

**Regulations force black market for raw milk lovers/3**



# CAROLINA JOURNAL

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

North Carolina	2
Education	6
Interview	10
Higher Education	11
Local Government	16
Books & the Arts	20
Opinion	24
Parting Shot	28

August 2010 Vol. 19 No. 8

STATEWIDE EDITION

Check us out online at [carolinajournal.com](http://carolinajournal.com) and [johnlocke.org](http://johnlocke.org)

## Tobacco Trust Funds Footbridge to Nowhere

In a time of budget shortfall, some call for a redirection of TTFC funding

By DAVID N. BASS  
Associate Editor

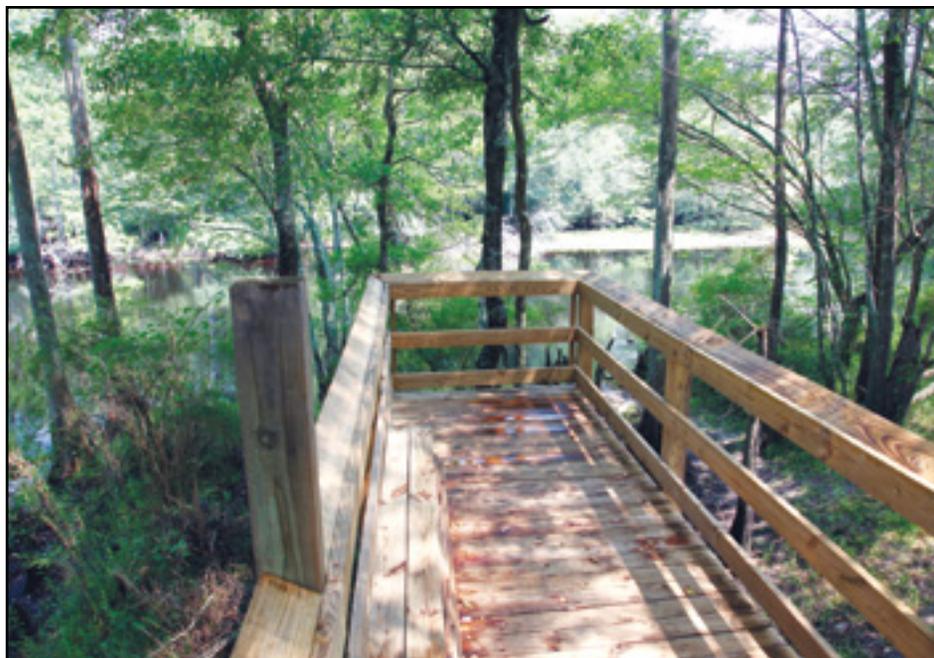
What do a \$30,000 well-appointed restroom and an isolated footbridge that dead-ends in a marsh have to do with helping tobacco farmers transition to nontobacco sources of revenue?



Sen. Andrew Brock

Not much, say critics of the Tobacco Trust Fund Commission's priorities in a time of budget woes for the state. They think

the funds should be redirected to more



This footbridge in Fair Bluff, a small town near the South Carolina border, was one of many projects funded by \$6.1 million in Tobacco Trust Fund money that seem unrelated to the program's original intent. (CJ photo by Don Carrington)

urgent projects.

"Some projects may be worthwhile," said Sen. Andrew Brock, R-Davie, "but this originally was supposed to go to tobacco-dependent communities to help them transition into the 21st century, and very little of that actually [takes] place."

Others raise the specter of political patronage. "I just wonder if there's not favoritism and looking at grants in some members' districts versus others — if there's not political connections that influence some of the spending," said Rep. John Blust, a Guilford County Republican.

The state-run trust fund was meant to assist North Carolina farmers, farm workers, and related businesses displaced by tobacco's declining fortunes. It handed out a record number of grants this year.

The General Assembly created the commission as the result of a multi-state settlement of a lawsuit against tobacco companies in 1998. The overall settlement was valued at more than \$200 billion, to be distributed over a 25-year period.



Rep. John Blust

The commission receives one-fourth of the state's estimated \$4.6 billion share of the settlement. Another quarter goes to the Health & Wellness Trust Fund and half to Golden LEAF (Long-term Economic Advancement Foundation).

The general statute governing the commission directs cash to agricultural programs "that will have the great-

Continued as "Tobacco," Page 14

## Major Issues Avoided in Short Session

Democratic leaders focus on ethics, corporate incentives

By DAVID N. BASS, BILL FLANIGEN,  
AND SARA BURROWS  
CJ Staff

For the first time in seven years, the North Carolina legislature passed a budget by the start of the state's fiscal year, but lawmakers kicked the ball downfield on key fiscal issues and blocked a number of Republicans' top legislative priorities.

On the GOP wish list were bills



to raise the cap on charter schools, exempt North Carolina from the federal government's health insurance mandates, and reform municipal annexation laws. Instead, legislators approved more economic incentives, an ethics reform package that fell short of open government advocates' hopes, and an education bill aimed at securing federal grants.

Budget negotiations were front and center during the session. The final \$20.6 billion compromise partly relies on an extension of federal stimulus funds that might never materialize. If they don't, lawmakers would take the unprecedented move of diverting \$139 million from the state employee pension plan to help cover the difference.

Factoring in federal bailout funds, temporary taxes, and other one-time changes, legislators left a \$3.3 billion budget hole for the 2011-12 fiscal year.

Aside from the budget, the General Assembly's Democratic leadership tackled or punted on several other initiatives in an election year that analysts

Continued as "Major," Page 15

NONPROFIT ORG.  
U.S. POSTAGE  
PAID  
RALEIGH, NC  
PERMIT NO. 1766

The John Locke Foundation  
200 W. Morgan St., #200  
Raleigh, NC 27601

# CAROLINA JOURNAL

Rick Henderson  
Managing Editor

Don Carrington  
Executive Editor

David N. Bass, Sara Burrows  
Anthony Greco, Mitch Kokai  
Michael Lowrey  
Associate Editors

Jana Benscoter, Kristen Blair  
Roy Cordato, Becki Gray  
Paige Holland Hamp, David Hartgen  
Sam A. Hieb, Lindalyn Kakadelis  
George Leef, Karen McMahan  
Donna Martinez, Sarah Okeson  
Karen Palasek, Lee Raynor  
Marc Rotterman, Jim Stegall  
George Stephens, Jeff Taylor  
Michael Walden, Karen Welsh  
Hal Young, John Calvin Young  
Contributors

Olivia Coward, Ian Davis,  
Adrienne Dunn, Alex Gill  
Steven Holden, Beth Kinkaid,  
Cameron Lambe, Sara Riggins  
Will Schultz, Kellie Slappey  
Amanda Vuke  
Editorial Interns

Published by  
The John Locke Foundation  
200 W. Morgan St., # 200  
Raleigh, N.C. 27601  
(919) 828-3876 • Fax: 821-5117  
www.JohnLocke.org

Jon Ham  
Vice President & Publisher

John Hood  
Chairman & President

Bruce Babcock, Herb Berkowitz  
Charlie Carter, Jim Fulghum  
Chuck Fuller, Bill Graham  
Robert Luddy, Assad Meymandi  
Baker A. Mitchell Jr., Carl Mumpower,  
J. Arthur Pope, Thomas A. Roberg,  
David Stover, J.M Bryan Taylor,  
Andy Wells  
Board of Directors

Carolina Journal is a monthly journal of news, analysis, and commentary on state and local government and public policy issues in North Carolina.

©2010 by The John Locke Foundation Inc. All opinions expressed in bylined articles are those of the authors and do not necessarily reflect the views of the editors of CJ or the staff and board of the John Locke Foundation. Material published herein may be reprinted as long as appropriate credit is given. Submissions and letters are welcome and should be directed to the editor.

CJ readers wanting more information between monthly issues can call 919-828-3876 and ask for Carolina Journal Weekly Report, delivered each weekend by e-mail, or visit [CarolinaJournal.com](http://CarolinaJournal.com) for news, links, and exclusive content updated each weekday. Those interested in education, higher education, or local government should also ask to receive weekly e-letters covering these issues.

## Six-Figure N.C. Pension Payouts on the Rise

### North Carolina does not cap its state pension benefits

By SARAH OKESON  
Contributor

RALEIGH

More than 250 people covered by the North Carolina pension system make more than \$100,000 annually in pension payments, and a handful are paid more than limits for pension payments allowed by the Internal Revenue Service, which top out at \$195,000.

The state's top pensioners include Charles Franklin, who ran the Albemarle Mental Health Center in northeastern North Carolina, \$211,373; former UNC Executive Vice Chancellor and Provost Bernadette Gray-Little, \$209,336; and former UNC-Chapel Hill basketball coach Dean Smith, \$199,953.

"It's unfair to the system and costly to the whole program," Charles Heatherly, a former deputy state treasurer, said of the large pension payments.

State and local government pensions made six-figure annual payouts to 259 retirees, about 0.14 percent of the 187,169 people receiving pension payments. The average pensioner in the Teachers' and State Employees' Retirement System receives \$21,103 a year, and the average pensioner in the Local Governmental Employees' Retirement System is paid \$18,056 annually. Former judicial employees made an average of \$63,909 annually.

Nationwide, the average retiree received about \$27,290 from a public pension plan in 2008, according to the Center for Retirement Research at Boston College. Most public sector retirees receive little or no Social Security benefits.

"It's worth emphasizing how few are getting this," said Keith Brainard, research director at the National Association of State Retirement Administrators.

Large pension payments have angered watchdog groups in other states, including California and New York.

"We should not provide retirement benefits that the IRS considers to be abusive tax shelters," said Marcia Fritz, president for the California Foundation for Fiscal Responsibility. "Benefits should be capped at no more than \$100,000 per year."

For 2010, the IRS limits on pension payments from tax-deferred funds range from \$84,903 for a 50-year-old to \$195,000 for someone 62 or older. If the payment is over the limit, the IRS taxes the excess benefit.

North Carolina doesn't cap benefits, but there is a federally imposed cap on the earnings to calculate a person's pension, set at either \$245,000 or \$360,000, depending on date of hire.

Other pensioners who earn more than the IRS limits include former school superintendents Carl Harris and Katie McGee. Harris, 56, the former Durham school superintendent, resigned his position to become a deputy assistant

secretary in the U.S. Department of Education. His annual pension is \$150,166. McGee, 57, resigned under pressure in January from her job as Brunswick County schools superintendent. Her pension benefit is \$137,377 annually.

The debate over high pension payments comes as North Carolina and other states are facing financial difficulties in their pension programs. State Treasurer Janet Cowell recently criticized the General Assembly for underfunding the pension by \$310 million in the budget for the fiscal year that began July 1.

"Left unpaid, the next bill gets bigger and harder to pay," Cowell said. "Legislators are setting themselves up for a \$1.2 billion pension bill in 2011 — a year in which the projected budget shortfall is \$3 billion."

Pensions for the more than 800,000 current and former employees covered by TSERS are set by looking at the average of each employee's salary during the four consecutive highest-paid years. An employee with 30 years of service can make about 55 percent of that average. Court employees and legislators can make up to 75 percent of this average.

Unused sick time and vacation time also are used to help calculate a person's pension. Sick time can be credited

to the pension base, and up to 440 hours of unused vacation time for state employees can count toward a person's salary. The average retiree submits about 6.5 months of unused sick time.

"The opportunity is there for them to play games to spike the last few years," said former state Auditor Les Merritt, now the executive director of the Raleigh nonprofit Foundation for Ethics in Public Service. "Being able to pay pensions is going to be a real problem as we go forward."

Mary Easley, the wife of former Gov. Mike Easley, receives \$36,803 from the pension plan. Mary Easley, who ran a speakers

series and created a public safety leadership center at N.C. State University, was fired after questions about an 88-percent salary raise she received and her husband's role in getting the job for her. Mike Easley is paid \$71,088.

"One of the great untold stories in the Easley affair is how her increase to \$170,000 would have affected her pension," said Joe Sinsheimer, a government watchdog. "That would have led to a dramatic increase in her pension, which is why the governor and his wife fought so hard to keep it."

Some of the state's highest pensioners left their jobs in disgrace or were fired. Franklin was fired amid reports about his pay and how the Albemarle Mental Health Center was run. Jim Black, the former speaker of the House, is the best-paid former legislator. He receives \$42,860. Black is serving time in federal prison on corruption charges.

Franklin declined to comment.

The number of highly paid pensioners is likely to increase as baby boomers retire. Twenty-seven current employees of state agencies and at least 18 employees of North Carolina universities currently are paid at least \$200,000 a year, according to the Office of the State Controller. Those numbers do not include most University of North Carolina system employees or K-12 public school employees. CJ



# Raw Milk Adherents Fight State Law Forcing Them Underground

BY SARA BURROWS  
Associate Editor

RALEIGH

**M**others, teachers, doctors, and church members are meeting their dealers in barns and on back doorsteps, paying cash for an illicit substance they say they just can't live without: raw milk.

Yes, that's right, milk — unpasteurized, nonhomogenized, raw milk.

It's illegal to sell for human consumption in North Carolina and 24 other states.

The U.S. Food and Drug Administration says drinking it is like "playing Russian roulette," and the state epidemiologist compares it to "heroin" and "mercury," but a growing number of raw milk junkies say they will travel any distance and pay any price to obtain it. Some are prepared to go to court to protect what they claim is a right to consume raw milk.

Pasteurized milk, they say, just isn't the same. They say pasteurization kills good bacteria, destroys enzymes necessary for absorbing vitamins and minerals, and denatures fragile proteins.

Laura, a mother of four who does not want her last name published, started feeding her family raw milk 10 years ago in South Carolina, where it is legal. She got a tip that it might help her daughter, who suffered from lactose intolerance and irritable bowel syndrome.

After a few days on raw goat's milk, Laura said all of her daughter's symptoms disappeared. Not only could she digest the raw milk, soon she also could digest small amounts of pasteurized milk products. Laura attributes this to the enzyme lactase, which helps break down lactose and is killed during pasteurization.

When Laura moved to North Carolina, securing what she calls "real" milk got tricky.

At first she made 10-hour round trips to her friend's farm in South Carolina every three months, loading her van with gallons of frozen milk. Later she bought her own goats, which she kept on a friend's land and milked herself. This led to a "goat milk ministry."

"I gave it freely to those in need," Laura said.

Eventually she sold her goats and purchased "goat shares" instead.

Until 2004, the "cow share" program offered consumers a legal avenue to raw milk through partial ownership of a cow or goat, as there was no law against drinking milk from one's own animals. People like Laura, who didn't have the land or time to keep their own animal, paid a farmer to keep it for them. In exchange they got several gallons of milk each week.

## Cow, goat 'shares' outlawed

But the state closed the "loophole" in the 11th hour of the 2004 legislative session.



Laura, a North Carolina mother, uses raw goat milk to help her daughter's lactose intolerance and irritable bowel syndrome. (CJ photo by Sara Burrows)

A paragraph outlawing the "right to acquire [raw] milk through barter or contractual agreement ... including the sale of shares in a cow, goat, or any other lactating animal" got tacked onto a lengthy environmental bill in the House that already had passed the Senate.

In 2007, raw milk activist Ruth Foster — who helps connect the state's underground network of buyers and suppliers and spearheads legislative efforts to put raw milk back on the table — helped then-state Sen. Kay Hagan draft a bill to reverse the cow share ban. It passed the Senate but never made it to the House.

The ban leaves Laura only one legal option for obtaining raw milk — purchasing it under the moniker "pet milk." Farmers can sell raw milk for pet consumption, as long as it is labeled as such and includes the warning "Not for human consumption" in half-inch lettering.

The farmers know their customers are not buying several gallons of milk — at \$10 to \$15 a gallon — for their cats, but they operate on a "don't ask, don't tell" basis, handing over the goods with a wink and a nod.

Even though they are within their legal rights to sell "pet milk," farmers who do so constantly are harassed and sometimes raided.

The state Department of Agriculture adopted a rule in 2007 that would have forced farmers to dye raw milk grey, so families wouldn't mix up the "cat's milk" with the "people's milk." Rep. Pricey Harrison, D-Guilford, wrote a bill that overturned the rule before it went into effect.

Also, the Ag Department has tried to force pet-milk producers to register as feed manufacturers, even though there is no law requiring it.

The process adds costs and regulatory burdens many small dairy operations can't afford. Most choose to operate under the radar to avoid the hassle.

## Secret society

Many pet-milk producers are small dairy farmers, who supplement their income from pasteurized milk by selling raw milk on the side. Others aren't commercial farmers but simply rural homeowners who have a cow or goat in their backyards.

Most don't advertise their product and often won't admit they sell it at all. Those who do are targeted, Foster said.

It's impossible to get your hands on the stuff unless you know somebody who knows somebody, Laura said. The "good news" about raw milk spreads very slowly by word of mouth to only the most trusted friends and family. While she's converted several friends from church, she's careful about whom she talks to. If word gets out to the wrong people, it could threaten her farmer's anonymity.

Because demand is high and supply is low, many travel across state lines to stock up. But state and federal agencies are catching on and are stopping the traffickers in their tracks.

In 2009 a milk-buying club carpooled from Georgia to South Carolina and filled their van with several coolers of raw milk. Little did they know, they were being followed. As soon as they crossed the state line, agents from the Georgia Department of Agriculture and an agent from the FDA pulled them over and forced them to dump 110 gallons on the side of the road.

The Georgia consumers are now plaintiffs — along with consumers from North Carolina, Iowa, and New Jersey — in a lawsuit against the FDA

for its interpretation of a federal law that bans the interstate shipment of raw milk.

The plaintiffs say neither they nor the farmers are breaking the law. The milk is sold in a state where it's legal to sell and consumed in a state where it's legal to consume.

Pete Kennedy, a lawyer from the Farm to Consumer Legal Defense Fund, said the plaintiffs are waiting to see if a federal court in Iowa will hear the case.

## The underground grows

In the meantime, demand for the contraband is on the rise. Foster said the more the government cracks down on raw milk, the more media attention it gets, and the more converts it attracts.

Healthy, free-roaming, grass-fed cows produce healthy milk, Foster said. The milk is a living organism, she said, with its own immune system, armed with good bacteria that fight off bad bacteria.

State Epidemiologist Megan Davies said the Centers for Disease Control and Prevention reported 85 outbreaks of human infections linked to raw milk between 1998 and 2008, sickening a total of 1,600 people.

For Davies, raw milk is no laughing matter. She offered consumers a grave warning:

"If you develop bloody diarrhea, fever, or severe abdominal cramps, you should see your physician immediately, and if one of your children develops these symptoms, make sure they are tested for E. coli, which can be fatal."

Foster laughs at warnings like these. "We're not scared anymore," she said. "We're drinking it, and we're thriving. That's why people are waking up to it." CJ

# Report: Contractors Bought Booze For DMV Employees

## Drinking coincided with negotiations for lucrative contract

BY DAVID N. BASS  
Associate Editor

RALEIGH

An internal report released July 23 by the state Division of Motor Vehicles confirms that Verizon Business bought alcohol for state employees while negotiating a lucrative no-bid contract to support the state's vehicle inspections program.

The adult beverages were part of nearly \$21,000 in meals, snacks, drinks, and gifts the telecommunications company claims it bought between 2006 and 2009 for DMV, state Division of Air Quality, and state Department of Transportation employees.

Several of those meals were at pricey restaurants such as Fleming's Prime Steakhouse, the Angus Barn, and Sullivan's Steakhouse. Others were at establishments that primarily serve alcohol, including \$273.44 at the Grove Park Inn's great hall bar in Asheville and \$154.80 at the Peabody Hotel's lobby bar in Orlando.

As Carolina Journal Online first reported in November, Verizon and the state agencies involved declined to say whether alcohol was included on the tab. But the internal investigation reveals that Verizon representatives did purchase booze for state workers off the clock.



"From what people who participated told us, alcohol was provided with meals sometimes, but this was always on off-duty hours," said DMV spokeswoman Margaret Howell. "We don't have any specific records or receipts detailing how much or when."

State law bars public workers from being reimbursed with taxpayer dollars for alcoholic beverages, even if part of a meal that would be refundable otherwise. In 2009, Gov. Bev Perdue issued an executive order barring cabinet agency employees from accepting gifts from contractors.

In the report, DMV disputes the

number of meals and staffers involved, claiming that Verizon's accounting of the expenses "contained a significant amount of fraudulent and inaccurate information." The agency said 20 employees were involved, not 62 as Verizon claimed, and of those only two had apparent authority to influence the \$51.5 million contract with the company.

"I sincerely hope that this experience serves to put our current vendors and those who wish to do business with DMV on notice that we will operate only 'on the table' in dealings with them and that our employees know

and appreciate the ethical guidelines they must uphold now and in the future," said DMV Commissioner Mike Robertson in a statement.

Robertson stopped short of firing the workers involved. Instead, he handed out suspensions and written warnings, and required ethics training. That doesn't go far enough for government watchdogs.

"This scandal highlights the need for strong revolving-door legislation," said Joe Sinsheimer, a Democratic strategist turned government-transparency advocate, pointing to one DMV employee who left the agency and immediately went to work for Verizon.

Robertson said he didn't fire the workers because those still employed by the agency didn't accept many meals and typically did so at the request of supervisors, *The News & Observer* of Raleigh reported.

