

Lawmakers
tussle over
municipal
broadband
issues /4



CAROLINA JOURNAL

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

North Carolina	2
Education	7
Local Government	10
From Page 1	14
Higher Education	17
Books & the Arts	20
Opinion	24
Parting Shot	28

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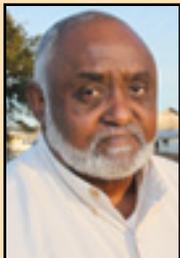
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Appeals Court Blocks State Beach Claim

BY DON CARRINGTON
Executive Editor

RALEIGH

The N.C. Court of Appeals issued an order March 24 effectively putting a hold on the attempt of Attorney General Roy Cooper and Gov. Bev Perdue to take without compensation nearly 300 acres of coastal property that was intended for use as a resort for black teachers and their families during the era of racial segregation.



John Hurst

The appeals court stayed, or stopped, a Jan. 12 order by Superior Court Judge Carl Fox that would transfer title to the state upon a vote of the Council of State.

Harriet Turner Hurst and John

Continued as "Appeals," Page 15

Slush Funds Survive Party Change

Neither Perdue nor GOP leadership abandons use of 'contingency funds'

BY DON CARRINGTON
Executive Editor

RALEIGH

For at least two decades, North Carolina's transportation secretary, Senate president pro tem, and speaker of the House have controlled equal shares of a questionable Department of Transportation "Contingency Fund" that is spent on projects that are reviewed but not evaluated critically by DOT engineers.



Former Senator Marc Basnight

The practice has been characterized by various state officials as problematic, shrouded in secrecy, lacking accountability, and being an end run around the legislature. On at least two occasions, its backers, when questionable expenditures from the fund have been reported in the media, have promised to discontinue the practice. An attorney general's opinion makes clear that the executive branch could simply refuse to continue the practice, but still it survives.

The decision to tap the contingency fund (now amounting to \$15 million a year) is discretionary and not based on safety considerations or any other objective criteria. Meanwhile, DOT has a backlog of more than \$16 million in projects that have been flagged as safety priorities by DOT engineers. They have not been completed for lack of funding.

DOT records obtained by *Carolina Journal* show former Senate President Pro Tem Marc Basnight, D-Dare, personally authorized at least \$50 mil-



The privately owned Elizabethan Gardens in Manteo, former state Sen. Marc Basnight's hometown, received \$350,000 from the DOT Contingency Fund at Basnight's request after the senator had retired from office. (CJ photos by Don Carrington)

lion for nearly 800 projects over his 18-year tenure as Senate leader. Basnight may have retired in January, but the fund remains active, and his successor, Sen. Phil Berger, R-Rockingham, has continued to tap it.

One of Basnight's 800 projects received funding after he retired. On Nov. 17, two weeks after Democrats lost control of the Senate, Basnight instructed the DOT to spend \$350,000 for

walkway improvements and lighting fixtures within the Elizabethan Gardens, a privately owned tourist attraction in his hometown of Manteo. DOT engineers signed off on the project, and the DOT board gave final approval in February.

When informed of the project, Berger told *CJ* it should not have been approved. But Berger defends his ability to conduct the same discretionary spending. "I think the process is an appropriate process for us to engage in," Berger said, defending an expenditure of \$24,000 from his Contingency Fund account to improve a private dirt road in Gaston County.

DOT Secretary Gene Conti maintains the discretionary accounts, even though state law doesn't require him to do so. Department spokeswoman Greer Beaty told *CJ* she could not explain when, how, or why the two legislative leaders each were given operational control of one-third of the fund.

The legislators' discretionary accounts are a small part of the DOT's annual \$3 billion budget. But letting lawmakers request payment for projects that have not undergone independent review undermines DOT's guidelines and priorities.



The Elizabethan Gardens plans to use the tax funds to pave pinestraw-covered sidewalks and add nighttime lighting to the grounds.

Continued as "DOT," Page 14

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Local Taxes and Fees Increase in 2009 over 2008

By CJ STAFF

RALEIGH

The average North Carolinian surrendered more than 4.5 percent of his personal income to fund city and county government in the 2009 budget year, according to the latest edition of *By The Numbers*, the John Locke Foundation's yearly look at tax and fee collections by local government in North Carolina.

"The typical resident of the median county in North Carolina paid \$1,304 in taxes and fees to county and municipal governments," said report author Michael Lowrey, a JLF policy analyst. "That's up slightly from an inflation-adjusted \$1,298 figure for 2008. But as a percentage of personal income, the number dipped slightly from 4.77 percent to 4.56 percent."

Lowrey cautioned against misreading the numbers. "It's likely that the figures actually understate the impact of local taxes and fees," he explained.

While the state's average personal income figure grew in 2008, local governments' tax and fee revenue dropped by some \$250 million during the budget year that stretched from July 2008 through June 2009. "Sales tax receipts fell by more than \$400 million, miscellaneous taxes and fees were off by \$250 million, but property tax collections increased by nearly \$500 million compared to the previous year," Lowrey said.

Calculating burdens

State law requires each county and municipality to file audited reports, which are available on the Web, with the N.C. Treasurer's Office each year. *By The Numbers* builds on that data and examines property taxes, sales taxes, and total local government collections of all taxes and fees for counties and municipalities for fiscal 2009 (July 1, 2008, to June 30, 2009), the latest year for which data is available.

For each of the three categories, a revenue per capita figure was computed. Countywide figures also were calculated as a percentage of per capita personal income.

Counties also are ranked against each other for both their per capita collections and collections as a percentage of personal income. Municipalities are sorted by population and ranked within four population ranges (less than 1,000 residents; 1,000-4,999; 5,000-24,999; and 25,000 or more).

While *BTN* shows the cost of local government, it does not attempt to measure the quantity or quality of services provided in exchange for those dollars. Nor does the report consider the additional out-of-pocket costs to individuals for services that their local government may not provide.

In unincorporated areas, for example, homeowners might have to contract privately for garbage pickup,

Combined City and County Tax Burdens for N.C. Municipalities with Populations of 25,000+

City	Tot. Rev. Per Capita	2009 Rank	Prop. Tax Per Capita	2009 Rank	Sales Tax Per Capita	2009 Rank
Charlotte	\$2,360.94	1	\$1,452.76	3	\$429.78	1
Chapel Hill	\$2,275.66	2	\$1,613.90	1	\$304.44	20
Asheville	\$2,173.46	3	\$1,270.07	12	\$414.51	2
Mooreville	\$2,153.02	4	\$1,517.26	2	\$375.44	5
Wilmington	\$2,112.91	5	\$1,278.94	11	\$376.79	4
Durham	\$1,954.04	6	\$1,312.10	6	\$346.70	8
Raleigh	\$1,943.53	7	\$1,216.78	15	\$312.72	14
Wake Forest	\$1,923.91	8	\$1,362.82	4	\$304.67	19
Cary	\$1,911.45	9	\$1,198.48	17	\$307.03	18
Greensboro	\$1,907.42	10	\$1,263.03	13	\$297.76	24
Monroe	\$1,904.12	11	\$1,229.60	14	\$273.52	33
Huntersville	\$1,887.85	12	\$1,305.55	7	\$301.15	22
High Point	\$1,883.10	13	\$1,281.04	10	\$299.13	23
Concord	\$1,856.09	14	\$1,330.55	5	\$334.01	9
Hickory	\$1,854.14	15	\$1,120.82	19	\$370.48	6
Garner	\$1,832.76	16	\$1,298.06	8	\$310.80	15
Apex	\$1,810.33	17	\$1,215.24	16	\$310.44	16
Matthews	\$1,802.35	18	\$1,288.61	9	\$287.01	29
Salisbury	\$1,779.85	19	\$1,060.89	22	\$285.25	30
Wilson	\$1,725.14	20	\$992.70	24	\$292.59	26
Winston-Salem	\$1,692.70	21	\$1,075.70	21	\$289.42	28
Statesville	\$1,686.46	22	\$1,047.63	23	\$397.62	3
New Bern	\$1,673.49	23	\$905.46	28	\$362.73	7
Sanford	\$1,601.80	24	\$1,093.79	20	\$333.15	10
Kannapolis	\$1,589.49	25	\$1,123.84	18	\$284.36	31
Gastonia	\$1,536.52	26	\$977.61	25	\$280.93	32
Burlington	\$1,534.63	27	\$922.45	27	\$328.09	11
Greenville	\$1,513.91	28	\$866.15	29	\$317.21	13
Rocky Mount	\$1,434.78	29	\$795.71	31	\$303.94	21
Fayetteville	\$1,418.50	30	\$791.04	32	\$307.39	17
Goldensboro	\$1,399.47	31	\$789.66	33	\$321.94	12
Indian Trail	\$1,276.17	32	\$971.85	26	\$202.81	34
Thomasville	\$1,275.96	33	\$856.13	30	\$294.05	25
Jacksonville	\$1,041.89	34	\$536.85	34	\$292.53	27

Source: John Locke Foundation's *By The Numbers* report for FY2009

while those living in a town or city might receive this service, paid for through their municipal property and other taxes. Municipalities also might use some of their tax dollars to provide a higher quality of fire protection, which might translate into lower homeowners' insurance rates.

"Importantly, this means that whether a jurisdiction is ranked high or low in cost of government is not the end of the debate over fiscal policy — it is merely the beginning," Lowrey added. "Citizens of North Carolina's cities and counties must decide whether the services they receive are worth the price they and their fellow taxpayers (residential and business) are paying in local taxes and fees."

Some did not report

Work on this year's report was complicated because a number of localities did not file audit reports with the state in a timely manner. Two counties — Graham and Hoke — and 27 municipalities did not file their reports in a timely manner, and information on them is still not available from the treasurer's office.

Dare County residents paid the highest amount in taxes and fees to county and municipal governments (\$4,044 per capita). The counties of Mecklenburg (\$2,480), Currituck (\$2,366), Brunswick (\$2,285), and Durham (\$2,132) also ranked in the top five in revenue collected per capita. The results for several of these counties reflect their popularity as vacation destinations. Second homes and resorts appear on local tax registers. Because owners or renters rarely live in these dwellings year-round, however, such localities typically have small permanent populations. High tax values divided by a small permanent popula-

tion will produce a high per capita tax burden.

Lowest averages

Residents in the counties of Gates (\$810), Caswell (\$817), Alexander (\$853), Jones (\$888), and Greene (\$908) paid the lowest average amounts in taxes and fees to local governments.

As per capita personal incomes varies widely across the state — from a high of \$47,063 per person in Orange County to a low of \$18,592 in Yancey County — looking at tax burdens as a percentage of personal income produces somewhat different results.

Dare County again led the way with county and municipal revenue accounting for 10.66 percent of per capita personal incomes. Ranking second through fifth were the counties of Hyde (7.40 percent of per capita personal income), Brunswick (7.37 percent), Currituck (6.77 percent), and Tyrrell (5.64 percent).

By comparison, taxes and fees collected by local governments accounted for 2.79 percent of per capita personal income in Caswell County. Next lowest were Jones and Onslow counties at 2.80 percent and 2.86 percent of per capita personal income, respectively.

Among the 34 municipalities with a population of 25,000 or greater, Charlotte residents again paid the greatest amount in taxes and fees to support local government, with combined city and county revenue coming to \$2,361 per person. The next highest tax and fee burdens were in Chapel Hill (\$2,276), Asheville (\$2,176), Mooresville (\$2,153), and Wilmington (\$2,113).

The entire *By the Numbers* report is available online at johnlocke.org/policy_reports/. CJ

Bill Would Impose Tax on Appliances Lacking Energy Certificate

By KAREN McMAHAN
Contributor

RALEIGH

Several Democratic state House members are seeking to boost energy conservation, energy efficiency, and renewable energy efforts by making it more expensive to purchase products that do not meet federal energy efficiency standards.

House Bill 135 also would establish an inverted electricity rate structure on customers using power generated by electric public utilities. Under that rate structure, consumers who use higher quantities of energy would pay more per kilowatt-hour than those who consume less energy.

Critics of such measures point out that North Carolina already has passed a host of laws encouraging energy efficiency and conservation. These measures have boosted energy prices artificially and pushed consumers toward the use of so-called clean energies that cost a lot more than fossil fuels while making inconsequential environmental improvements.

H.B. 135, Efficient and Affordable Energy Rates Bill, sponsored by Reps. Patsy Keever, D-Buncombe, Diane Parfitt, D-Cumberland, and Rodney Moore, D-Mecklenburg, also creates an incentive for consumers to purchase federal Energy Star-qualified household products by taxing products that don't get that certification. The incentive, called the "Avoidable Pollution Tax" provision, would impose two new taxes on retailers selling household products that do not qualify for the federal Energy Star label. The new privilege and excise taxes, totaling 5 percent of the product purchase price, would be added to existing state sales and use taxes.

Keever told *Carolina Journal* that

the avoidable pollution tax would encourage consumers to purchase Energy Star products because inefficient products would cost more. She said an Energy Efficiency Public Benefit Loan Fund established by H.B. 135 would offer grants to low-income households and ratepayers and loans to other consumers to invest in energy efficiency and renewable energy projects, offsetting the higher costs to poorer consumers.

The loan fund would be paid for primarily with revenues from the avoidable pollution tax, money generated by the tiered rate structure, and interest from loans made from the fund. The fund would be administered by an independent government agency or a contract with a third-party administrator. The Department of Revenue would collect the taxes.

The bill is being reviewed by the House Public Utilities Committee but has not been scheduled for a hearing. Keever said a companion bill, Senate Bill 367, is before the Senate Commerce Committee.

"Companies are always interested in making a profit, but that's not always good for the consumer or the environment," Keever said. "This is not a perfect bill, but it moves people to think about energy conservation more positively."

The state has numerous laws aimed at encouraging energy efficiency and promoting renewable energy,

with a record that is mixed at best. Federal stimulus funds earmarked more than \$1 billion for states to implement energy efficiency, conservation, and renewable energy projects. Nonprofits including NCGreenpower and Advanced Energy also promote energy efficiency, conservation, and green technologies.

House Bill 1389, passed in 2009, authorized municipalities and counties to establish a revolving loan fund to finance energy improvement projects for residential, commercial, or other real property. House Bill 512, also passed in 2009, extended tax credits for wind, solar, hydroelectric, and biomass projects.

In 2007, Senate Bill 3 established a state Renewable and Energy Efficiency Portfolio Standard that mandates public electric utilities increase

the percentage of electricity generation from new renewable sources. The bill allows utilities to recover the incremental costs of meeting these standards by levying fees on customers, meaning North Carolinians now are paying more for electricity without the new taxes and tiered rates proposed in H.B. 135.

A 2009 report from The Beacon Hill Institute for Public Policy Research at Suffolk University, in conjunction with the John Locke Foundation, examined the impact of REPS mandates on North Carolina's economy from 2008 through 2021, the period covered by the bill.

With cost recovery caps in place, BHI estimates "North Carolina will lose 3,592 jobs, investment will decrease by \$43.20 million, and real disposable income will fall by \$56.80 million by 2021." Without the cost recovery caps, by 2021, "the state would shed more than 15,373 jobs; and would lose \$182.61 million in investment and \$271.15 million in real disposable income."

The BHI report concluded that the recovery caps in S.B. 3 hide the true cost by artificially holding down the additional cost of renewable electricity. Energy officials have said publicly that the cost of meeting these standards cannot be done within the price cap. In that case, electricity rates would skyrocket.

Meantime, the EPA's Energy Star program has much-publicized flaws. In 2010, the Government Accountability Office found after a yearlong investigation that Energy Star is "vulnerable to fraud and abuse." Some bogus products received Energy Star certification, and the EPA didn't verify independently company claims about the energy efficiency of their products. The program since has been modified.

Thirty-one states already have implemented renewable energy standards. Clint Woods, director of the American Legislative Exchange Council's Energy, Environment, and Agriculture Task Force, told *CJ* that several states are "dialing back" on implementation of renewable energy standards by making them voluntary or trying to repeal them because costs are escalating.

Rep. George Cleveland, R-Onslow, has introduced House Bill 431, which would repeal S.B. 3. At press time, Cleveland's bill was in the House Committee on Public Utilities. *CJ*



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<http://western.johnlocke.org>

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It also features the blog *The Wild West*, featuring commentary on issues confronting Western N.C. residents.

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State Briefs

Need for Medicaid reform

North Carolina needs relief from a year-old federal health care reform law that will strain the state's budget, divert resources to Medicaid from other critical needs, and lead to worse health care in the state. A new John Locke Foundation Spotlight report reaches those conclusions.

"Due to the overwhelming burden ObamaCare places on the state of North Carolina's budget, alternatives to the current legislation must be explored," said report co-author Joseph Coletti, JLF director of health and fiscal policy studies. "North Carolina cannot afford current Medicaid costs, but ObamaCare limits the ways to get costs under control. ObamaCare also imposes additional, harmful expansions in 2014 and beyond."

Coletti and JLF health policy fellow Nicole Fisher focus their attention on reforming Medicaid. State funding for the joint federal-state health insurance program targeting the poor and disabled will exceed \$3 billion in 2011-12. Medicaid takes up the second-largest portion of the state's budget, trailing only education.

"State Medicaid appropriations for the next budget year will have grown about \$700 million a year since 2007 without changes," Coletti said. "The year-old federal law will make it difficult to pay for this program and other core functions of the state, such as education."

JLF rebuts Cooper

The John Locke Foundation, Center for Constitutional Litigation, and a scholar with the libertarian Cato Institute submitted letters to N.C. Gov. Beverly Perdue that bolster the legal case for a bill protecting North Carolinians from federal government overreach on health care.

The letters target N.C. Attorney General Roy Cooper's Feb. 23 memo arguing that House Bill 2, the North Carolina Health Care Protection Act, is unconstitutional.

"[Cooper's] concerns are unfounded and therefore do not provide a valid reason for vetoing H.B. 2," according to the letter from Daren Bakst, JLF director of legal and regulatory studies, and Joseph Coletti, director of health and fiscal policy studies.

Bakst and Coletti's letter specifically challenges Cooper's assertions about the potential conflict between state law and the federal Constitution, along with Cooper's prediction that H.B. 2 could threaten state Medicaid funding. CJ

Cities, Lawmakers Tussle Over Broadband

By SAM A. HIEB
Contributor

CITY GOVERNMENTS ARE ON EDGE AS A BILL THAT WOULD place restrictions on municipal broadband systems is working its way through the General Assembly. Several city councils have passed resolutions opposing the bill, with discussion and debate getting a bit testy in one Triad city.

Though the title of House Bill 129 expresses the general goal to "protect jobs and investment by regulating local government competition with private business," the focus is on municipal broadband, which has fueled controversy statewide for several years. H.B. 129 passed the House 81-37 in late March and was pending in the Senate at press time.

The sources of controversy have been municipal broadband systems built by Wilson, Davidson, and Mooresville. A January 2009 John Locke Foundation report called Wilson's Greenlight fiber-optic system a "boondoggle," while several media outlets — including *Carolina Journal* — reported that Davidson-Mooresville's broadband system ran a \$6.4 million deficit last year.

Legislators have taken note of these problems. During the 2009-10 session, then-Sen. David Hoyle, D-Gaston, sponsored a bill that would prevent cities from building broadband systems without a public vote. That bill died in committee, but now Rep. Marilyn Avila, R-Wake, has given the issue new life with the current bill.

H.B. 129 would not prevent cities from building their own systems but would make them "comply with all local, state, and federal laws, regulations or other requirements that would apply to the communications service if provided by a private communications service provider." It also requires cities seeking to build broadband systems to hold public hearings and take a public vote before issuing debt for a municipal-owned service.

And it dictates that cities "(s)hall not subsidize the provision of communications service with funds from any other non-communications service, operation or other revenue source, including any funds or revenue generated from electric, gas, water, sewer, or garbage services."

Such cross subsidies already have been a problem. The JLF report noted that Wilson used \$4 million from the city's electric utility fund to start the Greenlight system. The report also stated that if "Wilson fails to attract enough subscribers to Greenlight, it's a strong possibility that city leaders would adopt such a cross-subsidy scheme."

While other cities maintain they have no plans to build broadband systems, they also have made it known that they oppose the bill because they don't want the General Assembly limiting or foreclosing that option.

Yes! Weekly, a liberal alternative publication based in the Triad, reported that the city of Winston-Salem "has gone on record" as opposing the bill, but Mayor Allen Joines wrote in an email that the City Council "has not taken a formal position on this bill," though some council members "have expressed their opposition individually."

GREENSBORO

Joines also wrote that he believes the bill "is not good for citizens in general, particularly in communities where cable companies are not willing to invest in providing broadband. ... A community has to have this technology if it is to be competitive economically, and as I said, some cities have had to move forward because the cable companies have not provided the service."

The Greensboro City Council engaged in a particularly testy debate over a formal resolution introduced by council member Nancy Vaughan at the March 15 meeting. The resolution passed by a 6-3 vote, with Mayor Bill Knight and council members Danny Thompson and Trudy Wade voting "no."

