had brought in its 2001 and 2003 changes to state election law and questioned how the court could possibly "misinterpret" their efforts. The provisions enacted, they claim, were after all quite clear.

"We meant what we said the first time," said Sen. Dan Clodfelter, D-Mecklenburg.

But the high court disagreed. The General Assembly had never effectively changed state law to allow out-of-precinct provisional voting, it found, regardless of intentions stated afterwards.

The actual language governing who can vote and where is clear enough, the court noted:

• **Qualifications to vote:** "Every person born in the United States, and every person who has been naturalized, and who shall have *resided* in the State of North Carolina and *in the precinct* in which he offers to register and vote for 30 days next preceding the ensuing election, shall, if otherwise qualified as prescribed in this Chapter, be *qualified to register and vote in the precinct in which he resides*: Provided, that removal from one precinct to another in this State shall not operate to deprive any person of the *right to vote in the precinct* from which he has removed until 30 days after his removal." (emphasis in decision)(N.C.G.S. § 163-55)

• **Unreported Move to Another Precinct Within the County:** "If the registrant appears at the old precinct, the precinct officials there shall send the registrant to the new precinct or, if the registrant prefers, to the central location, according to rules which shall be prescribed by the State Board of Elections." (N.C.G.S. § 163-182.15e)

• **Allowing Out-of-Precinct Ballots to Count:** The

Supreme Court held that, "In our review, we have found no indication that Congress' intent in passing [the Help America Vote Act], or our state legislature's intent in passing N.C.G.S. § 163-166.11 [authorizing provisional ballots], was to enable voters to cast valid ballots outside their precincts of residence when such a vote would not otherwise be supported by state law."

• The high court also noted that the specific conditions under which provisional ballots can be used is set out in the North Carolina Administrative Code (8NCAC 10B.0103(d) (Supp. 2004)). It states that a "person is eligible to vote an official provisional ballot *if the person resides in the precinct*" and meets one of four other conditions.

• And what if voting officials learn that a person is trying to vote out of precinct? If "the responsible judge of election learns from the person that the person resides in a different precinct, the responsible judge shall provide the person with adequate information in order to direct the person to the proper voting place." (8 NCAC 10B .0103(d) (Supp. 2004))

"It is indeed unfortunate that the statutorily unauthorized actions of the State Board of Elections denied thousands of citizens the right to vote on election day," wrote Justice George Wainwright for the Supreme Court. "This Court is without power to rectify the Board's unilateral decision to instruct voters to cast provisional ballots in a manner not authorized by State law. To permit unlawful

votes to be counted along with lawful ballots in contested elections effectively 'disenfranchises' those voters who cast legal ballots, at least where the counting of unlawful votes determines an election's outcome."

While one may certainly question the remedy that the court held was necessary — throwing out the votes in question — much of the subsequent assault on the court's competence and integrity has landed well wide of the mark.

A far better question to ask is why exactly the State Board of Election instructed local boards of election to allow the provisional ballots in the first place, given the evident lack of clarity in the law as well as the existence of conflicting language in the state constitution (an issue that the high court did not address in its decision).

Then again, given the state elections board's obviously off-base actions in the agriculture commissioner's race — two of the board's proposals to address lost ballots in Carteret County were rejected by state judges as "arbitrary and capricious" or in gross violation of state election law — perhaps we shouldn't be surprised.

Unfortunately, as the legislature rushes headlong to correct the flaws in state election law identified by the Supreme Court, it seems intent on upon building upon the worst elements of the 2004 election experience. By seeking to establish itself as the only arbiter of executive and legislative branch election disputes, the legislature risks adopting a method that puts politics over reason, the separation of powers, and the rule of law. Such overreaching could have serious and adverse consequences.

CJ

AT A CROSSROADS

State needs to make transportation choice

With quite possibly the tritest turn of phrase you'll read this month, we submit that North Carolina transportation policy has reached a crossroads. Sorry we can't be more creative. The metaphor works.