Beyond the meals and gifts, the report describes a snug working arrangement between Verizon and DMV administrators. Verizon staffers had an office inside the DMV headquarters a few doors from the deputy director's office. They also were given security badges and often accompanied staff on trips.

"This made it difficult for DMV employees to distinguish Verizon representatives as vendors," the report says.

Verizon has fired four of its employees and taken disciplinary action against a fifth. The State Bureau of Investigation opened a criminal probe into the gifts in September. *CJ*

# New Rules Limit Pension Fund Manager Political Contributions

BY SARAH OKESON  
Contributor

RALEIGH

New federal regulations will restrict campaign contributions from employees of investment managers and prohibit advisory firms and some executives and employees from coordinating campaign contributions from others.

The rules by the Securities and Exchange Commission are designed to curtail pension fund officials giving business to investment firms where employees have donated money to the officeholders who oversee the funds. Former state Treasurer Richard Moore had been criticized for soliciting these donations, and current state Treasurer Janet Cowell received more than \$211,000 in campaign contributions in 2008 and 2009 from people and political action committees connected to funds the state invests in.

"The selection of investment advisers to manage public plans should

be based on the best interests of the plans and their beneficiaries, not kickbacks and favors," said SEC Chairman Mary Schapiro. "These new rules will help level the playing field, allowing advisers of all sizes to compete for government contracts based on investment skill and quality of service."

The new rules limit campaign contributions to elected officials who have influence over the hiring of investment managers. Any investment manager, executive, or employee of an investment firm making campaign donations to those elected officials will not be able to receive any pay for advising a fund for two years. An executive or employee of an investment firm will be able to contribute up to \$350 per election per candidate if the contributor is entitled to vote for the candidate and up to \$150 if the contributor isn't able to vote for the candidate. A person who does not live in North Carolina, for instance, would fall under the \$150 contribution limit.

The new rules become effective 60 days after they have been published in the Federal Register, and compliance with the provisions generally will be required within six months of the date that the rule is effective.

"We are currently reviewing the new SEC rule, but expect that the rule will have a significant impact on the management of public pension plans across the country," said Heather Franco, a spokeswoman for Cowell.

Franco said Cowell doesn't intend to return any contributions she's already received from investment managers. Moore did not respond to a phone call and an e-mail from *Carolina Journal*.

Ardis Watkins, the legislative affairs director for the State Employees Association of North Carolina, says investment managers shouldn't be contributing to campaigns at all. "We have to get the campaign money out of this equation," Watkins said. "We will never get a system that the people de-

serve when investment managers contribute to the campaign of the treasurer selecting them to handle our retirees' money."

North Carolina's treasurer is the sole fiduciary for its pension fund, meaning the treasurer makes the final decisions on its investments. Many states instead use investment boards.

"It's a huge step forward," government watchdog Joe Sinsheimer said about the new rules. "It's a situation that's ripe for abuse."

The new rules do not affect law firms that make contributions to officials at state pension funds. Cowell has received more than \$123,000 since 2007 in campaign contributions from employees and other people connected to the law firms that are trying to get the state's business.

North Carolina is in the process of selecting a pool of law firms that it could turn to for lawsuits about securities. Forty-five firms have expressed interest in doing this work for the state. *CJ*

# Small Businesses Steel For Expanded 1099 Reporting Mandates

By KAREN McMAHAN  
Contributor

RALEIGH

Before the health care reform bill was passed earlier this year, House Speaker Nancy Pelosi, D-Calif., told Americans that “we [Congress] have to pass it to know what’s in it.” As business owners have begun sorting through the massive bill, they are discovering not only a host of new taxes but also expanded reporting requirements that will result in an avalanche of paperwork and raise the cost of doing business.

Under current law, corporations must send an IRS Form 1099 to any individual or business that it has provided at least \$600 in services to per calendar year. But Section 9006 of the Patient Protection and Affordable Care Act dramatically expands the reporting requirement to all corporations, tax-exempt organizations, and government entities, and includes payments for all goods, not just services, that exceed the \$600 annual limit. The provision is slated to take effect in 2012.

## The ‘Staples tax’

The new law has been described in some quarters as the “Staples tax,” as it will force millions of companies to begin filing 1099 forms to every business selling them office supplies, snack foods, and cleaning products.

The Heritage Foundation, a Washington, D.C.-based public policy research organization, says the new regulations will affect 40 million businesses, of which 26 million are sole proprietorships. Small businesses face the biggest threat because they lack the resources to track and manage this type of reporting.



In a statement on its website, the National Federation of Independent Business says tax paperwork costs small businesses about \$74 an hour and “is the most expensive paperwork burden ever placed on small businesses by the federal government.” Even without the new regulations, NFIB says tax compliance costs small businesses 66 percent more than it does large businesses.

## Threat to job creation

Small businesses historically account for the largest share of job creation in the United States, but they’ve been particularly hard hit in this recession. In its June survey of members, NFIB reported a drop in small business optimism, with only 10 percent of firms planning new hiring and more firms expecting lower sales than those anticipating higher sales. The number of businesses looking to increase

capital expenditures over the next few months fell to 19 percent, just 3 percentage points above the 35-year record low, said NFIB.

The precious metals and tangible assets industry expects to bear a particularly heavy paperwork burden from the new 1099 provisions. Unlike companies with only a handful of suppliers, coin and precious metals dealers both buy from and sell to potentially thousands of suppliers, said Diane Piret, industry affairs spokeswoman for the Industry Council for Tangible Assets.

Piret told *Carolina Journal* that some association members estimate they will have to file an additional 10,000 to 20,000 1099 Forms. “We have sent out alerts to our members, encouraging them to contact their representatives,” Piret said, “and our board is discussing further lobbying efforts.”

The price of gold and other precious metals has risen dramatically over the past couple of years, fueled by inflation. Investors, large and small, have been purchasing precious metals to hedge against further declines in stock, retirement, and real estate portfolio values.

With the new 1099 provisions, dealers will be required to collect and track confidential tax information by customer name, sparking concerns that sales will decline as customers may be reluctant to provide such information. Larry Hyatt, owner of Hyatt Coin Shop in Charlotte, told *CJ* that some small businesses will go out of business because they won’t be able to afford the cost of collecting, preparing, and mailing out so many forms.

## ‘This really will hurt us’

“We’re a small, small business,” said Linda Wright of Wright’s Coin Shop in Asheville. “We’ve been in business for 38 years, and I have to do all the paperwork and bookkeeping. This will really hurt us. With a bad econo-

my, it’s too hard to pass on additional costs to customers.”

“It’s a stupid law that will put a lot of small coin dealers, pawn shops, and small jewelers out of business,” said Jeff Rubenstein, owner of Carolina Silver and Gold in Greensboro. “If you’re a small business and buy a refrigerator, you’ve got to do a 1099. It makes no sense. Commercial property defaults are already high, and now more businesses will go under. That’s what happens when lawmakers don’t read the bills they vote on and don’t understand business.”

Wright and other dealers asked what these provisions have to do with health care reform. Piret said she was told the Congressional Budget Office believes the provisions will generate \$17 billion over 10 years by catching tax cheats. But business advocates, including NFIB, say the cost to business will far outweigh any revenues the government might collect.

Dealers also said the new regulations will fuel the black market. Hyatt, whose family has been in the rare coins and currency business for more than 51 years, said the frustration level among business owners and his customers is the highest he’s ever seen. “The biggest competition we have is the underground economy, and this will make it much worse.”

“People are out of work and need money, but they’re not going to feel comfortable providing confidential information,” said Rubenstein, “and that’ll lead to a black market.”

There’s also a security risk from criminals. Dealers will have to collect and store their customers’ names, addresses, amount of holdings, and Social Security or taxpayer identification information. Piret worried that customers easily could become targets for identity theft if criminals broke into a business and stole records, or if hackers breached computer systems. Business owners could face increased liability risks if they failed to secure confidential records adequately.

## Repeal efforts

Congressional efforts to repeal Section 9006 are under way, in the form of H.R. 5141, sponsored by Rep. Daniel Lungren, R-Calif., and S. 3578, sponsored by Sen. Mike Johanns, R-Neb. Sen. Richard Burr, R-N.C., is an original co-sponsor of S. 3578.

A spokeswoman for Sen. Kay Hagan, D-N.C., told *CJ* she is reviewing the issue. As for H.R. 5141, none of North Carolina’s 13 U.S. House members is listed as a co-sponsor. All the representatives were contacted. The only response, from a spokesman for 10th District GOP Rep. Patrick McHenry, acknowledged that McHenry plans to support the bill should it reach a vote in the full House. *CJ*

## BOOKS AUTHORED BY JLF STAFFERS



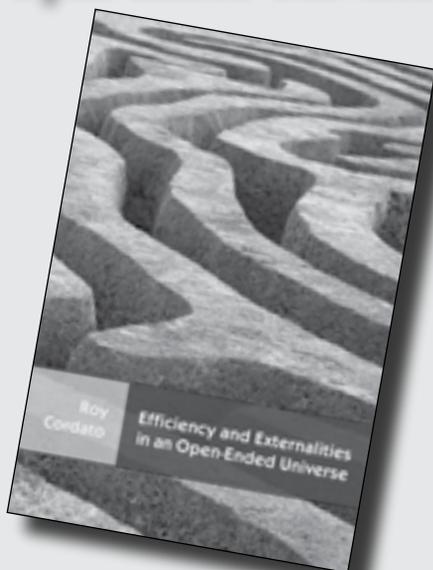
By Roy Cordato  
Vice President for Research  
John Locke Foundation

“Cordato’s book is a solid performance, demonstrating impressive mastery of both the Austrian and neoclassical literature.”

Israel Kirzner  
Cato Journal

[www.mises.org](http://www.mises.org)

## Efficiency and Externalities in an Open-Ended Universe



## COMMENTARY

## A Sound Superintendent Search

At least five of North Carolina's 115 school systems have initiated a superintendent search, including the largest (Wake County: 139,574 students) and one of the smallest (Hyde County: 641 students) districts in the state. One would not expect school boards in Wake and Hyde counties to be looking for identical qualities in their next superintendent. Both school systems, however, require a district leader who has the ability to fulfill basic administrative duties.

These core responsibilities, which are listed in the North Carolina General Statutes, have been refined by lawmakers for decades and should form the basis of any properly conducted superintendent search.

Of the 20 superintendent duties listed in state statute §115C 276, only two require the superintendent to be involved in instructional matters. In this capacity, superintendents have the responsibility to conduct meetings with teachers and implement state policies related to curriculum and testing standards. The other 18 requirements outline duties related to school infrastructure, finance, human resources, information/reporting, and the local board of education.

By far, human resources and information/reporting responsibilities dominate the list. The statute lists six human resources responsibilities for superintendents. Duties include: 1) assisting the local board in electing school personnel; 2) maintaining personnel records and participating in firing and demotion of staff; 3) assigning school principals; 4) providing annual evaluations and action plans; 5) attending professional meetings; and 6) administering oaths, if necessary.

In addition, the statute assigns six information/reporting responsibilities to public school superintendents. They include submitting reports to the Superintendent of Public Instruction and the State Board of Education, distributing supplies and information to schools, requiring teachers and principals to make certain reports, reporting on DWI vehicle forfeitures, and maintaining student discipline data.

A widespread misunderstanding of the duties and responsibilities of public school superintendents leads many to expect district heads

to be competent managers, as well as dynamic instructional leaders. In a recent opinion piece for the *Raleigh News & Observer*, a former Wake County school board member invented his own list of superintendent duties, which included "spending time in schools and classrooms, inspiring the teachers, listening to their concerns, finding planning time, fighting for pay raises, and aligning resources to help them do a better job educating children — not making widgets."

I have yet to hear of a superintendent who inspired classroom teachers to excel, but I have heard of superintendents who were inca-

pable of managing their administrative duties to the detriment of teachers, students, and taxpayers.

Regrettably, it has become common for school boards and communities to use the wrong criteria when conducting superintendent searches. They often limit their search to candidates who have spent a career working in public schools. Boards of education

should not exclude career educators from a superintendent search; nor should they dismiss executives or entrepreneurs from the private, nonprofit, or military sectors. A nontraditional candidate may be the one best equipped to oversee the complex administrative duties enumerated by state statute.

In matters of curriculum and instruction, public school systems should rely on the expertise of classroom teachers, not central office superintendents. This is not a new idea. Over a century ago, John Dewey voiced concerns about taking decision-making authority from teachers and centralizing power in the superintendent. In an essay titled "Democracy in Education," Dewey observed, "For no matter how wise, expert, or benevolent the head of the school system, the one-man principle is autocracy." Indeed, school boards should implement a division of labor by trusting experienced and skilled teachers to make instructional decisions, while allowing superintendents to focus on fulfilling their statutory responsibilities. CJ

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



**TERRY STOOPS**

## Charter Conference Highlights Interest in School Choice

By JIM STEGALL  
Contributor

RALEIGH

Representatives from more than half the state's charter schools gathered in Raleigh July 11-13 to network, confer, and get organized for what promises to be a pivotal year for charter schools in North Carolina.

Led by the North Carolina Alliance for Public Charter Schools, the event marks the first time in the 14-year history of charter schools in the state that school leaders have come together on such a large scale to address common problems and plan for the future.

Pro-charter legislation, including efforts to raise the cap of 100 charter schools currently in place, went nowhere in the recently completed session of the General Assembly. Instead, legislators passed a budget containing provisions

making it easier for local school districts to keep funding that state courts consistently have ruled should be paid to charters, and letting districts take up to three years to pay charters any money owed from previous cases.

Meanwhile, the State Board of Education has taken a recent series of steps that are seen as anti-charter. The special committee on the board that handled charter issues and served as an advocate for charter schools was disbanded, the periods for renewing a charter were cut back from 10 years to as little as three, and a new, more strenuous policy on academic achievement was instituted. These steps were taken with no input from or consultation with the charter school community.

Conference organizers focused on what individual schools can do to promote the growth of high-quality charter schools. Alliance President Eddie Goodall wrote in his welcome letter to conferees that it's time for the charter community to "walk out of the shadows and into the sunshine and become a force for educational choice and competition."

Attendees included a cross-section of the charter community — charter school teachers, administrators, and board members. Many reported that they were drawn to the conference by concerns over the direction the state

seemed to be taking on charter schools. Attorney Richard Vinroot, who has sued successfully on behalf of charter schools that have been denied public funding they were entitled to receive, told conferees that district officials are sometimes less than forthcoming with the details of how they divide the money. Getting the appropriate level of funding from their local districts can be an "enormous challenge," he said.

The conference wrapped up July 13 with a visit to the General Assembly to meet with lawmakers. Republican Sens. Richard Stevens and Neal Hunt, along with Democratic Sen. Doug Berger and Republican Rep. Nelson Dollar, spoke with attendees about the prospects for charter-friendly legislation in future sessions. Berger said he believes there is a growing realization within the Democratic caucus that charter schools could be a part of the overall solution to the state's problems in edu-

cation. "We just have to keep reaching out to lawmakers to educate them about charter schools," Berger said.

All the lawmakers

agreed that charter school advocates need to be more active in communicating their needs to elected officials, and all stressed the importance of inviting their senators and representatives to visit their schools and see firsthand what the charters are doing for children.

House Minority Leader Paul "Skip" Stam, R-Wake, offered tips on how best to get the attention of elected officials. "I call this the rule of 10s," he said. Given lawmakers' limited time, he said, "A personalized e-mail is worth 10 of those mass e-mailings that all have the same subject" and virtually identical text.

A phone call is worth about 10 personalized e-mails, and an office visit worth about 10 phone calls, he added.

"If you really want to get someone's attention, a face-to-face visit is worth about 10 phone calls," he said. "And a visit with a lawmaker in his home district is 10 times more effective than a visit to his office in Raleigh."

The 250 conferees also attended breakout sessions on topics ranging from school governance to best practices for the classroom. CJ



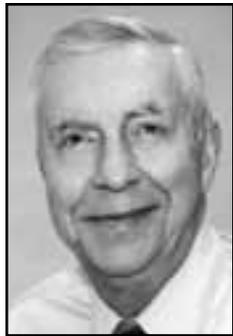
# State's Overseer of Private Education Retires After 25 Years

## Will new appointee preserve Helder's collaborative approach?

By HAL YOUNG  
Contributor

RALEIGH

When Rod Helder became the second director of the state's Division of Non-Public Education in 1985, he inherited a small staff and a unique arrangement for state regulation of private schools. Under the previous director, the state's



Rod Helder

confrontational attitude toward private education had boiled over into civil disobedience by church schools and a class action lawsuit by the state. As thousands of parents rallied quietly in the streets of Raleigh, the General Assembly rewrote the private school law and in the end totally separated DNPE — and private education — from any public school oversight.

Now North Carolina boasts a healthy private school community and one of the largest concentrations of homeschoolers in the country. The possible savings in public school funding alone have been estimated at more than \$1.3 billion per year.

"Rod Helder has been a tremendous choice for the state of North Car-

olina in that position," said one Christian school leader.

With Helder's retirement July 1, private education advocates face new uncertainties about the state's regulatory approach to nonpublic schooling.

Helder was an administrator with Alamance Christian Academy in Graham when he was chosen to run DNPE. He was selected at the urging of the Christian school community.

"He was a person we were able to personally pick for that position," says Dwight Creech, principal of Calvary Christian School in Southern Pines. Creech has served CCS for nearly 38 years and sits on the board of the N.C. Christian Schools Association. He said Helder's appointment helped heal the suspicions and conflicts that remained between the government and church-sponsored schools.

"There was a lot of misunderstanding in the state about Christian schools and some inconsistencies in the application of the law," he said. "It gave us more liberty to have a voice representing us at that time."

### Explosive growth

At the time of Helder's appointment, about 5 percent of North Carolina students attended private schools.

However, 24 counties had fewer than 25 children in private schools, 11 counties had none at all, and the only homeschoolers were undocumented and secretive. State law did not recognize home education as a legal alternative until the N.C. Supreme Court's 1985 ruling in *Delconte v. North Carolina*.

Since then, the percentage of North Carolina students in private education has exploded from 5.1 percent to 10.6 percent, with much of the growth coming from homeschoolers. In 2008-09, DNPE reports, there were 98,545 private school students and 77,065 being taught at home.

North Carolina's homeschool law, passed in 1988 as an amendment to the nonpublic education statute, treats home schools as a special category of private school. While both enjoy the freedom to choose their curriculum and teaching methods, home schools are subject to more frequent standardized testing and many of the same paperwork requirements as conventional private schools.

Even with the growth, Helder's office had only five staff members in 2006. This meant a constant search for more efficient ways to handle inquiries, filings, and other administrative duties, allowing the staff to budget travel time for visiting conventional schools. Inspections of homeschool records were conducted by mail or in group meetings, frequent phone questions ended up on the DNPE website, and recently the required "Notice of Intent" filing to open a private or home school was changed to an online form.

Homeschoolers proved sensitive to any state action that infringed on their independence, though. Spencer Mason, president of North Carolinians for Home Education, said his organization butted heads with Helder over some issues, such as his interpretation of the law with respect to tutors and outside classes.

### Defending home education

For years, DNPE did not allow homeschoolers to receive any instruction from tutors or take any courses in a formal classroom setting (for example, at a community college). However, the agency's official stance was streamlined in 2007, and Helder often spoke in defense of home education to legislators and other officials. Portions

of the homeschool statute are based on Helder's proposals, said Mason.

"He was always very genial, a true Southern gentleman, and favorable toward homeschoolers," Mason said. "We always had a very good relationship with him."

NCCSA's Creech valued Helder's ties with the struggle that secured private schools' freedom.

"You've got a lot of people in positions of influence and authority who are much younger and have no knowledge or recollection of issues years ago, and how we ended up in a class-action lawsuit," said Creech. "It was so many years ago, a lot of people have lost touch with how important the Christian school bill was and how serious the issue is."

One controversial change at DNPE was a formalized policy for complaints against homeschoolers. The new policy requires informants to file suspicions in writing with their signatures. Helder had found that most complaints to his office were coming from estranged spouses seeking to use homeschooling as a weapon against the custodial parent. Removing the cloak of anonymity reduced the temptation to exploit the agency to harass home-educating families, and it greatly reduced staff time on the phone. Concerns about true criminality and abuse, Helder reasoned, could and should be reported through proper law enforcement channels.

### Changes ahead?

On June 17 the Department of Administration announced the appointment of Chená Flood as Helder's successor. Flood has a very different background than the former Christian school leader, starting her career as a teacher and principal in the Halifax County public schools and most recently heading the University-Schools Partnership Program at N.C. Central University's School of Education.

She is a member of the board of Union Independent School in Durham, a private K-8 academy which has applied to become a charter school next year.

Linda Nelson, the executive director of the N.C. Association of Independent Schools, said she looks forward to meeting Flood and sharing the concerns of nonpublic schools.

"Frankly, we were spoiled by Rod Helder," she said. "He was always helpful and very responsive, which is not always the case with government officials."

Repeated attempts by *Carolina Journal* to contact Flood have been turned away by the Department of Administration, including e-mail sent to her NCCU address two weeks before her first day at DNPE. CJ

North Carolina's Leading Provider of K-12 Information

www.nceducationalliance.org

*Teacher pension funds at issue*

# N.C. Supreme Court Strengthens Public Records Law

## Lawsuit sought information on how pension fund invested

By SARAH OKESON  
Contributor

RALEIGH

The state Supreme Court has overturned an appellate ruling in a public records case filed by the State Employees Association of North Carolina after the association tried but failed to get information about investments by former state Treasurer Richard Moore.



