

Lawmaker seeks end to N.C.'s off-shore drilling ban/5



CAROLINA JOURNAL

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

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STATEWIDE EDITION

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Inquiries Take Toll on Easley Team

BY DON CARRINGTON
Executive Editor

RALEIGH

When a federal grand jury indicted former Gov. Mike Easley's legal counsel Ruffin Poole on Jan. 21, it was just the latest setback for an Easley associate since the state's media began investigating the former governor's activities.

Poole's indictment came nearly four years after *Carolina Journal* first reported that Easley bought a waterfront lot for a bargain price in the Cannonsgate community on Bogue Sound in Carteret County.

The former gubernatorial legal counsel was charged with 51 counts of corruption related to his involvement with the politically connected coastal developers behind Cannonsgate.

In addition to Poole, several other key Easley associates have had setbacks as a result of *CJ* stories, as well as those appearing in *The Charlotte Observer* and *The News & Observer* of Raleigh:

- In May 2009, McQueen Campbell resigned from the N.C. State board over his role in the initial hiring of Mary Easley by the university in 2005. Soon after that, Mary Easley was fired



Former Gov. Mike Easley (right) and his former general counsel, Ruffin Poole, leave a North Carolina Chamber event in March where Easley received a distinguished service award from the organization. (CJ photo by Don Carrington)

from her \$170,000-a-year job.

- Also in May, ABC Chairman Doug Fox resigned from his commission after he sent a racist e-mail referencing President Obama. According to the indictment, Fox provided liquor

worth \$600 for Poole's wedding.

- In late October, the State Board of Elections convened a hearing to investigate alleged campaign finance vi-

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SBI brought in to investigate Duplin schools' money matters

BY LEE RAYNOR
Contributor

KENANSVILLE

Relocation expenses paid to a Duplin County Schools employee who then failed to move are believed to have triggered an impending State Bureau of Investigation probe of the school district.

County commissioners earlier had requested an audit of the school system based on resident complaints of financial mismanagement.

While the bureau declines to comment publicly on whether an investigation is in progress, long-time Duplin County District Attorney Dewey Hudson said he has asked the agency to look into the matter "preliminarily."

Three county commissioners and three citizens signed a letter to Hudson on Sept. 14, 2009, asking for the investigation. The letter questioned the legality of paying employee moving expenses-

Continued as "SBI," Page 3

State Raises New Charter School Barriers

Changes may doom state's chances for Race to Top funds

BY JIM STEGALL
Contributor

RALEIGH

The State Board of Education just made it a lot harder for education reformers to create innovative new charter schools, and much easier for the board to close struggling ones.

The changes to the SBE's charter school policy, adopted unanimously at

the Dec. 3 meeting, also may doom the state's chances to win more than \$400 million in federal Race to the Top education reform dollars.

An ad hoc task force that began studying charter school issues in August recommended the policy changes. According to information presented at the Dec. 3 meeting, the new policies are intended "to improve the academic accountability of charter schools and to clarify existing procedures for charter applicants to follow."

But critics say the new policies are in direct conflict with the charter school law, violate the contracts the state has with existing charters, and undermine one of the main purposes of charter schools by penalizing inno-

vation and efforts to reach disadvantaged children.

The new policy directs the SBE to revoke the charter of any charter school that fails both to make adequate yearly progress in student test scores in any two of three consecutive years and has fewer than 60 percent of its students scoring at or above grade level. Regular public schools have similar targets for student growth and achievement, but those schools are not closed down when they fail to meet their targets.

According to one analysis, six charter schools would have had their charters revoked had this policy been in place over the last three years. But

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Inquiries into Deals Taking Toll on Easley Team

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olations by Easley's campaign committee. At that hearing, developer Gary Allen and businessman Lanny Wilson acknowledged writing checks to the N. C. Democratic Party under the assumption the money was earmarked for Easley, a violation of the law.

• Campbell, a pilot and aircraft owner, testified at the hearing that he had flown Easley to numerous campaign events but never billed Easley's campaign for the flights. He also testified that on two occasions he billed the Easley campaign for flying services that in fact reimbursed Campbell for repairs to Easley's Raleigh home that Campbell had paid for.



McQueen Campbell

• At the conclusion of the hearing, the elections board concluded that laws were broken and made a criminal referral to the Wake County district attorney. Since Wake County DA Colon Willoughby considered Easley a personal friend, Willoughby asked the Rowan County district attorney to take over the case.



Lanny Wilson

• In December, Poole resigned from his job at the McGuire Woods law firm in Raleigh and his position on the board of the grantmaking Golden LEAF Foundation.

• On Jan. 4, a lawyer for Allen and his development associates told Pamlico County officials that his client was abandoning the 680-acre Cutter Bay development. Allen sought a refund of \$2.96 million in impact fees he had paid to the county for water. County commissioners voted unanimously not to return the money.



Mary Easley

The same day Poole was indicted, Wilson resigned from the N.C. Department of Transportation board and a few days later resigned from the N. C. Turnpike Authority board.

Poole's alleged criminal activities began in January 2001 and continued throughout Easley's eight years as governor, according to the indictment. During his tenure with Easley, Poole became the person Easley's political supporters needed to go through to obtain assistance from the governor. His power was such that he was referred to



The Cannonsgate development, showing the single home, the clubhouse and the marina. Former Gov. Mike Easley's lot is the first one on the left as you enter the channel to the marina. (CJ photo by Don Carrington)

by some as the "little governor."

Easley's attorney, Joe Cheshire of Raleigh, has asserted that Easley knew nothing of Poole's alleged illegal activities.

News stories by CJ and other state media likely triggered the current federal investigation of Easley's real-estate transactions, his acceptance of free cars, his use of free airplanes for campaign activities, and a lucrative job for his wife Mary at N.C. State University.



Gary Allen

The developers identified in the Poole indictment include brothers Randy Allen and Gary Allen of Matthews, Campbell of Raleigh, and Wilson of Wilmington, all of whom were involved in Cannonsgate. The developers relied on Poole to help them secure environmental permits for Cannonsgate, Oyster Harbour in Brunswick County, Summerhouse in Onslow County, and Cutter Bay in Pamlico County, the indictment states.

In his role with the governor's office, Poole became familiar with political supporters who needed assistance with regulatory matters pending with various state agencies.

The 64-page indictment specifically claims Poole, 38, derived significant personal benefits by using his official position to expedite environmental permits for coastal developers from the Department of Environment and Natural Resources. (Go to carolina-journal.com to read the entire 64-page indictment.)

"As Poole became personally

acquainted with the governor's political supporters, he also began assisting them in obtaining state board and commission appointments for themselves and their friends and family," the indictment states.

Poole also developed a close social relationship with Campbell, Wilson, and Wilmington attorney Fox.

Easley appointed Campbell to the N.C. State University Board of Trustees in 2001 and again in 2005. Campbell was chairman at the time he resigned in 2009. Easley appointed Wilson to the N. C. Real Estate Commission and the N. C. Board of Transportation in 2001. Easley appointed Fox chairman of the state Alcoholic Beverage Control Commission in 2004.

The indictment also alleges that Wilson provided Poole with several free vacations to Costa Rica, a bachelor party in New Orleans, and an engagement party in Wilmington.

In 2005, Wilson also allowed Poole to invest \$100,000 in Cannonsgate, netting Poole a \$30,000 return in less than four months, according to the indictment. And in 2006, Wilson allowed Poole to invest \$100,000 in the Summerhouse development, clearing \$25,000 the next year, it alleges.

Poole failed to report his gifts and financial gains on his annual Statement of Economic Interest, as required by law.

In 2004, Gary Allen made a \$50,000 donation and Wilson made a \$10,000 donation to the N. C. Democratic Party after they already had contributed the maximum allowed by law to the Mike Easley campaign. Wilson said he understood his donation would be earmarked for the benefit of

Continued as "Inquiries," on Page 4

SBI Brought In to Investigate Duplin County Schools' Money Matters

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es for a move that did not occur, the alleged misuse of federal funds, and violations of the open bidding law in connection with the schools' purchase of a \$600,000 "camera project."

"The SBI is very busy," Hudson said. "It takes a while for them to get going on something."

Hudson, who recently announced he would run to fill the 10th Senatorial District seat of retiring Democratic state Sen. Charlie Albertson, would not discuss the reason for the investigation. "We don't want to say what our evidence is," Hudson said.

Nathan Currie, director of Duplin County Schools' special programs, received \$6,500 in relocation expenses near the end of the 2007 school year. He began work with the district in May 2007 and had been promised administrative supplement pay. The school board froze the supplements on the day Currie began work.

He complained, and in a closed session, the board agreed to pay him an equal amount as moving expenses. Currie lived with his mother in nearby Columbus County and apparently still does. After what original minutes of the meeting describe as "considerable discussion," the board agreed to disguise the supplemental pay as relocation expenses. Minutes later were altered to remove evidence of the change.

The Duplin County Board of Commissioners requested the school audit after the school district asked for \$78 million in operating and construction funds. The district had overspent its budget the previous year by \$3.7 million.

The county's population is about 53,000 residents, but only 13,000 are property owners who foot the vast majority of the bill. Duplin is second in the



state for its large immigrant population, most of whom are renters.

"We could not afford to give them this money," Commissioner Cary Turner said. "The state categorizes us as a low-income county and gave us \$4.8 million."

The district sued the county, and the jury awarded the schools \$2.6 million. The county is appealing the decision. School district officials objected to the audit and threw roadblocks into the path of Linda Ricio, who conducted the audit in 2008. Her final report is dated Feb. 16, 2009. Ricio is president of Florida-based Evergreen Solutions.

"I was blocked from interviewing many of the people I wanted to talk to, and [school administrators] limited the time of my interviews," Ricio said.

A 20-year veteran of performance audits, Ricio has worked for districts as large as the Los Angeles Unified School District and others as small as, or smaller, than Duplin. She commonly spends about 400 hours in a district the size of Duplin County's, but she was allowed only 100 hours to accomplish her goals here.

"I was not allowed to visit schools, and that's an important part of the audit," she said. "I visit the schools and ask questions of school-level employees. I usually spend at least an hour interviewing principals, but I was allowed only 30 minutes and they

hand-picked four principals for me to interview. That hasn't happened to me in over 100 audits."

By contrast, Ricio also conducted an audit of Duplin County. "They were very open and honest," she said. "The county manager insisted on that."

The school district should have been more transparent in its contact with Ricio, said Board of Education member Jennings Outlaw.

"We didn't give her access to people freely enough," he said. "The board was pretty well aware of the limitations put on her, but they did nothing. They set the time limits on the people she talked to. Sometimes it was at the recommendation of the superintendent or the finance manager. They said they didn't want people to be away from their jobs too much."

A preliminary report on the school audit showed hidden reserves of \$709,462, some of which involved federal funds. "[Duplin County Public Schools] could not provide adequate documentation to demonstrate management control over federal financial assistance," the report stated.

School finance officer Carolyn Olivarez left Duplin County about six months ago. Dr. Wiley Doby, district superintendent, has asked the board not to renew his contract when it expires June 30. Doby did not return phone calls seeking an explanation for

his decision to leave the district.