Thompson and Wade protested that they had been given no prior warning that a resolution was going to be introduced and that they did not have sufficient time to read the bill. The council took the unusual step of delaying the vote until later in the March 15 meeting so members could read the bill while citizens were speaking from the floor.

In a later phone interview, Thompson echoed his concern that the council didn't perform its due diligence before passing the resolution.

"I'm disappointed we were asked to vote on something that we had not reviewed and had no heads up on," he said. "We were asked to support one side without being able to look at both sides."

Council member Zack Matheny challenged Thompson's claim that the resolution was a surprise addendum. "Danny was the person who told me I needed to review the bill," Matheny told *Carolina Journal*.

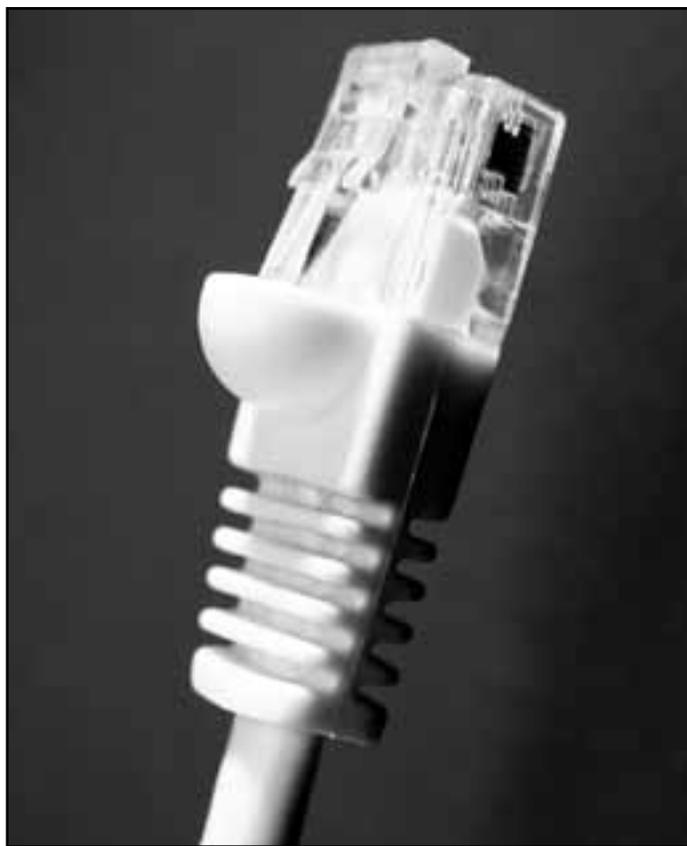
Though Greensboro officials stress they have no plans for municipal broadband, some have worried that restricting the ability to do so would damage the city's chances of attracting Google's high-speed Internet project. In an email sent to the *Greensboro News & Record*, Matheny wrote, "restricting cities from providing municipal broadband could limit our ability to entice companies like Google or others."

The tech giant has invited midsize cities across the country to make a pitch for a lightning-fast fiber-optic telecommunications system it would offer to residents on a trial basis. The company's goal is to serve several communities, with at least 50,000 households in each location. Greensboro was one of several cities to apply to become a test market for the project, which boosters say would be an advantage when recruiting business and industry.

Google picked Kansas City, Mo., as its first test market March 30, and announced that other cities may be added in the future.

It remains unclear exactly how a municipal broadband system would fit into Google's plans. "I could see us offering some type of incentive that would help create a better infrastructure for our citizens," Matheny told *CJ*.

Meanwhile, Thompson steadfastly maintains government should not be involved in the broadband business. "If government needs to prevent monopolies, the answer is not to become a player itself," Thompson said. CJ



Taxpayer Bill of Rights Would Limit Growth of N.C. General Fund

By DAVID N. BASS
Associate Editor

RALEIGH
Lawmakers intent on padding the size of North Carolina's state budget would have their hands tied under a bill in the state House.

House Bill 188, Taxpayer Bill of Rights (commonly known as TABOR), would call for a constitutional amendment requiring new General Fund expenditures to correlate with population growth plus inflation. A two-thirds majority vote of the General Assembly would be required to exceed the expenditure limit.

Supporters say the legislation is a way to rein in bureaucratic bloat and keep new spending levels in line with the state's actual growth — in contrast to what they say has been a rapid expansion of state government in recent years.

"There is no limitation on the ability of politicians to try to win votes through spending other peoples' money," said Rep. John Blust, R-Guilford, chief sponsor of the legislation. "We are not capable of not spending the money, so we need a constitutional limit on that."

Under the bill, if state government collects tax revenue beyond the expenditure ceiling, the extra dollars would go into an emergency reserve trust fund at the end of the fiscal year. If that amount surpassed 5 percent of the total General Fund appropriation for the prior fiscal year, the excess would be returned to taxpayers.

Because the legislation proposes a constitutional amendment, it would need a three-fifths majority vote in the House and Senate to pass, but Gov. Bev Perdue couldn't veto it. If legislators OK the amendment, it would appear on the ballot in November 2012 for final approval by voters.

The bill follows on successful tax or spending limitation campaigns in other states — most notably Colorado's 1992 TABOR constitutional amendment requiring a vote of the people to approve any state or local tax increase that raised revenues by more than the combination of inflation plus population growth. Washington state voters in 2007 and again in 2010



approved an initiative requiring either a two-thirds vote of the legislature or a vote of the people to enact any statewide tax increase. (The 2007 initiative was repealed by the legislature and then passed by voters a second time.) Attempts in recent years to pass TABOR-like measures in Maine, Nebraska, and Oregon have failed.

Tar Heel Democrats gave H.B. 188 a cool reception. "When you start putting artificial limits on what is basically our fundamental responsibility, I think that's bad," said Senate Minority Leader Martin Nesbitt, D-Buncombe.

Spending cap

The changes would kick in around mid-2013, meaning the bill wouldn't help lawmakers fix the current \$2.4 billion budget hole. Even so, Blust said the measure should be passed immediately to avoid

future budget disasters.

"There needs to be a stronger leash by the public on what we do here," he said.

Between the 1991 and 2011 fiscal years, inflation-adjusted spending has grown 1.5 times faster than population in the Tar Heel State. According to numbers from the governor's office, Perdue's proposed two-year budget plan would reduce spending by \$1.5 billion compared to spending levels in 2008-09. Republicans, however, are planning even deeper cuts.

Rep. Ric Killian, R-Mecklenburg, said the TABOR bill "is an effort on our part to ensure that we address this not only for the time being, but in future legislative sessions."

Nesbitt claimed the bill would undermine the legislature's responsibility to make tough budgeting decisions. "If we do our job properly down here — and the constitution says we're the ones who are supposed to write the budget — you face the music, you face whatever the times demand, and you do the right thing for the people of this state," he said.

Leadership priority

Republican leaders have indicated that the bill doesn't top their priority list, particularly given the number of constitutional amendments that could appear on the ballot in 2012.

"I don't know that [TABOR] is something we'll take up and vote this year or next year," said Senate President Pro Tem Phil Berger, R-Rockingham. He added that Republicans don't want to have a "California-style" ballot littered with proposed amendments.

Blust said he hadn't discussed how the constitutional amendments should be ranked in terms of priority, but he indicated that TABOR is an idea whose time has come.

"Several of these ideas have been around for a long time, and they've been bottled up, and the pressure cooker is about to go off," he said. "I still think these things are important to do."

At press time, the bill was in the House Judiciary Committee. *CJ*

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The Triangle regional page includes news, policy reports and research of interest to people in the Research Triangle area.

It also features the blog Right Angles, featuring commentary on issues confronting Triangle residents.

Legislation Would Make State Employees Pay Health Premiums

By SARA BURROWS
Associate Editor

RALEIGH

The State Health Plan for Teachers and State Employees faces a \$515 million budget shortfall over the next two years and a \$30 billion unfunded liability over the next 30 years.

Lawmakers hope to balance the budget by making state employees pick up more of the tab and placing the plan under the supervision of the state treasurer.

Senate Bill 265, State Health Plan Appropriations and Transfer, calls on teachers and other state employees to pay for the first time a monthly premium for their health insurance — \$21 for the plan offering the best coverage and about half that for the basic plan, amounting to roughly 5 percent of the cost of coverage.

Senate President Pro Tem Phil Berger, R-Rockingham, noted in a press release that private-sector employees almost always are expected to pay premiums for their health care. In addition to a monthly premium, the bill would increase deductibles and co-pays for office visits and prescription drugs.

The legislation, which passed the Senate by a 29-16 vote March 28, has divided the two largest public employee organizations in North Carolina. The North Carolina Association of Educators staunchly opposes the bill, while the State Employees Association of North Carolina largely supports it.

SEANC position

In a press release, SEANC said, “the positive portions of this bill far outweigh the negative.” Among the sections the employee group supports include:

- The creation of an oversight board, headed by the state treasurer, on which state employees would have four of eight seats.
- The end of cost-plus contracts “that allow million-dollar bonuses for big insurance CEOs.”
- The removal of penalties in the health plan for participants who have high body mass index scores or use tobacco.

SEANC called the premium unfortunate, but inevitable.

“When the governor and both houses of the legislature are in solid agreement on an issue, that issue will be nearly impossible to defeat,” the press release said.

The press release goes on to criticize the NCAE for its opposition to the bill, saying the premium is a small price to pay for a bill that will give state employees “a strong voice and real ability to reclaim the State Health Plan.”

S.B. 265 was in the House at press time.

Until now, the executors of the



state health plan have had little to no oversight. They were expected to make periodic reports to a legislative committee, but the committee met rarely and may not have known what questions to ask the plan's managers.

This lack of oversight may have allowed the health plan to get into serious financial trouble. In December 2008, the manager of the plan, George Stokes, reported to the General Assembly that the plan was on track financially, predicting a \$25 million surplus. A few months later, Stokes reversed course, reporting a \$200 million deficit, which turned into a \$400 million deficit by the end of the 2009 fiscal year, and an additional \$300 million deficit projected for 2010.

“They were running into cash flow problems, trying to manage whom they pay when and how they pay it,” said Joe Coletti, director of health and fiscal policy studies for the John Locke Foundation. The General Assembly had to scramble to find the money, Coletti said.

Today, the plan needs \$3.6 billion to provide health care to state employees through 2013, and it's \$515 million short. To meet the projected \$30 billion it will cost to provide health care to all current state employees from now until their deaths, the state has set aside a mere \$500 million.

Pay as you go

The state health plan operates on a “pay-as-you-go” basis. Private health insurance companies set aside a large portion of a customer's monthly premiums while he is young and healthy, Coletti notes, so they don't have to charge “outrageous” premiums when the customer is older and using more medical services. By contrast, Coletti said the state's annual contributions cover current medical payments and not much more. Health plan managers don't even think about how to pay for a retiree's health benefit “until he's 55

and starts using it.”

Retirees also are using more care than the plan has expected, and the cost of care is higher than expected.

Coletti said lawmakers are setting aside \$1.8 billion a year for employee and retiree benefits. That total should be more like \$3 billion, or the plan's deficit will keep growing until the General Assembly will have to pay \$3 billion a year just to cover current costs.

In addition to coming up with a plan to save money, someone needs to figure out how to make the health plan cost less to run, Coletti added.

But this is not a job for the General Assembly, say the sponsors of S.B. 265, which would transfer administration of the plan from a legislative committee to the state treasurer. “The General Assembly is one of the few legislatures in the country that oversee the state health insurance,” Berger said

in a press release March 24.

Sen. Tom Apodaca, R-Henderson, the bill's sponsor, called putting the health plan in the state treasurer's hands a “natural fit,” as the treasurer already controls the state pension.

Coletti agreed, saying state employee benefits — current health care payments, future health care promises, and pension obligations — should be looked at as a whole and calculated in the same place. This would let the treasurer decide what payments should be made now, how much will be needed in the future, and what comprises “the best combination of compensation,” he said.

Treasurer oversight

Since the treasurer has actuaries and budget experts on staff, Apodaca said the treasurer's office is better equipped than the legislative oversight committee was to keep track of the plan's financial health. “They'll be able to monitor it on a daily basis, where we only met a couple of times a year,” he said.

Under the bill, the General Assembly would continue making a general appropriation each year. But it no longer would be responsible for directing how the money is spent. The treasurer would have to put together a plan and make it work with the money she is given, he said.

“What we need to be doing is not managing the health plan,” Apodaca said. “We need to be doing legislative matters.”

State Treasurer Janet Cowell agreed. “Having the plan under the executive branch is a good way to ensure accountability and good governance,” she said. *CJ*

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The North Carolina History Project is a project of the John Locke Foundation

USDA Nixes Using School Lunch Data For Assignment Purposes

BY DAVID N. BASS
Associate Editor

Two federal agencies differ on whether Wake County school officials can surrender data lawfully on students who were assigned to schools based on their enrollment in subsidized nutrition programs.

The disagreement could lead to better clarity on whether school districts can use the federal government's free and reduced-price lunch program as a substitute for poverty in student assignments. Wake schools adopted that policy a decade ago after courts outlawed assignment strategies based on race.

For the time being, the school system's old policy of busing students to achieve socio-economic diversity in the classroom appears to be dead.

"As far as I'm concerned, it is [definitive] at this point," said Wake County school board attorney Ann Majestic.

The development resulted from a U.S. Department of Education civil rights investigation into whether classrooms are being resegregated under the Wake school board's new conservative majority. The department sought information from Wake on the number of students enrolled in the school lunch program who were bused for diversity reasons.

Administered by the U.S. Department of Agriculture, the free and reduced-priced lunch program is meant for families at or below 185 percent of the federal poverty level — roughly an annual income of \$40,000 for a family of four. Districts sometimes use the data to gauge the number of low-income students assigned to a particular school.

'Unauthorized' policy

Majestic contacted attorneys with the Department of Education after reading a 2009 memo from USDA saying that school districts can't use school-lunch data for assignment purposes without parental consent.

"The release or use of individual children's eligibility status for the purposes of student assignment or for other unauthorized use must be discontinued," wrote Cynthia Long, director of USDA's Child Nutrition Division.

Mara McElmurray, a program analyst with USDA, reinforced the memo in an email from mid-February. She said federal law prohibits release of the information, even to a federal agency

such as the Department of Education.

"Not only student-specific data but any information related to our free and reduced-price application or direct certification process cannot be released in this instance unless there is prior notice and informed consent from the parent," McElmurray wrote.

In an email exchange with Majestic, federal civil rights investigators with the Department of Education said the restriction applied to individual data on students, not the aggregate numbers.

But McElmurray disagreed, saying the memo establishes that "release of student data for the purposes of *student assignment*, which is what you are requesting, is not permissible" (emphasis in original).

The school system is waiting for a definite answer from the agencies on the permissibility of yielding the information to the federal government, Majestic said, but officials are proceeding as if it's outlawed.

"It's a statutory thing, not just a regulation, so we've got to take it pretty seriously," she said.

The Department of Education investigation was launched following a complaint from the North Carolina NAACP. In a press release reacting to USDA's determination, the group's president, the Rev. William Barber, claimed the agency had misrepresented the law.

"We will continue to investigate all available options to engage the USDA on this matter," Barber said.

Nonexistent data?

Even if the agencies decide that it's legal to surrender the data, however, Wake still might not comply. That's because school officials say they didn't keep track of diversity-based assignments.

"While it is certainly possible that [socio-economic status] diversity played a greater role in staffs' decision to recommend some node moves as compared to others, there is no data set that would readily identify such nodes," Majestic wrote in a response to the Education Department's request for data.

School board chairman Ron Margiotta, for many years the board's only voice critical of diversity busing, questioned that claim.

"I don't believe that we don't have those numbers," he said. *CJ*



COMMENTARY

Collective Bargaining And Educational Outcomes

Did you know that collective bargaining produces higher student outcomes? Neither did I. But in an attempt to bolster the union-led protests in Wisconsin, a blogger for *The Economist* jumped at the chance to make this claim. The source of information was a blog post by Scott Lemieux, a professor at the College of Saint Rose who also writes for the "Lawyers, Guns and Money" blog. Fortunately, Lemieux does not appear to be related to Pittsburgh Penguin hockey great Mario Lemieux.

Professor Lemieux, citing data provided by an acquaintance, listed the five states, including North Carolina, that do not permit collective bargaining for teachers, as well as each state's supposed ranking on the ACT or SAT tests. According to Lemieux's analysis, all five states ranked at or near the bottom, while collective bargaining states like Wisconsin were at the top.

There was only one problem. These bloggers sought to score quick political points at the expense of sound analysis ... and facts.

Days later, Lemieux retracted the claim. He pointed out that the analysis "was based on faulty data." For example, North Carolina's total average SAT and ACT scores ranked 38th and 21st in the nation respectively, not 49th as Lemieux had posted. Not only was the data faulty, it was a decade old. Conservative bloggers discovered that Lemieux's figures mirrored those from a 1999 study by Douglas Linder, a University of Missouri law professor.

At least Lemieux admitted that he was wrong. *The Economist* blogger disseminating the "faulty data" never posted a retraction or correction, an unconscionable decision for a journalist who represents one of the world's most respected publications. For now, the *Economist* blogger, identified as M.S., hides behind anonymity.

Most educational researchers understand that comparing SAT and ACT scores can be tricky because participation rates vary significantly. While 92 percent of students from Maine take the SAT

exam, only 3 percent of students in Mississippi, South Dakota, and Iowa participate. States where few public school students take the SAT typically draw a small population of academically advanced, college-bound students and, thus, are more likely to have higher scores. None of the top 10 performers, including Iowa and Wisconsin, had participation rates exceeding 10 percent. States with high participation rates, particularly North Carolina, include the scores of average or below-average students. Predictably, these states often have lower average SAT scores.

An apples-to-apples comparison requires, at minimum, assessing states with nearly the same percentage of students taking the test. For example, North Carolina's average SAT score was nine points higher than Indiana's average. These states had participation rates of 63 percent and 64 percent, respectively. Among states in the South with com-

parable participation rates, North Carolina also scored higher than Florida (59 percent participation) and South Carolina (66 percent) last year.

The same principle applies to the other test used in the college admissions process, the ACT. Last year, North Carolina had the 21st-highest average ACT score, but only 16 percent of students in the state took this exam, the fourth-lowest percentage of any U.S. state. Nearly 70 percent of students in Wisconsin took the ACT last year.

Despite his retraction, Lemieux insisted there is no evidence that eliminating collective bargaining or teachers' unions would improve educational outcomes. This may be true, but there is no evidence that states with collective bargaining rights for educators produce superior academic outcomes to those that do not.

In the end, expanding parental choice and raising teacher quality, not collective bargaining or unionization, promise to spur the improvement that this state's public schools so desperately need. *CJ*

Dr. Terry Stoops is director of education studies at the John Locke Foundation.



TERRY STOOPS

School Staff Recruits Students to Lobby vs. Charters

BY SARA BURROWS
Associate Editor

Pamela Justice, the principal of Clyde Elementary School in Haywood County, recently sent students home with a letter asking parents to contact their legislators and voice opposition to Senate Bill 8, No Cap on Charter Schools. About the same time, students in Rutherford County Schools used school email accounts to flood lawmakers' inboxes with messages urging a no vote on S.B. 8.

The typical message was lifted liberally (if not copied verbatim) from talking points issued by public employee groups opposing reforms in public charter schools, including the North Carolina Principals and Assistant Principals Association, the North Carolina Association of Educators, the North Carolina School Boards Association, and the Rutherford County Board of Education.

Many parents and several legislators called the use of tax-funded resources — and the recruitment of minor students — to engage in political activity inappropriate. One constitutional scholar says it may be illegal. State employees are forbidden from engaging in political activity while they're on the clock and cannot use state resources for political purposes; teachers and principals are employed by school districts, but their ability to participate in political advocacy while on duty is limited.

The Haywood County letter, printed on school letterhead, begins by calling S.B. 8 "a direct assault on public education." It warns the bill would siphon money from traditional public schools, force district schools to share athletic and band booster funds, likely resegregate schools, and allow homeschooled and private schools to receive public money.

Much of the information in the letter came from the North Carolina Principals and Assistant Principals Association, the lobbying group for K-12 public school principals. It asks parents to "join educators in calling for Senate Bill 8 to be stopped" by sharing the messages with family, friends, elected representatives, and the media. They are asked to share their concerns with all members of the House Education Committee and are given the phone numbers and email addresses of their local representatives.

Rutherford County emails

Meantime, Rep. Sarah Stevens, R-Surry, said she received several hundred emails from students, teachers, and parents in Rutherford County. Excepting those from parents, the vast majority of the messages were written from school email accounts during

hours students normally are in class.

Most of the emails appear to be cut from the same mold, Stevens said. None supported S.B. 8, and most of them repeated the same talking points and what Stevens termed "misinformation."

Messages that surface repeatedly in the emails include:

- Programs like ROTC and More at Four will cease to exist if charter schools get more funding

- New charter schools would no longer provide students free and reduced lunches.

- Adding charter schools would increase racial segregation.