John Bussian

The investments by Moore were made in the Teachers' and State Employees' Retirement System, with a pension fund that covers more than 800,000 current and retired public employees.

In the court's unanimous 14-page decision, Justice Edward Brady reaffirmed that government records are owned by the people and that the mechanism for enforcing the public's right to know shouldn't be left in the hands of the state agency that has the records.

The high court reversed a decision from the N.C. Court of Appeals, which had upheld a trial court order

dismissing the lawsuit, and sent the case back to the appellate court.

"This ruling is a victory for state employees' retirement security, open government, and public accountability from its elected officials," said Dana Cope, the executive director of the employees association.

John Bussian, an attorney for the North Carolina Press Association and the North Carolina Association of Broadcasters, said the decision is "the most important statement by the North Carolina Supreme Court on open government in 20 years."

H e a t h e r Franco, a spokeswoman for current state Treasurer Janet Cowell, declined to comment. Moore did not respond to a phone call and e-mail.

Brady noted that the employees association had been denied access to the records despite five letters from the association's executive director to the treasurer's office from March 2007 to January 2008. He also noted that some of the correspondence that was turned over to the employees association referred to other material that had not been provided to the employees association.

"Plaintiff's allegations that additional public records exist that have not yet been disclosed are based on

reasonable inferences," Brady wrote.

The employees association asked Moore in March 2007 for records including investment reports and information about fund managers after *Forbes* magazine published an article critical of Moore. The magazine had written that Moore, who solely was responsible for investing \$73 billion in state pension money, "has parlayed this clout into one of the biggest fund-raising machines in the state by eagerly accepting contributions from dozens of financial firms."

SEANC also asked for documents that the treasurer's office provided to *Forbes* and information about the law firm that the treasurer's office used in a dispute with *Forbes*.

Moore provided SEANC about 700 pages of documents, but the employees association said they did not satisfy the request. Moore's office told the employees association that it should indicate specifically what it thought was missing. After repeated requests for the information, SEANC sued the treasurer's office and Moore in February 2008.

A Wake County court dismissed the case, and in a divided opinion the state appeals court upheld the dismissal, finding that the lawsuit by SEANC failed to make a valid claim under the Public Records Act.

The lawsuit alleged that the treasurer's office failed to provide part of the requested records and the office was taking too long complying with the requests.

The North Carolina Press Association and the North Carolina Association of Broadcasters filed a brief supporting the employees association, arguing that the appellate court's decision departs from law governing cases brought under the Public Records Act. They said the Court of Appeals and the trial court should not have placed the burden on SEANC to show that the treasurer's office was withholding specific public records.

"How is the public or the press supposed to know what the government is hiding when they can't see it?" Bussian asked.

The high court had not issued a lengthy opinion on public records in roughly two decades.

The decision came as public records advocates convinced the General Assembly during its short session to adopt a bill allowing successful plaintiffs in some public records cases to recover attorney fees from the agency they sued.

The employees association also is pushing to end North Carolina's system of having the state treasurer be solely responsible for investing pension money. North Carolina is the only U.S. state giving the treasurer those powers.

The association favors having an independent board make investment decisions. In 2007, a bill to establish a Retirement System Board of Trustees was introduced in the General Assembly, but it died in committee. CJ

The decision is seen as the Supreme Court's 'most important statement ... on open government in 20 years.'

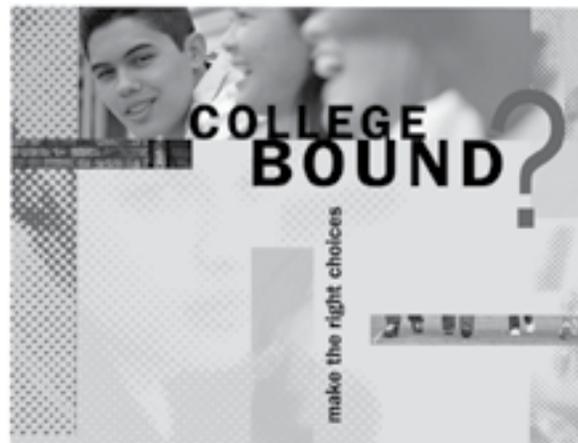
Visit the new-look  
Carolina Journal Online



With links to the new CJTV and CJ Radio Web sites

<http://carolinajournal.com>

If you know high school students  
considering college . . .



then "College Bound? Make the Right Choices" is for you!

Should they go?

How will they pay?

What will they study—or will they party?

The John William  
POPE CENTER  
FOR HIGHER EDUCATION POLICY

To receive a free copy, call  
919.828.1400 or email  
[shaw@popecenter.org](mailto:shaw@popecenter.org)

Visit the Pope Center online at [popecenter.org](http://popecenter.org) for additional reports and studies

# Charter Schools' Attorney Vinroot Keeps Racking Up Victories

BY JIM STEGALL  
Contributor

CHARLOTTE  
If attorney Richard Vinroot ever gets tired of winning charter school funding cases against school districts, he doesn't show any sign of it. Beginning with his landmark 2008 victory in *Sugar Creek Charter School v. Charlotte-Mecklenburg Board of Education*, the 69-year old former mayor of Charlotte has compiled a string of courtroom victories. Perry Mason would envy, wresting millions of dollars from local school boards that had been unlawfully withheld from charter schools.

His latest victory comes at the expense of Rutherford County Schools, which had withheld more than \$730,000 over three years that should have gone to Thomas Jefferson Classical Academy. Rutherford County school board chairman John Mark Bennett has declared that the school board "will continue to vigorously fight this suit until all legal options have been exhausted," but the board's appeal stands little chance of success in light of recent precedents.

Next on Vinroot's agenda: Ashe-

ville City Schools and Buncombe County Schools, two systems he's taken on and bested before. If no settlement is reached, Vinroot says he'll be filing suit "probably before the end of the year." Three area charter schools claim that the two school systems have shortchanged them by a total of nearly \$2 million.



Richard Vinroot

This includes nearly all funds received from state, federal, and county governments, local supplemental taxes, and money derived from fines and forfeitures. These last two categories were at the heart of Vinroot's previous case against Asheville City and Buncombe County schools.

But some school districts have

been setting aside funds for certain programs before dividing the remainder with the charters, in effect taking a few pieces of pie for themselves before sharing what's left with the charters. Those districts have tried to justify the practice by saying the funds withheld are "earmarked" for special programs their local charters don't offer, but so far no court has recognized the districts' authority to place these funds off-limits to charters by making these unilateral earmarks.

In the *Sugar Creek* ruling, the court held that the language of the charter school law regarding sharing of local current expense money was "unambiguous, direct, imperative, and mandatory." In response, some school districts that had not been sued recalculated the amounts they pay their local charters voluntarily and turned over money previously withheld.

But others — including Asheville City and Buncombe County Schools — didn't. According to Asheville City Schools executive director for community relations Charlie Glazener, the district still believes it should have the authority to put certain funds off-limits for charter schools. The district receives money for its ROTC (Reserve Officer Training Corps) program, More at Four, Early Head Start, and other programs that have no counterpart at any of the three area charter schools.

In a telephone interview, Glazener pointed out that some of the money in question comes in the form of grants that have "strings attached" dictating how and where the money can be spent. "We want to be fair about how we allocate the money, but we need to be fair to our investors, too," he said, referring to those who provide the grants.

Glazener said "I value the charter schools; they're doing a good job." But he doesn't think the charter schools' position is fair. "Even if I didn't work here [Asheville City Schools], I would think this was unfair." He laments the impact on Asheville's schools of possibly having to share the funds with the local charters. "We're really strapped right now, and this would be hard to deal with."

Vinroot has heard it all before. "There are no new arguments" in ei-

ther Asheville or Buncombe, he said. His view is that the law and all subsequent rulings couldn't be more clear — school systems are "required by law to put them [the funds in question] in their current expense account," and "all funds in the local current expense account are to be shared equally."

Vinroot said that grant money for special programs is no different, unless the donors require school systems to deposit the grant money in a separate account. "But the donors haven't said that," said Vinroot, and the money in question is still in the current expense account and thus must be shared with the charters.

The question of accounts is of critical importance going forward, since the decision in the Rutherford County Schools case allowed the school district to move some funds into a separate account off-limits to charter schools during the current school year, but

not retroactively, as the district had attempted to do. Vinroot is considering whether to appeal that part of the judge's ruling.

Meanwhile, the Department of Public Instruction has weighed in on the side of school districts. In a March 19 memo, the department advised districts to use other accounts not specifically mentioned in the ruling to hold onto funds they don't want to share. The department also established a new

account, "Fund 8," that districts can use to hold revenue from fines and forfeitures, and local supplemental taxes, thus potentially removing them from the pot to be shared with charters.

The state legislature also has sided with school districts, slipping a provision into this year's budget that attempts to "legalize," at least for this year, what some districts have been doing all along.

Vinroot says he has "real serious reservations about whether that does what they think it does." The budget bill also gives school districts that have had judgments rendered against them up to three years to pay charters what they owe.

In addition, a provision dealing with the distribution of lottery funds for supporting teacher positions was written in a way that prevents charter schools from accessing those funds.

The case against Asheville City Schools and Buncombe County Schools is on hold while both sides study the outcome of the Rutherford County case.

Vinroot has a run of successes in getting school districts to turn over money they have unlawfully withheld from charter schools



THE CAROLINA FREEDOM CLUB PRESENTS

LOOKING UNDER GOVERNMENT'S HOOD: TRANSPARENCY TOOLS AND TACTICS

FEATURING



JOSEPH COLETTI

AND



BECKI GRAY

Joe Coletti, Director of Health & Fiscal Policy Studies, will present NCTransparency.com, what it does, what governments have done to improve as a result, and how Freedom Club members can leverage the site to improve the amount and quality of public information.

Becki Gray, Vice President of Outreach, will discuss what the legislature accomplished, what they didn't, what they should have, the backroom deals, the sneak plays, and their attempt at ethics reform.

SAVE THE DATE!

Western 10/5 Asheville

Sandhills 10/14 Pinehurst

Piedmont 10/6 Charlotte

Southeast 10/19 Wilmington

Triad 10/12 Greensboro

Triangle 10/20 Raleigh

Downeast 10/26 Greenville

FOR MORE DETAILED INFORMATION, OR TO REGISTER, PLEASE VISIT

WWW.JOHNLOCKE.ORG/EVENTS OR CALL 1-866-JLF-INFO.

# O'Toole: Billions Being Spent on Transit That People Aren't Using

BY CJ STAFF

RALEIGH

North Carolina's traffic congestion could double in the next couple of decades, with Charlotte drivers facing the same types of delays Chicago drivers face now. That was the conclusion of a 2007 John Locke Foundation report that recommended \$12 billion of spending to clear North Carolina's congested urban roads and prepare for future traffic growth. Many traffic problems outlined three years ago continue to cause concerns today. Randal O'Toole, senior fellow with the Cato Institute, recently tackled the issue from a national perspective in the book *Gridlock: Why We're Stuck in Traffic and What to Do About It*. O'Toole discussed the book in a presentation for the John Locke Foundation's Shaftesbury Society. He shared some of its themes in an interview 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:** First of all, why are we stuck in traffic?

**O'Toole:** An important reason why we're stuck in traffic is because for the last 25 to 30 years, urban planners have decided that they should stop building highways. If they build highways, people are going to use them, and it'd be better to get people out of their cars and onto transit. So we've been spending billions of dollars on transit that people aren't using and not building highways which have become more and more congested, and guess what? People are driving more and more even though there's more congestion, and they're just adjusting to that congestion in different ways.

**Kokai:** What should that tell us about what we should do going forward?

**O'Toole:** I think what it tells us is that the automobile is really a convenient form of travel, and any efforts to try to suppress auto driving are really suppressing personal freedom and economic freedom because the automobile is an important part of our economy. In fact, the automobile is not only more convenient than transit, it's far less expensive than transit. Americans spend less than 25 cents a passenger mile getting around by car, whereas getting around on mass transit is closer to \$1 a passenger mile. Four times as expensive, and rail transit is even much, much more expensive. For example, the light rail in Charlotte is \$4 a passenger mile. So we're talking about spending far more money to get people out of a convenient form of travel into an inconvenient and expen-

*"[T]he automobile is not only more convenient than transit, it's far less expensive than transit. Americans spend less than 25 cents a passenger mile getting around by car, whereas getting around on mass transit is closer to \$1 a passenger mile."*

Randal O'Toole  
Senior Fellow  
Cato Institute



sive form of travel.

**Kokai:** You mentioned that the planners are playing the biggest role in pushing this inconvenient, expensive form of travel. Why would they do that?

**O'Toole:** Planners just have this belief that cars are bad, and planners tend to follow fads. They don't really understand urban economies very well, and so they follow fads, and one of the biggest fads has been started by my former hometown of Portland, Ore., which just spent \$3 billion building rail transit, so far. Those rail lines carry less than 1 percent of all travel in the Portland area, and yet they crowd to people all over the world that they've got a successful system. Well, it's only successful in that they've successfully wasted a lot of money on it.

**Kokai:** Let's get into some of the arguments that the planners seem to tend to make about this topic. One of them is that as we continue to grow, we can't build our way out of the traffic jams by continuing to build more lanes. Are they right?

**O'Toole:** No, they're absolutely wrong. Cities that have decided to build more roads have actually been able to relieve congestion, reduce the amount of time people waste sitting in traffic with those more roads. But what you have to understand is that an automobile-oriented society is not going to be a dense society. You're not going to have high population densities. You're not going to have a really dense downtown. You're going to be spread out. Your densities are going to be rather even. A pre-automobile society will have a really dense downtown and then lower density residential areas around the downtown. A post-automobile society, the densities will be about the same everywhere. There won't be a really dense downtown, but the densities will be much lower — less than 3,000 people per square mile.

So if we decide to try to maintain a really high-density downtown like some cities seem to want to do, then you're going to have a difficult time

serving that downtown with freeways. But if you realize that jobs are decentralizing, factories are decentralizing, offices are decentralizing, banks are decentralizing — everything in society is decentralizing — you don't need to build a lot more roads to serve that. You just need to let the city be what it wants to be.

**Kokai:** One of the interesting arguments I've heard on this whole topic of the dense downtown versus the spread-out society is that one of the reasons so many older cities — European cities — are so dense is that when they were built, people were poor. They didn't have these [transportation] options. Now that we are wealthier, we don't need to have these dense downtowns.

**O'Toole:** Actually, I think people got that backward. The reason why people started driving is because driving was so much cheaper than other forms of travel. Once they started driving, then their incomes grew. Actually, we don't drive because we're rich; we're rich because we drive. Automobiles give people access to more jobs. They give employers access to a more highly skilled work force. So [in] societies that have automobiles, people earn more money. They have more small business opportunities, more opportunities to go into business. They have access to lower-cost consumer goods. You couldn't have things like Costcos and supercenters and supermarkets and so on without automobiles. The average supermarket today has more than 30,000 different products on its shelves, whereas the average grocery store 100 years ago had only 300 products on its shelves. So we have access to far more. We have access to much better and lower-cost things than we could get 100 years ago because of automobiles.

**Kokai:** Let's tackle another argument. Some people may say, "OK, we admit that perhaps this type of living is more inconvenient, maybe it's even more expensive, but because of the environmental challenges we face — global warming and other topics — we

need to take these steps to reduce the emissions coming out of cars. We need to move more toward transit." Is there any legitimacy to this argument?

**O'Toole:** Guess what? Buses burn foreign oil just like cars do. Trains use energy, too. Most of the energy from electric trains comes from burning coal, and that produces greenhouse gases and other pollutants. It turns out that transit uses about as much energy per passenger mile as driving a car. Most transit systems in this country, outside of the very big ones like New York City, actually use more energy and emit more pollution and more greenhouse gases for every passenger they carry than cars do — actually more than an SUV, for that matter. So if you want to save energy, if you want to reduce pollution and greenhouse gas emissions, the better solution is to encourage people to drive more fuel-efficient cars, not to try to get people out of their cars and onto an expensive, inconvenient form of travel that few people are going to be attracted to.

**Kokai:** The economic arguments are bogus. The environmental arguments are bogus. Are there any good reasons not to build more highways and [instead] divert more money to transit?

**O'Toole:** The only good reason is that Congress has given cities incentives to waste a lot of money on useless transit projects, and so the cities are scrambling to respond to those incentives to get some of those federal dollars. I don't know if you could call that a good reason, but that's why cities are doing it. The reality is that we need to look forward, not backward, and there are transportation solutions in the near future that are going to solve a lot of our congestion problems, pollution problems, and energy problems that we could adapt without any problem at all, and do far more to protect the environment, and save people money, and increase mobility than building 1930s-era light rail, 1890s-era street cars, or other obsolete forms of transportation.

# Impressive Number of Dropouts Succeed Wildly Without Degrees

By JENNA ASHLEY ROBINSON  
Contributor

One of President Obama's goals is for America to have the "highest proportion of college graduates in the world" within the next decade. His administration, like most conventional wisdom, holds that college degrees are essential for both personal and national success.

Yet countless examples exist of successful people around the world who have proved it is possible to create new products, head industries, and invent new ideas without ever getting a college degree.

The most obvious successes of those who bypassed the books are entrepreneurs. Nearly everyone has heard that Bill Gates, founder of Microsoft, never graduated from college. Most people credit Gates' success to talent, good timing, and luck.

But entrepreneur Cameron Herold suggests that it is probably more than that. Herold recently gave a talk at TED, an organization devoted to "Ideas Worth Spreading," arguing that the structure and norms of schooling destroy entrepreneurship. Herold struggled in school and was always told to "be more focused" and "get a tutor" — even though, by the age of 10 he had started his own minibusiness.

In addition to Gates, figures in the computer industry who never graduated from college include: Oracle founder Larry Ellison; Apple founder Steve Jobs; Michael Dell of Dell Computers; Shawn Fanning, who founded Napster at age 18; and Facebook CEO Mark Zuckerberg (a Harvard dropout like Gates).

In 2006, CNN listed seven immensely successful entrepreneurs who never went to college: Richard Branson, founder of Virgin Music Group; Barry Diller, chairman of Expedia; Matt Drudge of "The Drudge Report"; Janus Friis, co-founder of KaZaA and Skype; celebrity chef Rachael Ray; SiTV founder Jeff Valdez; and Vogue editor Anna Wintour.

While entrepreneurs top the list, there are others. John Taylor Gatto wrote in his 2009 book, *Weapons of Mass Instruction*, "Ted Turner, founder of CNN, dropped out of college in his freshman year; William Faulkner's high school grades were too horrible

to get him into [college]... Warren Avis, the man who pioneered auto rentals at airports, decided college was a waste of time and never even applied."

He also mentions authors Ernest Hemingway and Mark Twain, financial wizards Warren Buffett and Robert Kiyosaki (author of *Rich Dad, Poor Dad*), and entrepreneurs John Mackey of Whole Foods and Kip Tindell of the Container Store.

In 2009, a *New York Times* article revealed that 27 of the 435 members of the U.S. House of Representatives never graduated from college. Today there is one U.S. senator without a college degree, Mark Begich, D-Alaska, who ran his family's business.

There's even a College Dropout Hall of Fame, which lists successful people across all fields who never got a college degree. The

site's owner explains why he created the list: "I'm a firm believer that most college students would be better off dropping out of school and investing the money they now spend on college."

Today's focus on a college degree may say more about the credentialing craze than it does about the personalities of successful people. In many professions, laws now demand practitioners to earn a degree; architecture, law, medicine, accounting, nursing, and teaching are just a few. But those fields once were populated by people with little formal education.

Frank Lloyd Wright, who was recognized by the American Institute of Architects in 1991 as "the greatest American architect of all time," completed only two years of college.

President Grover Cleveland dropped out of high school and never attended college. Supreme Court Justice Benjamin N. Cardozo successfully passed the New York bar without completing law school. Florence Nightingale, the Crimean War equivalent of an R.N., educated herself in nursing.

For many, college has been a proven path to success. But for others, success has come from hard work, creative thinking, and an entrepreneurial spirit. CJ

Jenna Ashley Robinson is the campus outreach coordinator for the John W. Pope Center for Higher Education Policy ([popecenter.org](http://www.popecenter.org)).

## COMMENTARY

# UNC Gets Legislative Favors

The University of North Carolina system again has escaped the deep cuts for the 2010-11 fiscal year that some other state agencies suffered.

Even so, during this year's short session of the General Assembly, UNC officials mounted an impassioned campaign against any additional reductions. And it worked. The UNC system's operating budget actually increased by \$10 million over the \$2.656 billion earlier appropriated for 2010-11.

Large reductions to UNC's "management flexibility" funds — part of the General Fund used to pay for, among other things, core academic operations — gave the appearance that the entire UNC budget was getting cut to the bone. In last year's legislative session, flexibility funds had been reduced by \$72.9 million for the 2009-10 school year, and by an additional \$100 million for the upcoming year.

When the House of Representatives wanted to cut the management flexibility funds for 2010-11 by an extra \$147 million (after the Senate proposed a reduction of only \$50 million), UNC officials flooded the media with claims that this would cause a loss of 1,700 jobs, many of them faculty positions.