On a host of long-debated issues—equity in road funding, the state-local relationship, mass transit, intercity passenger rail, freight transportation—the first week of February has brought us important news, new proposals, and calls to action.

More generally, both North Carolina policymakers and their constituents seem now to share the conclusion that there is something fundamentally wrong with our state's approach to the issue, though they do not share a common view of which direction to go.

Some of the early-February news came from Washington. The Bush administration released its proposed budget, which put about \$55 million more into a light-rail line in Charlotte but left out entirely a rail project in the Triangle. In the latter case, federal officials properly question some preposterous claims about what traffic would be like in the absence of rail, and have not yet affixed a "recommended" label to the Triangle plan.

For other parts of North Carolina, the Bush budget also had some fateful news: It called for an end to subsidies for Amtrak. If Congress stumbles across enough common sense to go along with this idea, there will be some disappointed officials in communities from Asheville to Wilmington. They have been lobbying for years to secure intercity passenger rail, a service that will never pay for itself by charging users.

Transport options and who pays

According to the U.S. Bureau of Transportation Statistics, Amtrak receives a tax subsidy of \$186 per thousand miles of passenger travel. This is far greater than the subsidy for airlines (ticket taxes pay for much of airport operations but fall short about \$6 per thousand passenger miles) and is even worse than the performance of mass transit, at \$118 per thousand miles.

Highway users, on the other hand, pay about \$2 more per thousand miles than it costs to build and maintain the roads they traverse. Some analysts claim that highways are themselves grossly subsidized, because of such uncompensated costs as deadly accidents, air pollution, and Middle East wars, but careful study reveals these claims to be wildly inflated.

The highest fatality rates in surface transportation accidents are from commuter and light rail, not auto commutes. Pollution has actually been falling for decades, despite rising auto traffic (much of the previously external costs of pollution has essentially been internalized by drivers in the form of more expensive, less-polluting cars and fuels).

Whether you support the president's policy in Iraq—or believe, wrongly, that it is all about oil—it is important to remember that fossil fuels would be a critical part of the world's economy, and thus its sources the subject of strategic concern, even if many more Americans drove their personal automobiles less and commuted more on buses or trains run by diesel engines or electricity generated in part with natural gas.

In North Carolina, the dispute isn't just about roads vs. transit but also about how to raise and distribute road funds. Urban areas are crying foul about an impending transfer of gas-tax dollars to rural areas, a transfer predicated on a state "equity" formula that fails adequately to take into consideration the current and expected levels of traffic in major urban areas.

Some local governments are even pressing the General Assembly to give them more authority to levy sales or motor-fuels taxes for transportation, and to build their own projects rather than having to wait in a statewide queue.

Some principles for transportation reform

We would never claim that these issues are simple and the choices easy to make. But we would offer these basic principles:

First, the state's role in transportation should be concentrated on infrastructure, such as city streets and highways, for which it is extremely difficult to charge people per use. Airports, railways, and limited-access highways can and should be financed by charging real prices, variable

according to market conditions, rather than with cross-subsidies from non-users.

Second, highway-derived revenues—taxes levied on gas and cars—should be devoted to highways, not diverted elsewhere. As much as possible, these revenues ought to be invested in new or resurfaced roadways geographically close to where they are collected, since the sale of fuel and automobiles is roughly correlated with usage.

Finally, the state's goal in transportation policy should be to move people and freight at the lowest possible cost in dollars, safety, and freedom. It should not be to steer economic development or radically transform the way we live, work, shop, and play to fit the preconceived notions of elites cloistered in urban-planning departments or "smart growth" conferences.

It's critical to the future of our state that policymakers make the right turn here—so to speak.

INCENTIVE LOSERS

Lawsuit reveals cost of business subsidies

It was only a matter of time. Two owners of a Wal-Mart in Wilson have filed suit in federal court to challenge \$2 million in local-government incentives for a planned Target store in the county. "This is a very peculiar thing to have the government decide it wants a particular brand of store, and it's willing to pay it \$2 million to come to town," said the plaintiffs' lawyer.