- S.B. 8 would allow homeschoolers to get taxpayer subsidies.

It is unclear where some of these notions originated, but most of the messages can be found on a Facebook fan page called "Stop NC Senate Bill 8." The Web page has more than 1,000 fans. It was created by Kelli Fisher Wilson, the parent of a first-grader and an eighth-grader in Rutherford County Schools.

The Facebook page provides parents with form letters they can email to their representatives and postcards they can print and mail to the governor. Fisher also includes links to talking points from NCAE, the school boards association, the school administrators group, and the county school board.

The Facebook page also was used to advertise an "information session about school funding and Senate Bill 8" held in East Rutherford High School's gymnasium March 7. Superintendent Janet Mason and school board chairman John Mark Bennett both gave "inspiring speeches" at the meeting, according to one Facebook fan. More than 500 parents attended.

Bennett denied that he or Mason encouraged the mass emailing in any way. He said that, to his knowledge, no one was "directed" to write the emails and that teachers and students were responding to S.B. 8 "of their own volition."

Legal issues

The letter and the emails may violate state law, said Jeanette Doran, a senior staff attorney with the North

Carolina Institute for Constitutional Law.

N.C. General Statute 126-13 says state employees cannot engage in political activity on state time. It also says a state employee may not use the authority of his position, state funds, or state supplies to support or oppose any candidate, party, or issue during an election.

While K-12 principals and teachers are not state employees, Doran

said the statute probably does not allow school employees to use tax-financed resources such as school telephones, computers, email accounts, copiers, paper, stamps, or class time to support or oppose a political issue.

"If the exemption covered everything — even when

[teachers] are on duty and even if they were using government resources — there wouldn't be anything to keep teachers from running a campaign out of their classroom," Doran said. "I can't imagine the court would be willing to so broadly interpret the exemption."

At a minimum, Doran called the principal's behavior an "egregiously bad idea" and "a practice that should be avoided."

Haywood County Schools Superintendent Anne Garrett agreed. "It's in the gray area, and we have made a bad mistake," Garrett said. She heard about the letter when parents complained about it at a recent school board meeting.

She consulted with the school district's attorney, who said the letter was inappropriate and could get the district in trouble. Garrett spoke with Justice and was assured it would not happen again.

"Being a new principal, she thought, you know, 'principals have written this ... it's OK to send out,'" Garrett said. The superintendent said all principals in her school district have been warned not to engage in similar behavior.

Rep. George Cleveland, R-Onslow, said if school employees somehow are exempt from G.S. 126, they shouldn't be. He said teachers are free to contact their elected representatives about any issue at any time, except when they're supposed to be teaching students.

"And to encourage students to do something in class ... students are not stupid," Cleveland said. "They know they are supposed to be being taught, and instead they're being used for political purposes. That's inappropriate."

Stevens said it wasn't fair for teachers to use their podiums as bully pulpits to influence children on political issues.

"You only bring children into the debate if you're going to bring them fully into the debate," she said. "You've got a captive audience during the day. You should set up a meeting after school hours, in a neutral, public place, and you invite people to present both sides." CJ



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JLF Education Analyst Calls for Testing 'Repeal and Replace'

By CJ STAFF

RALEIGH

A debate over a school testing bill that has pitted legislators against a Wake County judge highlights the need for lawmakers to devise a new system of testing. That's the conclusion of the John Locke Foundation's top education expert.

"While the way in which Judge Howard Manning inserted himself into legislative debate over school testing is questionable, the issue he raises is on point: State court rulings mandating a 'sound basic education' for North Carolina students require some form of testing of those students in core academic subjects," said Terry Stoops, JLF director of education studies.



Dr. Terry Stoops

"If lawmakers want to proceed with scrapping existing end-of-course tests in U.S. history, civics and economics, Algebra II, and physical science, they should replace those eliminated tests with more acceptable alternatives," Stoops added.

House Bill 48 passed the House with a 94-13 bipartisan vote and the Senate by a 44-5 margin in March. The measure will eliminate four of the state's seven mandatory end-of-course tests for high school students. Gov. Bev Perdue neither signed nor vetoed the bill, and it became law March 21.

Meanwhile, Manning, who has overseen implementation of N.C. Supreme Court rulings from 1997 and 2004 in the *Leandro* school-funding lawsuit, sent a 22-page memo to House and Senate leaders outlining his concerns about H.B. 48. Constitutional mandates mean that tests in core subjects are "not subject to elimination by House Bill 48 or other legislative action," Manning wrote.

"Judge Manning's general argument has merit," Stoops said. "Testing is a satisfactory way to determine if the state is fulfilling its constitutional requirement to provide all children a sound basic education. After all, other accountability measures, such as school choice and benchmark assessments,

are not as widely accepted. In this way, the wholesale rejection of integral parts of the state testing program may pose a thorny constitutional problem that would have to be sorted out by the courts for years to come."

Stoops' analysis does not suggest the existing testing system should be preserved with no changes. "North Carolina's testing program is far from ideal," he said. "In a 2010 study of two high school tests that would be eliminated under H.B. 48, the John Locke Foundation found that college and university faculty from across the state were appalled by questions selected from North Carolina's 2008-09 end-of-course high school civics and economics and U.S. history tests."

Eliminating tests is nothing new, Stoops noted. Over the years, the Department of Public Instruction has eliminated several end-of-grade and end-of-course tests in core subjects. Three tests were eliminated for the 2001-02 school year: Iowa Tests of Basic Skills, Open-ended Assessments in grades four and eight, and the High School Comprehensive Tests in Reading and Mathematics at grade 10.

A decade later, DPI eliminated five tests to comply with Senate Bill 202/S.L. 2009-451. State officials discarded the Grade 3 Pretests of Reading Comprehension and Mathematics, the Computer Skills test, the Chemistry End-of-Course test, the Physics End-of-Course test, Competency Tests of Reading and Mathematics, High School Comprehensive Test of Mathematics, and the N.C. Checklist of Academic Standards. This year, high school students will no longer be required to take the Geometry End-of-Course test. The State Board of Education voted unanimously to eliminate the geometry test last year.

"Survey results substantiate complaints from public school teachers who point out that even a few



poorly constructed test questions undermine months of classroom instruction and weeks of test preparation," Stoops added. "For students, well-reasoned, but incorrect, answers to a handful of test questions can be the difference between meeting and not meeting state proficiency standards."

The current system needs revision, Stoops said. "If a statewide testing program is 'constitutionally mandated as part of the accountability process,' then we need an alternative to the tests written and administered by the N.C. Department of Public Instruction," he said.

"The next step would be to adopt norm-referenced — preferably nationally normed — tests that would allow North Carolinians to compare the performance of our public school students to their counterparts in other states. According to the lat-

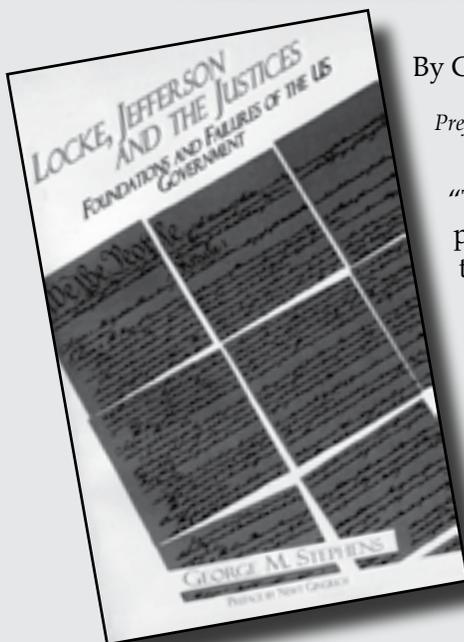
est data available, 16 states use an off-the-shelf norm-referenced test, while another eight states use a test that includes norm-referenced elements."

"In other words, let's use a 'repeal and replace' strategy," he said. "Let's find better tests to replace the ones that have caused legitimate concerns for so many lawmakers." CJ

Eliminating tests is nothing new; the state has eliminated end-of-grade and end-of-course tests several times over the years

Locke, Jefferson and the Justices:

Foundations and Failures of the U.S. Government



By George M. Stephens

Preface by Newt Gingrich

"This book is about American politics and law; it is also about the roots of the Contract with America. A logical place to find the intent of the Founders is in Locke, [and] Stephens makes a contribution to highlighting this."

Newt Gingrich
Former Speaker
U.S. House
of Representatives

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Town and County

PART considers cuts, fees

The Piedmont Authority for Regional Transportation, the Triad's 10-county regional transit agency, is proposing a series of cost-cutting measures — including fare increases, service reductions, and a request for several counties to increase the yearly license plate fee to benefit the transit system.

The agency is trying to reverse chronic losses that could see it run out of money as soon as November, reports the *High Point Enterprise*.

PART may increase fares from \$2 to \$2.50. The price of a monthly pass would increase from \$60 to \$70. The transit agency also is proposing the elimination of a number of routes, which would save \$1.8 million a year.

PART also is asking county commissioners in five counties, including Guilford, Davidson, and Randolph, to impose an additional \$3 per year charge on motor vehicle registrations to help fund the transit system.

If approved, the additional fees would bring in an extra \$3.3 million per year.

Asheville pawn rules

The city of Asheville may expand the types of businesses selling used goods that must file reports by computer with police describing the items. The proposal has generated considerable opposition from antique dealers and others, reports the *Asheville Citizen-Times*.

Pawnshops now must submit records of the goods they purchase. Most, however, do so in writing, requiring police to enter the descriptions into a database, which takes time and manpower. Asheville may require pawnshops and others selling used goods to submit information electronically into LeadsOnline, a national database. A number of Asheville-area business voluntarily use LeadsOnline.

A number of antique dealers question the proposal, noting that they typically acquire their stock through estate sales or auctions, not by buying items off the street. Internet filing is also a concern.

"My shop doesn't have a computer that is connected to the Internet. I don't even have a cell phone," said Kenneth Jones, who manages the Antique Market Gallery. In response, the city has agreed to hold a public hearing. Police officials also have agreed that the requirement should not apply to garage sales, estate sales, auctions, or items sold on consignment. CJ

COGs Face Scrutiny in Tight Budget Times

By SAM A. HIEB
Contributor

GREENSBORO

Seems like nobody knows exactly what a "council of government" does. Guilford County Commissioner Bruce Davis admitted as much during a recent public meeting discussing the Piedmont Triad Council of Governments.

"You guys have been there all along, but I'm just not familiar with you. This is so new to me," Davis told PTCOG interim director Ginger Booker.

It's not as if Davis is a political novice; he's served on the commission for nine years. Furthermore, fellow Commissioner Carolyn Coleman serves on PTCOG's board.

So if a county commissioner doesn't know what PTCOG does, then you can probably imagine the average citizen is equally clueless — even though citizens are paying to keep councils of government throughout the state in existence. Concerns about the councils' ill-defined mission have led some local officials to question the need for their continued existence.

According to the North Carolina Regional Councils' website, regional councils of government have been operating in the state since 1972, the result of legislation that charged the Department of Administration with developing "a system of multi-county regional planning districts to cover the entire state."

Currently, 17 councils serve regions that "share similar economic, physical, and social characteristics." Every county in North Carolina belongs to a regional council of government.

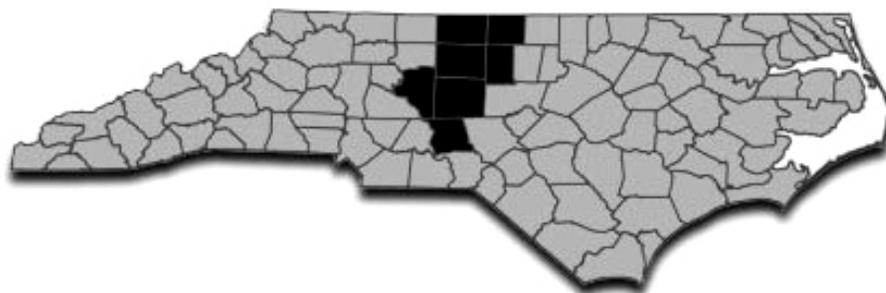
PTCOG's website reports an operating budget of about \$1.2 million, with over half of the revenue coming from member government dues and income earned from technical assistance to member governments.

In addition to its operating budget, the PTCOG "passes through" more than \$4.9 million to counties and nonprofits for services to the elderly such as adult day care, care management, transportation, in-home services, and senior center operations.

PTCOG's major accomplishment is the incorporation of the Piedmont Triad Regional Water Authority, the entity behind the construction and operation of the Randleman Reservoir. PTCOG helped staff the water authority and steer funding toward the authority. Water flowed from the reservoir in October and should help lower water rates for Greensboro, which suffered water shortages during recent droughts.

Currently, 46 city and county governments belong to PTCOG. Membership is voluntary, and dues are based on a per capita formula. Guilford County

PTCOG
PIEDMONT TRIAD
COUNCIL OF GOVERNMENTS



bears the brunt of the costs. With the county and the cities of Greensboro and High Point all paying dues, some public officials complain that Guilford is getting "triple-dipped."

PTCOG has been in the spotlight lately because it is seeking a merger with the Northwest Triad Council of Governments to form the Piedmont Triad Regional Council. In order for the merger to take place, member governments in both councils must pass resolutions supporting the dissolution of PTCOG and the distribution of its assets.

As a result, Booker appeared before member governments in an effort to get resolutions passed before a self-imposed March 31 deadline, emphasizing that the merger will "reduce fragmentation in the region."

The deadline passed without every government getting on board. At press time in late March, 31 of PTCOG's local government members had signed off, including Greensboro, but not before some council members complained about an increase in dues.

"We only have one voting member, yet we pay a larger share of the dues," council member Trudy Wade said during the March 1 meeting. "That seems a little unfair."

At its March 17 meeting, county commissioners asked harder questions, especially when they learned the county's dues would increase following the merger.

"How can you merge and tell me you need more money to operate? In the business world, when you merge, it takes less money to operate," said Commissioner Billy Yow. "To me, this is another nonprofit, if you will, pulling money from the backs of the taxpayers. And it is a burden on taxpayers in all the counties."

Commission Chairman Skip Alston took it a step further, suggesting that Guilford pull out of PTCOG. The county could secure its own state and federal grants for half of what the council is charging, he added.

Commissioners voted to table

the resolution. In a phone interview, Alston said that he would raise the issue at an April work session and that he believed he had the support of a majority of commissioners.

Even more serious issues have caused officials in eastern North Carolina to ponder the role of councils of government. Earlier this year the story broke that the Eastern Carolina Council of Government was forced to write off more than \$650,000 in loans issued through its revolving loan program.

Audits in 2009 and 2010 highlighted issues with the council's oversight of the loan program, which was targeted toward businesses that had been turned down twice by private-sector banks.

The U.S. Commerce Department's Economic Development Administration has since suspended the council's ability to make revolving loans.

Such problems have prompted county commissioners in the eastern part of the state to question membership in the ECCOG. "I question the necessity of their existence," Pamlico County Commissioner Christine Mele told *Carolina Journal*. "We could take [membership dues] and give [them] back to our own people."

The problems with the business loans prompted the resignation in protest of board member Robert Masters, who served for 18 months as the board's treasurer.

Masters, a well-respected member representing the town of Snow Hill, has been open about ECCOG's problems and has recommended that Snow Hill pull out of the council.

In a phone interview, Masters said there were two main problems. First, councils of government had become politicized, overseen by politicians who "basically removed the participation of professional government staff," Masters said. "That was a bad mistake."

The second problem, Masters said, is that the "COG is ambiguous. Nobody knows what the hell it is." CJ

Objections from Some in GOP Sink Sunshine Amendment

BY DAVID N. BASS
Associate Editor

A proposal enshrining North Carolina's open-records law in the state constitution ran aground when a handful of House Republicans balked.

A final vote on House Bill 87, Sunshine Amendment, was postponed twice in late March, primarily in response to Democrats' concerns that the legislation should be a statute rather than an amendment. Sponsors were unable to muster enough support to achieve the three-fifths majority needed for passage.

"We're re-counting votes to see whether or not we have the votes," said House Speaker Thom Tillis, R-Mecklenburg, March 22. The GOP caucus has 68 members in the House. It would need the unified

support of Republicans and four Democrats to reach the three-fifths threshold.

John Bussian, an attorney with the North Carolina Press Association, said that some Republicans were uneasy about using an amendment to enhance the open-records law's legal protections. "We had enough Democrats willing to cross the line that if all the Republicans had lined up, it would have passed," Bussian said. "So that's the real story there."

Even though polling indicates a constitutional amendment had wide support, the measure's primary sponsor, Rep. Stephen LaRoque, R-Lenoir, announced March 30 he would reintroduce the measure as a statute. The bill had not been filed when this issue went to press.

The public already has the right to access government documents and meetings under general statutes, but H.B. 87 would have made those rights harder for lawmakers or courts to tamper with by putting them in the state's highest governing document.

As it stands, the General Assembly can modify the open-records law by a simple majority vote. The amendment would have required a three-fifths majority to change the law. The proposed "sunshine statute" also would require a three-fifths majority vote, but that margin could be watered down to a simple majority (or some other percentage of the General As-

sembly) by a future session of the legislature.

An Elon University survey from February found that four out of five respondents favor putting open-records access in the constitution. Government transparency advocates say the concept has been successful in other states.

"It's been a good thing for Florida, it's been a good thing for California," Bussian said. "They've got at least 10 years of a track record with these things in place in those constitutions. It works."

But opponents said a constitutional amendment goes too far. "This thing already looks like Swiss cheese in terms of the number of exceptions that are made to it," said Rep. Bill Faison, D-Orange, during debate on the House floor. "We do not do that with constitutional provisions."

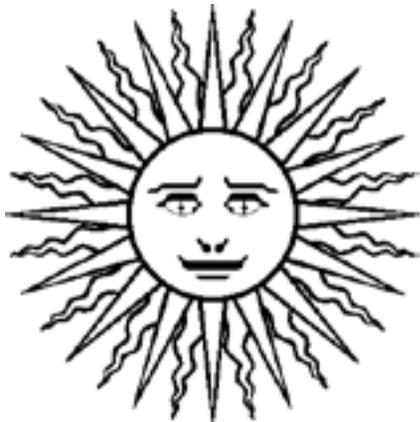
The House adopted two revisions to the original bill. The first removes the judicial branch from a list of government entities to which the public is guaranteed open access. The second ensures that "every natural person" who is a citizen of North Carolina has access to public records, as opposed to a former version that said "every person" has that right.

Despite winning these changes, Democrats say the bill was a rush job. "I will say without fear of serious dispute that this was rushed in committee," said House Minority Leader Joe Hackney, D-Orange. "It was as if any concerns or objections were brushed aside."

Related legislation — Senate Bill 344, Government Transparency Act of 2011 — would expand significantly the public's access to personnel records for state and local government employees. That's been a chief goal of open-records supporters.

Current law requires public agencies to release only the date and type of an employee's dismissal, plus "a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal."

S.B. 344 would expand the public's right to know reasons for the termination. It also would loosen access to performance reviews and explanations for promotions, demotions, transfers, separations, or other changes in classification. *CJ*



COMMENTARY

Local Gov'ts: What Recession?

Times may be tough all over, but they've been least tough so far for the state's local governments. Despite substantially lower sales tax receipts, the state's counties and municipalities have avoided making hard choices about the services they provide by increasingly relying on property taxes to fund operations.

For 13 years, the John Locke Foundation has put out a report called *By The Numbers*, which looks at the cost of local government. The latest edition covers fiscal year 2009 (July 1, 2008 - June 30, 2009). *BTN* relies on audited financial information that all of the state's counties and towns are required to file each year with the state treasurer's office.

In fiscal year 2007 (July 1, 2006 - June 30, 2007), the state's counties and municipalities took in \$14.51 billion in revenues. That number included \$7.1 billion in property tax receipts, \$2.75 billion in sales tax revenues, \$1.87 billion in water and sewer receipts, and \$2.73 billion from other taxes and fees.

The economy started to slow in fiscal 2008. Even so, local governments took in an extra half billion dollars — revenues were up to \$15.09 billion — but all of it came essentially from higher property tax collections. Sales tax receipts were up only about \$55 million, and water and sewer fees were up about the same amount, while collections of other taxes and fees actually fell by some \$77 million.

By fiscal 2009, the economy really had gone in the tank. Local sales tax collections fell to \$2.39 billion, a \$400 million drop (15 percent) compared to the previous year. Collections of other taxes and fees were off by more than \$250 million. Water and sewer revenues fell by \$50 million.

Total local government tax and fee collections, though, were \$14.81 billion, or off only about \$250 million — 1.6 percent — compared to fiscal 2008, as counties and cities responded to lower sales tax and

other revenues by again increasing property tax rates.

Property tax revenues came to \$8.19 billion, up a half billion dollars compared to the previous year, and up over \$1 billion — a 15 percent increase — compared to two years earlier.

Excluding water and sewer receipts, in fiscal 2007 the state's local governments got 56 percent — \$5 of every \$9 they collected — from property taxes. Two years later,

property taxes came to 63 percent — \$5 of every \$8 — of nonutility receipts.