Eventually, the legislature compromised on a \$70 million reduction. This means that flexibility money will be \$242.9 million less than two years ago, a considerable sum to be removed from the total appropriation for 2008-09 of \$2.683 billion.

But there is a lot more to the budget than the management flexibility money. When the budget bill was totaled up, the university system's state appropriations actually grew to \$2.666 billion, despite the flexibility cuts.

The universities had a proposed \$34.8 million cut for the upcoming year restored. Last summer, the legislature reduced its appropriation for 2010-11 by that amount; it was going to permit the UNC system to make it up with a tuition increase equal to the lesser of 200 or 8 percent, figures that vary from

campus to campus.

Instead, the universities are getting both. Along with the restored \$34.8 million, each school will be able to raise its tuition by as much as \$750, on top of the \$200 maximum increase already in place. That money will remain on campus.

One of UNC President Erskine Bowles' major priorities was to increase the amount of money for need-based scholarships to

low-income students. He said that more money for need-based scholarships is necessary because more students are applying for and qualifying for financial aid during the downturn, and he got what he wanted. Yet the UNC system intensely fought off an attempt by the state House of Representatives to put a 1 percent cap on enrollment growth that would have alleviated

much of the pressure for financial aid (and overall appropriations as well).

One of the more questionable appropriations was \$2 million for the "research, design, and construction of devices to capture the energy of ocean waves." Another controversial entity receiving a boost in annual appropriations is UNC's North Carolina Research Campus at Kannapolis.

Last summer, Bowles called UNC's efforts there "highly risky," even though he ardently backs increasing state-funded UNC research. Another \$1 million dollars was added to its annual \$22 million in operating costs.

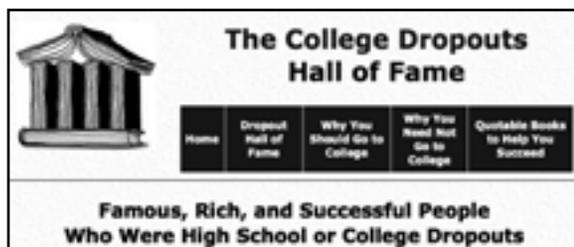
A longstanding controversy about whether to charge in-state tuition to out-of-state students on athletic scholarships finally was resolved. The decision to charge out-of-state tuition saved \$9.4 million in appropriations.

Not only did the university system's operating budget increase while some state departments suffered dramatic cuts, but the legislature also added \$451 million in UNC debt for capital projects. CJ



JAY SCHALIN

Jay Schalin is a senior writer at the John W. Pope Center for Higher Education Policy ([popecenter.org](http://www.popecenter.org)).



There is even a website that celebrates successful college dropouts (<http://www.collegedropouthalloffame.com/>).

## Campus Briefs

In late July, 40 high school and college students from around North Carolina converged in Durham to attend Young Americans for Liberty's Campaign Boot Camp.

Young Americans for Liberty's southeastern regional director, Jared Fuller, described the event as an "opportunity to advance liberty, boost resumes, learn some campaign dynamics, and possibly get an internship or job."

During the first two days of boot camp, attendees studied techniques for building effective coalitions, managing volunteers, and turning out the vote on Election Day. Then, for the final two days, boot camp "graduates" used their classroom training in the field, as they volunteered for the local candidates of their choice.

Many students chose to work on the campaigns of Republican B.J. Lawson, who is running against incumbent Democrat David Price in U.S. House District 4, and Libertarian Mike Beitler, who is running against Democrat Elaine Marshall and GOP incumbent Richard Burr for U.S. Senate.

Other students set up booths at the State Fairgrounds, educating future voters about the philosophy of liberty, small government, and individual rights. Others worked in phone banks or canvassing.

Libertarian political activist and Campbell student Michael Shanklin, who attended the event, said he'd like to see Young Americans for Liberty (YAL) include some liberty-minded candidates other than those with the GOP label. Even so, "for those who are looking to learn the political process with a tinge of liberty, YAL Boot Camp is the way to go."

Young Americans for Liberty is the continuation of Students for Ron Paul, a group that formed during Paul's 2008 presidential campaign. Since the election, YAL's goals have been to "recruit, train, educate, and mobilize students on the ideals of liberty and the Constitution."

The seven YAL chapters in North Carolina are at: N.C. State University, Elon University, Wake Forest University, East Carolina University, Western Carolina University, Campbell University, and Johnson & Wales University. CJ

Compiled by Jenna Ashley Robinson, campus outreach coordinator for the John W. Pope Center for Higher Education Policy ([popecenter.org](http://popecenter.org)).

## Use of Nontenure Teaching Specialists Growing

By DUKE CHESTON  
Contributor

Adam Smith tells us in *The Wealth of Nations* that specialization of labor is the key to a nation's economic advance. One man performing all the steps for making nails, for instance, may produce several hundred per day, but a team of specialized laborers can produce many times more nails per person each day.

Smith attributed the modern world's prosperity to such specialization, and economists largely still agree on this point.

A new trend in higher education seeks to put this principle to use. Universities are hiring nontenure-track teaching specialists, who differ from those on the track toward tenure in that they are not expected to conduct research but to concentrate solely on teaching. This approach can deliver admirable results.

Shelby Frost, one such teaching specialist, lectures on economics at Georgia State University and seems quite content with her role. "I was told when I was hired that the strategy was to put better teachers in the lower-level courses to increase our majors," she said. Apparently, the strategy has worked: "When I first started, we had close to 100 or 150 majors," and "now we have over 600."

Joe Calhoun is another economics lecturer who likes the teaching specialist mode. His department at Florida State University has changed its way of teaching. Introductory classes used to be taught by a range of instructors, from full professors to grad students; now there are a smaller number of sections taught by more specialized teachers. "Students now receive better and more consistent instruction each semester for each course," Calhoun says.

Furthermore, the division of labor appears to benefit research as well as instruction. According to Corey Johnson, a lecturer in the biology department at University of North Carolina at Chapel Hill, "teaching faculty play an important role in lessening the burden of research faculty." They enable researchers to be more competitive with researchers at their peer institutions because they can spend less time teaching.

It often is assumed that nontenure-track faculty don't teach as well as faculty who also are conducting research, but a recent study of nontenure track instructors, which included teaching specialists such as Frost, Calhoun, and Johnson, found otherwise.

By examining the correlation between the type of instruction and student dropout rates, Audrey J. Jaeger, an associate professor at N.C. State University, and M. Kevin Eagan of UCLA found that full-time nontenure track lecturers do no harm to student retention. Among "doctoral extensive" schools (i.e., those that grant 50 doctorates per year in at least 15 disciplines, based on the Carnegie classification), the effect of this type of instruction was statistically insignificant, while at "doctoral intensive" schools, it actually improved student retention by 3 percent.

RALEIGH

Still, not everyone is embracing the idea. In fact, some people are fed up with it. Cary Nelson, president of the American Association of University Professors, for instance, will be speaking at the ninth annual conference of the Coalition of Contingent Academic Labor, to be held this month in Quebec. In between the advertised cocktail hour and dinner cruise on the St. Lawrence River, conference attendees will gather to discuss how they are "tired of being marginalized" and "dismayed by the working conditions and lack of academic freedom protections that come with being hired on a contingent status." Conferees will discuss ways to improve their condition, including "developing solidarity," pushing for recognition, and potentially unionizing.

In some fields, it is understandable why nontenure-track teachers would be less than satisfied. Leslie Mateer is a part-time lecturer in the humanities, an academic

field where the labor market is not nearly as favorable for lecturers as it is in economics. Instead of having a team of assistants and a nice office as her husband does (he is a teaching specialist in the economics department at Penn State University), she has to grade papers herself and share an office. Further, there is less prestige, less pay, and little job security for instructors like Mateer. In contrast to her husband's multiyear contract, she is hired on a semester-by-semester basis.

Overall, though, the trend seems to be positive. Despite COCAL's objections to the "corporatization of the university," the benefits to researchers and students (both in terms of improved instruction and lower tuition) seem to outweigh the costs (and the teaching specialists, at least in some fields, seem to make out just fine as well). To be sure, more empirical studies would be helpful, but the current evidence is clearly favorable for the nontenured lecturer position. CJ

Duke Cheston is a reporter and writer for the John W. Pope Center for Higher Education Policy in Raleigh ([popecenter.org](http://popecenter.org)).



## 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.

The John William POPE CENTER  
FOR HIGHER EDUCATION POLICY

To receive a free copy, call  
919.828.1400 or email  
[shaw@popecenter.org](mailto:shaw@popecenter.org).

Visit the Pope Center online at [popecenter.org](http://popecenter.org) for additional reports and studies

## Opinion

# Can States Spur Economies By Investing in Higher Education?

You don't have to spend much time in state political circles before you hear some version of "the speech." It goes something like, "We have to invest more in higher education if we are going to compete in the knowledge-based global economy of the 21st century."

Initial intuition suggests this is correct. After all, innovation and technical advances have been driving the economy for the last half-century, and universities both train young people for advanced careers and forward the progress of knowledge through research. It stands to reason that, to promote economic growth, society should devote as many resources as possible to our public institutions of higher learning. At least, that has become the overwhelming consensus view.

The problem is that, sometimes, the consensus, or conventional wisdom, is more "convention" than wisdom. In this case, most people don't think to question it, and those with doubts probably feel it's best politically to ignore them. Still, amid all the cries for more government spending on our universities to spur economic development, I came across an unpublished article by iconoclastic Ohio University professor Richard Vedder, who made a remarkable claim. He had created an econometric model suggesting that the more states spent on higher

education in recent years, the worse their economies performed!

With that possibility in mind, I spent a year investigating the true relationship between state investment in higher education and the economy. And I uncovered a simple truth — that there is no single answer to the question that is valid all the time.

The evidence of higher education's positive influence on the economy is omnipresent. Yet Vedder's analysis also is likely to be true at some times. Some factors that contribute to the negative effect of state higher education spending are identifiable. They include: highly subsidized public colleges that expend great resources toward educating people who are not really college material; wasteful, unnecessary research by faculty; excessive nonfaculty staffing; and so on.

Furthermore, many of the studies cited by university officials and politicians are flawed fundamentally. They claim to quantify the impact of universities on local economies, but their results often are unrealistic.

Yet policymakers seem blind to anything that contradicts the consensus. They prefer the success stories, such as the emergence of software giant SAS from N.C. State University's statistics department (funded by a federal grant), or Silicon Valley's relationship with Stanford University during its formative years.



While those success stories are real, they reflect specific conditions of time and place. Research Triangle Park — one of three areas commonly cited as a model for state-academia-industry

cooperation — was a unique idea that blossomed in a particular region at a particular time. Today, politicians in every state are trying to replicate its success by pouring money into education and research, and they are likely to fail, for a variety of reasons.

For one thing, the principle of diminishing marginal returns sets in. Policymakers, analysts, academic administrators, and state bureaucrats often regard the last \$100 million spent on higher education as no different than the first \$1 million dollars spent — a serious error in judgment. Nor do they grasp the principle of alternate uses. They beam with pride at the gleaming new buildings on campus, but do not see the thriving private office buildings and factories that would exist without the taxes needed to raise revenues for campus construction.

Also underlying the consensus view is a faith in the efficacy of government. Theoretically, it makes some sense to have our public institutions — government and academia — partner with private industry to further our prosperity. But this trend toward greater cooperation has some disturbing implications as well. State universities are part of state govern-

ment, and for them to be funded specifically to create jobs and businesses, as they are now called upon to do, smacks of centralized planning, with government making the investment decisions.

Some proponents of the consensus have suggested that government performs a valuable service by using public money to fund research projects deemed too risky by private venture capitalists. But such entrepreneurs are experts at assessing risks and gains. If they deem a project unworthy of investment, it is likely to fail. When a state puts money into such ventures, it essentially is subsidizing failure.

Additionally, states that hand money over to universities to create jobs are ignoring another important factor — innovation is random. States funding university research to spur development often resemble gamblers more than they do prudent investors.

In summary, my investigation gave me a lot more questions than answers. But there are enough red flags indicating that the current levels of spending on higher education already are too much of a good thing. There needs to be a lot more research and discussion before states pump even more money into the universities. CJ

Jay Schalin is a senior writer for the John W. Pope Center for Higher Education Policy ([popecenter.org](http://popecenter.org)). This column is based on the report, "State Investment in Universities: Rethinking the Impact on Economic Growth," available from the Pope Center.



**JAY  
SCHALIN**

## North Carolinians for Home Education

### The MISSION of NCHE is to:

- PROTECT the right to homeschool in North Carolina.
- PROMOTE homeschooling as an excellent educational choice.
- PROVIDE Support to homeschoolers with conferences, book fairs, and other resources.



### The IDEALS of NCHE are:

- Educational excellence.
- Parental authority and responsibility for education.
- Protection and promotion of the family.
- Diligence in moral and ethical instruction.
- Responsible citizenship.
- Freedom of choice among educational alternatives.
- Defense of Constitutional rights.

Over 9000 people will attend the annual conference and book fair in Winston-Salem May 26-28. For more information about NCHE, you can call the office at **919-790-1100** or visit the website at [www.nche.com](http://www.nche.com)

As of January 2005, there were over **60,000** homeschoolers registered in the state of North Carolina.

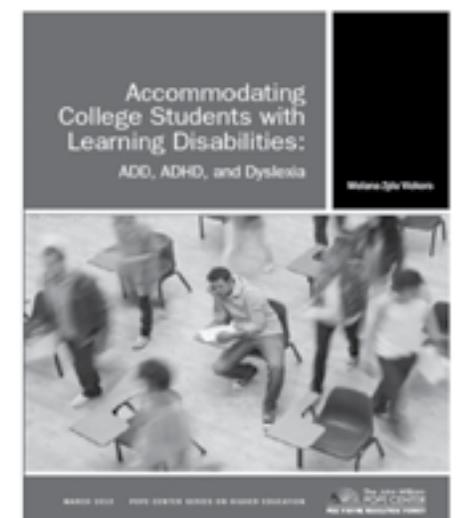
## Learning disabilities on campus: a cause for concern?

### You decide.

Read the newest Pope Center Series report, "Accommodating College Students with Learning Disabilities: ADD, ADHD, and Dyslexia" by Melana Zyla Vickers

To receive your free copy, call **919.532.3600** or email [shaw@popecenter.org](mailto:shaw@popecenter.org).

The John William POPE CENTER FOR HIGHER EDUCATION POLICY



Visit the Pope Center online at [popecenter.org](http://popecenter.org) for additional reports and studies

# Tobacco Trust Fund Pays For Footbridge to Nowhere

Continued from Page 1

est favorable impact on the long-term health" of the state's tobacco-related economy. To date, the commission has allocated more than \$45 million to hundreds of projects.

Some of the commission's funding seems to have a firmer connection to struggling tobacco farmers than others. As part of 36 grants totaling \$6.1 million doled out this year, the commission bankrolled construction of a farmers' market restroom near Wilmington and a footbridge in Fair Bluff, a small town near the South Carolina border.

The commission also contributed \$450,000 to the N.C. Biotechnology Center's building expansion, \$61,000 to help send state employees on trade missions to East Asia, and \$22,000 to study organic flour.

"We try to invest our money in the most diversified mix that we can that's appropriate, in hopes of generating new opportunities and new ideas for people out there," said Jeff Jennings, the commission's program officer. "It might be tourism, it might be diversification, it might be job retraining."

In past years, the commission spent \$28,000 to print 100,000 maps highlighting "agritourism farms" — agriculture facilities that supposedly will stimulate local economies by attracting out-of-town visitors — and \$250,000 on a biofuels processing lab.

The commission has funded several other projects with an environmental focus, too. This year, it plugged \$185,000 into workshops on risk mitigation measures required by the Environmental Protection Agency. In 2009, it devoted \$245,000 for a cost-share program for at least 40 tobacco farms to use wind, solar, and water for power.

## Biotech expansion

One of the largest grants this year went to the Biotechnology Center, a nonprofit, private organization created in 1984 to use public funds to finance biotech projects in the state. It's now in the process of adding a 20,000-square-foot expansion to its headquarters in Durham at a total cost of \$10.4 million.

The commission allocated nearly \$500,000 earmarked for a "statewide agricultural biotechnology initiative," housed in the new four-story circular building.

The center's grant application says that the building could result in \$30 billion in "increased agricultural revenues" during the next 10 years, and that it would create 294,000 jobs.

Another part of the application says that a separate building would "enrich the architectural landscape" of the state. A line-item budget for the commission's share of the project includes \$79,527 for terra-cotta and stone; \$23,262 for terrazzo, specialty flooring made of marble and stone chips; and



Workers install plumbing for a \$30,000 TFC-funded restroom at a farmer's market near Wilmington. (CJ photo by David N. Bass)

\$8,263 for acoustical ceilings.

The center also secured \$2.5 million from the General Assembly over five years and is anticipating a \$3.5 million federal appropriation for the next fiscal year. Most of the remaining funding sources are private.

## Footbridge, restroom

Part of the commission's goal is to revitalize once tobacco-dependent areas of the state by spurring development of other industries. Since 2007, it's poured \$450,000 into turning the Town of Fair Bluff — population 1,181 as of the last census — into a tourist destination.

The Lumber River runs near downtown, and elected officials and business leaders have led an effort to complete an information center and footbridge to attract visitors. The park also has a boat launch.

This year, the commission allocated \$150,000 to the town to extend the footbridge another 1,400 linear feet, construct two pedestrian shelters, and finish renovations on

the information center. The town also secured a \$100,000 appropriation this year from the General Assembly.

Earlier, officials estimated the footbridge would create three jobs and re-employ one worker, while assisting no current or former tobacco farmers. Instead, it would serve 2,000 tourists.

The town's grant application says the enhancement project has "the potential to revitalize the economies of the immediate area, and the greater

region" and "could lead to a complete turnaround of our community."

Asked if that prediction was practical, commission president William Upchurch said he hoped so. "We really hope that this can be a shot in the arm in a town that we just don't see where you could move a large corporation down there that would create jobs and educational opportunities for people," he said.

Another grant for the 2010 cycle went to Poplar Grove, a historic peanut plantation north of Wilmington. A farmer's market operates there each Wednesday from 8 a.m. to 1 p.m.

The nonprofit that runs the plantation initially asked for enough in grants to supply electricity, buy an LCD projector, install an LED message sign, and construct a stand-alone restroom for a total of \$187,348. The commission opted to fund the restroom only.

The market currently has a membership of 56 vendors, with an average of 30 to 40 vendors participating each market day. In 2009,

the plantation got a \$50,000 grant from the commission to build a gravel parking lot next to the farmer's market.

## 'The dominoes are falling'

Applicants are responsible for estimating their project's impact in 14 areas, including number of jobs created, tobacco quota holders assisted, and state tax revenue generated. There is no set formula for how grantees make those projections

Of the applications reviewed by *Carolina Journal*, most made modest predictions, but they diverged frequently. For example, Poplar Grove representatives estimated the improvements would create 14 jobs and assist eight current or former tobacco farmers. In contrast, the Biotech Center predicted that every tobacco-associated farmer in North Carolina would benefit from its building expansion.

Commission officials are eager to tout the grants' economic benefits. They say a \$33,000 grant to fund partially an agriculture trade mission to China last August led to \$52 million in tobacco orders. Five state Department of Agriculture employees — including Commissioner Steve Troxler — participated in the mission, accompanied by self-funded industry representatives.

In an e-mail exchange following the trip, Peter Thornton, the department's assistant director for international marketing, valued the contacts made at \$28 million. He also compared the growth of trade between China and North Carolina to a domino cascade, writing, "The dominoes are falling. They will continue to fall."

Even so, officials admit it's difficult to quantify the economic value of trade missions because of the variables involved.

"Can you attribute everything? I don't know," Upchurch said. "But I can't believe it's coincidental that so many follow-up phone calls and purchases took place shortly after they returned back to the U.S. from the contacts they made over there."

The Agriculture Department secured \$28,000 in additional commission grants this year for another trip to Asia.

## Raiding the fund

The governor or legislature has diverted funds from the commission each year since it began issuing grants. For the 2010 cycle, lawmakers siphoned off \$5 million. Last year, they took \$15.3 million.

With an anticipated \$3 billion budget hole to fill next year, and double-digit unemployment plaguing the state, some lawmakers say it's time to rethink funding priorities.

"I don't think it's going to create jobs in the same way that the stimulus hasn't created jobs," Blust said.

Sen. Phil Berger of Eden, the Republican leader in the state Senate, said there needs to be a periodic review of where the cash goes. "We probably need to take a look at it in the context of taking a broader look at the entire tobacco settlement — where the money is going, what makes sense," he said. CJ

Editorial intern Bill Flanigen contributed research and reporting to this story.

### List of selected Tobacco Trust Fund projects

- (2010) \$75,000 to study organic canola and spelt production at N.C. State University.
- (2010) \$21,864 to fund a project to "establish an agronomic analysis centered on the demand for local hard winter wheat."
- (2010) \$825,000 for the "Got to be N.C." marketing campaign.
- (2008) \$300,000 for a "consumer directed television feature on tobacco production in N.C. and how farmers have diversified into other crops and products."
- (2007) \$1,665 to recognize environmentally friendly Durham County farmers by placing a sign at the entrance to their farms saying, "This Farm Cares About the Environment."