North Carolina's escalating use of tax subsidies to "close deals" with potential private employers was destined to provoke the state's existing businesses. While there are many different arguments, both legal and economic, against such targeted incentives, among the most persuasive is that "targeting" incentives to some companies inevitably means targeting other companies not for benefits but for costs.

When state or local government gives a subsidy to Company A, it may make Company B better off, too (if it is a supplier or customer to Company A, for example) but it is far more likely to make Company B worse off.

How incentives can hurt

Here are some of the potentially negative consequences for Company B:

- Company A may use the subsidy to bid against Company B for a piece of land that both wanted to use for a facility. Even if Company B prevails, its final purchase price might be pushed up because of government intrusion.

- Similarly, Company A may be in competition with Company B for other inputs, such as workers. While the resulting upward pressure on wages might be attractive in some ways, it will raise the cost of doing business for Company B, perhaps so high that Company B can no longer afford to add or retain the personnel.

- Another possibility is that Company A and Company B will be competing for customers. That's one of the claims that the local businessmen are making about the incentives arrangement in Wilson: Why should taxpayers assist Target in competing against Wal-Mart or other retailers in the area?

- There might be adverse consequences for Company B in the area of public finance, as well. That's because taxes on business property are really a means to tax individuals who benefit from local public services.

These beneficiaries include the owners and shareholders of the company, who may see their investment returns grow because of better policing, more street access, or improvements in the education level of the workforce. Beneficiaries may also include executives and employees, who consume a variety of local city and county services ranging from police and the courts to schools and parks, as well as customers, whether near or faraway, who use local infrastructure.

If subsidies push Company A's effective tax rate lower than Company B's (and sometimes all the way to zero), that doesn't mean that its various constituencies—shareholders, employees, customers, etc.—don't continue to benefit from services provided by state or local governments. It just means that these beneficiaries aren't paying as much of the cost anymore, so someone else has to—frequently the shareholders, employees, and customers of Company B.

These are real harms, and actionable ones as far as we're concerned. With the new federal lawsuit against incentives in Wilson, and likely litigation coming soon elsewhere in North Carolina, we'll find out what the judiciary has to say.

Politicians, Please Butt Out of Taxes

North Carolina's political class cares so much about smokers that it is about to punish them with hundreds of dollars in taxes. Think of it as a fiscal spanking: "You're doing some wrong, children, and now it's time to pay."

That's not the way proponents of higher cigarette taxes put it. They say that raising the tax by as much as 75 cents a pack, or more than half a billion dollars, will be a win-win situation. The extra revenue will help close a projected budget deficit of more than \$1 billion for fiscal 2005-06, while providing in the long run a source of funds for all manner of wonderful educational and health programs.

Most important, say the activists, it will save lives because a 75-cent price increase is painful enough to deter young North Carolinians from smoking. Since smoking is associated with serious illnesses, the tax increase will essentially pay for itself by heading off costs to Medicaid.

That's the theory. It's rather flimsy, actually.

First, North Carolina doesn't have state deficits because its citizens are undertaxed. The problem is that politicians have promised voters more of other people's money, directly or indirectly, than there are "other people" willing to be subjected to pilferage. Thus long-term spending promises exceed reasonable revenue projections. A half-billion-dollar influx of cash in 2005 will enlarge the politicians' appetite for new programs and endless meddling, the costs of which will soon enough exceed the revenue enhancement.

Which is, by the way, questionable. There are risks in relying on cigarette taxes for long-term fiscal balance or, worse, new spending. Excise taxes are revenue sources of the past, not the future, taxing only goods and those that, after all, public officials are trying to discourage people from buying.