Judging by the number of counties that are opting to hold referendums to increase the local sales tax, it would seem that many county commissioners are beginning to question how much longer the public will stomach higher property tax rates.

Property taxes are the most politically charged way local governments fund operations. Each landowner is sent a bill, so each taxpayer knows exactly how much property tax he is paying, and any increases are apparent. In

contrast, most people have no idea how much they pay in sales taxes or in other taxes and fees. And, of course, property values haven't been going up recently.

But voters across the state weren't in the mood for higher sales taxes this past November, with referendums failing in all 14 counties in which a higher rate was on the ballot.

So as the state's economy continues to make a slow climb out from the Great Recession, more localities may find they need to become more aggressive in doing more with less.

As the numbers in the latest *BTN* show, overall county and town budgets across the state have been affected only minimally to date by the recession. *CJ*



MICHAEL LOWREY

Local governments took in an additional half billion as economy tanked

Associate Editor Michael Lowrey compiles the annual *By The Numbers* report for the John Locke Foundation.

From the Newsstands

Greens and Gas Prices

Guess who likes higher gas prices. People who want a larger role for the “green” economy, that’s who. *Bloomberg Businessweek* offers details:

[T]here’s a silver lining in higher oil prices—or, rather, a green lining—for [President] Obama, who has made clean energy one of his paramount causes. Rising fuel costs could go a long way toward advancing Obama’s “Win the Future” vision of an economy remade by green technologies, including electric vehicles, advanced batteries, wind and solar power, and high-speed trains. “If you want to make people switch toward cleaner energy sources,” says Nigel J. Gault, chief U.S. economist for IHS Global Insight, “you need to change the price incentives people are facing. One way to do that would be to make traditional energy much more expensive.” ...

Higher energy prices are precisely what Obama’s proposed cap-and-trade legislation to control carbon emissions would have achieved. Had it passed Congress, the system of tradable permits would have raised the cost of carbon-generating fossil fuels, making clean energy sources more competitive.

“Competitive” is an interesting word choice, since cap-and-trade schemes would kill jobs and make American firms less competitive. In 2008, the Beacon Hill Institute crunched numbers for the John Locke Foundation to project the negative impact of cap and trade and other climate-related policies for North Carolina. Among the highlights:

“By 2011, the state would shed more than 33,000 jobs,” according to the report from the Beacon Hill Institute, the research arm of the economics department at Boston’s Suffolk University. “Annual investment would drop by about \$502.4 million, real disposable income by more than \$2.2 billion, and real state Gross Domestic Product by about \$4.5 billion.”

We don’t know whether the talk of consolidating North Carolina

government departments played any role, but U.S. Sen. Richard Burr has announced his support for similar moves at the federal level, according to *U.S. News & World Report*:

For years, Republicans have talked about dismantling the Education Department. Well, the new push for substantial budget and

spending cuts has the GOP thinking even bigger. North Carolina Sen. Richard Burr suggests that the Environmental Protection Agency be dumped into the Energy Department. “We ought not to stop right there,” he tells the centrist Republican Ripon Society. He wants to combine Labor with Commerce

and give the Education Department back to Health and Human Services. The result could be \$4.1 trillion in savings and a cut of some 300,000 federal workers.

James Poniewozik offers a critique in *TIME* of James O’Keefe’s recent hit piece on NPR.

For the purposes of this entry, we’ll ignore the shaky argument that O’Keefe’s selective editing differs substantially from most of what runs daily in *The New York Times*.

Instead, I’d like to highlight the following excerpt, using another bit of selective editing:

There are plenty of valid arguments you could make against public-media funding without being misleading; that donors can pick up the slack, that there are far more media options today, that NPR and PBS are boutique products we can’t afford. There are plenty of valid counterarguments: that it’s a tiny sliver of the budget, that private markets don’t always pay for important news coverage, that cuts will hit rural red-state audiences far harder than urban elites.

While this list of arguments is not necessarily exhaustive, it’s hard to believe the pro-NPR arguments could carry the day. Poniewozik says he wants an “argument on honest terms.”

He should be careful about expressing that wish.

— MITCH KOKAI CJ



Charlotte Water-Usage Charges Anger State’s Environmentalists

By MICHAEL LOWREY
Associate Editor

CHARLOTTE

The Charlotte-Mecklenburg Utility Department is changing how it bills customers for water and sewer usage. Heavy water users will pay less under the new pricing plan, while most customers will see their monthly bills go up, reports *The Charlotte Observer*.

CMUD bills have three components: water charges, sewer charges, and storm water charges. Water rates are tiered, with higher rates charged as water usage increases. Sewer charges also are tied to water usage—the more water a resident uses, the greater the sewer charge. Sewer rates now are capped, with residents paying no sewer charges for water usage above 24 cubic feet per month.

“One of the purposes was to look at equity,” CMU director Barry Gullet told the Charlotte City Council. “Large users are paying for services they aren’t receiving.”

Gullet noted that heavy water users likely are washing their cars frequently or watering their lawns, activities that don’t place a burden on the sewer system.

Under the new pricing plan, effective July 1, sewer charges won’t be assessed on water usage above 16 cubic feet per month. Some 94 percent of CMUD residential customers use less than that. The utility will, however, charge all users monthly “availability charges” for water and sewer. These come to \$5.92 per month.

The new price structure also would stabilize the utility’s revenue stream, making it less vulnerable to weather effects on water use and thus how much money it collects.

Some environmentalists questioned the new pricing plan.

“It’s not conducive to conservation to charge the smallest users more and the largest users less, and not making it incredibly expensive to water their lawns,” said Julie Youngman, an attorney with the Southern Environmental Law Center in Chapel Hill.

Urban loop funds

The N.C. Department of Transportation is changing the formula it uses to allocate funds to build urban loops. Winston-Salem’s loop, which ranks at the bottom of 21 proposed loops statewide, is likely to benefit from the change, reports the *Winston-*

Salem Journal.

The state ranks urban loop projects to determine which to fund and when. Cost is a key factor in the rankings. Winston-Salem area officials were upset when the city’s proposed beltway was determined to be the least deserving of funding.

“We were unfairly penalized in their calculations because they used the cost of the entire loop, but they don’t build entire loops,” said Ralph Womble, the Winston-Salem area’s representative on the N.C. Board of Transportation.

“They build them by segments.”

The segment that local officials want built first is on the eastern leg of the loop, from U.S. Highway 158 to Interstate 40 Business. Had the cost of just that segment been considered, it would have ranked 14th or higher.

State officials now agree and have decided to consider only the cost of the segments of a project when they next rank outer loops for funding purposes in 2014.

“We hope to make an impact on the next round of prioritization in 2014,” said Pat Ivey, a DOT division engineer in Winston-Salem.

Municipal service district?

Wilmington is the latest North Carolina city to consider establishing a municipal service district for its downtown. While the idea has been kicking around for some time, this is the first time the idea will come before city council, reports the *Wilmington Star-News*.

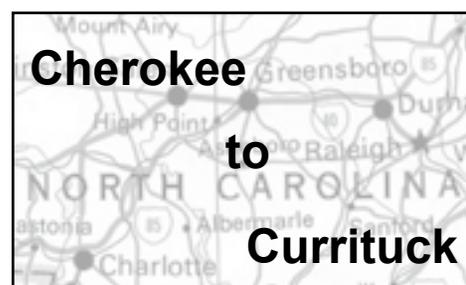
A municipal service district is a section of a city or town that receives extra services in exchange for a higher property tax levy. Nationally, there are some 1,002 municipal service districts, including 49 in North Carolina.

The economic development agency for the area is proposing a tax rate of 10 cents per \$100 of valuation if the district is established. The additional tax would bring in \$385,000 per year. The money would fund a crew to provide litter and graffiti cleanup, and supply extra security.

“I recognize 10 cents is bold, but it’s the way to deliver the services we promise and deliver a dramatic impact,” said John Hinnant, the president and CEO of Wilmington Downtown Inc.

Not everyone favors the district.

“I’m not seeing support from the business community and the property owners,” said Councilwoman Laura Padgett. CJ



Residents of One of N.C.'s Poorest Counties Riled Over 42% Raise

By DAVID N. BASS
Associate Editor

RALEIGH

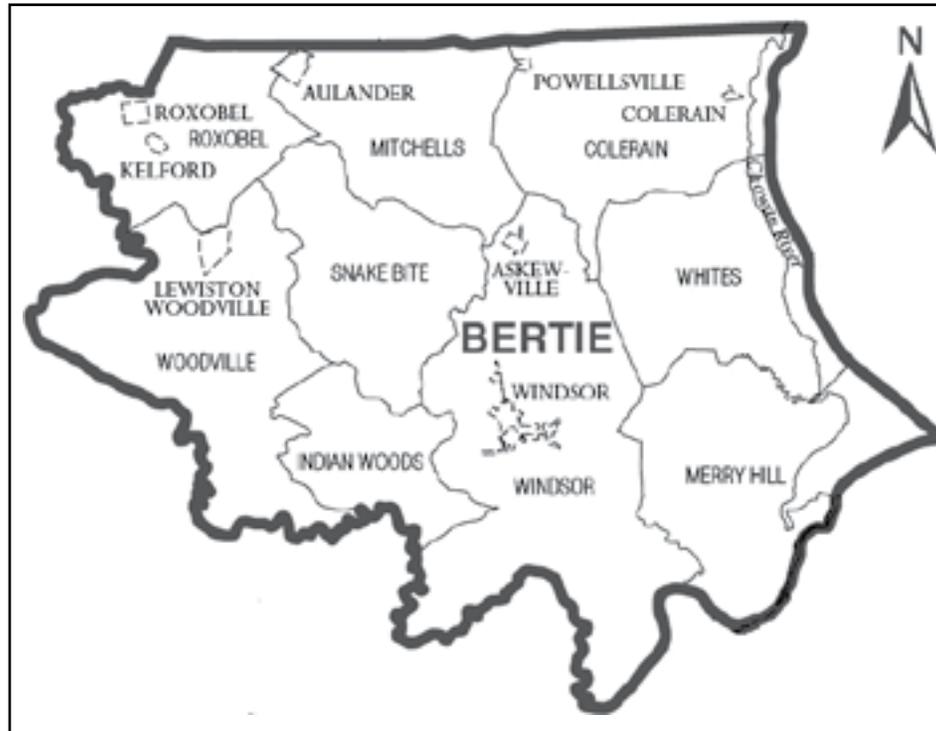
Residents of a rural county in northeast North Carolina are up in arms over a decision during the height of the recession to hand out a 42-percent raise to the county's top official.

The move has led to a petition drive that would rescind the pay hike or — failing that — recall the five Bertie County commissioners who OK'd the raise two years ago. For their part, the commissioners say the salary increase was justified given County Manager Zee Lamb's status as a licensed attorney and track record of cost savings for the county.

That explanation doesn't hold water with the Friends of Bertie — Rescind the Raise Committee, a grassroots group cobbled together to fight the pay bump. They've leveled accusations of backroom deals and illegal secrecy, and are planning to sue the county for declining to release audio tapes of a closed-door meeting where commissioners approved Lamb's new contract.

"The more you peel back the onion, the worse it smells," said Bertie County resident John Davis, a spokesman for the activist group. "Whether they are Republican or Democrat, black or white, everybody gets what's going on here."

Attempts to reach commissioners and county officials for comment were not successful, but County Attorney Lloyd Smith defended the board's actions in a letter March 16 to a lawyer retained by the Friends of Bertie. In it, Smith claimed that elected officials had acted within the law, and that litigation



over the closed-door meeting would be fruitless.

"Please feel free to file a suit, and we will let our Resident Superior Court Judge deal with this issue if your clients wish to waste their money," Smith wrote.

Raise furor

Lamb began his tenure as county manager in 2000 at an annual salary of \$77,000. Nine years later, his pay stood at \$101,725 before commissioners agreed in August 2009 to increase that to \$144,000. They also boosted Lamb's travel allotment from \$6,000 per year to \$9,000.

Lamb's compensation package appeared to match other North Carolina managers who oversee counties

of a comparable population — until the pay hike, that is. The increase put Lamb on par with county managers in more populated, business-dense regions, such as Gaston County near Charlotte.

According to data from the University of North Carolina School of Government, Lamb's pay is the highest of any county adjoining Bertie. The closest in compensation is Washington County's manager at a salary of \$108,871 per year plus \$3,600 for travel.

Lamb's wages are the second-highest for county managers in the northeast North Carolina region, trailing only Dare County at \$239,794 per year. Beaufort County's manager is a close third at \$135,000 per year.

For the past five years that data

are available, the N.C. Department of Commerce has ranked Bertie County as "tier 1," the worst designation of economic distress. As of the 2000 Census, the county's median household income was around \$25,000 annually. One-fourth of the population was below the poverty line.

Bertie County's unemployment rate stood at 12.3 percent in January, over 2 percentage points higher than the state average.

'A diatribe'

In a joint statement released in late February, Bertie County commissioners tried to justify the raise by pointing to Lamb's track record.

According to the statement, Lamb's list of accomplishments include raising the collection rate for property taxes by 7 percent, cracking down on delinquent taxpayers, attracting a new prison to the county, and successfully lobbying the General Assembly to transfer gradually the Medicaid funding burdens from counties to the state.

Lamb's status as a licensed attorney also enabled him to handle minor legal matters for the county, which Lloyd said had saved up to \$50,000 per year in legal fees.

Davis labeled the 14-page justification "a diatribe." He said that Lamb should be given credit for some of the projects and cost savings, but that most were a joint effort.

The Friends of Bertie hope to collect thousands of signatures in a petition drive to convince the county to rescind the raise, Davis said. If they don't, the group will push for a recall election. CJ

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DOT Slush Funds Survive Change of Parties in Raleigh

Continued from Page 1

The practice also conflicts with the principle of separation of powers spelled out in the North Carolina Constitution. The governor, through various executive branch departments including DOT, is responsible for administering the budget enacted by the General Assembly. Individual lawmakers are not supposed to dip into funds that are under executive branch control.

To date, DOT has not allocated any money from the account of House Speaker Thom Tillis, R-Mecklenburg, though some projects are being considered. Spokesman Jordan Shaw said Tillis credits former Speaker Joe Hackney, D-Orange, with instituting some oversight procedures in the House with regard to the fund.

Before any project receives funding, Tillis believes there must be transparency, the project must be worthy and necessary, and it must be related to transportation. "There won't be any Elizabethan Gardens. There has to be some type of framework from this point forward in how this works," Shaw said.

The budget language authorizing the current \$15 million appropriation states: "The Contingency Fund *may* be used for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects as approved by the Secretary of Transportation" (emphasis added).

DOT internal operating guidelines go further: "The President Pro Tempore of the Senate, the Speaker of the House, and the Secretary of Transportation sponsor projects from this fund." The \$15 million is divided evenly among the three, and DOT keeps a fund ledger with a separate column for each.

While some Contingency Fund projects may improve safety, they are not evaluated thoroughly by DOT engineers. Even so, DOT has a backlog of 152 projects valued at \$16,861,160 in its Spot Safety Program, projects that have been reviewed by DOT engineers and flagged as priorities. The current-year appropriation for Spot Safety is \$9.1 million.

Gov. Bev Perdue was not familiar with the role of legislative leaders in the program when *CJ* brought it to the attention of her staff in mid-March. For this story, spokeswoman Chrissy Pearson issued the following statement:

"The General Assembly members are the DOT's bankers — they approve this fund's appropriation, request the monies and receive a full report on projects prior to construction. Gov. Perdue has already taken the politics out of the DOT Board and put profes-



North Carolina taxpayers will pay \$600,000 of a \$700,000 project to upgrade the facilities of Elizabethan Gardens in Manteo, thanks to a DOT Contingency Fund arrangement set up years ago. (CJ photo by Don Carrington)

sionals in charge of making data-driven decisions on the state's road money. If the General Assembly would like to follow suit, Sec. Conti will certainly be able to reallocate that money into other important projects."

Asked if Perdue had considered ordering Conti to cease maintaining accounts for Berger and Tillis, Pearson said, "The governor believes the General Assembly needs to initiate that change."

Basnight's garden

The Elizabethan Gardens, opened in 1960, were created to honor the Elizabethan heritage of Roanoke Island and serve as a memorial to Sir Walter Raleigh's legendary lost colony of 1587.

They are located outside the Manteo city limits, adjacent to "The Lost Colony" Waterside Theatre and the Fort Raleigh National Historic Site. The operator of the site is the Elizabethan Gardens Inc., a nonprofit subsidiary of the Garden Club of North Carolina. The gardens occupy a 10-acre tract leased from the Roanoke Island Historical Association.

The gardens are open to the public, and adult admission is normally \$8 a person. Annual revenue of approximately \$600,000 comes from admissions, gift shop sales, and facility rental for weddings.

In September 2008, the Dare County Board of Commissioners passed a resolution asking Basnight, Rep. Tim Spear, D-Washington, and DOT for funding to enhance the facility by improving walkways at the gardens. Some of the walkways are brick, but almost a mile of paths is covered in pine straw. Dare County is not responsible for the funding, design, or operation of the garden.

In November 2008, Basnight coordinated \$250,000 in DOT funding for

the project. He contributed \$100,000 from his Contingency Fund, Speaker Joe Hackney provided \$100,000 from his, and DOT Secretary Lyndo Tippet offered the remaining \$50,000. DOT engineers and the DOT board approved the spending.

A detailed plan was not developed until October 2010. It involves removing the pine straw along 3,000 feet of walkways and installing pea gravel bound together with a polymer product. The result will be a solid but porous surface. The estimate for the walkway improvements is \$129,000. The planned ground lighting system is estimated to cost another \$585,000, bringing the total project to \$714,000.

On Nov. 17, 2010, Basnight wrote Conti, asking DOT to approve an additional \$350,000 of his discretionary funds for the project. The following day Elizabethan Gardens Executive Director Carl Curnutte sent Basnight's office the cost estimates.

DOT Chief Operating Officer James Trogdon, the chief engineer, and the division engineer signed off on the project by Jan. 6. The DOT Board approved the project at its Feb. 3 meeting. On Feb. 14, DOT State Highway Administrator Terry Gibson signed an agreement with the Elizabethan Gardens to reimburse as much as \$600,000 for improvements.

No construction has taken place, but DOT has reimbursed the gardens for about \$20,000 of design work.

Berger's dirt road

Berger recently directed DOT to fund the first project from his account. "I hereby authorize the Department of Transportation to allocate \$24,000 from the Pro Tem Contingency Fund for a project request made by Kathy Harrington to match DOT monies and provide necessary repairs to Homesley Road in Mount Holly, Gaston County,"

Berger wrote in a letter to the DOT's Trogdon on March 7.

DOT has received several inquiries in recent years about paving Homesley (or Homesly) Road, a quarter-mile dirt road on private property about six miles northeast of Gastonia in Gaston County. The most recent request was in 2008 from Homesley Road resident Sandra Brittain.

Before DOT could consider paving the road, it would need to be brought up to minimum state standards. Due to the road's poor condition, DOT District Engineer Gary Spangler estimated the cost would be \$48,000. Funds for paving would be additional, but the state would cover the entire cost.

The DOT's guidelines in his division are to commit \$2,000 per home served for the project. With only seven homes on the road, Spangler calculated that DOT would pay \$14,000. "Given the limited maintenance funding that we have, the Division has to set reasonable levels of funding and prioritize all of our work activities. Therefore, we would not recommend adding it to the state system due to excessive cost, unless the property owners were willing to make up the difference," he wrote Brittain in August 2009.

Brittain took her case to then-Sen. David Hoyle, D-Gaston. After consulting with DOT, Hoyle wrote to her in October 2009, concluding: "There is nothing else that I can do as the Department of Transportation sets the criteria for paving of roads, therefore, in order to get this road paved now, it will need to go by the present guidelines."

In March 2010, Brittain appealed to Perdue directly. "If you will help us, I promise you — we will not forget your kindness. Please, Please, Please help us. We will never forget it," she wrote. Perdue's office sent Brittain's plea for help to DOT.

Conti asked staff to add another five homes located on side dirt roads to the house count, bringing the total to 12 and DOT's commitment to \$24,000. The remainder would have to be paid by the residents. "It will be the responsibility of the residents to provide the additional funds," Conti wrote Brittain in April 2010.

Hoyle didn't run for another term and was succeeded by Republican Kathy Harrington. Early this year, Brittain requested assistance from Harrington in improving the road. Harrington then asked Berger for his help. On March 7, Berger asked DOT for \$24,000 from his Contingency Fund. Approval by DOT engineers and the Board of Transportation will follow, as these are mere formalities.

Berger said in the coming year he expects the fund to continue, most likely with a smaller appropriation. In

Continued as "DOT," Page 15

Appeals Court Blocks State's Hammocks Beach Claim

Continued from Page 1

H. Hurst, the grandchildren of John L. and Gertrude Hurst, have been pursuing title to the Onslow County property for over four years. State officials have indicated they want to add the land to Hammocks Beach State Park.