Outlaw, who is nearing the end of his first term on the school board, opposed the lawsuit filed against the county and is not satisfied with the financial information he receives from the administration.

"I haven't been able to feel comfortable that I know where all the money is going or how it's spent," he said. "It doesn't surprise me that there are funds there that I'm not familiar with."

Residents worry that an unusually high turnover rate among teachers and other staff, as well as the SBI investigation and alleged financial shenanigans, are continuing to move the district's focus away from education. The most recent final No Child Left Behind Annual Yearly Progress Report is for 2007-08 and details dismal results for local students. Only one of 16 schools met AYP goals.

"The implementation of higher proficiency standards for the 2007-08 year has brought many new challenges to school systems across the state with a solid [sic]. Duplin County Schools will continue to strive to meet these challenges and provide our students educational foundation. Our focus will remain on preparing our students for success in higher education institutes and the 21st century workplace," reads the statement released by the district when the AYP results were announced. *CJ*

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State Raises New Charter School Barriers, Imperils Some Funds

Continued from Page 1

170 regular public schools that failed the identical criteria would have been allowed to continue operation, albeit with varying levels of state intervention and supervision.

What's more, charter schools already have academic targets written into their charters before they can begin operations, and the new policy would invalidate some of those targets. Critics question whether the board has the legal authority unilaterally to impose stricter academic standards than those it previously agreed to when granting the charter.

The tougher academic standards make it extremely risky for any group to start a charter school aimed at serving children in poorer areas. As one critic with experience in the charter school arena put it, "With the new policy in place, I would not dare risk my time and treasure starting a charter for any group of at-risk kids — rural, inner-city, low-income, or whatever. I would only seek out higher-income areas where I could be assured of making the 60-percent threshold. And those kids would do OK without a charter."

That's exactly the opposite of what the state's charter school law calls for. The law's stated purpose is to "increase learning opportunities for all students with special emphasis



President Obama and Education Secretary Arne Duncan, left, announce the federal Race to the Top program at a press conference in 2009. (U.S. Dept. of Education photo)

on expanded learning experiences for students who are identified as at-risk of academic failure or academically gifted."

"At-risk of academic failure" is a term which refers generally to students from poor families, or areas with a high concentration of ethnic minorities, or who are otherwise academically disadvantaged. But these are precisely the students who would be left out in the cold by the board's new academic standards policy.

Paul Norcross, who chairs the newly formed North Carolina Alliance for Public Charter Schools, thinks that's just plain wrong. "It's not just a violation of the spirit of the charter

school law, it's profoundly unfair. The state has no business crafting policies that in effect exclude some of its neediest citizens from a chance at a better education." Noting that areas in which at-risk children are geographically concentrated also have some of the poorest-performing public schools, Norcross said. "No other group of students has a greater need of the charter alternative."

Only 48 percent of low-income students in North Carolina's regular public schools currently score at or above grade level as measured by the state's own testing program. To meet the legal mandate of expanding opportunities for low-income students, any charter school that is not confident it can beat the state average by 12 percentage points (to make the now-required 60 percent) might as well not try.

For those willing to take the risk, the new policies raise other obstacles. The SBE now will consider an applicant's commitment to "a large, diverse, and locally based board" when deciding whether to grant a charter. It's not

clear whether that means charter applicants may not have nonlocals serving on their boards, or what type and degree of diversity is required.

The state board also has been reluctant to answer questions about its new charter school policies. A request by *Carolina Journal* made to the Department of Public Instruction's Communications and Information Division for input on this story was acknowledged promptly, but two weeks elapsed before the division issued a statement.

The statement, in its entirety, read: "In looking at your materials, we do not feel that the State Board of Education is out of compliance with the charter school law. It is important to note that the State Board of Education has to operate within the 100 school cap that also is a part of state law."

The stakes for individual charter schools could not be greater. When the SBE revokes a school's charter, its students can return to the district schools to which they would have been assigned, but all employees at the school — teachers, administrators, and others — are left without jobs.

The new policies also could hamper the state's ability to compete for a share of the Obama administration's Race to the Top education reform dollars.

One of the major criteria by which states will be judged is the extent state laws and policies facilitate the formation and function of innovative charter schools.

North Carolina's charter school law, with its cap of 100 schools, was ranked only 32nd out of 40 states that have charter laws by the National Alliance for Public Charter Schools. And that was before the new policies went into effect. CJ

Inquiries Take Toll on Easley Team

Continued from Page 2

the Easley campaign — if true, a violation of campaign finance laws. Wilson testified at an October State Board of Elections hearing that Poole was involved in soliciting both donations.

Cannonsgate at center

In April 2006, *CJ* reported that Easley appeared to have received a bargain price on one of the choicest lots in Cannonsgate, a 525-lot, 287-acre gated subdivision located on the mainland across from Emerald Isle Beach. His lot borders the Intracoastal Waterway and the entrance to a new marina.

The Allen brothers developed the project, and Wilson provided \$12.5 million in short-term financing.

Carteret County land records show that Dec. 16, 2005, Mike and Mary Easley paid \$549,880 for the 0.36-acre lot.

Records indicate that they paid 10 percent down and financed the remainder through a \$494,000 mortgage loan from Branch Banking & Trust.

The Charlotte Observer then published a similar story concluding that Easley got a favorable deal. Easley spokeswoman Cari Boyce told the newspaper that Easley did not receive

special treatment.

"The governor paid the listed asking price for the lot. The price was set and non-negotiable," she said at the time.

She also said he bought the land as an investment. In that story, the newspaper also introduced McQueen Campbell as the person who brokered the deal for Easley.

One year after Easley's purchase, the Carteret County tax office assigned a value of \$1,198,245 to the lot, making it the second-most valuable property in the development. The development's roads and other infrastructure are complete, but only one house has been built.

In September 2009, *The News & Observer* added considerably more information about Easley's Cannonsgate purchase.

The paper obtained Easley's closing documents showing Easley was given an additional 25 percent discount — or \$137,000 — at the closing in December 2005.

The real-estate market has changed considerably, and several Cannonsgate lots have gone through foreclosure, most likely making Easley's lot worth much less than the most recent tax value. CJ

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Thanks.



Lawmaker Calls for Offshore Drilling, End to Global Warming Panel

BY DONNA MARTINEZ
Contributor

RALEIGH
A Davie County Republican is urging fellow state lawmakers to stop wasting time and money on the state's climate change commission and support energy policy he says will have a tangible impact on the state. Sen. Andrew Brock says the legislature should move to tap the massive natural gas reserve experts believe is sitting off the North Carolina coast.

"This whole thing was based on a false set of principles and false data," says Brock, referencing e-mails leaked last year from the University of East Anglia Climatic Research Unit. Climate change alarmists have relied on East Anglia data to justify massive government intervention, including caps on greenhouse gas emissions and limits on fossil fuel consumption. "There's no credible evidence that supports that all the production by mankind is affecting the global climate," Brock said.

The four-term conservative is a longtime critic of the N.C. Legislative Commission on Global Climate Change, created in 2005. He's also a longtime supporter of offshore drilling. Last month, as North Carolinians endured a record-breaking deep freeze, Brock sent legislators an e-mail calling for "the immediate dismissal" of the global warming commission.

"He's made similar remarks before, so it wasn't entirely unexpected," says commission co-chair Rep. Pricey Harrison, D-Guilford. She says she's comfortable with the accuracy of the science despite the East Anglia disclosures. "We need to be concerned [about climate change], and I think the skepticism around the scientists is a little bit



Offshore drill rigs, sea life, sport fishing, and tourism have coexisted in Mobile Bay for more than 30 years. (CJ photo by Jon Ham)

of a red herring."

Harrison says the commission has considered the view of skeptics. She points to presentations by former University of Virginia professor of environmental sciences Pat Michaels, and a Beacon Hill Institute report detailing the negative economic impact of renewable energy mandates. The Beacon Hill report was produced for the John Locke Foundation.

"There's been more from the side that we needed to act because that's the predominant perspective being represented in the scientific community," she says.

Brock says boosting the natural gas supply especially would be helpful to low-income North Carolinians. He's reminded of the need for low-cost alternatives when he sees constituents filling kerosene tanks. He says people would be surprised by how many families rely on kerosene as their main heating source.

Two groups are studying the drilling issue — the General Assembly's Advisory Subcommittee on Offshore Energy Exploration and Gov. Perdue's Scientific Advisory Panel on Offshore Energy.

Brock predicts General Assembly leadership will thwart drilling even though a 2009 Civitas Institute poll found seven of 10 North Carolinians support energy exploration somewhere off the coast.

He's also skeptical of claims that offshore drill rigs and other infrastructure would create coastal blight and hurt tourism. "You don't see [drilling equipment] when you're at the Gulf [of Mexico], you don't see it in other places," he says. "And even [when] you do, it's no different than seeing a telephone pole outside your house."

Harrison is on the fence about drilling. "I'm mixed about the need for offshore natural gas exploration because I think there are plenty of supplies on the mainland and I don't think that it's the answer. It's the interim step, and it's not the answer," she says.

Brock also wants to look into building a refinery in eastern North Carolina to jump-start economic development in distressed counties. He would support incentives for energy exploration and expansion. "Economic development follows energy. Period.

That's why the mills moved to North Carolina," he says.

Eastern North Carolina is on Harrison's mind as well. Potential sea level rise is her concern. She says a presentation from Stan Riggs, professor of geology at East Carolina University, showed a lot of the Outer Banks could be under water in the next 30 years. "That could do something to the economy of eastern North Carolina," she said.

The Senate's changing political dynamic is likely to affect whether Brock's recommendations gain traction when the General Assembly convenes in May. He says the election of Sen. Martin Nesbitt, D-Buncombe, as Senate majority leader is a key change. Brock says moderate, business-friendly Democrats have been replaced by more liberal members, naming Speaker Joe Hackney and Rep. Deborah Ross, D-Wake, in the House, and Nesbitt in the Senate. "It really shows there's a huge shift in the Democrat philosophy in power in North Carolina," he says. "I don't know what will happen, but I'll say that more of the legislation will be more left-leaning."

Election-year politics may provide a check. Brock predicts Democrats will co-opt Republican ideas to show voters they're listening to concerns about taxes and spending.

Last year, Civitas Action named Brock the most conservative member of the N.C. Senate, giving him a rating of 79 out of 100. His inspiration is his grandfather, Burr Brock Sr., who served 11 terms in the General Assembly. "He would put his voting record ... in a piece of paper and that was his campaign information." CJ

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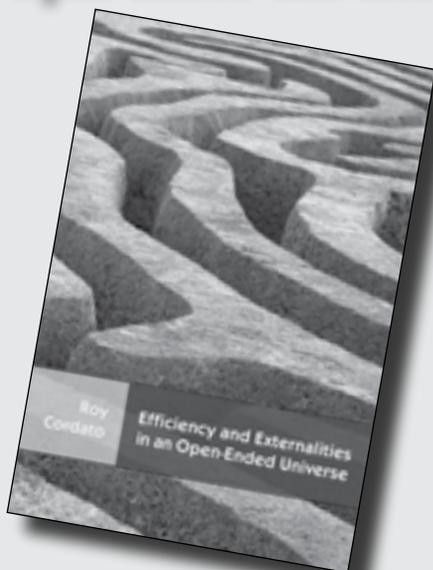
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N.C. Briefs

Dems vow to fight on

Two of North Carolina's leading Democratic congressmen have vowed to continue fighting for health care reform backed by their party in the U.S. House even though a special election in Massachusetts has dimmed the chances a compromise can be reached.