Source: Tobacco Trust Fund Commission documents; the commission issues grants in April of each year

# Major Issues Avoided During Legislature's Short Session

Continued from Page 1

predict will be tough for their party.

## Ethics shortfall

Lawmakers eked out a compromise ethics reform package in the waning hours of the session that toughens enforcement and penalties, but government watchdogs say it doesn't go far enough in combating corruption in Raleigh.

The package extends Gov. Bev Perdue's gift ban so that it covers not only cabinet agency employees but also all state workers who manage contracts. Yet it stopped short of enacting several other reforms, including a requirement that state employees forfeit their pensions if they're convicted of a felony connected to government service.

Perdue also called for a one-year "cooling off" period for high-level state employees. For one year after leaving state employment, those workers could not accept employment at any company they once regulated. The final version applies to all state employees, but trims the revolving door back to six months and affects only those who register as lobbyists.

In a victory for reform advocates, the bill expands disclosure of state personnel records and creates a single-source website listing state grants and contracts that exceed \$10,000. The bill doesn't curb donations from potential government contractors to the elected officials who regulate them — another Perdue priority. Instead, it orders a study of the issue.

Reformers' praise of the measure was tinged with disappointment that legislators didn't enact stricter standards. Former Democratic consultant



N.C. House of Representatives members in session in June during the 2010 legislative short session. (CJ photo by Don Carrington)

and open-government advocate Joe Sinsheimer lauded the measure's illegal fundraising components, and a provision making it easier for people who win open-records lawsuits against the government to recover their legal costs.

Overall, though, he called the package "only half a loaf of bread" and criticized Perdue for failing to take a more active role in the drafting process.

## Charter-light

School reformers had hoped the legislature's Democratic leadership would ease the state-imposed 100-school cap on charter schools, which are public schools that have more freedom to set curricula and hire and compensate staff than traditional public schools. Instead, lawmakers passed Senate Bill 704 allowing local school boards to incorporate charter-

like elements into low-performing traditional public schools.

A Republican-sponsored amendment that would have allowed top-tier charter schools to open a new school without it counting against the cap was rejected.

Perdue had requested action on the original bill in advance of the June 1 application deadline for a second round of federal Race to the Top Grants, allocated partly on the basis of a state's friendliness to charter schools. The state was a finalist but failed to secure any funds in a first round of grants.

S.B. 704 garnered the support of the N.C. Association of Educators, the state's largest teachers' union, and easily passed the House and Senate. Brian Lewis, the association's government relations manager, said his group helped shape the bill and signed off on the final version.

"We'll see how it plays out over the next five years," he said.

The closest charter school advocates got to meaningful reform was House Bill 856, which would have raised the cap to 106 schools. It passed the House nearly unanimously last year, but got bottled up in the Senate Education Committee.

"At the 11th hour, literally hours before the last committee hearing in the Senate, that bill was pulled," said Darrell Allison, president of Parents for Educational Freedom in North Carolina. "That was quite disappointing."

## Corporate incentives

This year's session might have been the shortest in recent history, but it was long on corporate tax breaks. What began as a measure to extend a small list of tax credits grew to 20-pages — an expansion of the state's system of tax favors that could cost North Carolina hundreds of millions of dollars over the next four years.

The final bill extends credits or refunds for the construction of re-

newable fuel facilities, biodiesel fuel production, and motorsports teams' aviation fuel purchases. It also creates new credits and exemptions for wood-chipper manufacturers, "eco-industrial park" facilities, and companies producing "interactive digital media" such as video games.

The majority of the legislature's tax favors, however — potentially more than \$160 million, according to the General Assembly's Fiscal Research Division — were directed at the film industry.

State Rep. Bill Owens, a Democrat from Pasquotank County and primary sponsor of the bill, said the incentives are necessary to bring job-creating industry to North Carolina.

"I would love for the federal government to pass legislation outlawing all incentives," he said. "I hate them. But to be competitive with other states, you have to do it."

Legislators' attempt to hurry through another economic incentives bill — this one aimed at the biotechnology industry — failed.

The measure, known as the Life Sciences Development Act, would have created a private, limited-liability company to make taxpayer-funded loans of up to \$30 million to biotech companies. To underwrite the loans, the company would sell equity certificates (similar to shares of ownership) to venture capitalists.

If returns weren't as good as expected, the company would issue tax credits to investors. Critics took particular umbrage to that section of the bill, claiming it put venture capitalists' risk on the backs of taxpayers.

"It's a giveaway for a certain class of people, and it's a giveaway that is not needed," said Rep. George Cleveland, an Onslow County Republican.

## Fatty bills

After much criticism, the state's Task Force on Childhood Obesity got three fat-fighting laws through the General Assembly. The most controversial bill initially was intended to ban whole-fat milk, fruit juice, and sugar-sweetened beverages in day care centers and preschools. Later, a provision banning bottles was tacked on.

As the bill made its way through committee, it faced criticism from conservative lawmakers and grass-roots groups. That opposition stripped some of its compulsory language; the version that became law allowed parents to opt out of many of its mandates.

Two other task force recommendations became law this session. One requests additional federal funds to expand the state's food stamp program. The other requires annual fitness testing in schools, from kindergarten through eighth grade. *CJ*

CAROLINA JOURNAL TV

## Tune in to CarolinaJournal.tv



Go to [CarolinaJournal.com](http://CarolinaJournal.com) to find links to Carolina Journal TV and Carolina Journal Radio.

to find out how North Carolina's legislative leaders have set the state on track to create a \$3 billion hole in the Teachers' and State Employees' Retirement System. The shortfall could mean more taxes for you.

## Town and County

## Wake tops Mecklenburg

The latest state population estimates show Wake County has passed Mecklenburg to become North Carolina's most populous county. That Wake eventually would surpass Mecklenburg was pretty much a given, as Wake County has been growing more rapidly, but the timing was unexpected.

The Raleigh *News & Observer* notes that the state's projection for the July 2010 population for Wake is 920,307, compared to 909,493 in Mecklenburg.

"Whatever the population numbers are, Charlotte is the economic capital of a two-state region. From an economic development perspective, that's frankly what's more important," said Bob Morgan, president of the Charlotte Chamber of Commerce. Morgan notes that the state benefits from having two vibrant economic centers.

"We are both economic engines for the state of North Carolina. That's a good thing," he said. "We still might like a recount."

The recession has hit the Charlotte area harder than the Triangle, slowing growth in the region, and allowing Wake to move ahead. The broader Charlotte-Gastonia-Salisbury Combined Statistical Area remains significantly larger than the Raleigh-Durham-Cary area, including Chapel Hill. Wake County also is physically larger at 832 square miles, compared to Mecklenburg County's land area of 526 square miles.

## Charlotte streetcar line

The federal government has awarded the city of Charlotte \$25 million to begin streetcar service along a 1.5-mile stretch of track by 2014. Even with the grant, there are many unresolved issues about paying for and operating the line. City leaders hope it eventually will stretch for 10 miles and serve as an economic development tool, notes *The Charlotte Observer*.

Though Mecklenburg County has a dedicated sales tax for transit, receipts from the tax initially will not be used to fund the streetcar line. Instead, Charlotte is contributing \$12 million to start operations and cover the line's operating costs. And to keep costs down, the streetcar system will begin operations with just three small vintage streetcars. The initial streetcar line will follow a route that the Charlotte Area Transit System now operates using buses. CJ

## Chowan County Digging Out of Fiscal Hole

## Questions about use of local money for lease of hospital spur state auditor query

By SARAH OKESON  
Contributor

EDENTON

Former Chowan County Manager Cliff Copeland, who retired abruptly in June 2008, left the county in such bad financial shape that the Local Government Commission, which oversees the finances of government agencies, wouldn't allow—and still won't allow—the county to borrow money.

Copeland oversaw \$29 million in spending by the county over 10 years from the revenues of a hospital lease, even though county commissioners passed resolutions limiting the spending to only the interest earned from investing the proceeds of the lease.

The debacle has led to a preliminary investigation by the state auditor, a probe by the U.S. Attorney for the Eastern District of North Carolina, and county employees revealing notes they took about their contact with Copeland.

Of her April 23, 2009, conversation with Copeland, County Clerk Susanne Stallings wrote that Copeland said: "Don't say a word, Raleigh says this [auditor investigation] is a joke, and he will be cleared of everything. Kept saying he knew for sure and don't say a word."

Eddy Goodwin, the chairman of the Chowan County Board of Commissioners, said many people in Chowan County think no action will be taken against Copeland.

"He was bragging and talking that the fix was in," said Goodwin, a Republican elected in the predominantly Democratic county after the financial problems came to light. "A lot of people think that because he's connected politically, nothing will be done."

The preliminary investigation by state Auditor Beth Wood, a Democrat, found problems with the county's financial management but no criminal wrongdoing. The mess also prompted the U.S. Attorney's office for the Eastern District of North Carolina to investigate. No criminal charges have been filed.

Dennis Patterson, a spokesman for Wood, said the state auditor found that only local money was involved, so it didn't fall under the state auditor's jurisdiction.

"State money is what we're interested in," Patterson said. "That's what we're responsible for."

Copeland referred questions to his attorney, Wade Smith, a former state Democratic Party chairman. Smith did not return a phone call from *Carolina Journal*.

"They were doing pretty good before I left," Copeland said of the county.

Another conversation, on Oct. 15, 2008, referred to state Senate President Pro Tem Marc Basnight, D-Dare, and state Rep. Tim Spear, D-Chowan.

"AMK [Edenton Town Manager Anne-Marie Knighton] said auditor didn't ask about finances, only about favors for Basnight, Spear, and Paul Waff," Stallings wrote about what Copeland told her.

Schorr Johnson, a spokesman for Basnight, said Basnight "doesn't have any response because he has no idea what this means, and he has not represented Chowan County for many years."

Waff, an Edenton contractor, said the conversation may have referred to a grant of more than \$200,000 that paid for utilities to a marina and restaurant he owns. But Waff said there was no political favor.

"I don't quite understand that statement," Waff said. "I think somebody may have taken something out of context."

Patterson said he couldn't say if auditors asked about Basnight and Spear. "We never discuss or release work papers," Patterson said.

Knighnton declined to comment, and Spear did not respond to requests for comment.

Copeland also acknowledged responsibility for payments to a Raleigh lobbying firm in a conversation with then-County Manager Peter Rascoe on April 29, 2009.

The auditor's preliminary investigation questioned \$259,493 that the county paid to the lobbying firm Capstrat through the Edenton-Chowan Development Corp. Capstrat is run by Ken Eudy, the former executive director of the state Democratic Party.

Articles in *The Virginian-Pilot* raised questions about claims by a Capstrat lobbyist that the firm helped secure financing for a landing system at the regional airport and a 911 system. The preliminary investigation recommended that Chowan County try to find what specific benefits it had received from the lobbyist and try to get the money back if no possible benefits were found.

Eudy said that Wood had apologized to him for the investigation, which he called a letter to Chowan County.

"The references to Capstrat in that letter were based on nothing more than a stack of news articles," Eudy said. "No one from the auditor's office ever contacted Capstrat or asked to interview us before writing that letter."

Patterson said Wood apologized for the document being released publicly "under the guise that it was some sort of official ruling from us, which it was not." Preliminary investigations, such as the one into Chowan,

normally are confidential.

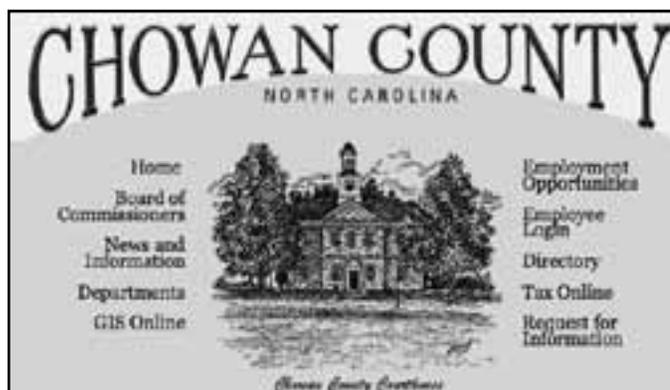
Chowan County commissioners approved a \$16 million budget in June that has no tax increase. Final numbers for the last fiscal year aren't in, but the county hopes to have about \$1.5 million, or 8 percent of the general fund, stockpiled against emergencies. That surplus would bring the county into compliance with state guidelines for good budgeting.

"Cash flow was a big issue," said Lisa Jones, the county's finance manager. "We couldn't even get a tax anticipation note. We had to think of other things to get us through."

The county got a financial windfall of about \$29 million in 1998 when it leased its hospital to Pitt Memorial Hospital/University Health Systems. County commissioners set up two health reserve funds for the money with the restriction that no more than 75 percent of the interest would be spent, allowing the funds to grow.

But Copeland spent money from the health funds without permission of county commissioners. Chowan County spent more than it brought in for years. It built an agriculture center and an adult day health center and renovated the library. Much of the work was done with borrowed money. Between fiscal years 2003-08, Chowan County spent between \$1.3 million and \$3.3 million more than it collected in taxes each year.

As early as 1998, the Local Government Commission warned Chowan County that some of its revenue funds weren't generating enough money to meet expenses. CJ



# Appeals Court Says DENR Wrong in Septic Perk Case

By MICHAEL LOWREY  
Associate Editor

CHARLOTTE

In a June 15 ruling, the state's second-highest court found the state's statute of repose, which cuts off an injured party's right to recover damages from the government if the party fails to act within a specified time period, may not apply if the party received a permit to make certain improvements but did not start the improvements until years later.

In 1989, Dudley and Joan Dawson signed a contract to buy two lots in Person County for \$120,000. The purchase was contingent on the lots "perking" — being able to support a septic system, a prerequisite for building a house.

On March 1, 1989, Jimmy Clayton, a sanitarian for the Person County Health Department, tested the lots, determined they perked, and issued a site classification letter to that effect to the Dawsons.

The Dawsons bought the lots but didn't build a house on the site immediately. It would be April 2000 before they applied for improvement permits from the health department for a two-bedroom house with a septic system like the one envisioned in 1989.

To their surprise, the health department refused to issue the permit after determining that neither lot could support a septic system.

The Dawsons ultimately were forced to purchase a third lot for \$25,000 plus \$515 in closing costs to serve as a repair area for a house and its septic system on the original two lots they had purchased.

In June 2003, the couple filed suit under the State Tort Claims Act against the N.C. Department of Environment and Natural Resources, on whose behalf the health department had acted. On Oct. 1, 2008, the North Carolina Industrial Commission awarded the Dawsons \$33,000 in damages for costs associated with acquiring the extra lot and lost earnings.

DENR challenged the Industrial Commission's determination and brought the matter before the Court of Appeals.

On appeal, DENR contended that

the state's statute of repose barred the Dawson's claim.

N.C. General Statute § 1-50(a)(5) (a) states that:

*No action to recover damages based upon or arising out of the defective or unsafe condition of an improvement to real property shall be brought more than six years from the later of the specific last act or omission of the defendant giving rise to the cause of action or substantial completion of the improvement.*

For its part, DENR argued that Clayton's actions amounted to a negligent design and inspection of a septic system. To buttress its argument, the department claimed that the 1985 N.C. Supreme Court decision in the case of *Trustees of Rowan Tech. Coll. v. J. Hyatt Hammond Assocs.* held

that "[t]he statute covers claims for negligent failure to properly design and construct buildings." Because the Dawsons didn't seek compensation from the state until 14 years after Clayton's faulty inspection, the department contended the statute of repose barred the suit.

The Court of Appeals was not persuaded.

"DENR has cited no case holding or even suggesting that this statute applies even in the absence of the actual construction or repair of an improvement. Nor have we found any such decision," wrote Judge Martha Geer for the appeals court.

And as the appeals court noted, no construction or repair took place.

"In this case, Clayton was not inspecting an existing septic system to see if it was up to code," the court ruled. "He was inspecting the lot to determine if it was suitable land on which to construct an improvement. Because DENR has failed to show the existence of an improvement to real property, we hold that N.C. Gen. Stat. § 1-50(a)(5) does not apply to the Dawsons' action."

The appeals court thus affirmed the award of damages to the Dawsons.

The case is *Dawson v. N.C. Department of Environment and Natural Resources* (09-109). CJ



The case involved land purchased on the basis of a perk test that later proved to be incorrect

## COMMENTARY

### Higher-Speed Rail Activists Clueless

One of the biggest problems with American transportation policy is that many policymakers really don't have a clue.

A case in point is Virginia state Sen. John C. Watkins, who recently was named the first chairman of the Virginia-North Carolina Interstate High-Speed Rail Compact. The compact is the organization overseeing plans for a 162-mile, \$2.3 billion plan to bring higher speed rail service between Raleigh and Richmond.

The promised higher speeds really aren't all that fast, with trains set to reach speeds of 110 mph along portions of the upgraded route.

But that hasn't stopped Watkins and others from promising big things from the project. For example, Watkins stressed to the *Raleigh News & Observer* how the proposed improved rail service would undermine airline hubs like US Airways' big operation at Charlotte Douglas International Airport:

"It would be so much easier for the consumers who now have to fly through Charlotte or wherever. It makes a lot more sense to be able to get on a train that you can depend on to be on time — and just go."

Hate to break it to the senator, but approximately no one actually flies between Raleigh (RDU) and Richmond (RIC) these days. The federal government does keep track of such things and publishes a quarterly "Domestic Airlines Fare Consumer Report," which includes data on the number of passengers traveling between city pairs in the continental U.S. and the average fares paid.

The data released by the Department of Transportation include only city pairs with at least 10 passengers a day. That's one-zero passengers a day total, the sum of people flying commercially, whether connecting or nonstop. The RIC-RDU market isn't listed for the first quarter of 2010 (latest data available) or any quarter of 2009.

And this isn't just a Raleigh-Richmond situation. Short-haul air service largely has disappeared in the continental U.S. outside of the Boston-New York City-Washington, D.C., corridor. US Airways does fly between CLT and RDU nine times a day — with a total of 1,201 seats a day this summer — but only about five or six people actually begin their journey each day in Charlotte and fly up to Raleigh-Durham.

CLT-RIC, a 256-mile route on which US Airways offers eight flights a day with a total of 734 seats, only averages about 40 people going from Charlotte to Richmond daily.

What are the rest of the passengers on those flights doing? Connecting to a multitude of destinations at CLT, most of them 300 miles or more from home. And Watkins' multibillion-dollar rail project won't change — can't change — that.

Not-really-all-that-fast rail service will likewise have a very modest impact at most on automobile travel between Richmond and the Triangle. There's a perfectly good interstate highway connections between the two regions that are not used heavily.

And what matters to travelers is door-to-door travel time, how long it takes to get from their starting point to their final destination. In areas as large as the Triangle or the greater Richmond area, those starting and ending points are often not going to be in close proximity to a rail station.

At \$2.3 billion, faster Raleigh-Richmond rail service is a poor use of public money. There simply are many other transportation projects that would produce a much greater bang for that amount of bucks.

As long as those overseeing transportation policy don't know what they're talking about, it will continue to be unlikely that the public's money will be well spent.

Garbage in, garbage out. CJ

Michael Lowrey is an associate editor of *Carolina Journal*.



MICHAEL LOWREY

## Local Innovation Bulletin Board

## Race and Police Stops

In 2009, New York Police Department officers stopped and frisked 575,000 pedestrians. African-Americans make up 23 percent of New York City's population, yet 55 percent of those frisked were black. Based on these statistics, a number of civil rights organizations have accused New York City police of having a racial bias. Such criticism misses the point, says Heather MacDonald of the Manhattan Institute in *The New York Times*.

"Allegations of racial bias, however, ignore the most important factor governing the Police Department's operations: crime," notes MacDonald.

The NYPD targets minority neighborhoods because that's where the crime is. Victim statements have blacks committing 66 percent of all violent crimes in the city in 2009. The percentage was even higher for robberies and shootings. Non-Hispanic whites, on the other hand, were responsible for 5 percent of violent crime in New York City in 2009.

Police data also show the percentage of people arrested or cited after being stopped and frisked is the same regardless of the race of the person stopped.

Despite the criticism by civil rights groups, the NYPD's policies enjoy broad support within minority communities. A May 2010 poll by Quinnipiac University showed that 68 percent of blacks approve of the job Police Commissioner Raymond Kelly is doing.

"The attack on the Police Department's stop-and-frisk data is based on the false premise that police activity should mirror census data, not crime," says MacDonald.

"If the critics get their way, it would strip police protection from the New Yorkers who need it most."

### Wind power limits

Wind turbines generate power only when the wind, well, blows. And that's been the problem in Scotland this year, where energy production has been off nearly 50 percent because of overly calm weather, reports *Scotland on Sunday*.

Winds turbines are expected to produce energy on average at about 30 percent of their installed maximum capacity.

Through the first five months of 2010, Scottish wind turbines had generated power at only 17 percent of their installed capacity. About 80 percent of the time, they were generating less than 30 percent of their

maximum capacity.

To make matters worse, the wind farms were producing at 5 percent of capacity or less nearly a third of the time.

"This raises serious concerns about security of supply," says Helen McDade, head of policy at the John Muir Trust, a land preservation group.

"We have always been told that even if it isn't windy in one part of the country, it will be elsewhere. However, this suggests that is not the case," McDade added.