The Hursts asked for the stay, fearing that the state might claim title to the property and start making modifications to it before their legal appeals are exhausted. *Carolina Journal* reported on the Hursts' four-year legal battle in February.

The land has been under the control of Hammocks Beach Corp., a trust established in 1950, when the Hursts' grandparents were alive, to develop the land. The original deed stated that if the trust could not maintain the property, the State Board of Education could seek title to it. If the board did not want the land, it would revert to the Hurst heirs.

The Hursts argue that during separate legal proceedings in 1987 and 2007, the Board of Education denied any interest in the property, which is near Bear Island and Hammocks Beach State Park. The 1987 agreement was signed by then-Attorney General Lacy

Thornburg; in 2007, Cooper's office filed a motion affirming that the Board of Education had renounced any claim to the land, and Superior Court Judge Allen Baddour granted the motion.

As recently as Sept. 30, 2010, the Hursts' motion states, Special Deputy Attorney General Thomas Ziko, who represents the Board of Education, told the Hursts' attorneys the board "could not serve as successor trustee and that the Board would not attempt to do so." In October, a jury decided that the trust could not live up to the original terms of the inheritance and that the Hursts retained a legitimate claim to the property.

Fox ordered the Hammocks Beach Corp. removed as trustee, naming the Board of Education as its successor. If the board didn't want the property, the heirs would receive it. Since the board formally had rejected any claim to the property several times, the Hursts thought they were in the clear.

But as *CJ* reported in February, Ziko made a closed-door presentation to the Board of Education on Nov. 4 and it approved a resolution accepting appointment as successor trustee,

subject to the approval of the Council of State. The council, comprising all North Carolina government officials elected statewide, must approve all land acquisitions by the state. Perdue presides over the monthly meetings.

Fox's Jan. 12 order OK'd the board's change of heart and stipulated the land would go to the state upon action by the council.

In their filing with the Court of Appeals, Raleigh attorneys Charles Francis and Michael Weisel, who represent the Hursts, called the result "an outrageous, unlawful, and inequitable land grab by the Board." Citing decisions from the U.S. and North Carolina supreme courts, the attorneys noted that the doctrine of judicial estoppel "prohibit[s] parties from deliberately changing positions according to the exigencies of the moment."

The filing said that the state could not say it had no interest in the land during one stage of the court proceedings and then decide it wanted the property later on.

Last fall, the Hursts' attorneys asked to depose Ziko and state Parks Director Lewis Ledford. They also tried to subpoena documents from Ledford

"to establish an evidentiary record of the Board's repeated disclaiming interest in the Trust" and learn what plans, if any, the Division of Parks and Recreation had for the coastal property. Fox denied that request.

As *CJ* reported, Hammocks Beach Corp. received the property on the condition it would maintain it as a segregated beach for members of the North Carolina Teachers Association — the membership organization for black teachers. When the Civil Rights Act of 1964 ended segregation, the NCTA ceased to exist, and blacks gained access to a wider variety of recreational facilities. Since then, the property has fallen into disrepair, and the trust has been unable to raise enough money to keep it up.

Responding to a request for comment, Perdue spokeswoman Chrissy Peason told *CJ*, "The governor will await a final decision from the Court of Appeals before commenting specifically on the Hursts' case. It would be premature to do so with the case still in the courts." *CJ*

Managing Editor Rick Henderson contributed reporting to this story.

DOT Slush Funds Survive Change of Parties in Raleigh

Continued from Page 14

defending the Contingency Fund program, Berger said the process needs transparency, objective criteria, and full disclosure. "The procedure is in place, so if a member has an issue, and it is requested by a unit of local government, then it is the sort of thing that can address needs that fall through the cracks," he said.

When asked about this project, Berger told *CJ* he thought Gaston County had issued a resolution of support for it. But he was mistaken. The operating guidelines only require local government support if the project funding exceeds \$150,000. The project



Google satellite image of Homesley Road in Gaston County, which has been approved \$24,000 from Sen. Phil Berger's Contingency Fund.

file obtained by *CJ* contained no such resolution.

Spot Safety

The Spot Safety Program pays for traffic signals, turn lanes, guardrails, regrading, and other measures to enhance safety. In recent years, the annual appropriation has been around \$9 million, though the backlog exceeds \$16 million. Contingency Fund money can be used for Spot Safety projects. Requests for funding come from DOT engineers, highway patrolmen, private citizens, and local government officials. Accident and injury data are gathered to prioritize projects.

One example is a \$225,000 project in Charlotte to convert single-lane approaches to exclusive left-turn lanes and through-right lanes on Lancaster Highway at the intersection of Lullingsstone Road. Another is a \$51,000 Wake County project to install a traffic signal at the intersection of N.C. Highway 98 and Stoney Hill Road.

Separation of powers

Discretionary funds parked in executive branch agencies but controlled by legislative leaders caught media attention in 1997 when *CJ* first revealed that Basnight and Republican House Speaker Harold Brubaker

had arranged privately for \$21 million to be set aside in the state budget office. Each lawmaker would control 45 percent of the money. Gov. Jim Hunt would control 10 percent for his role in handling the grants.

Basnight and Brubaker quietly directed money to their favorite projects outside the normal state budget process. The process was the subject of numerous news stories and critical editorials, leading Basnight to back off. "Somehow or other, you've got to help these areas in the state that need the money," Basnight told *The News & Observer* in February 1997. "But it shouldn't be left in my hands to decide or Brubaker's hands to decide."

That didn't stop Basnight from doing it again. In March 2005, *The News & Observer*, *CJ* and several other news organizations reported that Basnight, and Co-Speakers Richard Morgan and Jim Black diverted more than \$20 million from the budgets of various state agencies overseen by Gov. Mike Easley to be spent according to the three legislative leaders' wishes.

Editorials again condemned the process, and Basnight admitted it was a mistake.

The practice led to a critical report by State Auditor Les Merritt indicating that the funding of 11 specific projects may have been illegal and that

the principle of separation of powers from the N.C. Constitution may have been violated. Merritt asked Attorney General Roy Cooper to make those terminations.

"It is clear that the manner in which state money was directed is problematic for its secrecy, its lack of accountability, and its end run around the legislative process," Cooper wrote.

But in an advisory opinion, Cooper's chief deputy, Grayson Kelley, concluded that the separation of powers had not been violated because the General Assembly never passed a law allowing legislators to exercise direct control over discretionary funds. Executive branch officials, Kelley wrote, were "not required by law to distribute grant funds requested by individual legislators."

Even so, Kelley added, "The extent to which the General Assembly can enact laws which interfere with the Governor's administration of the budget without violating the separation of powers principle, however, has not been clearly delineated by our courts."

At the time, Merritt said time constraints prevented his office from reviewing the DOT Contingency Fund process. *CJ*'s efforts to get Cooper and Kelley to address the DOT Contingency Fund issue were unsuccessful. *CJ*

Pipes: Entire ObamaCare Health Legislation Should Be Repealed

BY CJ STAFF

Advocates of free markets and limited government raised red flags before Congress approved federal health care legislation last year. Now that the ObamaCare legislation has been in place for a year, critics continue to question its value. Sally Pipes is president and CEO of the Pacific Research Institute and author of multiple books on the American health care system, including *The Truth about ObamaCare*. Pipes discussed the legislation's impact with Mitch Kokai for Carolina Journal Radio. (Head to <http://www.carolinajournal.com/cjradio/> to find a station near you or to learn about the weekly CJ Radio podcast.)

Kokai: What's your current assessment of public response to ObamaCare?

Pipes: On March 23, 2010, President Obama signed The Patient Protection and Affordable Care Act into law, and the American people are still very upset by this act. Fifty-eight percent of Americans polled said they want full repeal of the Affordable Care Act, and interestingly in a *Wall Street Journal* poll after the election on Nov. 2, 84 percent of people said they made a decision on how to vote because of ObamaCare. And, you know, a lot of Dems were turfed out of the House and out of the Senate, and it was mainly over ObamaCare and the takeover of our health care, moving more and more government into running the American health care system.

Kokai: What do you think it is about the legislation that bothers people so much?

Pipes: I think, as things unfold — you know, I like to say understanding health care is similar to unraveling an onion. There are many layers and many tearful moments. You know, the man on the street doesn't understand health care, and maybe goes to the doctor, and then he gets a bill, and then he pays it, or his insurance company pays it. That's what he thinks, and he doesn't really know.

But I think when people like myself and all the people that have been fighting for empowering doctors and patients and not having the government get more involved in our health care, when people realized that there was going to be an individual mandate that they had to buy insurance, that we were not going to achieve universal coverage — the president said his two goals were universal coverage and bending the cost curve down. Well, the Congressional Budget Office said 23 million Americans will still be uninsured in 2019, and they talked about bending the cost curve down. The

"We all want affordable, accessible, quality care. The question is: How do we get there? And by getting the government more involved, people realize it's not going to happen. They know what the post office does. They know how the DMV is run. We need to put doctors and patients in charge of their health care."

Sally Pipes
President and CEO
Pacific Research Institute



president said over and over again, "We're going to reduce the average family's premium by \$2,500 a year." Well, the Congressional Budget Office said, "Wrong. It's going to increase by \$2,100 a year." And certainly, with the new controls that came on insurance companies on September 23, children being able to stay on their parents' plans till 26, starting the reduction of no lifetime limits or annual caps, preventive care being free, no co-pays, the cost of insurance is going up 10 to 13 percent, employers are charging their employees more in terms of what they pay for premiums, and co-pays are going up as well.

And so the American people realize, "What is this? This is taking away our ability to get the kind of health care we like." And Gallup had a poll showing 82 percent of Americans rate the American health care system now as excellent or good.

Kokai: Most people agree American health care has some problems. Does this federal health care law do anything to address those problems?

Pipes: I really believe that this whole health care act should be repealed. It can't be repealed until 2013, probably. The Republicans have got the House. They don't have control of the Senate. ... [The House] will go forward with repealing sections, like the 1099 reporting requirement for any transaction \$600 or more, the class act, the long-term care act, the 2.3 percent medical device tax — a lot of these things — and then also push to starve funding for hiring 16,000 new IRS agents, putting \$440 billion into Medicaid, the program for low-income Americans.

So I think the American people know there are some problems. We all want affordable, accessible, quality

care. The question is: How do we get there? And by getting the government more involved, people realize it's not going to happen. They know what the post office does. They know how the DMV is run. We need to put doctors and patients in charge of their health care.

We need to make a few changes, get states to reduce some of these 2,100 mandates that we have across the country: in vitro fertilization, hair prostheses — all of these things that add 20 to 50 percent to the cost of an insurance package. Young people would buy insurance if they could get [a health savings account], set it up, carry it forward, and combine that with a high-deductible insurance plan to cover catastrophes. Get the states to do medical malpractice tort reform, because that costs about \$212 billion a year. Docs do defensive medicine because they are afraid of being sued. Texas is a great example of a state that has capped noneconomic damages and punitive damages, and the cost of med-mal insurance has gone down for docs. So these are the things the American people like. Universal choice will lead to universal coverage in our health care, not more government.

Kokai: Is there anything salvageable in this legislation, or do we need to just get rid of the whole thing?

Pipes: My feeling would be to get rid of it all. It's a huge movement of government into our lives, and not a single Republican voted for the Affordable Care Act, and Nancy Pelosi made that tremendous statement "We have to pass this bill so that we can find out what's in it." And that's why I wrote my book, *The Truth about ObamaCare*. I thought, "I can write 240 pages and tell the American people what's in it and what it means for them."

Kokai: What should we do to address real health care problems?

Pipes: The real thing is that 60 percent of Americans get their health care through their employer. Government got us into this mess in the first place. Insurance isn't affordable. You lose your job, and ... you go out into the individual market. If you have any kind of pre-existing condition or a chronic condition, you might not be able to get insurance, or you might not be able to afford it. But you do have to buy it with after-tax dollars.

We need to change the tax code to level that playing field. We need to allow people to buy insurance across state lines. You know, a young man living in New York that has to buy the most expensive insurance in the country, he may want to buy a plan in Arizona that suits his needs, but right now he can't.

As I say, we need to do medical malpractice tort reform. We need to support a number of things that get doctors and patients back in charge. That will reduce the cost of care, and people will then go into the individual market, and it will grow. We will have competition, just like we do in banking or in our cell phones. Fifty percent of health care today is in the hands of government, and we don't have a free market in health care.

Kokai: How do we get closer to a situation in which patients and consumers make more decisions about their health care?

Pipes: We're not going to get to it under the Affordable Care Act. In fact, I think health savings accounts will probably be like the horse and carriage. They'll be out of business because of the controls that the government is going to put at HHS on what is a viable insurance plan. CJ

NCCollegeFinder.org helps Ease Search For a College

By JENNA ASHLEY ROBINSON
Contributor

RALEIGH

Thousands of high school and transfer students who want to attend a North Carolina college will have an easier time finding the right one, thanks to a new website, North Carolina College Finder. The site is designed to make students, their parents, and others more aware of the educational options available in the state.

North Carolina College Finder (<http://www.NCCollegeFinder.org>) provides information on 54 North Carolina colleges and universities (all the accredited nonprofit schools giving bachelor's degrees). Some of

that information may be predictable, such as school size, location, tuition, acceptance rates, SAT scores, and average grade point averages of incoming freshmen, student-faculty ratio, and six-year graduation rates.

But a lot of it is distinctly different.

A project of the Pope Center for Higher Education Policy, the website provides information that is not collected in one location elsewhere and includes information that schools might not want to publicize. For example, students can find the average debt upon graduation held by the students at that school and the average starting salary of each school's graduates, as well as the percentage of alumni who donate to the college or university.

The College Finder has a complete page of information on each school, including a link to the school's website. The page for each school also includes links to articles about that school that have appeared on the Pope Center website.

The database for the College Finder was compiled by the Pope Center from a variety of sources. Some come from the colleges themselves, but others include the American Council of Trustees and Alumni, the College Board, the U.S. Department of Education, the Foundation for Individual Rights in Education, Payscale.com, and the Project on Student Debt.

The website is an outgrowth of some "soul-searching" at the Pope Center, says Jane Shaw, Pope Center president. The Pope Center is committed to improving higher education in North Carolina, and its staff writes

many articles about problems in the UNC system, from biased academic presentations to inefficiency and waste.

But in addition to making direct recommendations, Shaw wants the center to empower students and their parents to make wise choices. "Helping students become better-informed consumers represents a decentralized approach to improving higher education. Just as in a marketplace, the choices made by many people will send messages to university and college administrators and faculty," she says.

The website includes measures of academic quality and the political and intellectual climate at each school. For example, it reports on the political balance

of professors. Using voter registration data for the faculty in economics and political science departments, the Pope Center rates each school as "balanced" or "unbalanced" and indicates whether the faculty leans more toward the Democratic or the Republican party. The website also provides information on the existence of alternative newspapers on campus, the extent to which students can exercise free speech, and the level of student political involvement, as reflected by the number of political and activist organizations on campus.

Again, the center does not take sides, but rather provides information. "Students who wish to study on a liberal or progressive campus can identify the schools whose economics and political science departments are overwhelmingly liberal," Shaw explained. "Those wishing to study on a more conservative campus can find schools that better match their needs."

It includes the ratings of schools' "core curricula" (discussed on page 18 of this issue). These ratings were provided by the American Council of Trustees and Alumni for the Pope Center.

Using the same database, the Pope Center will soon introduce a website called Alumni Guide. It will enable alumni of North Carolina colleges and universities to learn more about their schools than is found normally in alumni magazines. *CJ*

Jenna Ashley Robinson is the director of NCCollegeFinder.org and outreach coordinator of the John W. Pope Center for Higher Education Policy.

COMMENTARY

High Priests Of Diversity

While I was a student at UNC-Chapel Hill, I occasionally heard about the Office of Diversity and Multicultural Affairs. Sometimes the office was mentioned in *The Daily Tar Heel* or on message boards, but I never really understood what the office did.

Recently, I've had the chance to look into it and find out what it does. I've concluded that its services — and the services of similar offices throughout the UNC system — are unnecessary.

These offices, such as UNC-Chapel Hill's Office of Diversity and Multicultural Affairs, N.C. State University's Office of Diversity and Inclusion, and UNC-Wilmington's Office of Institutional Diversity and Inclusion, perform a role analogous to that of, well, a high priest. For the most part, they don't actually enforce diversity policies in admissions or hiring (i.e., affirmative action), but instead they sermonize on the goodness and importance of diversity (and, by extension, affirmative action policies) and bestow their blessings on efforts aimed at enhancing diversity.

For example, in its most recent annual report, UNC-CH's Office of Diversity and Multicultural Affairs lauded those who paid homage publicly to diversity. The diversity faithful included the Department of Athletics ("held open discussions and elicited feedback on issues related to diversity") and the School of Medicine ("conducted discovery and action dialogue with students, faculty, and staff").

These offices also sponsor events during which the public can gather to give thanks for diversity or repent if there's a perceived lack of it. One such event was the Feb. 9 speech by Dudley Edmonson at N.C. State. Judging from promotional material, Edmonson believes that the conservationist movement isn't diverse enough, so he was going to share "his perspective on the causes of the great divide between African Americans, conservation stewardship, and outdoor recreational activities."

All of this we can do without. Among other activities, diversity offices sponsor classes and seminars on the desirability and importance of diversity. One such

class was Diversity 101, which former Pope Center intern John Eick attended and wrote about last year.

Eick described the class as "a full two hours listening to Dr. [Melva 'Cookie'] Newsom lead a discussion exclusively about promoting racial and gender diversity and nothing about fostering or encouraging intellectual diversity on campus." Racial tensions, as seen by the offices of diversity, stem from lack of appreciation for diversity, so students must be taught to appreciate it.

Many of the offices also write reports, either annually or once every few years, monitoring current diversity and advocating for more of it. For instance, UNC-CH's 2005 *Report of the Chancellor's Task Force on Diversity* lists eight recommendations for achieving a more "diverse and inclusive" community, the first of which is that the university "clearly define and publicize its commitment to diversity."

Four pages later, however, the report's authors explicitly refuse to give a clear definition of diversity: "For its own work, the Task Force elected not to apply a narrow definition of the term, one that could become limiting or outdated, but to adopt a framework for understanding the concept of diversity relative to the work of the university." The irony is apparently lost on the authors.

In addition to advocating for more diversity, clear definition or not, the offices of diversity track statistics on the state of diversity in the colleges.

Despite some lofty rhetoric about diversity including "differing social backgrounds, economic circumstances, personal characteristics, philosophical outlooks, life experiences, perspectives, beliefs, expectations, and aspirations," the offices' annual reports track only race and gender, something several other offices already do anyway.

UNC system schools need to cut about \$200 million in spending. The several million we could save by cutting the diversity offices would be a good place to start. *CJ*



DUKE CHESTON

Duke Cheston is a reporter/writer for the John W. Pope Center for Higher Education Policy (popecenter.org).

Campus Briefs

As one who regularly monitors university-sponsored lectures on campuses in North Carolina, I can assure you that certain themes recur constantly: feminist liberation, minority oppression, gender oppression, and, more recently, sensitivity to Islam.

So it was a pleasant surprise to come across a series of talks at Duke University that introduced a completely fresh topic — higher education itself — and covered it from several viewpoints.

The series, "Re-Imagining the Academy," was sponsored by the Bass Society, a group of professors at Duke recognized for their abilities in both research and teaching.

The topic was the future of higher education (a subject regularly discussed in *Carolina Journal*.)

Kicking off the series was Laura Palmer Noone, former president of the University of Phoenix, the largest for-profit university in the country (indeed, the nation's largest university of any kind). For-profit schools represent nearly 10 percent of all post-secondary students. She explained that for-profit schools are reaching out to populations largely ignored by elite institutions — working adults, often low-income, who want the flexibility of online education.

For-profits are under attack by the U.S. Department of Education. Eduardo Ochoa, the Department of Education's assistant secretary for higher education, the second speaker, discussed the Obama administration's goals of accountability in higher education — which includes being particularly hard on for-profit schools.

Other speakers were Ben Wildavsky, formerly of *U.S. News and World Report's* "Best Colleges" project, who discussed the benefits of global expansion of higher education; Louis Menand of Harvard, who argued that liberal arts and vocational success should not be antagonists; and Mark Taylor of Columbia University, who wants to replace the rigid educational patterns of today with a freer form of education (like the exploration made possible by an iPad.)

Congratulations to Duke and, specifically, to Stephen Nowicki, dean and vice provost for undergraduate education, for selecting a topical issue and for treating it with respect. CJ

Compiled by Jane S. Shaw, president of the John W. Pope Center for Higher Education Policy (popecenter.org).

Core Curriculum Mixed Bag For N.C. Colleges

By JENNA ASHLEY ROBINSON
Contributor

RALEIGH

All North Carolina colleges and universities claim that they require undergraduates to take courses in "core" subjects such as composition, mathematics, and science. But a new Pope Center survey that scrutinized and quantified those claims shows that many schools fall short.