On Jan. 19, voters in the Commonwealth elected Scott Brown, a three-term Republican state senator, to fill the U.S. Senate seat held by the late Ted Kennedy since 1962.

Brown's win means that Senate Democrats won't have the 60-vote supermajority necessary to invoke cloture and block further debate so that a final vote can be taken. But two top members of North Carolina's congressional delegation say the results won't stop their efforts to pass a health care overhaul.

"I plan to pay close attention to what the people I represent think, but I don't plan to oppose health care reform just because Scott Brown did," said Rep. Brad Miller, D-13th.

Rep. David Price, D-4th, who joined Miller in voting for the House version of the health care bill, admitted that the special election in Massachusetts "creates additional challenges, but we always knew reform would be tough."

He added that President Obama and majorities in Congress "are committed to enacting fiscally responsible health reform that provides greater health care affordability, accessibility, and accountability to Americans."

N.C. ranks low on charters

North Carolina ranks 32nd out of 40 states in a new analysis of charter school laws created by the National Alliance for Public Charter Schools.

The study assesses the strengths of each state's charter school law against the 20 essential components of a strong law contained in the new model public charter school law released by the alliance in June 2009.

"These new rankings not only show which state laws are making the grade, but also show how they do it: by paying attention to specific issues that are crucial to school and student success," said president and CEO Nelson Smith.

North Carolina made the list of 13 states the alliance says have failed to meet a key test of the Race to the Top guidelines because they cap the number of charter schools allowed under law in order to inhibit growth. The state has a 100-school cap and allows a maximum of five schools per district. CJ

Bail Agents Spar with Government System

Advocates face off over public vs. private pretrial release options

By DAVID N. BASS
Associate Editor

RALEIGH

In a scuffle pitting tax dollars versus private funding and the public sector against the free market, the bail bonds industry in North Carolina says that government-funded pretrial release programs seek to run them out of business.

Advocates of the public pretrial release programs say the commercial bail industry discriminates against the poor and skews the system because it's for a for-profit enterprise.

The conflict came to a head in September when the National Association of Pretrial Services Agencies held its annual conference in Charlotte.

Supporters of the bail system claim that members of the association spread lies about the effectiveness of bail agents and advocated doing away with the industry altogether.

"They are using their conference to discredit the use of private bail and the benefits this system provides communities and the state," wrote Mark Cartret and Larry Mackins, two advocates of commercial bail bonding, in a letter to the editor published Sept. 16 in *The Charlotte Observer*.

Since colonial times, judges have used commercial bail bonds as a way to release prisoners awaiting trial. Courts began resorting to the state-sponsored pretrial release method in the 1960s.

Traditionally, courts assess a defendant's flight risk and set a corresponding bail amount. If the defendant is unable to pay, he or she can secure the services of an agent who will post bail in exchange for a service fee. The agent is then responsible for ensuring that the defendant shows up at the appointed court date.

Taxpayer-funded pretrial release programs, in contrast, remove profit from the equation by turning over the bail agent's role to the government. Court officials interview defendants awaiting a bail hearing, assess their risk of flight or harming others, and recommend limitations on their release aimed at curbing those risks.

The bail bonds system has been around since biblical times, but today only the United States and the Philippines have it as the dominant industry, according to *The New York Times*. Four states — Illinois, Kentucky, Oregon, and Wisconsin — have banned private bail altogether.

In North Carolina, the industry is alive and flourishing. More than 1,300 licensed agents operate in the state, according to Cartret, who is president of the N.C. Bail Agents Association. The industry is regulated by the Department of Insurance.

Bail agents save North Carolina

taxpayers \$2 billion a year — funds that would otherwise pay for prison and court costs associated with pretrial release — and the commercial bail system benefits students since bond forfeitures go to the public school system, Cartret said.

"It's a major asset to our criminal justice system," he said in a telephone interview.

But not everyone shares that view. "I don't think money has a place, period, whether it's private surety or whether it's money that is returned to you," said Tim Murray, executive director of the Pretrial Justice Institute. "I don't think money does anything but separate those who have money from those who do not."

Only about half of defendants make bail when it's set, Murray said. Defendants sit in jail not because they are a danger or a flight risk, but because they "don't have the stinkin' money," he said.

Supporters of bail agents disagree, saying that bail is effective and safe. They point to statistics from the U.S. Department of Justice showing that after one year, 3 percent of defendants released on a surety bond failed to appear in court, compared with 10 percent of those released on unsecured bonds.

PJI published a response arguing that the Justice Department's study wasn't designed to gauge the effectiveness of bonds versus taxpayer-funded pretrial release programs because it didn't control for all factors involved.

Still, supporters of commercial bail say the study shows that bonds help ensure defendants are processed through the system properly.

As to the question of eliminating private bail altogether, pushers of the government-funded pretrial release option wouldn't tell *CJ* whether that was their goal. Instead, they said that bonds are appropriate in some situations.

"There may come a time when somebody might have to have bail, but it should be bail that they can afford — bail that would ensure their return, but money that's returned upon disposition of the case to them," said Peter Kiers, president of NAPSA. CJ



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Stimulus Money Sent to Phantom ZIP Codes in North Carolina

By SARA BURROWS
Associate Editor

RALEIGH

The federal government sent 2.5 million stimulus dollars to North Carolina ZIP codes that don't exist.

The information came from the government's own Web site — Recovery.gov — which was set up to track the distribution of the \$787 billion made available by the American Recovery and Reinvestment Act.

"This is the first time the federal government has attempted to provide such expansive accountability and transparency," states a tutorial on Recovery.gov. "Any American citizen should be able to find what they're looking for on this site. The data is presented in easy-to-find, easy-to-sort and easy-to-use ways."

The site lists 479 North Carolina ZIP codes as the recipients of \$4.2 billion in grants, contracts, and loans. Four of those ZIP codes, however — 24858, 28389, 23854, and 27600 — are nowhere to be found on U.S. Postal Service maps. In all four ZIP codes combined, the Web site reports, the \$2.5 million created 0.5 jobs.

All North Carolina ZIP codes start with 27 or 28, so projects listed in 24858 and 23854 ZIP codes would not be based in North Carolina, even if such ZIP codes existed.

The Philadelphia-based Franklin Center for Government & Public Integrity reported in January that the federal government's Web site had assigned \$375 million in stimulus spending nationally to at least 170 nonexistent ZIP codes. In December, the Franklin Center found that nearly \$6.4 billion in stimulus spending had been attributed to 440 phony congressional districts.

Deputy Press Secretary for the

Recovery Act Jim Gilio said the illegitimate ZIP codes were probably innocent mistakes. He said the list was compiled

based on information reported by recipients of the funding, and that they most likely made data entry errors.

"There's really no story here," he said in a telephone interview. "Every project was real. There's never been a question about whether a real recipient received the money."

Gilio suggested using the Web site to search by dollar amount rather than by ZIP code. While the "funds by ZIP code" page lists data provided by recipients of stimulus funding, the "funds by amount" option delivers data from the agencies providing the money.

Also, using the "Text View of Map Data" page, entering "North Carolina," and the bogus ZIP codes, delivers the destination of this hard-to-find tax money.

For instance, the \$34,096 figure, corresponding with the phony 24858 ZIP, could be found on the agency-reported data page along with the correct ZIP code, 27834, and the correct recipient, East Carolina University.

Where the \$63,000 assigned to phony ZIP code 28389 went is still unclear.

According to recipient-reported data, the money was spent on a contract with Wayne Futrell Construction and Tile Co. in Warsaw. But the page reporting data from agencies (in this



instance, the Small Business Administration), said the \$63,000 was a loan to Uplift Cosmetic Surgery, a Charlotte

the contracts created no new jobs.

The actual recipient of the \$367,000 sent reportedly to 27600, another bogus ZIP code, is Blue Ridge Opportunity Commission in Sparta (actual ZIP 28675). The commission is a social-service agency that weatherizes homes for low-income families. It also assists with families' food, clothing, and fuel bills. That grant created no jobs.

Ed Pound, communications director of the Recovery Accountability and Transparency Board, which operates Recovery.gov, said that the money had all been accounted for. "There is no missing money," he said. "It didn't disappear, and it wasn't stolen."

Pound pointed out that only 450 of the 131,000 ZIP codes listed on the site are inaccurate. Although it may seem like a relatively small portion of the \$787 billion Recovery Act, those 450 ZIP codes still represent hundreds of millions of dollars in spending.

Pound also said the Web site is undergoing improvements. In the future, the system will reject data from recipients who attempt to enter non-existent ZIP codes. There are no plans, however, to correct retroactively the incorrect ZIP codes now on the site.

The stimulus bill initially allocated \$84 million for the recovery board to set up the Web site, which is directed "to simply and regularly communicate detailed information on how government agencies are planning to use the money, how the stimulus money is actually being used, and how many jobs have been created or saved." In July, ABC News reported the board spent an additional \$18 million upgrading the site.

The site was last updated in October 2009. To date, the faulty ZIP codes have not been corrected. CJ

surgical center.

Dr. Geoffrey Stiller, who owns Uplift, said he never received a government loan — he's never asked for one, and no one's ever offered him one.

"What is the Recovery Act?" he asked.

Stiller never had heard of Recovery.gov and was shocked to find that his business was listed on the site as a recipient of stimulus money.

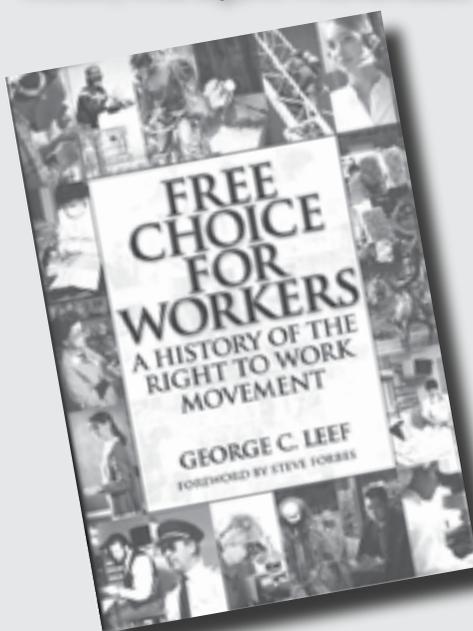
"The last thing I want is to be paying taxes on money I didn't receive," he said.

The street address Recovery.gov provides for the surgical center does not exist. Stiller said it is strange it would list an address at all, as his old office closed and he's in the process of searching for a new location.