Which brings me to the notion that cigarette taxes are a public-health program. Even advocates claim only their steep tax increase of 75 cents would reduce smoking by only 17 percent. The vast majority of smokers just get poorer. In other words, the real plan is to fob off the cost of government serving millions of people onto a small group of smokers who are disproportionately less affluent, less white, and less healthy than their fellow citizens. They'd need to continue their smoking habit, you understand, or else the fiscal plan goes haywire.

But what about the budget savings? They are unclear. Simplistic analysis that examines only parts of the overall budget won't suffice. At the national level, the data show me that smokers already pay more in taxes than the net cost (if any) they impose on the public sector. I haven't seen the numbers broken out by state (this matters because states gain nothing fiscally from savings in Social Security) but it seems unlikely that the math works out the way the tax advocates claim.

Here's my bottom line: If you want to play nanny with other people's lives, do it straightforwardly. Advocate prohibition. But if cigarettes are to be legal, their consumption should bear the same tax as any other consumption. Yes, as it is currently structured, state government may force bystanders to help shoulder the consequences of bad choices. That's an argument for state government becoming less paternalistic, not more so.

The tax code is not a behavior-modification device. It is a means of raising revenue for necessary government programs, which are few, and should spread that cost equitably, which cigarette taxes do not. As a nonsmoker, I think it unethical to coerce my smoking neighbors to pay my share of taxes. I find it fascinating that so many "progressives" have concluded otherwise.

The income of North Carolinians is not an allowance that politicians, acting as surrogate parents, should have the right to withhold if we don't do what they say. It is our money to do with as we please. Butt out.

John Hood

Editorial Briefs

Federal outsourcing saves

The Bush administration estimates that the federal government could save about \$7 billion annually if more federal services were outsourced to private companies, *Investor's Business Daily* says.

Federal employee unions are opposed to outsourcing, because federal employees tend to receive above-average wages and better retirement benefits than their private-sector counterparts. According to the Office of Management and Budget, however, civil servants who compete against the private sector find ways to reduce costs and become more efficient.

Last year, civil servants who competed against the private sector won 89 percent of competitions, resulting in more efficient operations from federal employees and about \$1.1 billion savings to taxpayers. Three agencies, the IRS, Forest Service, and Department of Energy were opened to private-sector competition; federal employees won all contracts and became more efficient in the process. One agency, the General Services Administration, awarded 147 jobs to the private sector, resulting in \$14 million in savings.

While outsourcing may reduce years of expertise, the private sector will find ways to innovate, streamlining bureaucracy and reducing costs. Government and taxpayers will benefit, *IBD* says.

Perception of poverty inaccurate

With the poverty rate increasing from 11.3 percent in 2000 to 12.5 percent in 2003, there are worries that America's underclass is being left behind. These concerns are without foundation, says Robert Rector in a study by the Heritage Foundation.

There are two main reasons why policy makers should not react to the slight change in poverty in America. Poverty is a lagging economic indicator — even though formal recessions usually last less than one year, the poverty rate almost always continues to rise for several years after a recession. The poverty rate rose by a relatively small 1.2 percentage points. In contrast, during the recession in 1980, poverty went up 3.3 percentage points; in the recession that began in 1990, the poverty rate was up 2.0 percentage points.

The actual conditions of those in poverty are far from the destitution often portrayed by the press and social activists. Forty-six percent of all poor households own their own homes; the average home is a three-bedroom house with one-and-a-half baths and a garage. Nearly three-fourths of poor households own a car, with 30 percent owning two or more vehicles. Ninety-seven percent of households have a color television, 78 percent own a VCR or DVD player, and 62 percent have cable or satellite TV reception.

Rector says that while poor people experience hardships and do not exactly live in opulence, it is nonetheless true that to be in poverty today reflects a lifestyle that would be judged as comfortable or well off just a few generations ago.

Forest reforms benefit environment

Changes to forest regulations will improve management and sustainability of forests, the *Wall Street Journal* reports.