A solid core curriculum — sometimes called "general education" — largely is acknowledged to be an important part of university education. Strong basic courses help students develop a spirit of inquiry, logical thinking, and a regard for the proper evaluation of evidence.

The Pope Center survey (see chart at right) was compiled and analyzed by the American Council of Trustees and Alumni, an independent nonprofit organization that works with trustees, alumni, and education leaders across the United States. The survey examined general education requirements at 48 of the state's 54 accredited four-year nonprofit colleges and universities — and gave those schools letter grades from A to F.

The grades are based on detailed reviews of the latest publicly available online course catalogs. ACTA reviewed the catalogs to determine whether the schools require the core subjects of composition, economics, foreign language, literature, mathematics, sci-

ence, and U.S. history or government. In order to receive top marks, a school must require courses in at least six of the seven core subjects.

Simply listing literature or mathematics as a requirement is not sufficient to meet ACTA standards. For example, in order for a U.S. history or politics course to be counted, it must have "enough breadth to give a broad sweep of American history and institutions."

The website notes that "distribution requirements" often allow students to choose courses that are "narrow or even outside the stated field altogether."

The only school in North Carolina to receive an "A" was Wing-

ate University. Only two schools in the state, UNC-Pembroke and Wingate University, require students to study economics, and only two others, Belmont Abbey College and Chowan University, require courses in U.S. government or history. Twenty-two universities required at least four of the seven surveyed courses, receiving a grade of "B."

Nationally, only 18 schools received an "A" grade, including Kenesaw State University, St. John's College, Thomas Aquinas College, the U.S. Air Force Academy, and the U.S. Military Academy at West Point. CJ

Jenna Ashley Robinson is outreach coordinator of the John W. Pope Center for Higher Education Policy (popecenter.org).

Only one school
in North Carolina
received an
'A' grade
in the survey

School	Grade
Appalachian State University	D
Barton College	C
Belmont Abbey College	B
Bennett College for Women	B
Brevard College	C
Cabarrus College of Health Sciences	N/A
Campbell University	B
Catawba College	B
Chowan University	B
Davidson	C
Duke University	B
East Carolina University	B
Elizabeth City State University	B
Elon University	C
Fayetteville State University	C
Gardner-Webb University	B
Greensboro College	D
Guilford College	F
High Point University	C
Johnson & Wales	N/A
Johnson C. Smith University	B
Lees-McRae College	C
Lenoir-Rhyne University	C
Livingstone College	N/A
Mars Hill College	C
Meredith College	B
Methodist University	B
Mid-Atlantic Christian University	D
Montreat College	B
Mount Olive College	B
North Carolina A&T State University	N/A
North Carolina Central University	B
North Carolina State University	B
North Carolina Wesleyan College	C
Peace College	B
Pfeiffer University	D
Queens University of Charlotte	C
Saint Augustine's College	C
Salem College	C
Shaw University	C
The College at Southeastern	N/A
St. Andrews Presbyterian College	C
UNC Asheville	B
UNC Chapel Hill	B
UNC Charlotte	C
UNC Greensboro	B
UNC Pembroke	B
UNC Wilmington	C
UNC School of the Arts	N/A
Wake Forest University	D
Warren Wilson College	C
Western Carolina University	D
Wingate University	A
Winston-Salem State University	B



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Opinion

Veiled Intentions: The 'Ground Zero' Imam Speaks at UNC-CH

The selection of Feisal Abdul Rauf for this year's Weil Lecture on American Citizenship at the University of North Carolina at Chapel Hill was controversial by design, according to Chancellor Holden Thorp. Bringing the nationally known, divisive "Ground Zero Imam" to campus March 16 was intended to spark a dialogue and shed light on a raging topic of national discussion.

Rauf is the key figure in a highly charged debate over the location of his proposed Islamic community center. It will be situated two blocks from Ground Zero, where the twin towers of the World Trade Center stood before the Sept. 11, 2001, terrorist attacks. Critics have said that the "mosque" (the center includes an Islamic worship area) is a deliberate affront to 9/11 victims' families and even have suggested that it is a symbolic declaration of victory over the West.

Rauf denies such intentions. He long has tried to position himself as the voice of "moderate" Islam: According to Fareed Zakaria, editor-at-large at *TIME*. Rauf champions "the

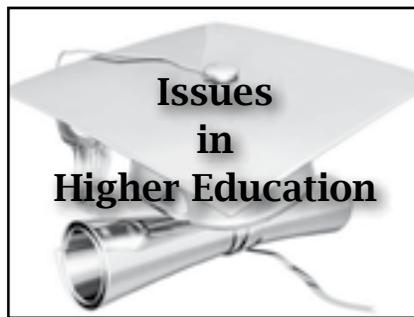
need for Muslims to live peacefully with all other religions." The U.S. State Department even has sent Rauf on an outreach tour of Middle Eastern countries to promote his brand of Islam.

Talk of peaceful coexistence is well and good — but it's important to know on whose terms this coexistence will be. While on one hand, Rauf positions himself as a moderate, he also has made statements that may indicate his moderate stance is a façade, including:

- "United States policies were an accessory to the crime that happened (on 9/11)."
- "The West must acknowledge the harm they have done to Muslims before terrorism will end."
- "We tend to forget, in the West, that the United States has more Muslim blood on its hands than al-Qaida has on its hands of innocent non-Muslims."

Even the name of the proposed center — the Cordoba House — resembles a taunt more than an attempt at conciliation. That name immediately conjures images of the Caliphate of Cordoba that ruled a Muslim-conquered Spain in the 10th and 11th centuries.

Rauf's talk at UNC-Chapel Hill did little to allay doubts of his sincerity. He offered broad generalities about mankind's common values, but then made statements that were hard to accept at face value:



- He depicted Islam as a model of "religious tolerance."
- He suggested that Islam offers equal treatment for women.
- He

indicated that violent terrorism and nonviolent acts condemning Islam's aggressive nature — such as the publication of satirical cartoons of Muhammad in Denmark — were morally equivalent.

- He claimed that "90 percent" of the family members of 9/11 victims have no problems with the Muslim presence near Ground Zero.

Additionally, he scoffed at critics' claims that he is trying to bring Islamic Sharia law to this country. But he followed with an argument for why Shariah law is compliant with the U.S. Constitution, except for Shariah's penal codes.

For the most part, UNC-Chapel Hill provided Rauf with a venue to present his views unchallenged in a friendly environment. The audience of several hundred people — many of them senior citizens — appeared to tilt heavily toward Chapel Hill's liberal population. Rauf's messages of multiculturalism, "world citizenship," and condemnation of his opponents on the political right as a "small group of xenophobic radicals" resonated with them.

Perhaps the event would have been more enlightening had the oppo-

sition chosen to participate instead of holding a concurrent event in protest a short distance away.

At a rented room in the Carolina Inn, roughly 35 people gathered to watch a documentary film, "Sacrificed Survivors: The Untold Story of the Ground Zero Mega-Mosque," and to listen to former New York City firefighter Tim Brown speak. They had a different take on Rauf and his community center. "He's planting a flag of Islam on the grave of 3,000 innocent souls," said Martin Mawyer, the movie's producer. Mawyer said he made the film for the families of 9/11 victims to have their say on the mosque.

The protesters held a candlelight vigil for the 9/11 victims, walking past the Hill Hall auditorium as Rauf spoke inside. They deliberately waited to avoid confrontation. "We don't want a big scene where we're on the sidewalk shouting at each other," explained Curtis Carrington of Holly Springs, who helped organize the protest.

This issue will not be resolved without a deeper examination of Rauf's beliefs. His performance brought to mind a quip by *National Review* writer Andrew McCarthy about "spoons full of sugar that helped the shariah go down." Sadly, it was clear from the standing ovation for Rauf that many in the audience were only too eager to swallow his message. CJ

Jay Schalin is senior writer and Duke Cheston is reporter/writer for the John W. Pope Center for Higher Education Policy (popecenter.org).



JAY SCHALIN



DUKE CHESTON

Do universities really make the local economy stronger?



Pope Center's senior writer, Jay Schalin, explores this topic in the report "State Investment in Universities: Rethinking the Impact on Economic Growth."

Possible examples include SAS in Cary, Silicon Valley in CA, Route 128 corridor in MA, and Research Triangle Park in NC.

To receive a free copy, call 919.828.1400 or email shaw@popecenter.org.



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Why Don't Colleges Post Syllabi?

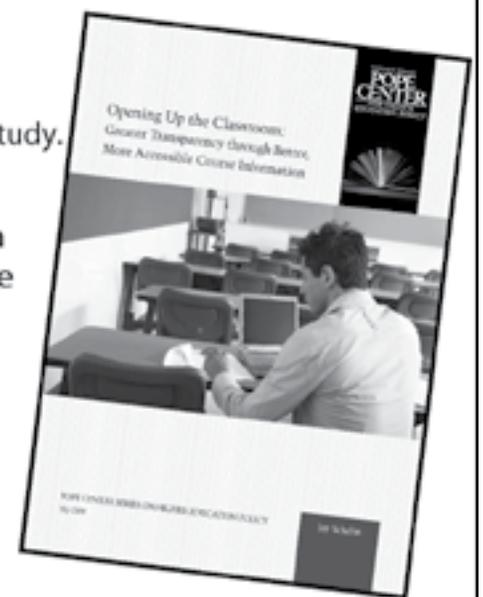
They should, says a Pope Center study.

"Opening Up the Classroom: Greater Transparency through Better, More Accessible Course Information," by Jay Schalin

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Or so the morning newspapers and nightly news tell us. Not so fast, cautions best-selling author Tom Woods in his blockbuster new expose, *Rollback: Repealing Big Government Before the Coming Fiscal Collapse*.

"We're not on the road to recovery; we're on the road to economic Armageddon," Woods writes. "Thanks to decades of over-spending, over-promising, over-borrowing and over-printing, we've created a wave of debt that's about to swamp our already feeble economy and cripple us permanently."

As *Rollback* reveals, we still have a chance to avert total economic disaster — but only by completely rolling back our runaway government and drastically cutting back the programs and agencies we've been taught we can't live without. Learn more at www.regnery.com.

• In a departure from recent books that have described Congress as the broken branch or the Second Civil War, William Connelly argues in *James Madison Rules America* that partisanship, polarization, and the permanent campaign are an inevitable part of congressional politics.

Drawing on a 200-year debate within American political thought among the Federalists, Anti-Federalists, Alexis de Tocqueville, and Woodrow Wilson, *James Madison Rules America* is as topical as current debates over partisan polarization and the permanent campaign. More at www.rowmanlittlefield.com.

• If you were taught that the Middle Ages was a time of intellectual stagnation, superstition, and ignorance, you were taught a myth that has been refuted fully by modern scholarship.

As a physicist and historian of science, James Hannam shows in his brilliant new book, *The Genesis of Science: How the Christian Middle Ages Launched the Scientific Revolution*, without the scholarship of the "barbaric" Middle Ages, modern science simply would not exist.

Provocative, engaging, and a terrific read, Hannam's book will change the way you think about our past — and our future. More at www.regnery.com. CJ

Book review

Revenge Raises Many Questions But Offers Few Answers

• Andrew P. Napolitano. *Dred Scott's Revenge: A Legal History of Race and Freedom in America*, Nashville: Thomas Nelson, 2009, 288 pages, \$25.99.

BY HAL YOUNG
Contributor

LAST year my family and I toured the old Supreme Court chambers in the Capitol in Washington. The courtroom is lined with busts immortalizing the first four chief justices. The tour guide pointed out in passing that the fifth, Roger Taney, doesn't stand next to the greats like John Jay and John Marshall; he lurks in the robing room like an abandoned raincoat.

Taney (pronounced TAW-ney) wrote what may be the most destructive of all Supreme Court rulings, the *Dred Scott* decision which stated that black Americans had no standing to sue, because they weren't really persons to begin with.

Judge Andrew Napolitano's *Dred Scott's Revenge* traces America's heritage of racial discrimination and tension from its earliest days as a settlement. It's not a pleasant story, and the book can be an uncomfortable experience. Napolitano doesn't pull any punches or gloss over any cruelty or injustice.

Unfortunately, the book suffers from odd twists of logic caused by the judge's approach to the question — as a matter of natural versus positive law — and a broad-brush tarring of everyone from Lincoln to Reagan with the charge of outright racism or complicity with the race hatred of others.

The book is about race, but Napolitano sees the underlying conflict as not between black and white or even slavery and freedom, but between theories of law. Any rule or right which is universally inherent comes from what John Locke called the state of nature, a natural law preceding and superceding all others.

Any right depending on the voter or the government is positivistic. And through the centuries, American judges and lawmakers have argued on both sides when it suited their purposes.

Napolitano says that law rightly comes from both sources — positive enactments which criminalize an action because the state declares it illegal, and natural law which may be a common understanding or supported by legislation as well. One is a case of speed limits, another forbids murder. There is a place for both.

The difficulty for Napolitano's argument is how to resolve the tension between them. "[Where] positivism is limited to laws passed by governments, natural law is not. Natural law knows only one authority: Our human nature that is created by God," he writes. "Therefore, natural law allows judges to strike down properly passed laws that infringe on our freedom of speech, worship, or assembly even if the Constitution did not protect those freedoms."

So far, so good. However, Napolitano acknowledges that it is entirely possible for a law to be just and also unconstitutional, or be perfectly in line with the Constitution and fly in the face of natural law. How, then, should judges rule? Should a jurist rule strictly on the letter of the positive law — and any constitution is a positive enactment by defi-

inition — or should he use his position and power to pull the enacted laws into alignment with the natural? Should we praise the liberal judge who follows a strict construction, or the activist conservative?

The tension is real, and a reality Napolitano doesn't quite resolve. Take the case of *Brown v. Board of Education*. After several pages arguing that the Supreme Court acted unconstitutionally in the decision — though it was morally right and a conclusion driven by the natural law — he then complains that by allowing states to desegregate at their own pace, "the Court identified unconstitutional behavior by a state and permitted it to continue."

It highlights a particular stress in the debate: The very authority of a justice rests on the positive law of the Constitution. If a Supreme Court justice takes exception to the Constitution on grounds of natural law, whence comes his authority to act? If he resigned from the bench and worked to change the Constitution by the normal political process, fine, but trying to rewrite the document empowering his

position saws off the branch on which he sits. Napolitano never addresses this paradox.

Like a prosecuting attorney, the judge opens closets and drags out skeletons to rattle at politicians and jurists of every stripe. He reserves special criticism for an unlikely target: Abraham Lincoln. Most of two chapters are devoted to the racial politics of the 16th president, whom Napolitano almost dismisses as "cynical."

Napolitano quotes Lincoln's statement that slavery was not his primary issue, but preservation of the Union. "Lincoln places the freedom of blacks on a low priority compared to his desire to unify the nation, and his words here seem more becoming of a Confederate Army officer than the so-called Great Emancipator. Yet it is the latter title that we've all been taught to attribute to Abraham Lincoln."

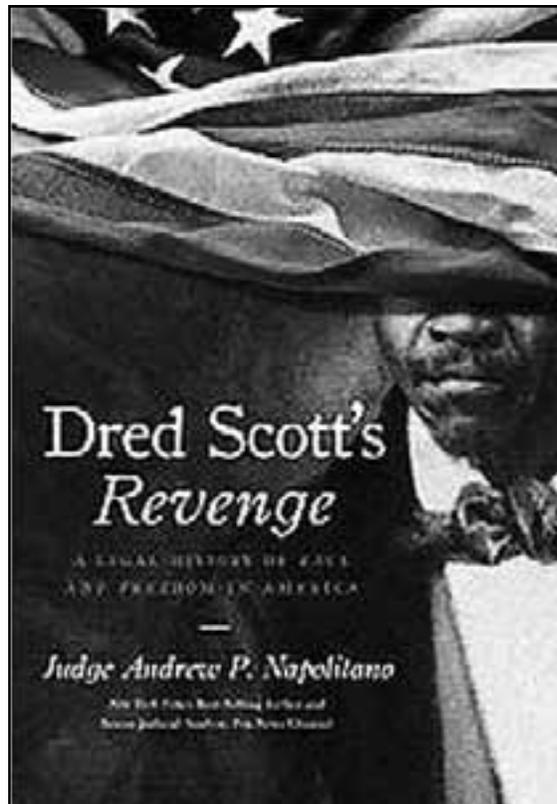
Napolitano explains how the progressive Democrat Wood-

row Wilson took positive steps to ensure total segregation in the Army, dismissing qualified black officers in favor of whites. Even the Great Communicator is accused of crypto-racist messaging. "Reagan himself was no racist," Napolitano writes, but Reagan's efforts at welfare reform were racially polarizing appeals to his working- and middle-class white supporters.

Reagan began his 1980 presidential run in the Mississippi town where three civil-rights workers were murdered in 1964 by the Ku Klux Klan. "To open a presidential campaign with a speech about states' rights in a place with such a loaded history was hardly an accident," Napolitano says.

Napolitano's account brings to light numerous buried facts from history, and by clearly showing the racial overtones of governmental actions, whether intentional or inadvertent, underscores the truth that both parties are at fault. For a conservative commentator and a jurist to question the justice of our criminal courts does command attention.

But for all that, the "revenge" of the title — the inauguration of our first black president — is proving to be less of a satisfaction than even Napolitano probably hoped for, and by raising so many questions anew, this book does not give an adequate solution to them in the end. CJ



'Gentleman Pirate' Had Brief But Eventful Plundering Career

A former planter turned brigand, Stede Bonnet, known as the "Gentleman Pirate," was a second-generation Barbadian who sailed throughout the Caribbean, the Gulf of Mexico, and the North American coastline committing acts of piracy.

Bonnet's brief plundering career (1717-18) had a most unusual beginning. Most pirates became captains after they had captured a vessel or emerged as a leader among an existing crew. The 28-year old Bonnet, however, abandoned his family — a wife and three children (two boys and one girl) — and embarked on an adventure that he soon regretted. He purchased a vessel, the *Revenge*, and recruited and employed a crew.

Bonnet and his crew first sailed up and down what is now the Atlantic seaboard of the United States. After six months of looting, he careened the

Revenge at a hideout in the Cape Fear Inlet. (Careening is turning a vessel on its side in order to clean or repair it; it was necessary maintenance.)

When the essential repairs were made, Bonnet sailed back to Nassau, and the *Revenge* and crew encountered a Spanish man-of-war. In the subsequent conflict, Bonnet was injured, and the crew sailed a crippled ship back to port. There, Bonnet met Benjamin Hornigold and Blackbeard and agreed to let the latter, an observant manipulator, command the *Revenge* while he recovered. Blackbeard, meanwhile, took note that Bonnet's crew lacked respect for their captain.

After Bonnet and his crew had mended their wounds and tended the ship, they once again plundered trade on the high seas, but soon suffered an inglorious defeat. Humiliated, Bonnet and the *Revenge* sailed to Belize. There they saw Blackbeard and his *Queen Anne's Revenge*. Bonnet's crew soon complained about their leader's "personality weaknesses and poor seamanship," writes historian Lindley Butler.

In a few days, Blackbeard tricked

Bonnet and assumed command of the *Revenge*. A crew of 400 men and the ships raided the high seas and sailed to Beaufort for a respite. Sailing into the Beaufort Inlet, two boats were grounded on sandbars. Questions remain whether the grounding of the boats was accidental or intentional. Either way, while a somewhat regretful Bonnet sought a pardon from Charles Eden, the royal governor of North Carolina, Blackbeard seized the opportunity to escape in a Spanish ship with the loot. Only five men remained on Bonnet's *Revenge*.

Bonnet sought vengeance and with a newly assembled crew sailed to Ocracoke after Blackbeard. After learning that Blackbeard had fled, Bonnet turned his attention again to raiding the Atlantic seaboard. He captured several large vessels and divided the treasure equally among his crew.

Meanwhile, Col. William Rhett of Charleston, S.C., searched for pirates who had harassed the beleaguered port and plundered its shipping. Rhett found Bonnet and crew careening their boat in the Cape Fear

Inlet. After a six-hour battle, Bonnet was captured and transported to Charleston.

Bonnet escaped from jail, but a few days later, he and a few other pirates were captured at Sullivan's Island and returned to a cell in Charleston. The judge dismissed Bonnet's defense, and the Gentleman Pirate was sentenced to death.

On Dec. 10, 1718, some in the Charleston crowd reportedly felt pity as they saw a once-proud man, with drooping head and shackled hands, holding a bouquet, now silent, walking to his death. A few moments later, the Charleston crowd heard the creaking of rope and saw the Gentleman Pirate swinging from the gallows — bouquet still in hand.

For more information about Stede Bonnet, consult Lindley Butler, *Pirates, Privateers, and Rebel Raiders of the Carolina Coast* (University of North Carolina Press, 2000). CJ

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



TROY KICKLER

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Short Takes on Culture

Flee 'Glee'

• "Glee"
Created by Ian Brennan
FOX

While our country is taking new directions in government, 11 high school students are taking the New Directions glee club viral on FOX's Tuesday night musical comedy "Glee." The show focuses on social issues faced in high school, and the interpretation of those issues leaves an increasingly bitter taste in the mouth of some viewers.