He recently did take out a small-business loan to help open his new practice, but said it was from a private bank.

Entering the unreal ZIP 23854, where \$2.1 million reportedly went, leads to contracts to construct a building at Camp Lejeune. (The Web site erroneously states that the Marine Corps base, the largest on the East Coast, is in Virginia.) The contractors are located in New Bern, Wilson, Greenville, Greensboro, Jacksonville, and Lumberton — none with ZIP codes similar to 23854. By the government's own estimates,

Free Choice for Workers: A History of the Right to Work Movement



By George C. Leef
Vice President for Research at the
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Forbes: Government Causes Crises, Free Markets Get Blamed

BY CJ STAFF

RALEIGH

Capitalism has faced heavy criticism during the past couple of years. Some pundits have blamed free markets and other elements of the capitalist system for the nation's economic slump. Steve Forbes, chairman, CEO, and editor-in-chief of Forbes Media, rebuts those pundits in the book *How Capitalism Will Save Us: Why Free People and Free Markets Are the Best Answer in Today's Economy*. Forbes discussed the book with Mitch Kokai for Carolina Journal Radio. (Go to <http://www.carolinajournal.com/cjradio/> to find a station near you or to learn about the weekly CJ Radio podcast.)

Kokai: You say capitalism will save us. Why are you right?

Forbes: Well, when you look at the great crises, this one and previous ones like the Great Depression or the great inflation of the 1970s, we found that it was government policy that brought about the crisis, and in each case, the private sector — free markets — get the blame. In the most recent disaster, the Federal Reserve printed too much money. You wouldn't have had a housing bubble if they hadn't printed so much money. Fuel wouldn't have been there for it. Two government creations, Fannie Mae and Freddie Mac, underwrote \$1.5 trillion of junk mortgages. If the government hadn't done those things, we wouldn't have had this disaster. Yet it's free enterprise that gets the blame, not those who made it possible — the federal government.

Kokai: The title of your book could have been *How Capitalism Could Save Us*, or *How Capitalism Should Save Us*. You wrote *How Capitalism Will Save Us*. Why?

Forbes: I think the American people realize that Washington's program of binge spending, raising taxes, trying to take over health care, is not the way we're going to get our country on a good growth path in the future. I think people are going to be recognizing again the virtues of a free people, free markets, where entrepreneurs can create new businesses, create new jobs, and the government's task is to create an environment where risktakers can go out and try to do their thing. You need sensible rules of the road, but that's very different from the government trying to do everything for us.

Kokai: People will have to read the book to get the details, but what's your general outline of how capitalism will save us?

Forbes: The general outline is: you let entrepreneurs, or risktakers, go out and start new businesses, or expand existing ones. For example, 30

"I think the American people realize that Washington's program of binge spending, raising taxes, trying to take over health care, is not the way we're going to get our country on a good growth path in the future."

Steve Forbes
Editor-in-Chief
Forbes Media



years ago, whoever heard of Bill Gates? He was just a middle-class kid. Steve Jobs, abandoned by his biological parents. Larry Ellison of Oracle was an orphan, and so these people do spring up, even during the terrible 1970s. You had FedEx rise up, Southwest Airlines, Oracle, Apple, Microsoft. These things are incubating. New ones are incubating now, and that's how you surge ahead.

Kokai: I'd like to tackle some of the items mentioned on the book's jacket. You mentioned several aspects of the rap against capitalism, and then contrast that rap with the reality. First, capitalism is blamed as an amoral system based on the survival of the fittest. What's the reality?

Forbes: The reality of capitalism is that it is a moral system because it meets the needs in a free enterprise system, meets the needs and wants of other people. You don't succeed unless you provide a service or a product that people want. So it's a mutually advantageous transaction. You go to a restaurant. You want the food; the restaurant wants your money. You get the food; they get the money. You both get something out of it.

Kokai: Here's another rap: Capitalism favors big players with too much power who are able to crush the little guy. What's the reality?

Forbes: The reality is in a true free market it is the entrepreneur who often comes in with very little and upends existing structures. You look at the personal computer 30 years ago. Who are the major players in that? Companies like Apple, companies like Dell that didn't exist a few years before.

Kokai: How about this one? The rap is that under capitalism the rich prosper at everyone else's expense. What's the reality?

Forbes: You only get rich in a free market if you're providing those products and services that other people want, and because you're rich today

does not mean you're going to be rich tomorrow. You see people move up and down all the time, which in a dynamic economy is the way it should be. Unless you're doing something positive, you're not going to stay on top.

Kokai: I have one more rap for you. This is one we hear quite a bit. Taxes are an investment in the public good, so the flip side is that tax cuts must hurt the common good. What's your response?

Forbes: The reality in taxes is when you lower tax rates, and therefore don't provide disincentives to people, people will do more. They will work more productively. They will take more risks. They'll do more positive things, and, therefore, the government comes out ahead when you have a prosperous economy.

Kokai: So if all of these things you've mentioned are the reality, why does capitalism in general get such a bad rap?

Forbes: Capitalism has a bad rap because a lot of people, especially in the culture, don't understand it. You see Hollywood — who's the villain? It's always some big corporate executive. Entrepreneurs of the past are miscast as villains of the piece; capitalism is about crushing the poor, and about greed, and all that sort of thing. We hope the book, which is written in a very conversational tone — Q&A format — enables people to get a better understanding of a system that, if allowed to work, benefits all of us. If it's not perverted by government, and you have proper rules and regulations, we all move ahead.

Kokai: You've written a book to battle misperceptions about capitalism. What other things need to be done to challenge this bad rap?

Forbes: I think just doing more to understand it, and to just look around us. What makes possible the delivery of all the goods and services we take for granted? The movement of electricity, delivery of food, PCs, cell phones. I mean, 20 years ago, what was a cell

phone? It was big as a shoe box, very expensive, clunky. Now it's something that's sleek, cheap, everyone has them — 4 billion around the world. It does things we would have put in science fiction 20 years ago. The only thing it doesn't do for you now is dress you in the morning, but it seems to be doing everything else.

Kokai: I suspect much of our audience will agree with what you've said, but some people out there are going to say, "Wait a minute, here's a rich guy, the head of Forbes, telling us to support a capitalist system that helps rich people. Why should we listen to him?"

Forbes: Well, just look at those who've made it in capitalism, whether it's my grandfather, who was an immigrant to this country, one of 10 children, grade-school education, or the people who are making positive things happen today. I mentioned Michael Dell. What was Michael Dell? He was a college kid who had a love of computers, and look how he revolutionized the personal computer business. Those are the people who make things happen, and those who relax and try to enjoy their wealth, soon lose it.

Kokai: A lot of people seem pessimistic these days about the course of our country, but the title of your book, *How Capitalism Will Save Us*, sounds pretty optimistic. Why are you so optimistic about the future?

Forbes: Well, I think the American people instinctively understand what Washington is doing is profoundly wrong, that it's laying a foundation for a devastating future, so I think things are going to be turning around. A key among them [is] stabilizing the American dollar, not treating it like trash, reducing the tax burden on people instead of increasing it, giving patients more control over health care instead of government bureaucrats and insurance companies.

So just as in the 1970s, which was a terrible decade, economically, followed by reforms of Ronald Reagan, we had a 25-year boom. CJ

Taxing Online Travel Services Next Revenue Grab?

BY SARA BURROWS
Associate Editor

RALEIGH

Scrambling to find new sources of revenue, the state is looking into taxing services provided by online travel agencies, such as Expedia, Travelocity, and Priceline.

Among the alternatives being considered by the Revenue Laws Study Committee — which is looking at a host of tax reform proposals — is the notion of taxing the service fee online travel companies charge for booking hotel rooms. Doing so, legislative researchers said at a January meeting, could raise between \$6 million and \$8 million a year in new revenues.

The state now applies the sales tax rate to hotel rentals, with 5.75 percent going to the General Assembly and the remaining 2 percent to 2.25 percent directed to local governments. Many cities and counties also charge separate hotel occupancy taxes, with rates ranging from 3 percent to 8 percent.

Trina Griffin, a member of the General Assembly's research division, suggested that current state and local sales taxes applied to hotel rentals could be extended to online travel agents' service fees by considering the fees a "markup" on the price of hotel rooms.

"Online travel companies (OTCs) contract with hotels for the right to broker or facilitate room reservations at a discounted rate," stated a slide in Griffin's PowerPoint presentation to the committee. The OTC then sells the room to a customer at a slightly higher price, which reflects the discounted room rate, a service fee, and a tax re-



State legislators say taxing online travel service fees could bring in between \$6 million and \$8 million to state coffers.

covery charge. The hotel gets the room rate, the OTC collects the service fee, and the taxes are forwarded to the government.

The tax is based on the discounted room rate, which she refers to as the "wholesale rate," and not on the amount the customer actually pays, which she calls the "retail" or "markup" rate. Some state officials think taxes should be assessed on the full price of the room rather than the discounted rate the hotels collect.

Andrew Weinstein, a spokesperson for the Interactive Travel Services Association, a trade group, says online travel agents should not be taxed as hotel operators because they do not operate hotels.

Moreover, the difference between the amount the hotel receives and the

amount the customer pays is a service fee, he said, not a markup on the price of the room.

The fee, ranging from 5 percent to 30 percent of the room rate, is a service charge for providing a Web site for consumers and facilitating the reservation, Weinstein said.

"It's a creative interpretation of the law to twist service charges into part of the cost of the hotel room," he said. "The occupancy tax was intended to be interpreted narrowly to apply only to the cost of the room."

Room service and parking services, for example, are not covered by the occupancy tax, he said.

Weinstein suggested any proposal at the state or local level to tax online travel agents separately would have tough sledding in court. Although several cities and counties across the country have sued online travel companies to collect the tax, most have lost their cases. And when local governments have won, the decisions have been appealed.

Six of the seven federal courts that have ruled on the issue have sided with travel companies — including the 4th U.S. Circuit Court of Appeals, which last year overturned Pitt County's attempt to impose its local occupancy tax on online travel agents.

"The facts are on our side, the law is on our side, and, most importantly, common sense is on our side," Weinstein said. "If you're not a hotel, you shouldn't pay hotel taxes."

Griffin said the state most likely will wait for pending court cases to be decided before acting. If federal appellate courts cannot agree on the legality of the tax, the issue could reach the U.S. Supreme Court, she said.

North Carolina would have another option if the occupancy tax cannot be applied to online travel agencies, Griffin said. Lawmakers could

enact a new tax that would apply specifically to the service fee.

Creating a new tax would not generate as much money as applying an old one, since the state could not collect the new tax retroactively, as cities that have extended hotel taxes to online travel agencies have attempted to do.

Weinstein said that while enacting a stand-alone service tax would be more honest than applying the occupancy tax, the endeavor would still backfire.

"A tax that hit the tourism industry would have a counterproductive impact," he said. While cities and states might "collect more money temporarily, they'd lose revenue in the long run by discouraging tourism."