"What will the consequences be when we become more reliant on wind power, and switch off the other resources, such as the coal-fired power stations?"

Government officials noted that such low wind speeds are a rare occurrence.

"Generally, the wind is blowing somewhere in the U.K. and the likelihood of low wind speeds affecting 50 percent of the country occurs less than 100 hours per year," said a spokeswoman for the U.K. Government's Department of Energy and Climate Change.

### MHSA-related ER visits

In 2007, adults made 95 million emergency room visits in the United States. According to data from the U.S. Agency for Healthcare Research and Quality, 12 million of these — one in eight — involved a diagnosis related to a mental health and/or substance abuse condition. For 4.1 million visits, a MHSA condition was the first-listed or primary diagnosis.

"An estimated one in three individuals has suffered from a mental health or substance abuse condition within the last 12 months, yet the community treatment system to support services for these individuals is regarded as ineffective," note the agency's Pamela L. Owens, Ryan Mutter, and Carol Stocks.

"This is particularly evident in emergency department utilization."

Mental health conditions accounted for 63.7 percent of MHSA-related emergency room visits, while those with a substance abuse diagnosis accounted for 24.4 percent of visits.

The remaining 11.9 percent of cases involved both mental health and substance abuse issues.

MHSA-related emergency room visits resulted in patients being admitted to the hospital at a 2 1/2 times higher rate than those with a non-MHSA diagnosis. CJ

## Durham Cries Foul Over Lake Regs

By MICHAEL LOWREY  
Associate Editor

RALEIGH

The N.C. Division of Water Quality held the first in a series of public hearings on proposed new water quality rules for Falls Lake. Durham officials again used the hearing to blast proposed news rules for the watershed, reports the *Durham Herald-Sun*.

The Falls Lake watershed includes portions of six counties, with the lake serving as a source of drinking water for some 450,000

Wake and Durham county residents. The state has proposed a 25-year plan that would reduce substantially nitrogen and phosphorus levels in the lake. The regulations would be implemented in two stages — the first phase would cover the entire lake, while the second would impose additional restrictions on the lake's upper watershed only.

Durham officials object mainly to the proposed regulation's second stage, which would affect Durham County much more than Wake. They contend that the state's cost estimate of \$1.5 billion over 25 years is too low, with \$3 billion being a more likely figure. Those costs would fall disproportionately on Durham residents.

"These reservoirs were built without Durham's consent, to benefit citizens outside Durham," said Durham City Manager Tom Bonfield.

Jack Steer, vice president of Durham Citizens Coalition, agreed.

"We find this to be outrageously biased," he said. "Durham taxpayers are being asked to subsidize a clean water level that no other taxpayers in North Carolina have had to meet. And, to make matters worse, these taxpayers receive no benefit from the project."

### Greensboro rental inspections

Greensboro officials may re-examine the city's rental housing inspection program. The move comes after City Councilwoman Nancy Vaughan questioned whether the program is cost-effective, reports the *Greensboro News & Record*.

The city began its Rental Unit Certificate of Occupancy program in 2003. It requires that rentals pass a safety inspection before an apartment or rental house can be leased. Periodic reinspections also may be required. Since the program began, city inspectors have looked at 35,000 rental properties.

Last year, the city received less than 500 complaints about substan-

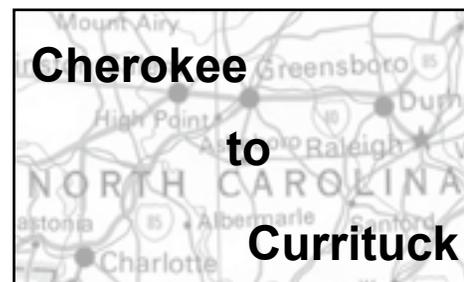
dard rental housing, down from about 2,000 in 2003.

Vaughan, though, questions the program's effectiveness.

"I just don't know how well our money is being spent," said Vaughan. "Why not just wait for the complaints?"

For their part, city staffers consider the program a success. "With the

amount of staff you have and as big as the city is, you never know where all the problems are," said Butch Simmons, head of the city's engineering and inspections section.



### W-S development rules

The city of Winston-Salem has approved a new set of guidelines for downtown development. The goal of the architectural standards is to make downtown more appealing for people to walk through, reports the *Winston-Salem Journal*.

Under the regulations, new and renovated buildings in Winston-Salem's downtown would be required to have an entrance every 100 linear feet and have more windows at ground level. New buildings also would have to be built flush with the sidewalk.

"If you've got a gap along the street where there's some kind of vibrant edge — you can see in whatever that activity is inside — if you reach a place that might have a 50- or 100-foot gap, you turn around," said Rence Callahan, an architect who heads the Downtown Winston-Salem Partnership, which pushed for the new regulations.

"It's not a question of feeling uncomfortable. It's disinterest. It's like, 'Oh, I've reached the end, I'm not going to continue; I'm just going to turn around and go back.'"

The proposed regulations would apply to virtually all types of structures, including churches. That originally was a potential concern for First Presbyterian Church, which covers nearly a block of land affected by the new regulations.

"It's just been a matter of concerns we have about future development we might be doing and how it might affect us," said Chuck Hobbs, the church's business administrator. "One of the questions was how would it affect our church specifically."

The church asked to have its land exempted from the new regulation, which works via a zoning overlay district. The city refused, but added additional alternative compliance options and an extra round of appeals should an alternative compliance proposal be rejected. CJ

# Orange County Pushes Tax Hike as Economic Development Tool

By DONNA MARTINEZ  
Contributor

**W**HEN Orange County voters rejected a 2008 land transfer tax referendum by a 2-to-1 margin, county commissioners shouldn't have been surprised. Their own pre-election poll showed support at just 31 percent. Despite appropriating \$100,000 for a public education campaign, voters barely budged.

Commissioners hope the result will be different this fall when voters decide whether to approve a quarter-cent hike in the sales tax rate. The same 2008 poll that predicted the transfer tax defeat showed that 46 percent of those surveyed would support the sales tax hike.

If approved, Orange County's sales tax rate would jump to 8 percent sometime in 2011 and generate an estimated \$2.3 million per year in additional revenue.

For the new effort, county commissioners have approved a \$40,000 publicly funded information campaign. That doesn't sit well with Roy Loflin, spokesman for the Orange County chapter of FreedomWorks, but his group hasn't decided what role to play in the discussion. Loflin has heard rumblings that some residents may be friendlier to the sales tax if it prevents another hike in the property tax rate.

Orange County's rate stands at 85.8 cents per \$100 of assessed valuation. The county ranked fifth statewide in per-capita property tax collections in fiscal year 2008.

Frustration over high property tax bills bubbled to the surface last year in the form of the Orange County Tax Revolt movement. Bryan Berger, the Carrboro resident who started the

movement, opposes increasing the sales tax rate, just as he does the property tax rate. The retired business man isn't swayed by talk that some of the money might be used to recruit business and ease county reliance on residential property owners. Berger thinks taxing and spending are the county's problem, not the solution.

But the idea of fending off a property tax increase and helping recruit business at the same time does sway others.

Joe Phelps, former mayor of Hillsborough, thinks raising property taxes again would be "crazy." He said the county has engaged in wasteful spending on things like outside consultants and new buildings in downtown, and the sales tax would help spread the burden of paying the bills.

Phelps said the county should expand its commercial tax base, an issue he talked about when he campaigned for a county commission seat this year. Incumbent Barry Jacobs defeated Phelps in the Democratic primary.



Phelps points to the recruitment success of next-door neighbor Alamance County. Microsoft reportedly is considering locating a data center in Mebane, a few miles from the

merce wants the county to "help level the playing field" with tools such as matching grants, tax credits and incentives, a revolving loan fund, and a streamlined approval process for building or renovating. "So many other organizations have other items and tools at their disposal to help attract businesses that Orange County doesn't have," said Margaret Wood Cannell.

Recruiting companies only by using incentives such as tax abatements for specific companies would be a waste of taxpayer money, says Duke University economics and political science professor Mike Munger. In an e-mail, Munger wrote that surveys of business leaders and consultants show incentives are the very last consideration and are usually a way of breaking ties between locations already considered to have a friendly business climate.

Munger recommends governments focus on the long-term business climate so that companies conclude they can make a profit and expand over time. Key factors include a manageable tax and regulatory burden, laws that don't hurt productivity, effective infrastructure, affordable housing, and an educated work force.

The debate over whether to use new tax revenue for economic development will be moot if the referendum fails. Since 2007, more than two-thirds of the 60 attempts statewide for tax hikes have failed. In 2010, however, six counties have approved them — Duplin, Hertford, New Haver, Onslow, Randolph, and Wilkes.

Voters in Robeson and Watauga counties will vote in August, and six counties will decide Nov. 2 — Orange, Alamance, Bladen, Cherokee, Columbus, and Montgomery. *CJ*

Orange/Alamance line.

Orange County Manager Frank Clifton agrees the county needs to diversify the tax base. He said a lack of utility infrastructure in two of three county economic development zones makes the areas tough to market. He likens the situation to a shoe store with no shoes inside. "While we've got the land zoned and we've got an attitude that we support economic development occurring and business expansion in those areas, without the utilities in place, you don't have anything to sell," Clifton said.

Unless a shift to a commercial or retail tax base occurs, Clifton believes it will be difficult to fund basic services without increasing property taxes, which account for 76 percent of revenues.

The head of the Hillsborough/Orange County Chamber of Com-

The proposal would raise Orange County's sales tax to 8 percent

## Help us keep our presses rolling



*Publishing a newspaper is an expensive proposition. Just ask the many daily newspapers that are having trouble making ends meet these days.*

*It takes a large team of editors, reporters, photographers and copy editors to bring you the aggressive investigative reporting you have become accustomed to seeing in Carolina Journal each month.*

*Putting their work on newsprint and then delivering it to more than 100,000 readers each month puts a sizeable dent in the John Locke Foundation's budget.*

*That's why we're asking you to help defray those costs with a donation. Just send a check to: Carolina Journal Fund, John Locke Foundation, 200 W. Morgan St., Suite 200, Raleigh, NC 27601.*

*We thank you for your support.*

John Locke Foundation | 200 W. Morgan St., Raleigh, NC 27601 | 919-828-3876

## Visit our Western regional page

<http://western.johnlocke.org>



The John Locke Foundation has five regional Web sites spanning the state from the mountains to the sea.

The Western regional page includes news, policy reports and research of interest to people in the N.C. mountains.

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

The John Locke Foundation | 200 W. Morgan St., Raleigh, NC 27601 | 919-828-3876

## From the Liberty Library

• For much of the postwar period, William F. Buckley Jr. was the leading figure in the conservative movement in America. The magazine he founded in 1955, *National Review*, brought together writers representing every strand of conservative thought and refined those ideas over the decades that followed.

Culled from millions of published words spanning nearly 60 years, *Athwart History: Half a Century of Polemics, Animadversions, and Illuminations* offers Buckley's commentary on the American and international scenes, in areas ranging from Kremlinology to rock music.

The subjects vary widely, but there are common threads linking them all: a love for the Western tradition and its American manifestation; the belief that human beings thrive best in a free society; and the conviction that such a society is worth defending at all costs. Learn more at [www.encounterbooks.com](http://www.encounterbooks.com).

• Major media outlets love to describe the president as "no drama Obama," but *The Obama Diaries*, penned by talk radio host Laura Ingraham, tells a different tale. Through these "diary entries," readers will see past the carefully constructed Obama façade to the administration's true plans to "re-make America."

In the book, Ingraham hilariously skewers the president and his minions. She takes aim at the cynical "razzle-dazzle" marketing of Obama's radical agenda, the use of the Obama "brand" and family to obscure Obama's true aims, and much more.

Informative and hugely entertaining, *The Obama Diaries* will inspire both laughter and critical thinking. More at [www.books.simonsandschuster.biz](http://www.books.simonsandschuster.biz).

• Did you know the states don't have to obey federal legislation forced on them? Virginia, Idaho, and 34 other states are fighting the federal health care law, Arizona is protecting its borders, and Washington state, Oklahoma, and Tennessee are fighting cap-and-trade legislation.

How? Through nullification. In his new book, *Nullification: How to Resist Federal Tyranny in the 21st Century*, best-selling author Thomas E. Woods explains that nullification is the very constitutional tool the Founders envisioned to protect people from an overreaching federal government. More at [www.regnery.com](http://www.regnery.com). CJ

## Movie Review

# 'Rise and Rise Again': A Philosophical Robin Hood

• "Robin Hood," Directed by Ridley Scott, Universal Pictures, Released May 14, 140 minutes.

By JOHN CALVIN YOUNG  
Contributor

What has 18 legs and is going nowhere?" asks Robin, just before his merry men set upon the cargo wagon. The joking prince of thieves is true to form, but this isn't everyone's favorite outlaw stealing from the rich to give to the poor — Robin is a feudal lord, concerned most with providing for the destitute inhabitants of his village. His merry men follow faithfully, not to the hunt, but to battle against a tyrant king and a French invader.

In this unusual prequel to the classic legend, Ridley Scott and Russell Crowe present a tale of trust blighted and held, words given and broken, with a surprising dissertation on the social contract and the nature of authority — and manage to have a legendarily good time doing it.

Robin Longstride (Russell Crowe) is an expert archer and troublemaker in King Richard the Lionheart's Crusading army, besieging the small castle of Chalus in France. When the king is killed by a chance crossbow shot, the royal crown is sent off with Sir Robert Loxley of Nottingham to crown the king's brother John before word of the king's death spreads.

The courier is ambushed by a renegade English knight, Godfrey (Mark Strong), but Robin and his men interrupt the ambush and manage to drive off the mercenaries. With his dying words, Loxley asks Robin to return his sword to his father in Nottingham. The self-interested Robin soon realizes his opportunity — a near double for Loxley, he assumes the identity of the fallen knight, and he and his men continue on in the role of Richard's emissaries.

Returning to Nottingham, Robin finds the faithful Marion (Cate Blanchett), a teenage bride left 10 years before to maintain the land while her new husband went off to the Crusades. Loxley's old father is distraught at the loss of his son, but is more concerned about the immediate future — under medieval law and without a husband, Marion will scarcely be able to retain the land. He proposes a bargain with Robin — he will give him the sword if he will consent to act the role of his returned son for a time.

Robin readily agrees, although Marion isn't so sure. Times are hard in the village — King John is enforcing a ruinous tax, a dishonest sheriff seems set on causing trouble for Marion, and the church refuses to help the villagers. After the village's seed store burns, Robin, never one for subtlety, waylays the bishop's wagon at night and retrieves enough grain to replace the lost seed.

Robin has been fascinated with the words engraved on the sword's blade — "Rise and rise again, until the lambs become lions." Old Sir Walter tells Robin of his father, a stonemason who was executed when Robin was a child — his only fault being born too soon. He had preached an early form of the social contract, claiming that a mutual bond guaranteed subjects protection and justice in exchange for their loyalty. With England dissolving into flames, barons

rising up against a tyrant king, and Godfrey double-crossing John by serving Philip of France, Robin — the commoner-become-knight — risks everything to fulfill his father's dream and proclaim in a proto-Declaration the audacious principles that liberty for all is best protected by a law for all.

This treatment of Robin presents a unique take on the outlaw's background and motivations. He's been depicted for centuries as either a yeoman-turned-outlaw or a noble-born partisan of King Richard's, a scofflaw fighting for the rights of the poor and working to stymie John's usurpation of power while Richard was away.

Ridley Scott's Robin is a commoner masquerading as a knight, and rather than fight for one king or another, defends a law to bind kings. Despite these differences, Sherwood aficionados still will get recognizable glimpses of Robin's merry men on the first adventures that bind them so closely: Friar Tuck, Little John, Allan-a-dale, and Will Scarlett all make appearances.

There may be relatively little rough language or inescapable imagery in the film, but this retelling is not one for the kids. Suggestive conversations between the archers are frequent, and we find the dissolute John in bed with a French princess more than once.

Marion describes rather vividly what she will do to Robin if he presumes upon their awkward arrangement, but Robin remains a gentleman, and little is shown of their relationship. Violence is frequent and brutal, involving stabbings, arrow and sword wounds, the execution of a father seen through the eyes of a child, and the burning of a vil-

lage over the heads of its inhabitants, but the gore remains surprisingly low overall.

The film plays fast and loose with history outside of the Sherwood legend, with inaccuracies ranging from minor details to retiming events by a decade or more, to both good and ill effect. The sudden death of King Richard that sets up Robin's path to becoming a landed knight wasn't so sudden in real life — Richard was wounded at Chalus Castle, but died in his mother's arms of a septic wound, scarcely necessitating the hasty delivery of his crown to England by secret courier.

Significantly, the differences between the French and the English are highlighted and emphasized in the movie — Richard reigned over as much territory in France as in England, and Philip II did have a blood claim to the English throne.

Many later events of the film, including the French invasion and the rise of the barons, are time-shifted forward from the events surrounding the sealing of the Magna Carta in 1215 to fit the demands of the plot. While John colluded with Philip II to prevent Richard's return to power, it was the barons who invited the French king to England to topple John's tyrannical reign.

Despite these historical inaccuracies, Ridley Scott has woven a surprising tale, piggybacking on the Robin Hood legend to present the heady days when men first began to believe that kings, too, were subject to law, and liberty was a thing of right rather than privilege. CJ



# World Cup Offered Teachable Moments Americans Deperately Need

I enjoyed watching Spain play the Netherlands for the 2010 World Cup Championship. But admittedly, my tournament interest waned long before the final, when the United States lost to Ghana. My country (and emotional favorite) was then out of the tourney.

Many couldn't have cared less, though. Apathy among many American sports fans is understandable, I guess. But I can't grasp why some denounced Americans who play the "beautiful game" — especially those on the World Cup team who represent the decriers' country. I don't care about baseball or curling (except for the cool pants that the Norwegian team wears), but I avoid disparaging the athletes and wish the U.S. teams success.

I have heard and read wise-cracks since the World Cup started: Soccer isn't a real sport. The game

isn't exciting; it's boring and sleep-inducing. Why run around for 90 minutes to score only one goal? And the ultimate yet unwitting admission of sporting ignorance and prejudice: Soccer players lack the athletic ability to play baseball, basketball, or football. (I should offer full disclosure: I enjoy soccer, started playing the game as a child, and once played it competitively.)

Another criticism is that only rich or upper-middle-class suburban kids play soccer. There are plenty, true. But that's a myopic view of the crowd and the players that ironically reveals that the critic is a member of the socioeconomic group that he criticizes. The sport is cheap to play, so it's also popular among the poor. And among private schools, with limited budgets, it's offered — instead of football — as the primary fall sport.

And consider Clint Dempsey, a Southern boy from Nacogdoches, Texas, who lived in a trailer and learned soccer in the backyard. His parents started driving him to Dallas so that he could learn more sophisticated play. Eventually his family

couldn't afford to pay for the travel and for his sister's promising tennis career. Dempsey's sister suffered an aneurysm at 16 and died. All attention then turned to Clint's desire to play soccer. He now is fulfilling his childhood dream and plays professionally in England and represents America on the biggest sporting stage.

I've heard more serious criticisms concerning American soccer and World Cup 2010. Here are a few: It's only popular in the United States due to recent immigration, and the World Cup is evidence of the weakening and Europeanization of America and breaking down of national barriers. Such talk leads one to think that rejecting soccer is a patriotic act.

I don't understand that thinking, however.

Please tell me another sport in which Americans wave large American flags; wear red, white, and blue; and dress like Uncle Sam or some of the Founding Fathers. Tell me another sport in which one can hear American fans, arm in arm, booming patriotic chants, singing patriotic songs, and see them crying when the national an-

them is played or when an incompetent ref overlooks fouls and disallows an obvious goal. Tell me another sport in which advertisers appeal to the audience by including "Don't Tread on Me" flags and George Washington driving a Challenger to face the British.

Indeed, this year's World Cup offered teachable moments for Americans desperately in need of education. What other sport hearkens back to the Founding Era or has indirect references to federalism? The USA Soccer Team has two slogans: "Don't Tread on Me" [because we are] "Fifty States, One Team."