Environmentalists have raised objections, but the newspaper says the old rules are outdated, no longer work, and needed to be changed. The Government Accountability Office estimates that one in three forest acres is dead or dying, which has contributed to a rise in wildfires. Of the 1,300 species of wildlife the government has listed for protection over the past 30 years, 12 have recovered (been removed from the endangered list).

The new regulations will put environmental policy back at the local level, where managers will be more capable at adapting to new threats and at much less cost. Managers of each of the nation's 155 national forests and 20 grasslands now must adopt an environmental management system, which have been standard in the private sector for years. EMS allow local managers to introduce new science or techniques as forest conditions demand. Major revisions to management plans should take two to three years, rather than an average of seven under the existing system. *CJ*

Are We Economic Hostages to Foreigners?

By MICHAEL L. WALDEN

Contributing Editor

The dollar is falling against foreign currencies. Our trade deficit has swollen to record levels. Foreign investors have bought large quantities of our government debt. With all these financial facts, it's easy to get the idea that foreign interests are getting the best of our economy. In fact, some observers argue that foreign countries now effectively control our economy. Let's see if this is a real concern or if it's misplaced anxiety.

There are three economic concepts at work here: foreign trade, foreign investment, and the value of the dollar against foreign currencies, technically known as the exchange rate value of the dollar. Although each has its own identity, the three ideas are also fundamentally inter-related.

Is red bad?

Start with foreign trade. For most of the last three decades, U.S. consumers have bought more foreign-made products and services than U.S. companies have sold to foreign buyers. That is, the United States has usually run a trade deficit, or, as some like to say, the United States has run up a lot of "red ink" in foreign trade.

Is this bad? Most people say 'yes', but reality is more complicated. The United States is the richest country in the world, by far, in terms of annual income. Our consumers have huge appetites for all kinds of products. It makes sense that many foreign companies will want to sell in our country and many U.S. consumers will find foreign-made products to their liking.

And although we do buy more from foreign countries than they buy from us, this trade deficit should be kept in perspective. While large in dollar terms (\$600 billion), it is still only about 5 percent of our total annual income. It's hard for me to believe 5 percent is driving the other 95 percent.

In and out with investments

But, you might ask, doesn't the trade deficit mean we're effectively exporting jobs to other countries? If all the products bought from foreign countries instead had been purchased from U.S. companies, wouldn't that mean more jobs for U.S. workers?

This reasoning ignores what happens to U.S. dollars paid to foreign producers. Eventually they end up as investments in the United States. These foreign investments, in U.S. manufacturing plants, office buildings, and stocks and bonds, in turn create their own jobs here at home. The major difference is the ownership is foreign. But this foreign ownership today accounts for less than 10

percent of all U.S. assets.

One kind of investment foreign owners can make is in U.S. government securities issued to cover federal borrowing. Some see trouble here, claiming foreign countries own such a large amount of U.S. government debt that they could inflict havoc on our economy if they decided to sell these investments.

Yet when this foreign investing is put in context, it seems much less ominous. Foreign ownership of U.S. government debt has increased by only 3 percentage points in the last five years, and almost 60 percent of privately held U.S. government debt is still owned by U.S. citizens. U.S. government debt accounts for less than 12 percent of all domestic debt. Although there's been much hand-wringing about federal borrowing in recent years, total U.S. government debt (a.k.a., the "national" debt) as a percent of national income is lower today than in most of the 1990s.

Dollar doldrums?

What about the third concept — the dollar's value against foreign currencies? Is it worrisome when the dollar's value falls? Should our goal be a "strong" dollar?

These are two of the most misunderstood questions in economics. There is no "correct" value of the dollar. When the dollar's value rises (the dollar gets "stronger"), foreign-made products become cheaper for U.S. citizens to buy, so the U.S. trade deficit increases and foreigners accumulate more dollars as investments.

The reverse happens when the dollar's value falls. U.S. exports are now less expensive for foreigners to purchase, so the trade deficit falls and foreigners accumulate fewer dollars for purchases of U.S. investments.