Weinstein also noted the complexity online travel agents would face if they were forced to collect separate taxes charged at the state and local level. There are 7,000 taxing authorities around the country. If every city and county had different policies, he said, it would become impossible for travel companies to keep track of how much tax should be collected for each reservation. Double or even triple taxation also might occur if cities, counties, and states imposed separate taxes.

"The possibilities become staggeringly complicated," Weinstein said. "To have that many taxing authorities would drive online travel agencies out of business."

He also said it would be unfair to tax Internet-based travel agencies for their services without also taxing brick-and-mortar travel agencies.

Roy Cordato, vice president for research at the John Locke Foundation, agrees with Weinstein.

Tax laws should not discriminate against Internet companies, Cordato said. Nor should they treat certain goods or services differently than others.

North Carolina now taxes only a handful of services, including telecommunications, video programming, electricity, and laundry and dry cleaning services.

Lawmakers are looking into taxing more services, including haircuts and lawn mowing.

Cordato said this is not fair. If you're going to tax some services, tax all of them, he argued.

As they stand, he said, "all service taxes are discriminatory." Government picks and chooses services to tax "based on where the money is" easiest to collect, not necessarily where the most revenue can be found.

"This is nothing more than a money grab," Cordato concluded. "They're doing this because they don't want to make hard choices with respect to spending." CJ

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COMMENTARY

*Slither to
The Top*

Throughout his campaign and during most of his first year in office, Barack Obama declared that charter schools would be an important component of his education agenda. It was a commitment that his reform-minded Secretary of Education Arne Duncan shared. When the time came for the Obama administration to introduce its plan, it was no surprise that Obama and Duncan made charter schools one of the centerpieces.

Obama's first major education initiative is a \$4.5 billion program called Race to the Top. Race to the Top is a competitive grant program initially designed to reward states that embraced promising educational innovations and reforms like charter schools. Unfortunately, the Obama administration has retreated from a purported commitment to charter schools — and education leaders and elected officials from North Carolina partly were to blame.

Through the first half of 2009, Duncan warned state education officials that artificial caps on the growth of public charter schools would put them at a competitive disadvantage for Race to the Top funds.

With Duncan's warning and hundreds of millions of dollars on the line, the Democratic majority in the General Assembly (ever obedient to the will of public school advocacy groups) refused to pass bipartisan legislation that would have raised or ended the 100-school cap on charter schools. North Carolina's cap has existed since 1997, and it remains one of the most restrictive in the nation.

Two weeks before the legislature adjourned, Gov. Bev Perdue, State Superintendent June Atkinson, State Board of Education chair Bill Harrison, and representatives from North Carolina's largest public school advocacy organizations sent a letter to Duncan complaining that charter school caps should not preclude a state from receiving Race to the Top funds. The letter suggested that virtual schools, early college schools, and other novelty schools were the only forms of educational

innovation worth expanding in North Carolina.

On the same day, the chairman of the Standing Committee on Education for the National Conference of State Legislatures, N.C. state Rep. Larry Bell, also sent a letter to Duncan strongly criticizing the Obama administration's support for increasing the number of charter schools nationwide. Ironically, Bell introduced a bill during the 2009 legislative session that would have raised the cap on charter schools, albeit the legislation would have raised the cap only from 100 to 106.



**TERRY
STOOPS**

Upon publication of the final Race to the Top guidelines, Center for Education Reform president Jeanne Allen observed, "Specifically, the 'Race to the Top' — which had been touted as a boon for charter schools — now de-emphasizes charters, even allowing states without charter school laws to qualify for federal funding." Perdue was ecstatic, telling *The New York Times*,

"Secretary Duncan listened to us, and that's phenomenal. I'm really pleased."

The prospect of receiving more federal dollars — without the bother of lifting the cap on charter schools — stirred North Carolina's education establishment into unprecedented action. Perdue assembled a team of 150 to prepare an application for Race to the Top grants. In the end, Perdue requested \$470 million in federal funds, a portion of which would fund her mediocre "Ready, Set, Go!" education initiative.

Of course, changes in rules and regulations tell only part of the story. The U.S. Department of Education will award the first Race to the Top grants in April. Will they provide funds to states that have charter school caps or no charter schools at all? Rewarding states that restrict or prohibit charter schools would be an implicit endorsement of the kind of anti-charter sentiment that pervades states like North Carolina.

CJ

Terry Stoops is education policy analyst at the John Locke Foundation.

Wake Schools Release Checking Account Numbers of Resident

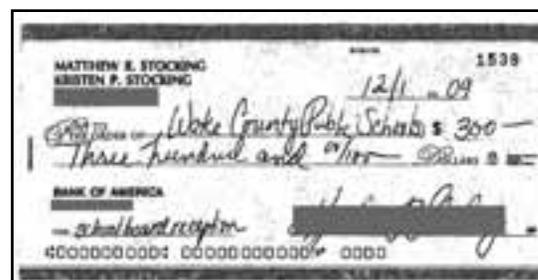
By DAVID N. BASS
Associate Editor

RALEIGH

A potential loophole in North Carolina's open records law has come to light after the Wake County Public School System in mid-January released a copy of a resident's personal check that included her signature and account and routing numbers.

The general statutes governing public records bar the government from releasing information that reveals an electronic account number, but they don't address written checks. Legal experts say that ambiguity could result in taxpayers' personal account information being spread to third parties.

"Based on the reasoning of the school system for disclosing one person's check to a third party as public information under the statute, they would be hard-pressed to withhold a public records request for a batch of checks that



Check with routing numbers, address and signature obscured by CJ.

someone wanted to post on the Internet or publish in a newsletter," said Jason Kay, a senior attorney with the N.C. Institute for Constitutional Law.

The rift surfaced after Kristen Stocking, a founding member of the conservative parent group Wake Community Schools Alliance, wrote a \$300 check to the school system to cover partial costs of a reception Dec. 1 for the school board's new members.

The school system's public information office didn't redact account details on the check before making a copy available in response to a public records request from the Wake Education Partnership, a left-leaning group opposed to many of WCSA's positions.

"I would be hard-pressed to look a lawyer in the face and say we redacted the info when it wasn't mandated by state law," said Michael Evans, chief communications officer for the school district, in a telephone interview.

Evans said he couldn't find any reference in the state's general statutes protecting the type of financial information on the check once it's in possession of the government.

"If I would go to a meeting and take possession of a document, even though it's a private meeting, it becomes a public document. And likewise with this check," he said.

Bank account and routing numbers can be used to commit electronic identity theft or to forge checks. The

Federal Trade Commission includes both account and routing numbers on its complaint and affidavit form for victims of identity theft.

The open records law doesn't address the issue of account and routing numbers specifically, said N.C. Press Association lawyer Mike Tadych. But an individual can request ahead of time that such details be redacted before a document is released to the public. The government agency would then be "safe" in withholding the information.

Tadych said he doubts a judge would side with a plaintiff who argued that the government violated the open records law by redacting account and routing numbers from a personal check. Nobody would need the account number for purposes of government transparency, he said.

The state's general statutes prohibit the release of information that reveals "an account number for electronic payment," such as for a "charge card, credit card, debit card, or by electronic funds transfer."

"I'm not sure why the laws don't make the information confidential when it comes to the personal account numbers, home address, or signature image present on a personal check," Kay said. "I think most folks would be surprised that this information has been deemed 'public.'"

A vocal parent group that has spent years advocating school reform, WCSA endorsed four conservative candidates in last fall's election. Those candidates won in October and November, solidifying a reform majority on the school board for the first time in decades.

Stocking said it "never even crossed" her mind that someone would request her check be made public.

"It's just common sense. You don't put out people's personal checks," she said.

Stocking is also upset because she says the school system originally quoted WCSA a rate of \$300 for the reception, but the superintendent's office ended up billing the group \$693.83.

Joe Ciulla, Sarah Redpath, and Stocking — all three WCSA leaders — initially said they would pay for the reception themselves, but backed down in protest over the heftier bill. Taxpayers likely will underwrite the remaining portion.

CJ

'Mystery Meat' Could Become Reality in N.C. School Districts

No state, local checks on school-lunch food donated by feds

By DAVID N. BASS
Associate Editor

RALEIGH

It arrives by the truckload: frozen meat that ends up on the plates of thousands of students in North Carolina schools every day. One-fifth comes courtesy of the federal government; school districts purchase the rest through private distributors.

But a recent article in *USA Today* — which found that safety standards for beef, chicken, and other meat donated by the U.S. Department of Agriculture are frequently less stringent than for fast-food restaurants — has advocates concerned.

State and local nutrition officials don't check whether commodities donated by the federal government, amounting to 12.5 million pounds in North Carolina for the 2009-10 school year, are high quality, or even whether they're safe for kids to eat.

For some observers, that's bringing a whole new meaning to the proverbial "mystery meat" served in school cafeterias.

"I wouldn't go near it. It looked horrible," said Larry Sand, a school-reform advocate and retired Title I coordinator at a Los Angeles middle school, when describing the usual fare offered by school cafeterias.

The question is relevant since *USA Today* found evidence that the government served meat over the last



Lax inspection of federal surplus meat that finds its way into school lunches has some officials worried. (CJ file photo)

three years "that wouldn't meet the quality or safety standards of many fast-food restaurants."

McDonald's, Burger King, and Costco, for example, check the pathogen content of beef five to 10 times more frequently during a typical production day than the USDA does for its meat. The USDA supplied schools with "thousands of tons of meat from old [chickens] that might otherwise go to compost or pet food," the newspaper reported.

In North Carolina, frozen meat from the USDA arrives by the truckload and is then distributed to school districts. There are no state-level quality checks unless the meat is obviously tainted, such as being thawed out.

"We follow the same plans the feds do. We store it just like the feds tell us to," said Gary Gay, an official with the N.C. Department of Agriculture who oversees food distribution for

school lunches.

North Carolina ordered 4.8 million pounds of chicken, 1.8 million pounds of turkey, and 3.4 million pounds of beef from the USDA for the current school year, according to documentation provided by Gay.

A general rule of thumb is that 20 percent of school lunch food comes from the USDA, Gay said. School districts purchase the rest from private distributors such as U.S. Foods, Sysco, and Institution Food House.

Gay said that if he were a parent reading the *USA Today* article, "it would alarm me, raise some concerns, and make me ask some questions." He added, though, that school officials tell him that commodities from the USDA are better than food from private distributors.

"We love commodities," he said. "We never really have any bad complaints."

In response to the food-safety revelations, U.S. Secretary of Agriculture Tom Vilsack and members of Congress have pledged to step up efforts ensuring the quality of school lunch foods. Action on the issue could come this year as lawmakers are set to revise the Child Nutrition Act, the federal law that governs school meal subsidies.

An analysis released in August by the U.S. Government Accountability Office found that the federal government didn't always properly notify states about potentially tainted products provided through the commodities program.

The GAO recommended that government agencies involved in the school-lunch process improve communication during recalls.

New York U.S. Sen. Kirsten Gillibrand, a Democrat, has sponsored a bill that would improve the USDA's ability to halt the distribution of "suspect commodities and products" and streamline the food recall process. The bill was assigned to a committee in September but hasn't come up for consideration.