During the Netherlands/Spain game, I wondered "what if" and looked forward to watching the U.S. play in the next World Cup. With or without the support of their countrymen, Uncle Sam's Army and The Boys in Blue will be ready again to challenge the world and maybe remind Americans who we are. *CJ*

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



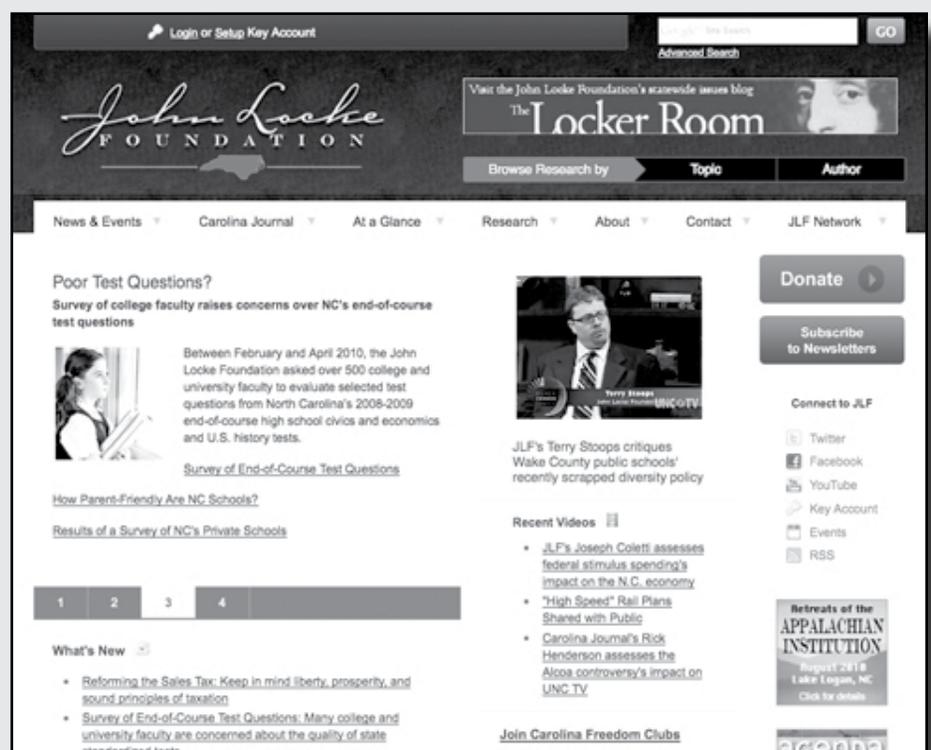
**TROY  
KICKLER**

## MORE RESEARCH AT YOUR FINGERTIPS

at the redesigned JohnLocke Foundation home page

You can now search for research by John Locke Foundation policy analysts much easier than before. Our new web page design allows you to search more efficiently by topic, author, issue and keyword.

Pick an issue and give it a try. Or choose one of our policy analysts and browse through all of their research. Either way, we think you'll find the information presented helpful and enlightening.



<http://www.johnlocke.org>

## Short Takes on Culture

## Getting the 'Short' End

• *The Big Short*  
By Michael Lewis  
W.W. Norton & Company

Michael Lewis, who rose to prominence with *Liar's Poker* about his stint at Salomon Brothers during the 1980s, now writes about the people who bet against the economy.

As housing prices rose and rose, most people thought this could go on indefinitely. Those who didn't included Michael Burry, a one-eyed money manager with Asperger's syndrome, and Charlie Ledley, whose mother suggested he go on lithium when he told her they might be facing something like the end of democratic capitalism.

They foresaw that risky mortgages bundled into AAA-rated investments really were junk destined to crash. What they didn't know was that this junk would bring down much of the economy.

Burry, Ledley, and others made tens of millions of dollars by "shorting," betting against investments linked to the toxic mortgages, a term that is the basis for the book's title.

But people on the losing side of the table — such as the CEOs of the major Wall Street firms saved from bankruptcy by the U.S. government — got rich, too. So did Howie Hubler, who lost more money than any single trader in Wall Street history.

"What are the odds that people will make smart decisions about money if they don't need to make smart decisions — if they can get rich making dumb decisions," Lewis asks.

"The incentives on Wall Street were all wrong; they're still all wrong."

— SARAH OKESON

• "Toy Story 3"  
Directed by Lee Unkrich  
Pixar Animation Studios

"Toy Story 3" might surpass the last two entries in the series and prove to be one of the few family-friendly options in theaters this summer. Producers in Hollywood should take their blinders off and see how successful G-rated movies can be.

Besides virtually standing alone and being Pixar's most successful opening, "Toy Story 3" is a great movie. The graphics are outstanding, and the plot will keep you engrossed from start to finish. It doesn't hurt to see it in vibrant 3-D, either.

Even though it has been about 15 years since the first "Toy Story,"

Pixar and Disney have stayed true to the characters, keeping Woody and Buzz at the forefront with their distinct personalities. But there are some new characters in the new film — chief among them Barbie and Ken — which give a fresh twist.

Speaking of twists, Buzz has some dance moves! Another thing worth noting is how interesting the beginning of the movie is. The first two "Toy Story" movies both have attention-grabbing beginnings, but the new film's beginning is the best. Don't ask me how a movie about toys can make you cry, but there is a rather emotional scene toward the end that can make your eyes water.

All in all, it's a great movie. If you haven't seen it, go see it. If you have, see it again.

— JOSH LAWSON

• *Pride and Prejudice*  
By Jane Austen  
Penguin Classics Deluxe Edition

Mention *Pride and Prejudice*, and you will get gals to sigh and guys to groan over this classic novel adapted into multiple films. Many have viewed a film or two but never read the work. Penguin Books offers today's fan a fresh chance to read this story with a new edition, released in 2009.

Though the cover of this edition looks like it belongs with a mystery novel, the content of the work remains the same with the torn page edges adding a nice touch. Don't bring your preconceived ideas with you as you read, though. While there is romance in the work, it is not Jane Austen's purpose in writing her novel.

Instead, *Pride and Prejudice* highlights both positive and negative human character. Contrary to modern feminist interpretations, celebrating the strong-willed, independent woman is not one of Austen's points. Indeed, quite the opposite is true.

One of Austen's strongest statements is not that everyone would fare better with the father exercising less control over his family, but that everyone would benefit from him exerting more control.

The culture of our day is different from Austen's, but human nature has not changed. Putting aside personal pride and prejudice still proves beneficial, as would the reading or rereading of Austen's timely classic novel.

— AMANDA VUKE CJ

## Book review

## The Battle Short But Informative

• Arthur C. Brooks, *The Battle: How the Fight Between Free Enterprise and Big Government Will Shape America's Future*, New York: Basic Books, 2010, 172 pages, \$23.95

BY MELISSA MITCHELL  
Contributor

RALEIGH  
Arthur C. Brooks' *The Battle* is the best of three recent books I have read in an attempt to understand the Wall Street crash. (I reviewed Roger Lowenstein's *The End of Wall Street* in the June issue of *Carolina Journal* and Ian Bremmer's *The End of the Free Market* in July.)

As president of the American Enterprise Institute for Public Policy Research, Brooks has access to current research data about how Americans view a variety of subjects from conservatism to happiness. He also has the latest information on the Wall Street financial crisis. Brooks presents this data in a readable, nonboring format.

As for the Wall Street crisis, Brooks says, "Congress sparked the fire that burned down our financial system" through its control of Fannie Mae and Freddie Mac. Government officials "do not understand the crisis and do not know how to fix it," he states.

He also sets the record straight on aspects of the financial crisis that have been reported badly in the mainstream media. For example, nine of 10 homeowners who were under water, or had negative equity, after the housing market collapsed remained in their homes and continued to pay their mortgages. They did not walk away from their houses, as media reports suggested.

Brooks sees the battle as "a new culture war" — a conflict between American free enterprise and European-style statism. "These compelling visions are not reconcilable: We must choose," states Brooks.

He then uses data to show that Americans prefer free enterprise. Even with politicians and media types bad-mouthing large corporations, Brooks cites poll after poll showing that Americans prefer a free market to statism. His data also show that Americans

distrust government and still would rather work for private companies than government.

The key numbers for Brooks are 70 and 30. He provides statistical evidence showing that 70 percent of Americans support conservative ideals and that they also support free-market principles. However, the remaining 30 percent are leftist liberals. He places President Obama in this category, along with Hollywood, journalists, academics, and much of Washington. "They are the intellectual upper class: those in the top 5 percent of the population in income," Brooks says.

Brooks takes apart the arguments that the 30 percent have presented to argue that Americans prefer statism. He lists four factors — creativity, meaning, optimism, and control — that provide personal fulfillment for the 70-percent majority. Materialism and money do not motivate the majority as much as the fulfillment that comes from "earned success," what Brooks calls "the creation of value in our lives and the lives of others."

"In a country like the United States where people are above the level of subsistence," Brooks writes, "a poor man who believes he has successfully created something of value will be much better off than a rich man who has not earned his success."

Brooks states that, "The blatant attempt to impose 30 percent values on a 70 percent nation has resulted in a predictable phenomenon: backlash," which started with the tea party movement.

At just 128 pages, not including the notes or index, the book is a short, easy read, and the reader will not get lost in a maze of acronyms.

After finishing *The Battle*, I agree with Newt Gingrich's assessment in the forward of the book: "Every American concerned about their country's future and worried about the radicalism of the Obama-Pelosi-Reid machine should read *The Battle*. It is the ammunition with which to save our country and change our history for the better." CJ



# Updated Geisler Classic Illustrates How Religion and Ethics Relate

• Norman Geisler, *Christian Ethics: Contemporary Issues and Options*, second ed., Grand Rapids: Baker Academic, 2010, 442 pages, \$26.99

By AMANDA VUKE  
Editorial Intern

RALEIGH  
Ask a group of people what the right thing to do in a given situation is, and the odds of getting just one or two answers are slim. Chances are you'll get different answers — even drastically different answers, sometimes from people you would expect to agree on a matter. Surprisingly, even Christians might give very different answers to a particular ethical question.

Believing that a right understanding of ethical issues, as well as a proper understanding of the various ethical systems, proves helpful to individuals, theologian Norman Geisler wrote a book titled *Christian Ethics* two decades ago.

Since then, many have continued misunderstanding how ethics and Christianity relate, feeding an increase in moral decay within the church. These, combined with pressing matters such as homosexuality and animal rights that are at the forefront of the ethical discussion, prompted Geisler to update and expand his work.

Those familiar with Geisler, a prominent member of the field known as Christian apologetics, will not be surprised by the second edition of his book *Christian Ethics: Contemporary Issues and Options*. Christian apologists argue there is a rational basis for Christianity and defend the faith against other systems of belief. If this is your introduction to Geisler, you may find his peculiar and straightforward style

unusual, refreshing, and easy to follow.

Unlike many books that try to skirt ethical issues or minimize their gravity, Geisler meets the topics of abortion, divorce, civil disobedience, ecology, and others straight on. He clearly delineates various views on the issues and then methodically refutes opposing views while arguing for his own.

Geisler doesn't just argue arbitrarily for or against various positions, though — a definite strength of the book. *Christian Ethics* is divided into three sections.

The first, "Ethical Options," presents the various ethical systems to which an individual can subscribe. Here Geisler effectively explains a variety of ethical systems while pointing out flaws in all but one of them. The one ethical system left is both logically and morally consistent.

The second section of his book, "Ethical Issues," deals with a variety of hot topics through the lens of this appropriate, consistent ethical system.

Geisler systematically tackles an important ethical issue each chapter, and subdivides the chapter so that his explanations, refutations, and ar-

gumentation can be followed easily. This is another strength of the book, as many works on topics this weighty are hard to follow and harder to finish.

Even though Geisler does a fantastic job of arguing for his ethical position and explaining how it fits with the nature of God, there are a few times in this second section when he appeals to or answers a question within the framework of the U.S. Constitution.

While it may be appropriate in some situations to discuss ethics in the context of the Constitution, the more

helpful discussion is what is or is not ethical, period — regardless of whether it is allowed or condemned in American law.

Further, in light of the ethical discussions within the context of American government, the book seems to be misnamed. It should be named *Christian Ethics in the American Context* and not merely *Christian Ethics*. Specific discussions in the book may not be applicable in dis-

cussions involving settings outside the United States, even though the general stance in a particular chapter may be applicable across the board.

This criticism, though, doesn't diminish the content of the book. It sim-

ply must be understood, as with any work, that it is written in a particular time and context that naturally affects what is and is not included in the work. Thus, the misleading title should not be held against Geisler or the work, as Geisler's audience is mostly American anyway.

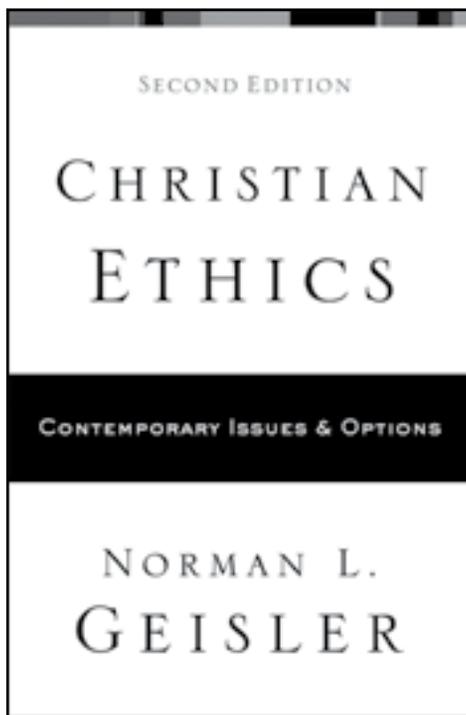
The third section of his work is composed of four appendices. Each appendix is dedicated to one of the following topics: drugs (focusing mainly on alcohol), gambling, pornography, and birth control.

Though Geisler deals with important issues in his chapters, the most controversial issues are dealt with in the appendices, and they of all the issues probably will generate the most pushback on anything Geisler has to say. Even so, his points are worth considering.

There also is a helpful glossary in the back of the book that serves as a handy reference tool for the terms Geisler uses. Though he defines the terminology when he first introduces it, the glossary aids in keeping all of the terms straight, particularly if this is your introduction to that particular topic.

Even when I disagreed with Geisler's position, his arguments were presented in such a way that I could see why he believes what he does. His position made sense within his framework. It was refreshing to read someone who had clearly thought through the issues.

Geisler's work on composing a book of Christian ethics certainly ought to be commended. Though he will not convince all of his readers on every issue, he certainly provides food for thought, and his arguments ought to be considered. CJ



## BOOKS AUTHORED BY JLF STAFFERS



By John Hood  
President of the  
John Locke Foundation

### Selling the Dream Why Advertising is Good Business



"[Selling the Dream] provides a fascinating look into the world of advertising and beyond ... Highly recommended."

Choice  
April 2006

[www.praeger.com](http://www.praeger.com)

## Care about education reform?

Visit the North Carolina Education Alliance's  
Web site at <http://www.nceducationalliance.org/>



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

## COMMENTARY

## North Carolina Dodges Tax-Financed Bullet

The short session of the General Assembly could have elevated political debate in North Carolina — literally — by repealing the state's constitutionally suspect regime of taxpayer-funded political campaigns. Instead, lawmakers tried to compound the problem by adding even more election races to the taxpayer dole, slipping a new batch of "voter-owned elections" into a bipartisan ethics reform bill.

A combination of luck, clumsiness from sponsors, and hard work by conservative grass-roots activists derailed this planned expansion of welfare for politicians. But public financing advocates vow to return, even as the U.S. Supreme Court seems poised to say matching-funds plans violate the First Amendment.

Right now, races for state appellate judges and Supreme Court justices, state auditor, commissioner of insurance, and superintendent of public instruction are covered by special funding rules. Candidates who agree to abide by spending and contribution limits get matching funds from taxpayers if either their opponents or independent groups spend more than a threshold "trigger" defined in the law.

The provision in the ethics bill would have added the campaigns for state treasurer, secretary of state, and commissioners of agriculture and labor in 2012. The attorney general's race would have been brought into the fold in 2016.

There's a problem: Using thresholds and "triggers" to increase taxpayer subsidies to candidates is unconstitutional. That's not (just) me talking. That's what Larry Lessig, a Harvard Law School professor, advocate for robust public financing of elections, and clean-campaign guru, said in late June.

"The [U.S.] Supreme Court is going to strike down any rescue-fund system that allows a trigger inside the law to increase the amount of money based on what your opponent is doing," Lessig said in a segment recorded for Carolina Journal Radio.

In the 2008 *Davis v. FEC* ruling, the justices threw out the so-called Millionaire's Amendment in the McCain-Feingold campaign-finance law. That amendment allowed candidates for federal office to ignore spending limits if they faced

self-financed candidates who spent exorbitant amounts of their own money on their campaigns.

The justices said that the only potential justification for imposing a ceiling on spending and contributions for political campaigns would be to limit corruption or the appearance of corruption. A candidate who pays his own costs is unlikely to corrupt himself.

The ruling in *Davis* should have poured cold water on North Carolina lawmakers who have a crush on stifling speech, er, taxpayer-funded elections.

Moreover, in recent weeks, federal courts have called a halt to similar campaign financing schemes in Arizona and Connecticut. In Arizona, the U.S. Supreme Court told the state to stop mailing matching-funds checks to candidates until the justices could review the case. In Connecticut, the 2nd U.S. Circuit Court of Appeals threw out the state's matching-funds provision entirely. The federal justices certainly will reconcile these conflicting state laws.

With every indication that North Carolina's trigger scheme would not survive in court, state lawmakers should have repealed public financing. But no. Democrats stuck the language expanding our trigger scheme into the ethics bill mere hours before it was set for a Senate committee vote.

The conservative grass-roots group Americans for Prosperity sprung into action, flooding lawmakers' offices with phone calls and other messages opposing taxpayer-financed elections. AFP also launched an automated phone campaign in a handful of swing districts represented by Democrats.

*The News & Observer* credited AFP's "quick strike campaign" with making lawmakers skittish and killing this noxious assault on political activism.

The next session of the General Assembly should dump the current voter-owned elections law. Voters have a say in this as well. There's an election in November, and candidates who think it's OK to force taxpayers to give politicians welfare should be held to account. *CJ*

*Rick Henderson is managing editor of Carolina Journal.*



**RICK HENDERSON**



## EDITORIAL

## Time to Privatize Public Broadcasting

An end-of-session showdown between UNC-TV and state Sen. Fletcher Hartsell, R-Cabarrus, over unaired news footage has left the state's major public television network looking less like a journalistic enterprise and more like an multimillion-dollar extension of the General Assembly's P.R. shop.

After caving to a subpoena from the Senate Judiciary II Committee (which Hartsell chairs), and surrendering 200 hours of video and other materials to the legislature with barely a whimper, UNC-TV — an agency of the state's executive branch — can no longer call itself an independent news-gathering outlet.

The only way for the station's news operation to justify its continued existence is to separate entirely from state government. UNC-TV must become an independent, nonprofit organization not beholden to the whims of politicians.

Hartsell has worked for more than a year to help orchestrate a state takeover of four hydroelectric dams near Albemarle that Alcoa has owned and operated for nearly a century. Hartsell knew that UNC-TV was looking at the controversy because he had been interviewed by the station.

But since the stories had not run on the program "North Carolina Now" and the short session was about to end, Hartsell issued a subpoena for the unaired stories and supporting materials, intending to show them to his colleagues and the public at a committee hearing.

Had the General Assembly ordered a private broadcaster (or newspaper) to hand over unpublished notes or video, that media outlet

would tell the legislature to take a long walk on a short pier. North Carolina's press shield law offers "a qualified privilege against disclosure in any legal proceeding of any confidential or nonconfidential information, document, or item obtained or prepared while acting as a journalist."

But UNC-TV is not your typical journalism outfit. It's part of state government. Its employees are on the public payroll, and state law requires government workers to comply with requests for information from lawmakers.

For its part, the Perdue administration said the guiding principle should be government transparency and the materials should be considered public records. The governor encouraged UNC-TV to cooperate.

Which legislative reporter Eszter Vajda did. She not only provided more than 200 hours of footage to Hartsell's committee, she also produced a one-hour "documentary" — without the approval of her supervisors — for the committee.

So much for watchdog journalism.

UNC-TV has made itself, and North Carolina Public Radio, open to future document raids by the legislature. In many other states, including neighboring Georgia, public broadcasting is run by independent nonprofits.

Georgia Public Broadcasting receives a combination of membership support, corporate and foundation grants, and direct subsidies from taxpayers. Just like UNC-TV. But without the legislative snooping.

North Carolina could adopt that model. *CJ*

## EDITORIALS

# Unions and Reform

*They look out for teachers, not students*

Almost everyone agrees that improving the quality of the educational work force is an indispensable element of any program to improve school performance.

But there is a significant player in North Carolina's school-reform debate that doesn't agree: the North Carolina Association of Educators.

The NCAE and its allies say they favor measures to attract and retain good teachers. But as a practical matter, they oppose virtually all policies that would accomplish the goal — from ending tenure and paying for performance to parental-choice measures that would give parents more freedom to choose schools based on the quality of teachers and academic programs.

As a theoretical matter, this shouldn't be surprising. As a labor organization seeking to advance the interests of the majority of its members, a teacher union can't conclude that mediocre education is caused by mediocre educators. It can't embrace policies based on the assumption that schools would improve if they had the tools they need to replace current teachers with better ones.

Teacher unions like the NCAE simply want the existing public-school workforce to receive higher salaries, richer benefits, and better working conditions. But as serious education

analysts across the political spectrum would agree, raising overall teacher pay — or raising pay based on union-backed criteria such as longevity and advanced degrees — will not improve the average quality of teachers. It pays bad and mediocre teachers at least as much as the good ones.

Unfortunately, state education officials defer to the teacher union on such matters, and the union never will go along with any proposal allowing for large differences in tenure status or pay based on teacher quality — measured either through value-added tests or principal evaluation.

That puts the union squarely opposed to policies embraced by the vast majority of North Carolinians. It also puts the union squarely opposed to any policy offering a real prospect of improving education for the poorest-served students in our state.

If our goal is helping North Carolina youngsters learn, we should adopt policies likely to result in a significant turnover in the teaching profession — as bad teachers are fired, mediocre teachers improve or depart, good teachers are rewarded and retained, and new teachers are brought into the profession by the creation of new schools.