So if you worry about the trade deficit and foreign ownership of U.S. debt, a weaker dollar is what you want. On the other hand, a stronger dollar will increase the trade deficit and foreign ownership of U.S. investments.

Sleep well

While there are many economic issues that may cause you to lose sleep at night, in this humble economist's opinion, international issues such as foreign trade, foreign investment, and the dollar's foreign exchange value shouldn't be among them. Instead, I recommend you use your allocated "economic worry time" to focus on taxes, government spending, and using our resources to achieve the highest levels of personal satisfaction and business profits possible. *CJ*

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Michael L. Walden

*Multibillion-dollar Dell doesn't need the money***Are We Entering a New Era of Corporate Welfare in N. C. ?**

By DENNIS A. RONDINELLI

Guest Contributor

CHAPEL HILL

Don't get me wrong. I like Dell. I use its computers at home and at my office. It makes good-quality products at affordable prices. Once you get over the fact that your customer service agent is talking to you from India you can get pretty reliable help with the glitches that bug all computers.

And it's nice to think that Dell will be producing some of its products in North Carolina.

But I don't think that Dell, a multibillion-dollar company, deserves welfare from a state government that is running a more than \$1 billion-dollar budget shortfall.

North Carolina's new breakthrough in corporate welfare is worrisome in several ways.

First, does Dell need welfare? Last year, the company made more than \$2.6 billion in profits on more than \$41 billion in sales, 17 percent higher than in 2003. It reported a 50 percent return on total capital and holds more than \$20 billion in assets. Dell controls 31 percent of the U.S. market for its products and nearly 17 percent worldwide. It's not exactly a pauper in a fast-growing industry.

Yet, when Dell announced that it was looking for a site to build a \$115 million plant employing 2,000 workers, North Carolina offered more than \$242 million in tax and other incentives over 20 years. The total package came out to \$121,000 per job. Local officials in Forsythe County began foaming at the mouth, considering giveaways of



Dr. Dennis Rondinelli

everything from cars and gas to office space, golf memberships, and meal discounts.

A second worry is about whether providing lavish incentives is good public policy or, for that matter, good business policy. Dell, which can easily afford to build a plant anywhere without welfare, is receiving incentives from North Carolina paid for by other businesses, some of which are its competitors, and by citizens throughout the state for a couple of thousand relatively low-paying jobs and the hope that the plant will spur other businesses.

Although an advisor to Gov. Mike Easley claims that the state will receive \$4 for every \$1 it invests, that may be a wildly hopeful guesstimate. Even if Dell and its suppliers create additional jobs, the state gave away incentives worth millions of dollars with no good way of calculating the real return.

Although Dell hired slightly more workers than it projected when Tennessee offered a large incentive package for its plant there, Gov. Phil Bredesen told his hometown newspaper that the thousands of hoped-for jobs outside the plant never materialized.

"There was always a hope that the industry would explode and there'd be 8,000 jobs or 18,000 jobs here," Bredesen told *The Tennessean*. "That hasn't happened."

Another worry is whether incentives really determine where corporations locate their facilities. The fact is that if Dell was not already attracted to the Piedmont, it would not have considered Forsythe County as a location, regardless of incentives.

Several studies I carried out with Dr. William Burpitt of

Elon University on the factors that international firms consider in investing in North Carolina show clearly that they gave far higher value to location assets — good transportation, trained work forces, schools, and access to markets and materials — and incentives were far down the list of selection criteria. No company made location decisions on the basis of incentives.

Despite the fact that Dell claimed it would have looked elsewhere if it did not receive a large incentive package, even a Dell company spokesperson admitted to a local newspaper that "incentives in and of themselves do not make the decision." North Carolina may have given away too much to get too little, or may have been the favored location regardless of how much it gave away.