Both liberal and conservative critics have objected to the quality of school lunches and their impact on childhood obesity and diabetes rates. The potential for waste, abuse, and fraud in the program also has caught the attention of conservative reformers.

Sand said he was "amazed" at how few students actually ate all of their school lunches at his middle school in Los Angeles.

"When I was in a café, kids would have two bites of the food and then throw it out," he said. "The amount of food wasted is mind-boggling." CJ

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Race to the Top

Could California School Reforms Eventually Reach N.C.?

BY KAREN McMAHAN
Contributor

RALEIGH

On Jan. 7, California Gov. Arnold Schwarzenegger signed sweeping school reform legislation that many observers are heralding as historic and bold, providing parents a greater voice not only in choosing a school that best serves their children but also in petitioning school boards to fix persistently failing schools.

This legislation lets California compete for up to \$700 million of the \$4.3 billion in competitive grants available to states through the Obama administration's Race to the Top program. That state's leaders filed their application in time for the Jan. 19 deadline.

The Race to the Top initiative, authorized by Congress in the American Recovery and Reinvestment Act, is intended to provide states with incentives for future education improvements and to reward those that have demonstrated a history of improving student academic performance.

North Carolina applies

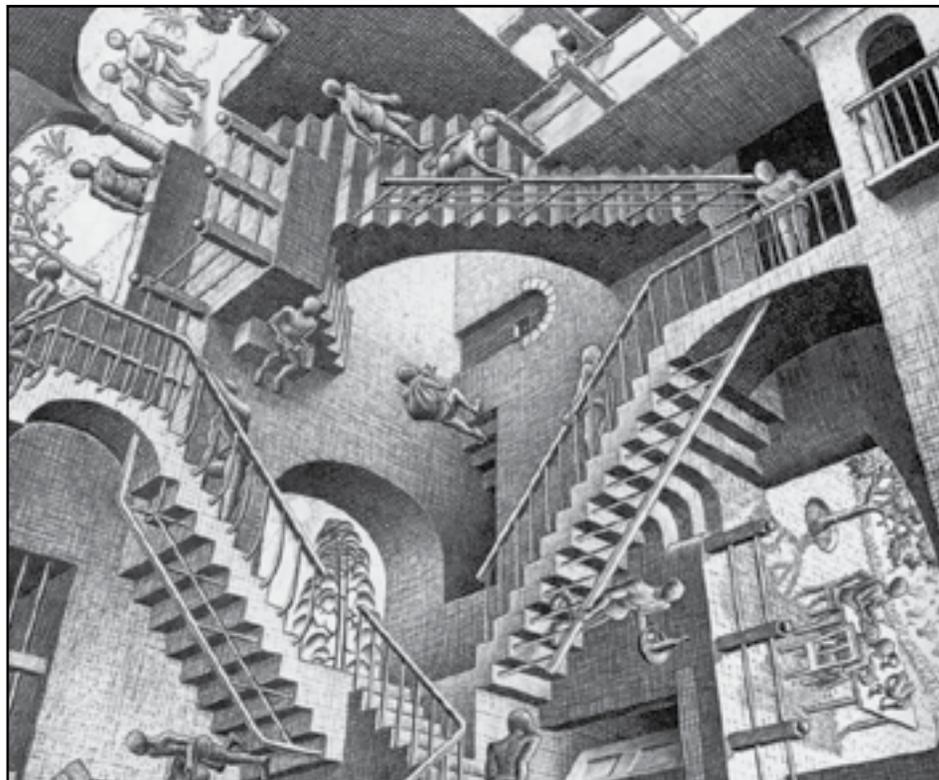
North Carolina also filed its Race to the Top application on time, but Tar Heel State educators made minimal changes in advance of the deadline. (See "North Carolina Stands Pat in Effort to Win 'Race to the Top' Grant," *CJ*, January.)

In a written statement, Superintendent of Public Instruction June Atkinson said the state law capping charter schools at 100 should not prevent North Carolina from receiving \$400 million in funding from Washington. States receive more credit for past success in improving education and teacher effectiveness, she said, rather than enhancing school choice.

Golden State lawmakers acted with a greater sense of urgency. "We have answered President Obama's call to make transformative and bold changes to turn around low-performing schools and shown that we can lead the way for the nation," said state Sen. Gloria Romero, D-Los Angeles, head of the Senate Education Committee and a leading architect of the legislation, in a press release.

Romero lauded the new legislation for providing parents "a true voice in making choices for their children."

The California Teachers Association opposed the legislation because of its open enrollment mandate — allowing students in a low-performing school to enroll in a public school anywhere in the state without regard to their parents' place of residence — and the parent trigger mandate, empowering parents of students in a persistently low-achieving school to petition the school board to implement one of four specified turnaround strategies. Other



M.C. Escher: Relativity

options allow school boards to remove principals or even shut down schools.

The passage of such landmark education reform in California, a state where teacher unions have considerable legislative influence and lobbied strongly against these measures, has some North Carolinians speculating whether these types of reforms might happen here.

'Real reform'

"This is real reform," said Lyn-dalyn Kakadelis, director of the North Carolina Education Alliance, in a phone interview and written statement for *CJ*, "and I will be interested in how it is implemented. Time will tell, but this is a great start."

Unlike the No Child Left Behind legislation, which, for all its good intentions, came from the federal level, California's reform comes from the state level, said Kakadelis, and "according to the Constitution, education is to be left to the state."

As for North Carolina's Race to the Top, Kakadelis and other advocates of school reform and parental choice seem far less hopeful that North Carolina lawmakers and education leaders are prepared to alter the status quo, despite the state's poor high-school graduation rates and declining student academic achievement.

"Lawmakers across the country are experiencing 'education reform fatigue' because millions of dollars have been poured into state reforms that aren't working. California, New York, and Florida are bellwether states, so this legislation could foreshadow what may be coming to other states," said Kakadelis.

"School boards across North

Carolina continue to struggle with the same issues as they did 15 years ago," Kakadelis said, citing busing and the charter school cap as just two examples.

The dumb approach

In a phone interview, Terry Stoops, education policy analyst for the John Locke Foundation, agreed with Kakadelis, saying he doesn't see any lawmakers in North Carolina working on reforms like those just passed in California.

"California is taking the smart approach, while North Carolina is taking the dumb approach on the Race

to the Top," Stoops said, pointing to recent reports that some states are trying actively to prevent North Carolina from getting these funds, in part because of the state's longstanding defiance on lifting the charter school cap.

Atkinson discounted the need for reforms like those in California, crediting North Carolina's existing innovative schools legislation as providing students and parents with choice and arguing that North Carolina already has a "statewide teacher evaluation system that does include student growth and achievement as a part of a teacher's evaluation."

Kakadelis disagreed, saying North Carolina has some choices at the high school level but very few at the elementary school level. Elementary school families who do not get onto a charter school waiting list and cannot afford to pay for private school have no choice.

System vs. the child

The education establishment has proven year after year, Kakadelis said, that the "system is more important than the child, and it does not want parents to have options outside of its control."

North Carolina's ABCs program has a critical flaw because the program rewards schools rather than teachers for performance, said Kakadelis. The highest-performing teacher in a school receives the same bonus as the weakest or worst teacher in that same school. This system "drives weak and strong teachers to schools where the teachers know parents will supplement and make sure the student is learning during school hours," she said. *CJ*

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It also features the blog Squall Lines, featuring commentary on issues confronting coastal N.C. residents.

Seven Years, Six Scandals in UNC System

BY JANE S. SHAW
Contributor

RALEIGH

The selection of a new chancellor for N.C. State, William Randolph Woodson of Purdue University, ends the latest chapter of financial misbehavior in the University of North Carolina system. But it would be a mistake to assume complacently that all troubles are over. Consider these six examples of high-level financial malfeasance discovered in the UNC system over the past seven years:

East Carolina University

In 2003, internal audits turned up two financial problems. One was mismanagement of a \$4.6 million federal grant from the National Library of Medicine. The second was embezzlement by an associate vice chancellor who also headed student housing. The associate vice chancellor was convicted of the crime, returned \$84,000 to the university, and received a suspended sentence.

UNC School of the Arts

A special investigative review issued in October 2004 found that:

- The vice chancellor for finance and administration had violated UNC policies in receiving more than \$90,000 in consulting and expense payments over 13 years. The controller of the school's foundation had misled auditors about these payments.
- The vice chancellor made unauthorized transfers of land held by the foundation to a nonprofit corporation he controlled.
- He and the dean of the filmmaking school received payments from a nonprofit corporation in violation of UNC regulations.
- Money from the school's foun-

dation was diverted to administrators' discretionary accounts; excessive overtime pay was made; and rules of the employee loan program were violated.

Fayetteville State University

In November 2007, the state auditor's office revealed financial deficiencies during the year ending June 30, 2006. Specifically:

- Accounting was chaotic. Cash was understated by \$831,825, accounts payable by \$657,926, and student tuition and fees revenue by \$2,224,826. Too many people had access to the purchasing and payment process.
- The university had overpaid financial aid refunds to students by \$163,577. Six out of 81 students sampled did not meet the academic standards for financial aid. The university had credited 100 students' accounts with a total of \$180,255 under a debt forgiveness program that lacked eligibility criteria.

Outside the financial sphere, the bachelor of nursing program was in trouble. In 2007, 24 out of 31 students failed to graduate because they failed a standardized exam, and the Board of Nursing put the school on probation for violations.

N.C. A&T State University

In June 2007, the state auditor reported severe financial mismanagement at N.C. A & T, following an internal audit that had identified \$2 million in mismanaged funds. Among the problems:

- Questionable payments of

about \$500,000 were made from a program funded by the federal Office of Naval Research. Some were payments for excessive travel expenses for family members of the program manager.

- An administrative assistant in the Natural Resources and Environment Design Department made \$101,000 in unauthorized payments. That person pled guilty to misusing funds.

• The former vice chancellor for information technology and telecommunications misappropriated \$87,000 in funds from rebates on computer purchases. He also directed a contract to his executive assistant's mother.

- Revenues of \$380,000 from a beverage vending contract were transferred to the chancellor's discretionary fund and used for purposes such as artwork, travel for the former chancellor's wife, and foundation or alumni events.



N.C. Central University

N.C. Central operated an unauthorized satellite campus at a church in Lithonia, Ga., for four years.

The school, which started in 2004, had enrolled 126 students. It was authorized by Chancellor James Ammons and the chief operating officer of the New Birth Missionary Baptist Church, which was headed by a trustee of N.C. Central.

Neither UNC system President Erskine Bowles nor the Board of Governors knew about the school, although university policy requires approval of any off-campus program. Furthermore, the school was not accredited. Although schools without accreditation cannot accept federal financial aid, New Birth had received over \$500,000 in Pell grants and \$2.5 million in federal grants and loans.

N.C. State University

In 2005, using intermediaries, North Carolina Gov. Mike Easley pressured the university to hire his wife, Mary Easley. On July 1, 2008, Mary Easley received an 88 percent increase in pay. A subsequent investigation revealed an on-campus culture of privilege among faculty and administrators. In the end, the provost, the chair of the board of trustees, and the chancellor resigned, and Mary Easley's job was terminated.