Underage drinking, homosexuality, teenage pregnancy, and sexuality are all topics featured in recent episodes. A recent installment, "Blame it on the Alcohol," explores the issue of teenage drinking by featuring drunken glee club members throwing up on their audience.

The final message? Glee club teacher Will Schuster (played by Matthew Morrison) tells his students that he knows they will drink, so always call for a ride home.

Is that the answer?

Another recent episode titled "Sexy" advised viewer discretion before launching into a 45-minute advertisement for sex education in schools. Complete with graphic dance performances and lessons on sex, the episode glorifies everything that there is to "experience."

The final message? It's natural to do, so just be safe about it. Again, is that the answer?

"Glee" has found its niche in a society that allows media to dictate its ideas. The show premiered under the appearance of a musical television show that would appeal to a wide audience — and it uses that appeal to push Hollywood-approved social issues.

"Relevant" isn't always "right."
— LAUREN UBERSEDER

• *Lapham's Quarterly*
Edited by Lewis Lapham
American Agora Foundation

In 2007, former longtime editor of *Harper's Magazine* Lewis Lapham began a new and fascinating quarterly scholarly magazine called *Lapham's Quarterly*. Each issue examines a theme using primary source material from history.

Recent issues have examined war, money, the state of nature, medicine, lines of work, sports and games, and crime and punishment. Contributors have included historical luminaries such as Jack the Ripper, Thucydides, Henry Ford, Geoffrey

Chaucer, Charles Darwin, Basho, Rene Descartes, Thomas Jefferson, Helen Keller, Henry VIII, Louis Pasteur, Hippocrates, Doris Lessing, Sigmund Freud, Alexandr Pushkin, Aristotle, Marcus Aurelius, Adam Smith, Mary Shelley, and Italo Calvino, to name a few.

Each issue has a long introductory essay by Lapham, followed by the selections — or "Voices in Time" as they are labeled. Each section has a range of contributions spanning several millennia, providing the reader with a balanced and intriguing look at the theme at hand.

In addition to the print version, there are blog posts and podcasts on the *Lapham's Quarterly* website, both of which are well worth visits. Lavishly illustrated and wonderfully produced, each issue of *Lapham's Quarterly* is eagerly anticipated.

— KORY SWANSON

• *Basic Economics: A Common-Sense Guide to the Economy (4th Edition)*
By Thomas Sowell
Basic Books

Having read the third edition of Thomas Sowell's basic economic handbook four years ago, this reviewer had toyed with the idea of skipping the new fourth edition.

That would have been a mistake.

One never fails to gain value from reading Sowell's clearheaded analysis of economic myths and misconceptions. Now almost 700 pages long, Sowell's *Basic Economics* dissects most fallacies a student of politics and public policy is likely to face.

A key mistake involves "thinking of the economy as a set of zero-sum transactions," Sowell writes. "If economic transactions could benefit one party to those transactions only at the expense of the other party, then it would be understandable to believe that government intervention to change the transactions terms would produce a net benefit to a particular party, such as tenants or employees.

"But, if economic transactions benefit both parties, then changing the transactions terms to favor one side tends to reduce the number of transactions that the other side is willing to engage in." If government helps Paul win concessions from Peter, Peter has less incentive to work with Paul again.

From the politics of rent control to the importance of profits and losses Sowell's jargon-free tome helps set the economic record straight.

— MITCH KOKAI CJ

April 28-May 1

Merlefest Succeeds With Harmony

By RICK HENDERSON
Managing Editor

RALEIGH

On a warm April afternoon in 2007, the Canadian string band The Duhks were in the middle of a set on the Watson Stage at Merlefest in Wilkesboro. John Paul Jones, Led Zeppelin's bassist, walked on stage, mandolin in hand, and joined the group for a surprising rendition of "Whole Lotta Love." Later that night, Jones would sit in with Doc Watson, Earl Scruggs, and the Nitty Gritty Dirt Band in a rollicking jam session.

John Paul Jones was not a scheduled performer; he was there to watch Uncle Earl, a female bluegrass band whose most recent CD he had produced. But his unexpected appearance sums up perfectly the official slogan of Merlefest: "Music. Moments. Memories."

The festival began in 1988 as a benefit concert to build a memorial garden honoring Eddy Merle Watson, Doc's recently deceased son and guitar-picking partner. It quickly grew to a



Steve Martin, left, and Doc Watson at the 2010 edition of Merlefest. (Photo by Sherry Dancy)

weekend-long event. And more than two decades later, Merlefest has expanded into one of the nation's largest traditional music festivals, routinely drawing more than 70,000 fans over four days to my hometown in the Western North Carolina foothills.

In late April, more than 70 acts will appear on the dozen or so stages scattered across the campus of Wilkes Community College. Most years you can expect to see bluegrass legends, including Del McCoury, Ralph Stanley, and Scruggs; country music standouts such as Emmylou Harris, Jim Lauderdale, Marty Stuart, Lyle Lovett, Randy Travis, and Dolly Parton; newgrass innovators Sam Bush, Jerry Douglas, Allison Krauss, and Tony Rice; and younger acts, including Steep Canyon Rangers, the Carolina Chocolate Drops, Scythian, and Bearfoot.

The uninitiated might think Merlefest is mainly for the lovers of bluegrass, gospel, or traditional country music, but Doc always has called the music he plays "traditional-plus," and the lineup reflect Doc's eclectic tastes. Some of the most exciting sets have come from genre-benders like Donna the Buffalo, Taj Majal, the Avett Brothers, Old Crow Medicine Show, and my

favorite group, the Waybacks. In recent years, Steve Martin, Little Feat, Levon Helm (of The Band), and Elvis Costello have graced the main Watson Stage.

And this year, John Paul Jones' former bandmate Robert Plant will bring his Band of Joy to close out the festival.

While the music is the main attraction, Merlefest succeeds more than any multiday festival I've attended because of the harmonious relationship between the performers, the venues, the audience, and the volunteers. Headlining acts play the Watson Stage, with grounds that can accommodate more than 30,000 listeners. But the smaller stages, both outdoors and inside a few of the buildings, offer a chance to enjoy the music in much more intimate settings. And everyone is welcome to bring an instrument, find an open spot, and pick a little.

Unlike a lot of other festivals, Merlefest is family-friendly. Alcohol is neither sold nor allowed on the grounds. And there are plenty of open and covered areas for kids

to play, including a rock-climbing wall and a "Little Pickers" tent for young prodigies, and a dance tent if you want to kick up your heels. Merchandise displays, food and beverage stations, and an Internet café offer places to take a break. Hundreds of volunteers keep the shows on time, the food tents stocked, and the surroundings tidy. And the sound quality is stellar.

Another pleasant surprise is the cost. The festival opens and closes with "short" (seven-hour) days; Friday and Saturday, the music starts at 9:30 a.m. and goes 'til midnight. Even so, a four-day general admission pass is only \$155; a pass with reserved seating for the festival ranges from \$225 to \$250. And single-day tickets — good for every performance that day — can be had from between \$35 and \$55. With more than 100 performances at your disposal, Merlefest is a genuine bargain.

What ties the festival together is the presence of Doc Watson, now 88. Doc has cut back his schedule a bit — the past couple of years he's performed only two or three days, rather than all four. But he has retained his incomparable voice, crystal-clear playing, and huge heart. Catch him — and Merlefest — while you can. CJ

Book review

Malanga: Conspiracy of Pols, Interest Groups Robbing Taxpayers

• Steven Malanga, *Shakedown: The Continuing Conspiracy Against the American Taxpayer*, Lanham, Md.: Ivan R. Dee, 2010, 168 pages, \$22.50.

BY GEORGE LEEF
Contributor

RALEIGH

Politics has been described fatuously as “the art of the possible” — as if it were not possible to achieve goals through means other than politics. But politics has a unique feature that sets it apart from all sorts of voluntary action: It employs coercion. Politicians can raid the wallets of taxpayers, forcing them to part with money they would rather spend, donate, or invest according to their own desires. Much of the money thus confiscated then is spent to succor special-interest groups that will in turn support their political friends.

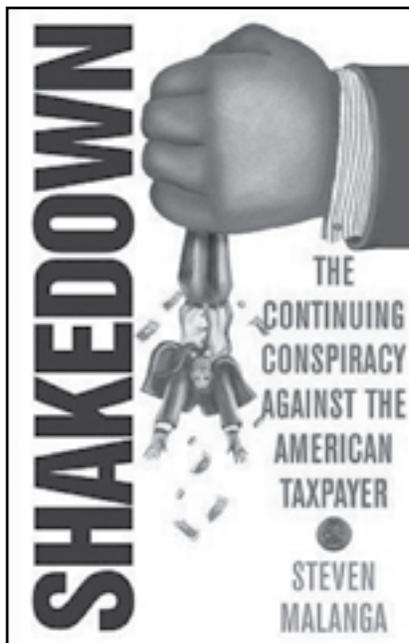
Once I happened to criticize high tax rates to a friend, a “liberal” with decidedly egalitarian beliefs. His reply was that he didn’t mind high taxes because, he said, “The public receives needed government services in return.” That is the sentiment politicians and interest group leaders know how to exploit. All they have to do is to cloak their programs in rhetoric about “the public good,” and most opposition to their schemes will evaporate.

In his latest book, Manhattan Institute scholar Steven Malanga explores the venal game of separating people from their money through conspiracies between politicians and special interest groups. Taxpayers are being systematically robbed by those conspiracies — Malanga uses precisely the right word — to fund a plethora

of high-cost, low-benefit (sometimes no-benefit) government boondoggles like public education, urban renewal, safety from terrorists, mass transit, alternative energy sources, and so on. Naturally, the people and organizations receiving the government cash reinvest some of it in propaganda (excuse me — “public relations”) and political campaigns to ensure that their money flow never is diminished or shut off.

This plague is far worse in some states than others. Malanga devotes entire chapters to the fiscal wreckage done to California and New Jersey by public-sector unions. California has a prodigious budget deficit that is sure to increase due to the extravagant promises that politicians have made to government employees — high salaries followed by lavish retirement benefits. Prison guards, for example, earn six-figure salaries owing to the political support their union gave to former Gov. Gray Davis and key legislators. The union’s endorsement enabled them to posture as being “tough on crime” when they really meant to be tough on taxpayers.

Teachers’ unions are virtuoso performers in the shakedown ritual. They tirelessly promote the notion



that more spending on education is a panacea that cures poverty, inequality, economic woes, environmental degradation, and so on. Anyone who dissents will be pilloried as “anti-education” in heavily funded attack ads. In New Jersey, the state government until recently was little more than a vassal of the New Jersey Education Association, squeezing more and more out of taxpayers. That rising tax burdens

have long-term adverse economic effects apparently never occurs to the union leaders. Or perhaps they simply don’t care. In any event, New Jersey underscores just how steep a price we pay for having turned education, which should be a matter of choice and contract, into a coercive near-monopoly by government.

The most expensive shakedown ever has been our housing debacle. Malanga has an illuminating chapter on that. He begins with the forgotten history of governmental meddling in the housing market, which goes back to that early advocate of government economic intervention, Herbert Hoover. As Warren Harding’s Secretary of Commerce in 1922, Hoover launched the Own Your Own Home campaign, the beginning of a

long series of futile, costly federal programs to encourage Americans to buy rather than rent their housing. Just as with education, housing is none of the government’s business, but the notion that rising ownership percentages show “progress” has become an article of faith with many politicians. From Hoover through Barack Obama, taxpayers have had to pick up the costs of mortgage defaults — mortgages that never would have been written but for the idiotic political mania. The huge tab for the lending binge by the two government mortgage giants Fannie Mae and Freddie Mac falls not on the politicians and advocacy groups that inflated the housing bubble, but on the suffering taxpayers.

What makes these and many other shakedowns possible (and arguably inevitable) is what Malanga calls “the culture of entitlement.” Rapidly eroding are the old virtues of thrift and self-reliance. They have been replaced by feelings that everyone is entitled to whatever he wants and that the purpose of government is to ensure that it is provided. Thus, there is nothing morally wrong in pushing the government to give you whatever you want. If others aren’t happy, they can play the political game, too. As long as the process of expropriation takes place under the cover of “democracy,” no one can complain.

Well, people should complain, and *Shakedown* will undoubtedly provide the fuel for the building rebellion against the conspiracy Malanga has ably exposed. CJ

George Leef (georgeleef@aol.com) is book review editor of *The Freeman*.

BOOKS AUTHORED BY JLF STAFFERS



By John Hood
President of the
John Locke Foundation

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Choice
April 2006

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The North Carolina Education Alliance is a project of the John Locke Foundation

COMMENTARY

Different Approaches To Job Creation

At 9.7 percent, North Carolina's unemployment rate is nearly one full point higher than unemployment nationwide. In the last three years, our private sector has lost 300,000 jobs despite the state's efforts to pour billions of dollars into corporate welfare funds. Many House Republicans wear red wristbands reminding them to focus on jobs, the Democrats hold weekly press conferences touting jobs legislation, and Bev Perdue has declared herself the "jobs governor." But what is government doing to help?

Perdue claims government can and should create jobs and believes that targeted incentives to select companies will help. She vetoed Senate Bill 13, which would have taken \$78 million out of corporate welfare funds to ease the budget crunch and ensure funding for teachers. She says she needs the money to create jobs.



BECKI GRAY

According to the latest numbers from the Tax Foundation, North Carolina has one of the 10 worst business climates in the country. Our high tax structure discourages economic growth and job creation. Perdue has proposed lowering the corporate tax rate from 6.9 percent to 4.9 percent, but she wants to keep most of a sales tax increase that was set to expire.

The new leadership in the General Assembly has promised not to raise taxes. It is discussing even lower corporate and individual income tax rates, and is looking at reforming our tax system to make it fair, equitable, and stable. If businesses know what their tax burden will be and if it is fair, they can invest and grow, which is what creates jobs.

Aside from an oppressive tax burden, businesses complain about government rules that drive up business costs and stifle growth and job creation. North Carolina has 23,940 rules in place governing things such as stormwater runoff, the distribution and sale of goods, home construction, who can and can't open businesses, and on and on. Most of these rules are written and implemented by unelected

government bureaucrats with little concern for how the rules affect North Carolina businesses.

Senate Joint Resolution 17 established the Joint Committee on Regulatory Reform that "shall work to create a strong environment for private sector job creation by lifting the undue burden imposed by outdated, unnecessary, and vague rules." The committee already has launched a statewide tour to hear public comments.

Along with concerns about the costs of complying with regulations, the committee is hearing that

bureaucrats are applying rules inconsistently. The committee also is charged with reviewing "the rule-making process to determine if the procedures for adopting rules give adequate consideration to the potential impact on job creation."

With that in mind, additional legislation would subject rules to a cost-benefit analysis; require them to be simple and easy to understand; prohibit any rule from exceeding federal standards; mandate a statement of why the rule is needed and what problem it is addressing; examine if there are alternatives to the rule; and include periodic review to ensure all rules are still doing what they were intended to do.

Rules often result in unexpected costs to businesses. Senate Bill 22 would prohibit any state agency from adopting a rule resulting in aggregate costs of \$500,000 to all of those affected by the rule (with some exceptions for emergencies, etc.).

Everyone agrees that we need more jobs and better ones. The governor seems to think taking money from one taxpayer and giving it to another through "economic incentives" is the way to get there. The General Assembly seems to think lower taxes and reasonable regulations are the way to go. I'll put my money on the latter approach. CJ

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



EDITORIAL

Stop The Sleaze

Outgoing Senate President Pro Tem Marc Basnight got a nifty retirement present from the state Department of Transportation: \$350,000 in taxpayer funding to upgrade a private tourist attraction and event facility near his Manteo home.

The DOT's engineers, managers, and board OK'd the money to improve walkways and install lighting at the Elizabethan Gardens — a 10-acre parcel near the "Lost Colony" Waterfront Theatre. The upgrades will improve access to the formal gardens and make it easier for the operators of the (again, private) facility to book weddings and other functions. The board gave final approval to the project in early February, after Basnight left his Senate seat.

As Don Carrington notes in this month's cover story, DOT's approval was a mere formality, as the money came from a "contingency fund" that is divided equally among the transportation secretary, the speaker of the House, and the Senate president pro tem. The discretionary fund — currently \$15 million a year — has existed for more than two decades, and legislative leaders can tap it for any purpose at any time.

It's not much different from the other slush funds Carrington identified in 1997 and 2005, also controlled by Basnight and his House counterparts. In those cases, money was set aside in the budget for legislative leaders to tap at their discretion. The earlier slush funds were carved out of the state's General Fund (where several executive branch agencies maintained the accounts), and when media reports brought the slush funds to light, they disappeared. In this case the transportation secretary keeps

tabs on the DOT Contingency Fund and writes checks for the legislative leadership.

Meantime, more than \$16 million in transportation projects that have been targeted by DOT as legitimate safety priorities — including dangerous intersections and narrow traffic lanes that place motorists and pedestrians in peril — languish without funding.

Unfortunately, the new GOP leaders have failed to acknowledge the sleazy nature of the Contingency Fund. Basnight's successor, Sen. Phil Berger, R-Rockingham, approved a \$24,000 grant for improvements on a private rural dirt road. DOT engineers had reviewed the project and decided it didn't meet their guidelines for full funding. Berger fast-tracked it anyway.

This setup does not appear in any civics textbook. After all, the North Carolina Constitution states that the "legislative, executive, and supreme judicial powers of the state government shall be forever separate and distinct from each other," and that the "budget as enacted by the General Assembly shall be administered by the Governor."

An advisory opinion from the attorney general's office in 2005 noted that the discretionary funds do not violate separation of powers because the diversion of money was informal. No law gave Basnight or his counterparts control of the funding. The arrangement was made with a nod and a handshake.

Gov. Bev Perdue should stop the sleaze. She needs to instruct Transportation Secretary Gene Conti to stop maintaining checking accounts for legislative leaders. And do it soon. CJ

EDITORIALS

The Emerging Suburbs

Their rise will reward thrifty government

After the U.S. Census Bureau released more of its 2010 data, including the counts that will serve as the basis for congressional and legislative redistricting, some politicians and pundits observed that population growth in Wake, Mecklenburg, and a dozen other counties will make North Carolina politics more urban.

It would be more accurate to say that state politics is about to become more suburban.

The distinction is more than a semantic one. While North Carolina's metropolitan areas accounted for a disproportionate amount of the state's growth over the past 10 years, the truly urban business districts and neighborhoods in the downtowns of Charlotte, Raleigh, Wilmington, and other cities weren't a major part of the population story.

The vast majority of the population growth has occurred in suburban neighborhoods, some within the core counties such as Mecklenburg, Wake, and New Hanover, but many others across the border in counties such as Union, Cabarrus, Iredell, Johnston, Harnett, Chatham, Brunswick, and Pender.

North Carolina's 14 most-populous counties now account for a majority of the state's population. By national standards, however, very little of this area is truly urban. Our

population densities are low, and most people prefer to use their automobiles to work, shop, or recreate rather than live in denser mixed-use developments or villages.

In other words, the suburb is the preferred destination for most families looking to improve their lot. North Carolinians are free to disagree with the emerging suburban norm and pursue different dreams. But most don't. The population magnets look more like Cary or Huntersville than like Asheville or Carrboro.

Redistricting committees in the North Carolina House and Senate have begun work on new congressional and legislative maps. Inevitably, the state's suburban areas will gain clout at the expense of rural ones, while truly urban representation will remain about the same.

Environmental activists, subsidy-seeking developers, transit schemers, and other assorted Smart Growth enthusiasts would dearly love for the new census data to add up to a new political constituency for their agenda of new taxes, subsidies, and regulations.

In reality, North Carolina's emerging suburban politics will reward state and local officials who keep taxes low, tackle traffic congestion primarily with new highway capacity, and prioritize spending on public safety and education. *CJ*

Starving Freedom

Anti-obesity campaign wrong response

Ranging from local school officials to state legislators to the First Lady of the United States, the leaders of a new anti-obesity movement seek to use public education, government programs, tax policy, and regulations to promote healthier lifestyles.

Urging us to eat better and exercise more is fine. But when they go beyond persuasion to indoctrination and legislation, they leap into a thorny thicket.

Many things that government busybodies think they know about obesity are false, misleading, or misunderstood. They assume, for example, that taxing fatty foods or soft drinks and regulating the location of fast-food machines and restaurants will reduce obesity.

Probably not, according to research published recently in *Regulation* magazine. One article looked at soft-drink taxes. The link between drink consumption and obesity is tenuous at best, say California State Univer-

sity economists Michael Marlow and Alden Shiers, and, most likely, new or higher beverage taxes would shift the cost of government to lower-income households, not improve public health.