These and longer-term questions are likely to haunt future state legislators and governors. Has North Carolina slipped down a deep slope that will make it difficult in the future to attract any major company without offering similarly lavish incentives? Would have investing more instead in education, infrastructure, and other location assets been a better use of public funds that could benefit all of the state's businesses and citizens? If the state felt compelled to be a leader in corporate welfare, why did it not invest more heavily in helping local small companies and entrepreneurial startups, which grow jobs faster and at higher rates than big corporations, to expand here at home?

And yes, as I worry about the new era of corporate welfare in North Carolina, I am typing this on a Dell computer.

Dr. Dennis Rondinelli is professor of management at UNC Kenan-Flagler Business School.

To the Editor: Playing With School Schedule Won't Improve Education

To the editor,

I have just finished reading the article by Karen Welsh entitled, "School in Summer Yields to Grassroots Effort." What a sham! I have asked many who supported this bill to explain to me how taking away two to three weeks in August and replacing them with two to three additional weeks in June is going to lengthen the summers? So far, I haven't gotten a single response that answered my question.

And this is not supposed to be a "tourism vs. education" bill! Dream on! You conveniently forgot to mention

that former Rep. Connie Wilson is now a well-heeled employee of Carowinds. Explain that one!

And your paper seems to espouse in getting "big government" off our backs. This bill does just the opposite. Big Brothers in Raleigh are dictating to the local boards of education how to operate their school systems.

I'm all for whatever it takes to improve education. If going to school on Christmas Day does it, then I say let's do it. But this bill had nothing to do with improving education. In fact, what I'm reading now is that several thousand high school students will not get to continue to take advantage

of "dual enrollment" at the community colleges while finishing their high school degree because their schedules conflict now. My son is one of those students. Thank you, Connie Wilson, for improving education in my home county!

Ron Strickland
Asheville, N.C.

P.S. By the way, if this is what improving education is all about, then please leave it to our local boards of education. They seem to have a much better track record than the "ivory tower" personnel in Raleigh.

*How about adopting children?***We Should Give Expectant Mothers an Alternative to Abortion**

By NATHAN TABOR

Guest Contributor

KERNERSVILLE

Crowds of pro-life Americans filled the streets of Washington, D.C. in late January to protest the 32 years of bloody infanticide that have followed the immoral *Roe v. Wade* decision of 1973. March for Life organizers estimated that more than 250,000 hardy souls braved the bitter cold to stand in defense of innocent unborn children.

A variety of speakers urged the assembled activists to stay the course, promising victory ahead. With several appointments to the Supreme Court in the offing, the prospect for reversing the *Roe* decision seems more real than it has in recent years.

President Bush encouraged the marchers by telephone from Camp David. "We're making progress in Washington," Bush said, on issues such as partial birth abortion, legal protection for infants that survive attempted abortions, the right of doctors and nurses to refuse to perform abortions on the ground of conscience, and criminal prosecution for those who harm or kill a fetus while committing a crime against the mother. These are all positive developments.

"We are working to promote a culture of life, to promote compassion for women and their unborn babies," the president said. But Bush also issued a solemn challenge to the crowd. "I encourage you to take heart from our achievements, because a true culture of life cannot be sustained solely by changing laws. We need, most of all, to change hearts," Bush said.

There are many in America who preach against abortion — which I completely agree with. But there are few who preach for the adoption of innocent children who are "rescued" from abortion. Frankly, this reeks of hypocrisy. Abortion-rights activists are always challenging pro-life Christians about whether they have adopted children. I believe this is quite fair. Remember the familiar phrase, "Put your money where your mouth is"?

We say we revere human life, and we repudiate the heartless mother who would slay the innocent child within her womb. But do we care enough to take that unwanted child into our own home and give it the love and nurturing that it needs to grow up to adulthood? We need to show our love not only in word but also in deed.

Bush spoke of "The America of our dreams, where every child is welcomed in life, and protected by law." Yes, we want those babies protected by law, but are we willing to make personal sacrifices to welcome them into life?

Adoption truly is the alternative to abortion. Showing birth mothers that their little ones will have a safe and loving home will go a long way toward changing their hearts.