The union never will stand for that. It cannot be persuaded. It must be bypassed. *CJ*

# A Placeholder Budget

*Legislature unprepared for coming shortfalls*

The General Assembly passed a 2010-11 state budget that will spend about \$20.6 billion for general expenses, steal millions of dollars from the state's charter schools, and squander millions of dollars on ineffective or low-priority programs, among other provisions.

But the real story is what the new budget won't do: prepare state government for what is likely to be another massive budget deficit in 2011. In a sense, it's a placeholder budget — a stopgap measure designed to get Democratic incumbents past the November elections.

Then the real state budget plan for North Carolina will emerge.

In 2011, some \$3 billion in short-term federal bailout funds and temporary taxes are scheduled to disappear. If the Democrats retain control of both chambers of the legislature, most of the resulting budget hole will be filled by extending or expanding the tax increases, begging Congress for another

binge of bailout borrowing, or some combination of the two.

If the Republicans gained control of both chambers, they would have to deliver on their rhetoric of fiscal restraint or else shred their credibility. That means closing the \$3 billion budget hole by reducing the size and scope of state government and redirecting state revenues currently routed to off-budget uses. If they resort to tax increases or federal debt bailouts as their predecessors did, they won't hold power for long.

And if in November the voters decide to split the legislative chambers between the two parties, we may be in for a long and contentious session in 2011. If a Republican Senate leader ends up negotiating with a Democratic Speaker of the House — or a GOP speaker faces off with a Democratic president pro tem — the final deal may not come until football season.

Which would be an apt metaphor. *CJ*

## COMMENTARY

# An Ironic Deal On Tax Penalties

During the past couple of years of recessionary budgets, revenue collections repeatedly have fallen short of projections. One of the few bright spots in the revenue picture was a series of surprising gains in corporate-tax receipts that somewhat offset other losses.

The new revenue didn't come in because of higher profits. Rather, the Department of Revenue changed how it computed and collected corporate taxes, including the handy tool of a special penalty on firms that, in the department's view, deliberately had rearranged their finances to evade their tax liability.

The state used the prospect of the fine to "encourage" corporations in tax disputes to settle their cases. Think of Guido spinning the flower in his lapel before expressing his heartfelt concern about your continued safety in his neighborhood, and perhaps you'll get a clearer picture of how it worked in practice.

North Carolina business leaders had been complaining about the Perdue administration's tactics for months before the 2010 legislative session. While taxpayers with liabilities have a responsibility to pay them, and other measures to increase tax compliance received widespread support, the corporate income-tax code is complex enough that there are honest differences of opinion about what particular firms owe the state.

To allow Revenue officials to levy penalties on the basis of their impressions of the intent of corporate officers was unjust. I like the way Sen. Dan Clodfelter, a Mecklenburg Democrat, explained the problem.

"We don't do that to any other taxpayer," he said. "That would be the equivalent of saying to somebody, 'I'm going to really fine you a stiff fine for speeding, but I'm not going to post the speed limits.'"

Any officer of a corporation who fails to structure his business under the law to maximize profits and minimize tax liabilities is in violation of his responsibility to his shareholders. The power to distin-

guish between sound financial management and defrauding the state is not a power that the Department of Revenue should enjoy, given its clear financial incentive to see bad faith.

Furthermore, state officials want people making business decisions in response to incentives created by the tax code. Every year the General Assembly enacts or amends

its tax laws with the express intention of tipping corporate decisions one way or the other. Lawmakers create tax breaks for favored activities and levy punitive taxes on activities they want to discourage. They try to steer firms into distressed counties or influence investment in new jobs, plants, or research and development.

Going into the 2010 session, business lobbyists wanted the Department of Revenue to lose its asserted authority to levy special tax penalties. Revenue wanted to keep it. Lawmakers split the difference. They agreed to codify the use of the penalties — but only after the department published a guide for corporations detailing how to comply with North Carolina's corporate income tax.

Was the irony lost on state tax officials? Probably. That's what makes it so revealing.

The best long-term solution is to get North Carolina out of the business of levying a separate tax on corporate income. There is nothing magical about income passing through an incorporated business. Just like any other form of income, it has no value until it reaches an actual person. States always will create biases and perverse incentives as long as they tax income at the corporate level and then tax it again when it is received as wages, dividends, or capital gains.

Fundamental tax reform is the only final solution to the problem. In the meantime, at least, North Carolina businesses no longer will be punished for failure to comply with rules the state neglects to publish. *CJ*

*John Hood is president of the John Locke Foundation.*



**JOHN HOOD**

## EDITORIAL BRIEFS

## Affluent Increasingly Bear Most Tax Burden

Data from the Congressional Budget Office show that the American middle class pays the majority of federal taxes, though taxation has gotten more progressive over the past three decades, reports CNSNews.com. The CBO data include revenues from the federal income tax, along with Social Security, Medicare, excise, and other taxes.

Over the 30-year period, the top 20 percent of income earners have paid a growing share of federal taxes. In 1979, the top quintile of taxpayers were paying 56.4 percent of federal taxes. In 2007, the top quintile's share had increased to 68.9 percent.

The highest-earning 1 percent of households — those with incomes above \$352,900 — paid 28.1 percent of all federal taxes in 2007, the last year data are available. Those making between \$34,300 and \$352,900 paid 66.7 percent of all federal taxes, with just over half of collections coming from those making between \$34,300 and \$141,900.

At the other end of the income scale, the 40 percent of American households making \$34,300 or less accounted for 5.2 percent of federal taxes. The bottom 20 percent of households, those with incomes of no more than \$20,500, paid just 0.8 percent of all federal taxes.

Households making less than \$34,300 had an overall federal tax rate of 10.6 percent; for those making \$74,700 or above, it was 25.1 percent.

### Europe scales back

When it comes to government policy, Europe and the United States are headed in opposite directions, writes Michael D. Tanner of the Cato Institute in *USA Today*. Just as the Obama administration aims to transform the United States into a European-style social welfare state, European governments are starting out of necessity to limit the size of the benefits they provide to their citizens.

In Great Britain, the recently elected government of Conservative Prime Minister David Cameron has announced it will cut spending by £6 billion. Cameron also wants to raise the retirement age, eliminate payments to the parents of newborn children, and reform the country's welfare system.

Germany also is raising its retirement age and cutting unemployment benefits. Public Germany universities, which have been free, will start charging tuition.

Spain's economy is in its worst shape in many years. That still hasn't stopped Prime Minister Jose Luis Rodriguez-Zapatero from cutting government spending, eliminating payments to the parents of newborn children, and reducing disability payments.

France, Italy, and other European countries are implementing similar austerity measures.

"Kicking and screaming, Europe is realizing the folly of the welfare state and taking the first small steps to return to fiscal sanity. Alas, Congress seems more inclined to repeat Europe's mistakes than to learn from them," says Tanner. CJ



## We Are Still Competitive

To many, the recession of the last two years is a symptom of a larger economic problem in the nation — that we just can't compete anymore. This viewpoint says that in today's global economy, where businesses can locate virtually anywhere and then ship their products physically or send their services electronically, it's a losing battle to think the U.S. can go head-to-head against lower-wage countries.

So should we just throw in the towel and wait for the day when everything we use will be made somewhere else? Is it inevitable that we become a nation of consumers and not producers?

Based on the latest report from the World Economic Forum, the answer is a resounding no. The WEF, which organizes a highly publicized and attended annual meeting in Davos, Switzerland, each year, produces a Global Competitiveness Index for over 130 countries. The index is based on scores of factors, including worker costs and training, education quality, financing, infrastructure like roads and airports, and innovation. The WEF combines these factors into a single number based on their relative importance to business persons and investors.

And now the drum roll, please. Based on the WEF Global Competitiveness Index, where does the U.S. rank in the latest reading for 2010? The answer is No. 2 out of 133 countries. Only Switzerland ranked higher. The U.S. actually ranked No. 1 in 2008 and 2009, and missed the top spot this year only due to the depth of the recession.

Why are businesspeople and investors so bullish on the U.S.? It's because we rank very high on two out of the three broad categories of factors important to the economy — innovation and efficiency. The U.S. ranks No. 1 in the world in innovation. We are still the "land of opportunity," where smart, creative, and visionary people can take a chance, follow their dream, and hit it big. The U.S. also has excellent colleges and universities that both produce these entrepreneurs and support them with discov-

eries and practical applications.

Efficiency means businesses get a lot of "bang for their buck" spent on workers and other inputs. While worker costs in the U.S. may be higher than in other countries, the productivity of our workers — what they can produce in a given time period — also is commensurately higher. Investors also rate the U.S. high on worker flexibility. This means it's much easier both to downsize and upsize businesses and move workers from one firm to another. Again, our excellent higher education system helps with this transition.

What issues do businesspeople cite about locating their operations in the U.S.? The biggest complaint in 2010 was access to financing. Also mentioned were tax rates, tax regulations, and government "red tape."

So if we have some good news about U.S. competitiveness, what about North Carolina? Again, we can smile, because North Carolina for many years has received high rankings for being attractive to businesses. Just recently CNBC rated our state fourth behind Texas, Virginia, and Colorado in the top states for business.

Indeed, North Carolina has many positive attributes for producers. The state ranks ninth in the country in worker productivity, is among the lower half of states on the cost of living, and is in the middle range for electricity prices and taxes. Public college costs are very affordable compared to other states, and the growth in college graduates has been among the leading group of states in the country.

But North Carolina certainly has some challenges. The state's high school dropout rate is high. Traffic congestion is an emerging issue in the state's largest metropolitan areas. Lastly, the incidences of obesity and smoking, which may be predictors of health issues and medical costs for businesses, are high relative to other states.

Still, a detailed look at a variety of business factors suggests both the nation and North Carolina seem to be positioned well in this global race for jobs and sales. Even so, we can't rest on our laurels, because no one else is! CJ

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



**MICHAEL WALDEN**

# We Can — and Must — Do Better

In my role as the John Locke Foundation's legislative liaison, I spent most of my time from May 12 through adjournment July 11 at the North Carolina General Assembly, walking the 206,000 square feet of the Jones Street complex, monitoring meetings of the 67 legislative committees, talking with lawmakers and many of the 500 legislative staffers, 734 registered lobbyists, and 93 government agency liaisons, and attending session on the 35 days they met (at a cost to the taxpayer of \$62,500 per day or \$2,187,500 for the short session).



**BECKI GRAY**

I've had time to reflect on the 2010 short session, the 876 bills considered, and the 127 new laws passed. And here's what I think:

• **I think government is too big.**

In the last 15 years, North Carolina's budget has more than doubled, while population has grown only 28 percent. There are more than 661,000 current and retired state employees, all eligible for state-sponsored health insurance and pensions, both grossly underfunded. Estimates show government agencies next year will seek at

least \$3 billion more than the state has available from recurring taxes and fees. When government becomes bigger than the sources that pay for it, the whole system becomes unsustainable.

• **I think government costs too much.**

This year's final budget topped out at \$20.6 billion. General Fund spending increased \$200 million when you count the \$1.6 billion in federal stimulus money. There are \$1.45 billion in new fees and taxes this year. Our state debt is over \$6 billion, and service on that debt is now 4.25 percent of the state budget.

• **I think government should mind its own business.**

In the ultimate nanny-state legislation, the honorables decided kids are too fat. Government should regulate the amount of juice kids in day care should be served and whether it should be in a cup or a bottle. Lawmakers outlawed 2-percent milk for children over 2 years old, as well as chocolate milk and sodas. A watered-down version made the requirements into guidelines rather than mandates. But the point was made: Government knows better than parents what kids should eat.

They banned the use of plastic bags in all stores in several coastal counties. They continued to cap the number of charter schools at 100, limiting education choices for students and their families. In spite of concerns

over privacy issues, arrests for most felonies will warrant DNA collection.

• **I think government is not entirely honest.**

Aside from the budget, ethics reform was the must-do issue of the short session. Lawmakers argued long into the final hours to pass a bill that claims to clean up bad behavior. The final bill regulated lobbyists, contributors, other elected officials, and made public records more accessible, but provided little oversight of the legislators themselves.

They preached open meetings, transparency, and fairness while backroom deals continued. Lengthy, complicated bills were changed with little notice and even less time to review. New provisions that were not included in either version of the House or Senate budgets showed up in the conference report.

Legislators loved gambling when the lottery passed in 2005 (with the tiebreaker vote cast by then-Lt. Gov. Bev Perdue) but hate it now that video poker and sweepstakes have proliferated. Video sweepstakes were banned. Thirty-one legislators who voted no for privately operated gambling in July voted yes for state-run gambling in 2005.

• **I think government is headed in the wrong direction.**

Next year the \$1.3 billion tax increase sunsets and the \$1.6 billion federal stimulus money runs out,

creating a \$3 billion shortfall. The state treasurer has advised that the debt limit has been reached and that pension contributions will require \$1.2 billion next year. The reserve accounts have all been drained. The years of spend and tax, dependence on one-time revenue to fill recurring obligations, and offering short-term solutions for long-term problems finally have caught up with us.

• **I think we need to change the way we look at government.**

The years of excessive spending, government growth, infringement on rights, nanny-state regulation, and hollow claims of responsible governing continued during the short session and have left us with an unsustainable system. North Carolina's tax system, which was established in the 1930s, needs to be updated.

It should be fair, revenue-neutral, rooted in a respect for liberty, and dedicated to freedom of choice. Government has a role, and it's defined in the Constitution. People should be given ample freedoms to make choices without government interference, and they should be held accountable for those choices, as should elected officials.

The 2010 short session was a disappointment but not a surprise. We can and must do better. CJ

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

## GOP — Bold Agenda or Pale Pastels?

Here is the question: In the 2010 congressional elections, should Republicans run out the clock or provide a bold agenda?

Currently the internal debate among Republican institutionalists (those who run the Republican National Committee and various other Republican committees in Washington, D.C.), many Republican Beltway consultants, and other voices is whether Republican candidates for Congress should just oppose the Obama, Pelosi, Reid agenda, or outline a road map of where Republicans would take this country.

The prevailing attitude among the D.C. consulting class is that just defining Obama's radical agenda with TV, mail, and radio campaigns will carry Republicans across the finish



**MARC ROTTERMAN**

line in the fall — capturing the House and making substantial gains in the U.S. Senate.

Their view is that playing on the public's anger and resentment of the federal government's intrusion into so many aspects of our daily lives will suffice.

And the "Republican institutionalists" also conclude that the average taxpayer is alarmed sufficiently about federal spending, deficits, and the national debt. Not to mention Obama's apologetic "blame America first" foreign policy.

As I have written in the past, I still believe that Republicans and conservatives have an obligation to hammer home how President Obama is transforming America.

Increasingly, independent voters, the swing vote, understand that Obama's policy prescription for America is wrongheaded.

And make no mistake: Obama's team realizes that his majority is in play. One only has to reference the recent remarks on "Meet the Press" by Obama Press Secretary Robert Gibbs,

who said, "I think there's no doubt there are enough seats in play that could cause Republicans to gain control. There's no doubt about that."

That statement by an Obama insider and loyalist sent shock waves into the Democratic leadership and was followed by immediate tensions between Speaker Nancy Pelosi and Obama's White House team.

Chaos ensued briefly before a quick meeting was called at the White House with the Democratic congressional leadership to reassure their base and donors that indeed "all was well within the family."

In fact, the plan or strategy Obama's team came up with is to make this fall's election a referendum on the George W. Bush years.

By taking this approach, Democrats have made the case for a Republican governing document or "Contract with America" similar to what Newt Gingrich offered in 1994: a plan of action or blueprint that is bold in scope and not vague in direction.

House Minority Leader John Boehner, R-Ohio, plans to unveil a

Republican agenda after Labor Day tentatively titled "Commitment to America."

Boehner, in my view, correctly perceives that although the attacks on Obama's agenda are necessary and justified, GOP candidates will not be trusted unless they provide an agenda for governing.

To quote Ronald Reagan in a speech he made to the Conservative Political Action Committee conference in 1975:

"Is it a third party we need, or is it a new and revitalized second party, raising a banner of no pastels, but bold colors, which make it unmistakably clear where we stand on all of the issues troubling the people?" 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 1981-1984, is a senior fellow at the John Locke Foundation, and a former member of the board of the American Conservative Union.*

# Highway Patrol First to Join Text Offender Registry (a *CJ* parody)

By C. ALLIS  
Cyber Crimes Correspondent

RALEIGH

A task force formed by Gov. Bev Perdue to clean up the North Carolina Highway Patrol announced its first action would be to compel the NCHP to participate in a newly created state text offender registry.

In a brief statement, the six-member advisory panel, comprising prosecutors, legal academics, and retired judges, said the Highway Patrol could help move past a host of scandals by forcing members to join the registry.

The patrol has been roiled in recent years by incidents involving troopers who have been disciplined, have resigned, or have been terminated for engaging in improper conduct, including drunken driving, animal abuse, and sex on duty.

Former NCHP Maj. Everett Clendenin is the first person required to register for the program, which is aimed to expose text-messaging abusers. Clendenin, the former spokesman for the patrol, resigned June 23 as a result of an investigation into charges that he sent inappropriate and romantic text messages to a female co-worker who was identified as his secretary, Pam Maynard.

The General Assembly created the North Carolina Text Offender and Public Protection Registry through a special provision in the state budget that was signed into law by Perdue



NCHP Col. Randy Glover announces the new N.C. Text Offender Registry at a recent press conference. (CJ spoof photo)

June 30. The provision creates the criminal violation of "serial text offenses" and outlines registration guidelines for state employees who demonstrate excessive texting. The governor or any department head has the option of adding persons to the registry.

The Highway Patrol, however, will be the first agency that will be compelled to add persons who are charged with serial text offenses, even those not convicted of a crime.

The registry serves as a resource to help protect and inform the public. "The North Carolina Text Offender Registration Program," a publication of the state Department of Justice, pro-

vides more detailed information about the text offender registry.

Perdue spokesman Mark Johnson told *Carolina Journal* that the governor is "sick and tired of the misbehavior in the Highway Patrol." Johnson said Perdue had suspected Clendenin was a text offender after she received over 50 silly messages from him in one day. "They were not romantic, but just plain stupid," Johnson said.

Johnson also said that outgoing Highway Patrol chief Col. Randy Glover will supervise the listing of the patrol's initial text offenders as part of his final duties. Glover, who was named as the patrol's commander less than a

year ago, unexpectedly announced in mid-July he would retire Sept. 1.

Clendenin, who is married, has been with the patrol for 22 years and had served as the spokesman for the agency for the past nine years. Maynard is married to a highway patrolman. Clendenin issued a statement saying that he used poor judgment in exchanging messages, but denied having a sexual relationship with Maynard.

In response to public records requests from several media organizations, the patrol released the messages in late June. Clendenin used his state-owned BlackBerry to send more than 2,600 messages to the woman over the previous three months. On May 31, the Memorial Day holiday, he sent her 77 texts, including the message "Nobody knows about my little sugar bowl," at 9:46 p.m.

The new program also requires the State Bureau of Investigation text crimes specialist to collect a DNA sample from each registrant. A spokesman for the SBI told *CJ* that Clendenin was unwilling to allow the SBI to gather a sample from him directly.

The SBI was able, however, to obtain sufficient DNA from his BlackBerry because the keyboard contained a significant amount of sweat stain residue likely caused by the steamy content of Clendenin's messages. Clendenin's DNA profile will be stored in the SBI's database and may help investigators link him to other incidents. *CJ*

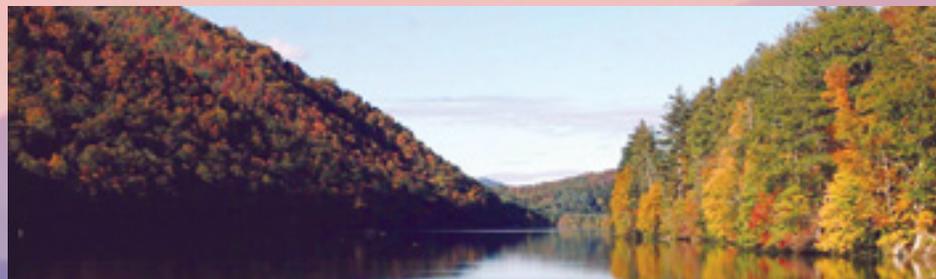
## ANNOUNCING RETREATS OF THE APPALACHIAN INSTITUTION, AUGUST, 2010

FEATURING LECTURES BY OUTSTANDING SCHOLARS, WITH UNIQUE INSIGHTS INTO WESTERN SOCIETY TODAY:

**August 1-5**  
Christianity and  
the West

**August 9-13**  
The Rise and Fall  
of the Western 'isms'

**August 23-27**  
Origin and Crisis of the  
Idea of Individual Liberty



Retreats are held at Lake Logan Center on a beautiful mountain lake in the cool Balsam Mountains, 35 miles west of Asheville. Add to the morning lectures a wide variety of afternoon sporting and learning activities, evening entertainment, all meals and lodging and the company of amiable companions and you've got a summer vacation with a workout for your mind and a lift for your life! Join us!

The educational focus of the Appalachian Institution is to understand and appreciate the heritage of western civilization, and the challenges and opportunities confronting it in our own time.

For more information, go to <http://www.appalachianinstitution.org>  
or call 919-604-4624.

*The Appalachian Institution is a non-profit 501c(3) educational corporation*