These scandals were sizable and significant and should remind the public to be vigilant watchdogs of the university system. CJ

Campus Briefs

On Jan. 27, blogger and columnist Mary Katharine Ham spoke to a crowd of 50 students and Raleigh citizens at Meredith College. Ham's speech was the inaugural event of an unconventional new group that recently has started chapters at Meredith, NCSU, and UNC-Chapel Hill: the Network of Enlightened Women (NeW).

All three chapters co-hosted the event. NeW's mission is to foster the education and leadership skills of conservative university women and to expand intellectual diversity on college campuses.

Jessica Custer, state chairwoman for NeW, explained why Ham was a natural choice to kick off NeW in North Carolina. "Mary Katharine Ham's speech challenged college women to reclaim the feminism of their grandmother's generation and be proactive in supporting real women and not government programs that hurt women in the long run. Her speech proved an exciting kick-off for NeW's expansion in North Carolina."

Ham's speech was titled "New Wave Feminism: Girl Power without Government." In her talk, Ham encouraged women to find empowerment without government intervention.

She started by explaining the difference between conservative and liberal feminists. "When liberals hear about a company doing something sexist, they want government to intervene. I just want individuals in the free market to respond — with ridicule or with their buying power. That's the difference."

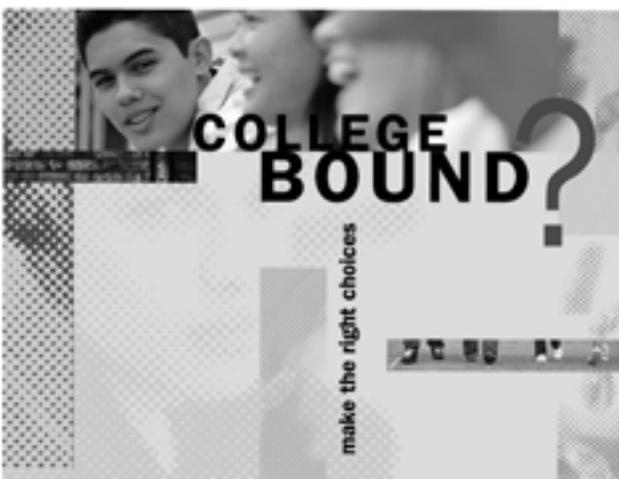
She said the best thing government could do for women entrepreneurs would be to get out of the way, citing instances of overregulation in traditionally female-dominated fields — like cosmetology and African hair braiding.

Meredith's NeW president, Anna Beavon Gravely, liked the fact that Ham's speech encouraged women to think critically about feminism. "The idea that a woman is no less of a woman when she embraces her femininity instead of trying to close the gender gap is so outside the box," she said.

Ham, who grew up in Durham, is a staff writer for *The Weekly Standard* and is a Fox News contributor, appearing regularly on Fox News' "The O'Reilly Factor" and "Red Eye." Ham's speech was sponsored by the John W. Pope Center for Higher Education Policy. CJ

Compiled by Jenna Ashley Robinson, campus outreach coordinator for the John W. Pope Center for Higher Education Policy.

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

COMMENTARY

Do What I Say, Not What I Do

I recently read a provocative article by William Patrick Leonard, a college administrator who also teaches economics. He describes a war within himself — a war between what he says in the classroom and how he acts.

Writing in *Econ Journal Watch* (an online journal about economics), Leonard says, “unconsciously, I have compartmentalized my administrative and my classroom priorities.”

Now an acting dean at an international school in Korea, Leonard confesses that in his roles as dean, vice president, and president of various institutions, he has relied on two tried-and-true techniques as an administrator — increasing enrollment and raising tuition. They don’t cause controversy the way cutting costs does.

As an economist, he knows this policy is flawed. Schools need to assess their activities and eliminate those that are costly. Otherwise, there will be no room for innovation.

But it’s easier to increase enrollment and tuition. Adding students makes everyone on campus happy because it conveys “a sense of positive momentum,” explains Leonard. As for tuition, increases are typically accepted as unavoidable. When complaints arise, he and his colleagues bring out such tired old chestnuts as “quality must be maintained if not enhanced,” and tuition is “an investment and not a cost.”

“The pitch is perhaps no sleazier than those of other industries,” he remarks.

In contrast, cutting costs is tough, primarily because faculty have a lot of power. To avoid unpleasant confrontations with faculty, administrators seek more money for their institutions, even though controlling costs would be better for students.

Leonard’s analysis echoes points raised by Richard Vedder, the author of *Going Broke by Degree*. An economist at Ohio University, Vedder is a prominent figure in higher education and an irreverent speaker who likes to tell audiences, “I’ve been ripping off the taxpayers for years.” Vedder says that universities’ lack of a bottom line plus

their access to public funds have created a cushy lifestyle for tenured professors, whose workloads have declined as their compensation has gone up.

And in his book *Tuition Rising*, Cornell University economist Ronald Ehrenberg offers a humorous illustration of the difference between good economics and the administrative way of life. As an academic vice president he tried, unsuccessfully, to make allocation of space for faculty and administrative offices more efficient.

Office space is highly sought after on college campuses, and the costs of operation, maintenance, and construction of office space can be very high. The usual practice is to give space away on the basis of a faculty member’s position (a full professor gets a certain-sized office, and an associate professor gets something a little smaller, while an adjunct is lucky to get a made-over coat closet). As

an administrator, Ehrenberg spent two years trying to get the university to measure the costs of space and then use those costs to allocate offices, perhaps billing academic departments for the space they used. Ultimately, he gave up.

When Ehrenberg went back to being a faculty member, however, he worked out a special arrangement with his dean so that he could have an extra office (he had to store his books and papers so he could write his book on college costs). With some chagrin, he observes, “If the person at the university who best understood the need to try to ration space (namely me) behaved in this manner once he returned to the faculty, is there any hope that the university will be able to limit future construction of new space?”

In his *Econ Journal Watch* essay, William Leonard has a message. If universities do not reduce costs, the federal government is likely to increase its intervention. Rather than let this happen, colleges should cut costs — but who will begin? CJ



JANE SHAW

Jane S. Shaw is president of the John W. Pope Center for Higher Education Policy (popcenter.org).

In Refreshing Change, NCSU Showcases Faculty, Students

By JENNA ASHLEY ROBINSON
Contributor

RALEIGH

Like other universities, N.C. State features highly politicized lecturers. Longtime radical Angela Davis spoke last September, and Tucker Max, author of *I Hope There’s Beer in Hell*, gave a predictably vulgar rant in August.

But there are other speeches, too — and two new lecture series are worth emulating by other colleges. They are the “Fabulous Faculty” series and the “Student All-Star” series, both sponsored by the N. C. State libraries (and the Friends of the Libraries).

The two series aim “to give everybody in the community a chance to hear and see some of the best ideas that are being thought and said at N.C. State,” says David Hiscoe, director of community strategy and external relations for the libraries. Speakers are expected to “leave the jargon and specialty languages at the door and talk about important subjects in a way that nonspecialists can follow.”

“Since the time of Benjamin Franklin, libraries have been social and intellectual centers of the community,” Hiscoe explained at the inaugural lecture of the Student All-Star series on Dec. 8. These lectures restore that role to the library. “The lectures allow students, faculty, and other members of the university community to step out of their own circle of daily work and to see and hear some of the best thinking, writing, and multimedia being done by members of the university community.”

The Student All-Star Lecture Series highlights the work of some of N.C. State’s most promising student scholars, who are selected by students. The lectures will be held two to three times a semester in the D. H. Hill Library. All lectures in both series are free and open to the public.

Matt Robbins, a graduate student in the College of Design, was the first “All-Star.” Robbins initiated the current campaign to put bells in the school’s Bell Tower, which never was finished due to financial constraints that began in the Great Depression. Robbins has become an authority on largely forgotten changes to the architecture on campus. He spoke on “State College Then and Now: Saving the History of Our Buildings.” Robbins’

talk drew more than 100 students and faculty members — a sizable crowd for a specialized topic.

Robbins’ talk illustrated a multidisciplinary approach to learning, as he combined his formal training in architecture with a love of history to present N.C. State’s evolution from “State College” in 1887 to the university that exists today.

He revealed details of the school’s history and traditions, including the mystery of the moving (and missing) fountains.

The Fabulous Faculty Series showcases interesting and relevant works in progress by N.C. State teachers and researchers. Sponsored by a grant from the Tom Russell Foundation it started in 2008. Past speakers have included Joseph DeSimone, professor of chemical

and biomolecular engineering, speaking about his Lemelson-MIT Prize for invention and innovation; John Kessel, professor of English, on his book *The Baum Plan for Financial Independence and Other Stories*; and Ann Ross, professor of sociology and anthropology, on CSI and Human Rights.

Mike Walden, professor of agricultural and resource economics, who spoke last February about his new book *North Carolina in the Connected Age*, found the interaction with the university community to be a “valuable experience,” as many attendees participated with thoughtful questions and comments.

Hiscoe has high hopes for the future of both series: “We’re just gearing up the Student All-Stars series, but our goal for both is the same: to highlight the work of some of the N.C. State’s most interesting teachers and student scholars.”

Too often, scholars become lost in their own disciplines. In constant pursuit of the next scientific breakthrough — or the next opportunity to land a big grant — professors leave little time to explore other corners of learning. Students are doing the same thing when they complain of course distribution requirements that prevent them from diving into their own disciplines exclusively. CJ

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

The aim of the two series is to highlight ideas and thought at NCSU

Opinion

UNC Can Improve Grad Rates Without Hand-Holding Programs

At the January Board of Governors meeting, the UNC system seemed to be in conflict with itself.

System President Erskine Bowles acknowledged that the system is not serving middle-class students well when it comes to providing access. He said that the system's demographics are changing, with more students coming from the top of the income ladder and more from the bottom, while those in the middle are getting "squeezed."

Yet some of the proposals raised during the meeting will put more of a burden on those same middle-class students — in order to ease the burden on low-income

students. For example, 25 percent of all tuition increases will be dedicated to expanding special programs to increase retention and graduation rates for students with weak academic backgrounds.

The focus on such special programs complicates dealing with the problem of low graduation rates — a high priority for the UNC system. Indeed, just as UNC officials are proposing more programs for students with weak academic preparation, they are also exploring an approach that would improve graduation rates by limiting enrollment, thus allowing entry only from students relatively prepared for

college work. This latter approach to improving graduation rates would encourage academically weaker students to start at the lower-cost community college level, not at the pricier four-year universities.

The other approach — special programs that feature intensive training and mentoring — would increase education costs while addressing the needs of only a few students at a time the university system is scraping for every dollar. (The universities are already holding off on spending 5 percent of their state appropriations for this fiscal year because of anticipated shortfalls in state tax revenues, and some reports suggest that this year's revenues will be lower than anticipated.)