Regarding dining out, Michael Anderson of the University of California at Berkeley and David Matsa of Northwestern University show there is no significant relationship between restaurant location and obesity, and more importantly there isn't even a consistent relationship between restaurant patronage and obesity. Yes, people tend to consume more calories when they eat out rather than eat in, but the data suggest that people tend to compensate by consuming less during subsequent meals at home.

In short, access to restaurants isn't the problem. Some people tend to eat too much and exercise too little. Punishing the entire universe of consumers, through tax and regulatory policy, is the wrong response to the problem. *CJ*

COMMENTARY

How the GOP Is Doing So Far

A liberal friend of mine, a longtime Democratic activist, asked recently what I thought of the performance of the Republican-led North Carolina General Assembly so far.

It was a good question. To him, both the content and the pace of legislation have been puzzling. But given his political views and allegiances, he said he never expected to understand or endorse most of the legislative program of the new conservative majorities. So he wanted to know how I thought they were doing.

Well, they certainly have made a lot of news, some of it qualifying as bad press. In the House, for example, early attempts to use party caucuses as informational meetings for new members, with lobbyists and other invited guests speaking behind closed doors, proved to be unwise and counterproductive.

But when I examine the events of the 2011 session on the basis of how they might appear to the average North Carolinian, here is what I see:

- Recognizing the seriousness of the state's fiscal problems and the undesirability of another tax hike, a conservative legislature sent an unpopular governor a bill to save hundreds of millions of dollars. Gov. Bev Perdue vetoed it to defend corporate welfare. That won't help her one bit.

- Recognizing the unpopularity and fiscal risks associated with ObamaCare, the legislature voted to add North Carolina to the majority of states challenging its provisions in court. The governor vetoed the move, aligning herself with one of the worst pieces of social legislation in recent memory.

- In her budget plan for next year, Perdue moved toward longtime conservative positions on a variety of issues — such as downsizing the state's work force, reorganizing state agencies, privatizing some state services, and cutting the state's corporate income tax. But she proposed a net increase in taxes over the next two fiscal years of about \$600 million a year. The legislature appears to be working to eliminate those taxes, setting

up another possible veto fight that probably won't help Perdue with swing voters, either.

- On education, Republicans assembled a broad coalition to begin the process of reforming North Carolina's troubled testing program. While the teachers union supported the initial step, junking invalid state tests in several high school subjects, it isn't likely to support follow-up legislation to implement independent, nationally normed testing.

Assessment is one element of meaningful education reform. Another is parental choice. Legislative leaders have moved legislation to lift the cap on charter schools and make other changes to encourage choice and competition.

In both cases, Perdue will get pressure from allied groups to issue more vetoes. Again, taking these positions may rebuild ties with her base, but they will turn off swing voters, who favor effective testing and choice programs.

- On electoral reform, Republicans have rolled out legislation that would, among other things, require voters either to show photo IDs at the polls or to cast provisional ballots to ensure they are not casting fraudulent votes. Democrats and liberal groups are screaming bloody murder and seem to have made the defeat of this bill a top priority.

Whatever you think of the extent of voter fraud, and the efficacy of voter ID as a remedy, you have to see the political problem here. Because the legislation includes provisions to issue photo IDs to disadvantaged citizens, and, a popular political idea, liberal lawmakers and activists are committing to a position that makes little sense to most North Carolinians.

All in all, the first few weeks of the session have featured far more wins than losses for the new conservative majority, both in substance and message.

That's what I told my friend. He didn't seem happy about it. *CJ*

John Hood is president of the John Locke Foundation.



JOHN HOOD

EDITORIAL BRIEFS

Wasting Billions
On Duplication

A new report by the Government Accountability Office highlights cases in which the federal government operates duplicative programs. The report could serve as a guide for lawmakers trying to trim the federal budget deficit, reports *The Wall Street Journal*.

The list of overlapping federal programs is long. For example, 15 federal agencies oversee food safety. The Food and Drug Administration makes sure that eggs are "safe, wholesome, and properly labeled." What happens to eggs after that isn't the FDA's concern; that's the job of the Department of Agriculture, which is "responsible for the safety of eggs processed into egg products." The GAO recommends lawmakers consider creating a single food-safety agency.

GAO found that 18 federal programs spent a total of \$62.5 billion in 2008 on food and nutrition assistance, with the effectiveness of 11 of these programs never having been studied.

Eighty-two federal programs aim to improve teacher quality, while 80 programs help disadvantaged people with transportation. Fifty-six programs target people with financial trouble. Eighty programs handle economic development.

"Reducing or eliminating duplication, overlap, or fragmentation could potentially save billions of tax dollars annually and help agencies provide more efficient and effective services," the report said.

The GAO does not put a specific dollar value on the duplicative spending. However, Sen. Tom Coburn, R-Okla., who pushed to have the GAO conduct the study, estimates it at \$100 billion.

Government retirement plans

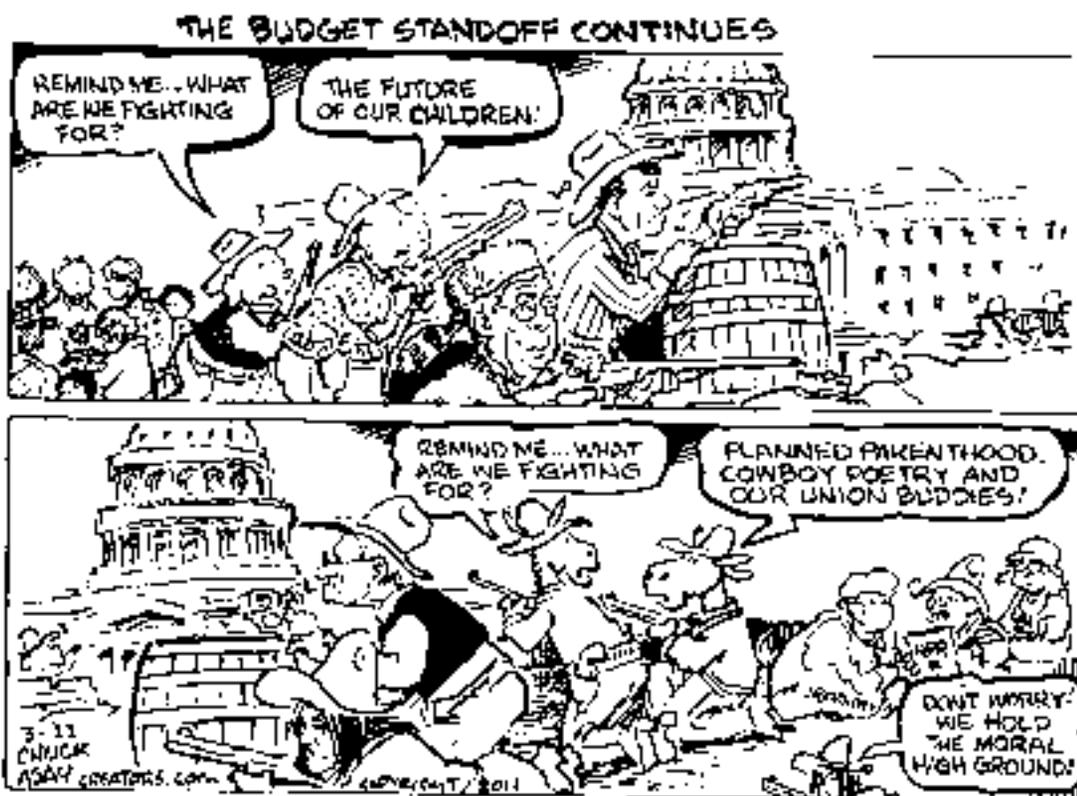
An increasing number of state and local governments are looking to move from defined-benefit retirement plans to defined-contribution systems. Doing so actually could cost more money in the short run, reports *The Wall Street Journal*.

The goal is to follow the private sector, which largely has moved away from fixed pensions toward 401(k) plans. Such an arrangement offers a greater risk — and potential reward — to the employee.

Last year, Michigan and Utah launched hybrid schemes involving both defined contributions and defined benefits for new employees. Michigan estimates its plan for newly hired teachers will save between \$2 million and \$4 million this year and between \$200 million and \$400 million over the next decade.

Many states and localities would like to shift entirely to defined contributions for new hires. Doing so would mean closing their existing plans to new entrants. That would likely advance the day when additional government funding would be needed to pay for the pensions of those already in the plans.

"It is no doubt the proper thing over the long term to ... consider reforming the level of benefits," says Gabriel Petek, a public-finance analyst at Standard & Poor's. But "it's not to be forgotten that these existing benefits don't just go away." CJ



'Loss of Clout' Worries Overblown

As I travel the state giving talks and workshops about the economy and economic issues, I'm able to get a sense of what's worrying North Carolinians by the types of questions I'm asked.

Two questions suggest worries about international issues: Can foreign owners of our debt use it as a form of economic blackmail; and, is the U.S. dollar about to lose its status as the No. 1 currency in the world?

First, let's look at the question about our debt. Recent concern has focused on the rapid escalation of our federal (national) debt, which has jumped by almost \$4 trillion in the last three years. People are worried about how much of this debt is owned by foreign interests. They ask if the foreign owners of our debt could quickly ask for their money back and thereby cause an economic crisis in our country.

MICHAEL
WALDEN

Here's the current breakdown of our national debt ownership. A substantial majority — almost 70 percent — of the national debt is still held by domestic owners, either the government or private investors. The biggest single government holder of the national debt is Social Security. Foreign buyers hold about 30 percent of the national debt.

Who are the foreign owners? China is currently the single largest foreign owner, with over \$1 trillion of U.S. government securities. Although certainly large in dollar amount, China's holdings amount to 7 percent of the total U.S. debt of \$14 trillion. Other large foreign owners of our government debt are Japan (\$900 billion) and Britain (\$500 billion).

What's the chance any owner of our debt will wake up one day and demand their money back? Zero! There is no chance because the investments financing the debt come with terms and conditions. Investors purchase U.S. government securities (called "Treasury" securities) for a certain length of time. Investors can't, whenever they want, cash in the securities with the U.S. government and retrieve their money.

However, what investors can do is sell their U.S. debt investments to other investors. If done in mass, this "dumping of our debt" would hurt the U.S. by forcing it to pay higher interest rates on any new debt. But this tactic is unlikely because a large sale of U.S. debt investments would reduce the investment's value and thereby also hurt the seller.

Now what about the status of the U.S. dollar? Since World War II the dollar has been considered the "reserve currency" of the world. This means that many international transactions are done in dollars and that dollars are usually accepted for payment anywhere in the world.

This has been the case for two reasons. First, the U.S. economy has been — by far — the largest in the world, so more economic exchanges are made in dollars than in any other currency. Second, the dollar traditionally has maintained its value against other currencies, so users know they won't lose purchasing power by holding dollars.

The U.S. economy still is the largest in the world — twice the size of the No. 2 and No. 3 economies, China and Japan. Also — perhaps surprising to many — the U.S. economy has maintained its share of the world economy at close to 25 percent over the past four decades. The rise of Asia in world commerce has come at the expense of Europe, not the U.S.

However, the dollar's value against foreign currencies has slipped, on trend, in recent decades. As an average against major world currencies, the dollar's value is half of what it was in the early 1980s and one-third lower than a decade ago.

Some experts predict the dollar will have to share its status with the euro or the Chinese yuan. While not disastrous for the U.S., that would mean somewhat higher costs for U.S. businesses and perhaps higher interest rates on dollar-denominated investments.

Should you be worried about these international trends? If you answer "yes," then the next question is: Where should you focus your concern? I recommend two areas: U.S. economic competitiveness and federal fiscal affairs. CJ

Michael Walden is a Reynolds Distinguished Professor at North Carolina State University.

The Rule of 'Experts' in Government

I've been thinking a lot about local government recently. The experience has been educational but not encouraging. It seems to me as though the policy process at the municipal level has become the province of specialists — people euphemistically called "experts."

The result is tremendously high barriers to citizen participation. Those who are believed to lack sufficient credentials are forced to the sidelines, essentially stripped of their rights to free speech and petition (or, to use the complete constitutional language, "petition the Government for a redress of grievances").

Three events have led to this assessment. The first involved David Cox, a computer scientist accused of breaking the law for requesting new traffic lights in his Raleigh neighborhood. State traffic engineer Kevin Lacy brought a complaint against him for practicing engineering without a license.

According to a report in the *Independent Weekly*, Lacy believes "analyses and decisions impacting the safety of the public are all determinations that are to be made by licensed

engineers."

The second is personal. Last month the Town of Apex approved an expansion of a gasoline storage facility owned by Motiva Enterprises close to my home on the Cary-Apex border. I will save you from the details, but it is important to know that Motiva's application was considered within a "quasi-judicial" process under which council members convened as judges and considered information as if it were evidence submitted in court.

This essentially prevented neighbors who were not experts from participating and prohibited policymakers from even thinking about the matter until it was put before them in the formal setting. It is the same process under which Cary and Morrisville recently considered the construction of cell phone towers.

Finally, there is the appointment of Tony Tata to be superintendent of Wake County public schools. When Tata's appointment was announced, there were howls of complaints. Tata, whose main professional experiences are in the military, faced criticism not least because he did not have the background in education of his predecessors. He was no expert.

These three episodes reveal two particularly anti-democratic developments in local politics. The first is the restriction of First Amendment rights. The quasi-judicial process "gags" interested parties and policy-makers, removing their rights to speak on

policy matters. Lacy's effort in the traffic light case constitutes a strategic lawsuit against public participation — otherwise known as a SLAPP suit.

There exists a First Amendment right to petition as well. Note that neither Cox nor Motiva's neighbors forced policymakers to take into account their views. They just wanted the opportunity to make them known — to merely attempt to persuade officials. In these instances, the law pre-empts any effort on the part of the public to lobby those who are supposed to represent it.

The second development is that experts have free rein over policymaking. A small group of technocrats with a deep but extremely narrow set of knowledge control — or (in the Tata case) believe they should control — decisions made by local government. This creates many problems. Who's an expert and therefore privileged?

When understanding safety on a particular street, why should we elevate the judgment of an out-of-town consultant over that of a school bus driver who takes the route daily? Or the mother whose kid sits on that bus? If information from experts is deemed superior, how can a policymaker — someone who is nearly always from another profession — do anything but defer to it?

The handing off of decisions to unelected individuals who know a lot about a little but not much about anything else also generates policy that

is disjointed in the aggregate. Public policy needs broad consideration by democratically accountable generalists who see the interdependent qualities of issues. Imagine, for example, if only farmers made agriculture policy, social workers welfare policy, and doctors health care policy. You think the country is a mess now.

Fortunately, there is a push for reform. Some local government leaders want the quasi-judicial process changed. The hope is the state once again will allow council members to behave as the legislators they are supposed to be — elected officials accountable to the public and permitted to make decisions freely. If property rights are violated, let the courts decide. They understand things like rules of evidence and procedural due process better anyway.

The General Assembly is also considering a "sunshine amendment" offered by Reps. Stephen LaRoque, R-Lenoir, and Tim Moore, R-Cleveland, that would allow the public to compel meetings of local government bodies to be open. If this happens, the world of local decision making will become more accessible.

For all of us, except the "experts," that is a very good thing. CJ

Andy Taylor is a professor of political science in the School of International and Public Affairs at N.C. State University.



ANDY TAYLOR

Scott Walker's PATCO Moment

Watching events transpire between Wisconsin Gov. Scott Walker and the public employees union, I am reminded of the air traffic controllers' strike of August 1981. It was a defining moment in President Ronald Reagan's first term.

Robert Poli — the president of the Professional Air Traffic Controller's Organization — sought a \$770 million compensation package for the controllers and a reduction in the work week.

Reagan sought a compromise and countered with a \$40 million package for the union. The offer was rejected, and PATCO went on strike.

Reagan considered the strike illegal and a threat to national safety. He warned the strikers they had 48 hours to return to work or he would fire them. When the majority of them didn't return, Reagan kept his word and terminated about 11,000 strikers. Commercial airline travel slowed

down but was not crippled as union leadership had predicted.

By and large, the American people supported Reagan's decision.

In this one defining moment, Ronald Reagan set the tone for his presidency, proving that keeping your word and sticking to your principles also can pay political dividends nationally.

Reagan's firm stance also sent a message to foreign capitals that Reagan was a man of his word and that he had a core set of beliefs that were non-negotiable.

This brings me to Gov. Walker and his recent "PATCO moment" with the public employee union.

After weeks of protests by the unions and a disappearing act of 14 Democrat state senators who went into hiding across state lines in order to postpone a vote on "union rights" and pensions, Walker held firm and prevailed.

His victory over the public unions came to fruition when he signed the measure passed by the Wisconsin legislature eliminating most bargaining rights for many state government workers and increasing state employee contributions for pensions and health care.

Widely seen as a setback to organized labor and its Democrat allies, the debate about the role of public unions will continue in numerous other states across this country. Already New York, Ohio, and Indiana have joined the fight.

In New York, newly elected Gov. Andrew Cuomo, a Democrat facing a \$10 billion deficit, campaigned on pension reform. Cuomo made it clear that he wanted the unions to do their part. During his Feb. 1 budget address he declared his state to be "functionally bankrupt" and called on the state's public sector unions to make \$450 million in concessions. Cuomo threatened, as a "last resort," to lay off 9,800 state workers to get the savings needed.

Consider what Franklin Delano Roosevelt, the "patron saint of labor," said in a letter he wrote to the National Federation of Federal Employees in 1937:

Meticulous attention should be paid to the special relationships and obligations of public servants to the public itself and to the government. All Government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service.

My point is that the rise in public-sector unions is a fairly new phenomenon.

In 1967, Gov. Jerry Brown allowed collective bargaining for California's government workers. Over the next couple of decades, public-sector unions grew 10-fold. Now, in the name of fiscal sanity, governors are demanding that the public-sector unions do their part and make concessions.

The debate will continue, but I believe that the average family gets the joke. This is a fight between tax consumers and taxpayers over inordinately high pensions and health care for state employees — whose retirement benefits, in most cases, far exceed those in the private sector.

It is a debate worth having and one that ultimately will help determine the economic viability of our country. CJ

Marc Rotterman worked on the national campaign of Reagan for President in 1980, served on the presidential transition team in 1980, worked in the Reagan administration from 1981-84, is a senior fellow at the John Locke Foundation, and is a former member of the board of the American Conservative Union.



MARC ROTTERMAN

Basnight Scours Earth's Resorts for Warming Evidence (a CJ parody)

BY IMAN A. LARMIST
Environmental Correspondent

RALEIGH

Former Senate leader Marc Basnight, D-Dare, will use \$46,000 of unspent campaign funds to reach a "conclusion" on the "impacts of climate change on the state." Basnight's assistant Amy Fulk sent a letter Jan. 26 — the day after the 14-term senator resigned — to State Board of Elections Director Gary Bartlett seeking clarification on the use of campaign funds.

The full text of her letter follows. (We are not making this part up.)

Senator Basnight requests an advisory opinion as to the uses of his campaign account now that he is no longer an active legislator. As he mentioned on the phone, there are certain policy areas that he worked on as a senator that he would like to bring to conclusion, and requests your agency's guidance on whether his campaign fund could be used for that purpose. For example, studying the impacts of climate change on the state is something he wants to continue to do. Could campaign funds be used to fund travel expenses for meetings or research trips that help him expand his knowledge in that area? Could the campaign account be used for travel to and meals in Raleigh when he is meeting with legislators or policymakers to discuss



Former Sen. Marc Basnight hard at work gathering climate data on his recent climate-change tour. (CJ spoof photo)

his work? Could campaign funds be used for printing, writing or other services associated with finalizing and presenting his research to others? These are the sorts of expenses Senator Basnight would anticipate could be associated with continuing and concluding his work on issues he focused on while he was in the Senate. Thank you in advance for any assistance you could provide.

Bartlett wrote Basnight saying the expenditures would be permissible under state law.

Carolina Journal contacted Basnight to discuss his research.

CJ: When are you planning to travel and conduct your research?

Basnight: I traveled over the Christmas holiday season.

CJ: How much did your research cost?

Basnight: \$46,000.

CJ: Where did you go?

Basnight: Mississippi, Jamaica, Brazil ...

CJ: Why there?

Basnight: My fiancée suggested those locations.

CJ: Explain the nature of your research.

Basnight: Well, I talked to folks and asked them if they had observed any climate change. Most of them said they thought it was getting hotter or colder. Some of them weren't sure.

CJ: How does your research relate to climate change in North Carolina?

Basnight: We are all part of the same Earth.

CJ: What are your recommendations?

Basnight: Earth Day should become a state holiday. The state should establish an Earth Day Commission Authority and name an Earth Day Czar.

CJ: Do you have anybody in mind?

Basnight: I have already spoken to former Congressman Bobby Etheridge about the position.

CJ: Is he interested?

Basnight: Yep. He said being the governor's stimulus czar wasn't very challenging, and besides, just about all the money was spent before Bev [Perdue] gave him the job.

CJ: Have you discussed your proposal with Perdue and legislative leaders?

Basnight: Not yet. Why should I? I've never had to ask permission to spend state money or find jobs for my buddies before. *CJ*

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