It is a fact that an abortion is fairly simple to attain as well as inexpensive, while adoption is quite a tedious and costly process. Many parents are forced to go overseas to adopt because of the regulations and costs. Most adoptions

in America take place only because of a couple's infertility. I understand we must be careful about who adopts children and their intentions. Still, we need to streamline the process and lower the cost of adoptions in the United States.

On a personal note, my parents were foster parents, so I grew up with other children sitting around the table with my two natural brothers and me. I saw firsthand how much good a loving family can do in the life of a child who has no one else.

Last week, my wife Jordan gave birth to our first child, a precious baby girl. We have talked and both agree that we would like to adopt a child one day. What about you?

According to their 2003-04 Annual Report, Planned Parenthood's clinics aborted 138 children for every one time

they referred their clients to an outside agency for adoption. But Crisis Pregnancy Centers are the pro-life alternative to Planned Parenthood clinics. They offer a haven of hope and unconditional love for both the unwed mother and her unborn child. I serve on the board of the Hope Crisis Pregnancy Center in King, N.C.

We need to support these centers with both our time and our money.

Yes, we want those babies protected by law, but are we willing to make personal sacrifices to welcome them into life?

Nathan Tabor is a political activist based in Kernersville and a contributing editor at www.theconservativevoice.com.

UNC Law, Edwards Ostensibly to Fight Poverty

New center faces first hurdle: convincing people it's not about keeping John Edwards' presidential hopes alive

By CLARE LEE

Not a Political Correspondent, No Way

CHAPEL HILL

After a long and extensive national search that no one knew about, the Law School of the University of North Carolina at Chapel Hill announced in early February its selection for the director of its new Center on Poverty, Work and Opportunity. It will be former U.S. Senator and candidate for vice president John Edwards.

UNC-CH Chancellor James Moeser praised the selection and said the center would be nonpartisan. "We don't want people to get the mistaken impression that this new center would be used as a political platform," Moeser said. "Edwards promised."

Through a spokesman, Edwards indicated his pleasure at his selection. EDWARDS IN 2008 spokesman A. Dewey Fullum said Edwards saw the issue was very important, and could even be pivotal.

Edwards was in Manchester, N.H., site of the first presidential primary in 2008, where he announced his selection at a Democrat fund-raiser. "We have some UNC grads in Manchester," Edwards explained later. "What about Drew Cline?"

Edwards told his Manchester audience of his ambitions with the center. "I intend to put as much time and effort toward addressing the needs of the poor at this Center as I did in the Senate," he pledged.

UNC Law has budgeted four working days a year for Edwards at the CPWO. Edwards will make \$40,000 a year.

Law School Dean Gene R. Nichol was positively giddy about the selection. "After looking over the lengthy and impressive list of candidates," Nichol said, in between fits of coughing, "Senator Edwards was the obvious, the only, choice."

Nichol said that he looked forward to working with Edwards. "Whatever you do, don't think this is about politics," Nichol said. "This is about what a law school can do to solve poverty."

Asked what a law school can do to solve poverty, Richard Posner, former chief judge of the U.S. Court of Appeals for the Seventh Circuit and senior lecturer at the University of the Chicago Law School, said, "I told you, no stupid questions."

Pressed for more information, the author of *Economic Analysis of Law*, *Public Intellectuals: A Study of Decline*, and many more works, said, "I'm serious. I'm right in the middle of three books and 12 journal articles. Can't you tell what this is about without me?"

The idea of the new UNC-CH center was first broached in early November. At the same time, some UNC-CH faculty members and grad students were protesting the idea of a new curriculum in Western civilization ostensibly because the school had approached a conservative foundation for funding. Protesters said the outside donors would taint the university because of their ideas.

There were no protests for the new center, Nichol reported. It will be supported by private grants to the university.



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Richard Williams, chair of UNC-CH's Board of Trustees, was pleased at how quickly and smoothly the process went from a Tuesday-night idea to a full-blown center with a marquee director. cj



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