One such special program discussed at the Board of Governors meeting was Fayetteville State University's CHEER program: Creating Higher Expectations for Educational Readiness. It takes a "boot camp" approach to preparing students whose academic qualifications are weaker than those of other incoming freshmen. (Average math and reading SATs for CHEER students are 748, roughly 100 points below the rest of FSU's freshmen.) These students are accepted on a conditional basis — they must complete the six-week summer CHEER program to attend FSU in the fall semester. The program fo-



cuses not only on remedial English and mathematics, but on social skills as well. Students also receive special guidance as long as they attend Fayetteville State, according to provost Jon Young.

The CHEER program spent \$477,000 in UNC system funding (and a smaller, unspecified amount of university funding) in 2008, adding a cost of roughly \$4,300 per student for the 111 students who started the program that year. This is a hefty price tag, considering that the expenditures per full-time student at FSU for the 2007 school year were already \$16,699, the Department of Education reports. Tuition and fees covered only \$3,245, and that's not taking financial aid into account, at a school where an overwhelming number of students receive aid.

This "boot camp" approach would make more sense if implemented at the community colleges instead. Universities are not the place to re-teach high school subjects and provide instruction in basic social skills. They exist to impart higher knowledge and to create new knowledge through research.

Plans are afoot to expand CHEER to UNC-Pembroke and Elizabeth City State University this year. And CHEER is far from the only such program in the state. UNC senior vice president for academic affairs Alan Mabe's listed 16 different types of pro-

grams aimed at increasing retention, including "summer bridge programs," "service learning," and "social and cultural support."

Such programs conflict with the true needs of the system: lowering costs, improving graduation rates, and avoiding severe cuts in necessary academic programs. Yet these programs seem to grow exponentially at universities, and they can be difficult to kill when they prove to be inefficient or outlive their usefulness.

In difficult economic times, it is folly to expand any programs that place a greater burden on the middle class unless they address specifically the most basic needs of the poor — food, clothing, shelter, etc. These bridge programs do not qualify as "basic needs," but the higher taxes and tuition needed to pay for them does qualify as a burden on the middle class.

There is a place in North Carolina's higher education system for everybody who wishes to attend. The best place for remedial students is at community colleges. The UNC system should not be sidetracked by pressure from special interests to expand special programs.

Rather, the state's higher education system should seek to provide a more effective and equitable system in which both the universities and community colleges perform their proper roles.



JAY SCHALIN

Jay Schalin is a senior writer for the John W. Pope Center for Higher Education Policy in Raleigh (popecenter.org).

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Town and County

Thousands overpay car tax

Forsyth County is mailing refunds to 7,000 residents who paid property tax bills on their vehicles that were too high. The overbilling came as a result of a computer system error, reports the *Winston-Salem Journal*.

In late November, the county mailed 23,000 property tax bills for motor vehicles, with a Dec. 1 due date. The amount due is determined in part by multiplying the tax rate by the vehicle's value. Automobiles depreciate over time, though, and the county used 2008 valuations to determine the 2009 tax due, resulting in an overbilling.

"We have billed over 4 million motor vehicles and have never had something like this come up," said Pete Rodda, the county tax assessor.

The county's chief information officer blamed the error on a new computer system.

The county became aware of the problem when two residents called to complain. It sent corrected bills by Dec. 4, but at least 7,000 residents had already paid. The average amount of the overcharge was about \$14. The county spent \$8,000 on mailing the revised bills plus an additional amount sending the refunds.

House design standards

The city of Charlotte is considering changing its design standards for single-family houses. While the regulations won't be finalized for a few months, a document outlining possible new standards has been released for public comment.

The Queen City's interest in changing its design standards is in part driven by teardowns, the process of replacing smaller homes in desirable older neighborhoods with larger structures.

Among the specific rules being considered is a requirement that would limit the length of "blank" walls facing the public right-of-way. The proposal being considered would limit to 10 linear feet the distance between doors, windows, porches, material variations, and/or wall plane variations.

Other proposals include increasing the minimum size of side yards to five feet, mandating even larger side yards for houses over 40 feet in height, limiting the width of garages if they are the frontmost feature of a house, allowing setback averaging, and limit impervious areas on lots under 20,000 square feet. *CJ*

E-mails Outline Roles in Yadkin Jail Issue

By SARAH OKESON
Contributor

YADKINVILLE

E-mails between Yadkin County officials and a judge who was prodding them to build a new jail show that county officials had repeatedly asked the judge to intervene and help quell opposition to the jail's location.

In November 2007, then-County Manager Eric Williams wrote Superior Court Judge John Craig III and Judge Ed Gregory, the senior resident Superior Court judge for the judicial district that includes Yadkin County.

County commissioners voted 3-2 in November 2006 to build a new jail, but one commissioner, Brady Wooten, has continually opposed plans to build the \$8.2 million, 150-bed facility about four miles from the courthouse.

"Is there anything either one of you could offer (or be willing to entertain doing), which you think could reconfirm the judicial mandate that we proceed along the steady and thoughtful course we are working so hard to travel?" Williams asked in an e-mail. "Is it possible the entire Board, Sheriff Cain, County Attorney Jim Graham and I could be summoned before one, or both of you even, to explain why these obstructionist efforts continue?"

Craig, who summoned commissioners before him in December 2006 over the need for an adequate jail, told Williams there wasn't a legal or judicial reason to hold another hearing.

"A court hearing with the aim of chastising Mr. Wooten for his obstructionist tactics would be inappropriate," Craig wrote. "On the other hand, let me know if he attempts to lie down in front of a bulldozer at the construction site."

Craig said Williams tended to be chatty in his e-mails, which *Carolina Journal* obtained in a public records request.

"Eric would get mad about things commissioners would do and call me and get me to do something," Craig said. "A lot of times it wasn't appropriate for me to do anything."

Williams, now the city manager in Smithfield, didn't respond to a phone call or e-mail seeking comment for this story.

Kim Clark Phillips, a former commissioner, wrote Williams in November 2006 about Wooten wanting to meet with her.

"I may agree to meet under very, very clear and stringent requirements," Phillips wrote. "If he fails to go along with those, I suppose I'll have no choice but to discuss that with judge Craig. No more roadblocks from anybody on our progress toward a new jail. Period."

Craig mentioned Wooten in a December 2007 e-mail to Phillips.

"I must admit privately that I despise demagoguery and attempts at political tyranny," Craig wrote. "I was inspired to take action because the former chairman 'threw down the gauntlet.'"

Yadkin County still hasn't built a jail because of political opposition and delays from lawsuits by opponents who would like to build a smaller, cheaper jail in the county seat of Yadkinville or remodel the existing jail.

State Rep. Darrell McCormick, a Republican from Yadkin County, said the majority of the county opposes building the jail away from the courthouse.

"It was a bad idea, and they were going to force it down the throats of the county," McCormick said.

For years, the state Department of Health and Hu-

man Services has been citing the jail for deficiencies ranging from inoperable toilets to fire safety problems. The agency shut down most of the jail last August because of plumbing problems, with many cells lacking hot water.

Craig scheduled a hearing last month about the county's failure to build a jail, telling commissioners he could fine them, remove them from office, or jail them until they agree "to properly carry out the duties of their office and get the jail project underway without further delay."

His comments alarmed Wooten and Kevin Austin, the county commissioners who had opposed the jail site. They hired attorneys to represent them at county expense. Craig canceled the hearing after commissioners agreed to move forward with plans to build the jail.

"If it hurt their feelings I'm sorry, but they just needed to know how much inherent authority the superior court had," Craig said.

Austin said the e-mails show bias by Craig. Austin's family company, The Austin Company, is across the

street from the jail site and was one of the plaintiffs in a lawsuit with the county over the jail.

"I think they show clear intent of Judge Craig to further the jail process including intervention in any way, shape or form that he could possibly do," Austin said.

Craig said he didn't orchestrate anything with county officials.

"I'm not trying to be some sort of cowboy or activist judge," Craig said. "I don't go around looking for fights with people like Brady Wooten. But if I feel like an injustice is being done, I'm going to address it."

Phillips said she was embarrassed Craig needed to be involved in helping the county try to get a jail built.

"It's terrible that these guys delay this and find any excuse and say that there's a conspiracy," Phillips said.

Yadkin County resident Larry Long said in December that he filed a complaint with the state Judicial Standards Commission about Craig. Long said recently that the commission told

him it found no wrongdoing by Craig. The commission wouldn't confirm this.

Narley Cashwell, the attorney of counsel for the North Carolina Institute for Constitutional Law, said judges clearly have the authority to direct officials to provide adequate jail facilities if a grand jury has found problems. But it may be out of line for a judge to give specific instructions to county officials. He would not comment on whether Craig's actions were appropriate.

"The issue of whether a new jail has to be built or the jail remodeled may well be the discretionary call of the county commissioners," said Cashwell, a former Superior Court judge for Wake County.

In 1989, an Alamance County judge ordered the county to provide an adequate courthouse with specific instructions about the number of courtrooms and square footage. The state Supreme Court, threw the order out, holding that "it intruded on the discretion that properly belonged to the commissioners."

Opponents to building a jail outside Yadkinville have also questioned why Craig heard a lawsuit challenging the rezoning of the jail. Craig, who found the rezoning was proper, said it was just a coincidence he heard the case.

He said that if a jail is built he probably won't be there for the opening. "I'm sorry that I've made the people of Yadkin County mad," Craig said. "If they ever get the jail built, I probably won't go to the groundbreaking for fear someone would take me out with a deer rifle." *CJ*



County officials
oppose building
a new jail
away from
the courthouse

Ruling Gives Exclusive Vid Poker Rights to Cherokees

By MICHAEL LOWREY
Associate Editor

RALEIGH

In a Dec. 22 decision, the N.C. Court of Appeals held that the state's general ban on video poker is legal. In doing so, North Carolina's second highest court ruled that federal law allows the state to grant the Eastern Band of Cherokee Indians the exclusive right to operate video poker within the state.

State gambling regulations are complex because the federal Indian Gaming Regulatory Act (IGRA) grants Indian tribes the right to operate gaming operations on their land. Whether the state can outlaw video poker except on tribal land depends on the interplay between federal law, state law, and agreements between the state and Indian tribes covering their gaming operations.

In 1994, North Carolina signed a compact with the Eastern

Band of Cherokee Indians allowing the tribe to operate certain types of gaming, including video poker, on its land. The tribe operates Harrah's Cherokee Casino, which attracts over 3.5 million visitors a year.

The state also had allowed video poker in the rest of the state with a variety of restrictions. That changed in 2006, when the General Assembly banned video poker in the state effective July 1, 2007. The law outlawing video poker did not affect the legality of the Cherokees' gaming operating.

McCraken and Amick, Inc. sells, leases, operates, and maintains a variety of amusement devices, including juke boxes, pool tables, and pinball machines. Its business also includes video poker terminals. In November 2008, the company sued the state, contending that under the IGRA, the state cannot grant the tribe a gaming monopoly.

On Feb. 19, 2009, Superior Court Judge Howard Manning ruled in favor of McCracken and Amick. Manning found that the "IGRA does not permit a state to ban the possession and operation of video gaming machines elsewhere in the state while allowing their possession and operation on tribal lands."

The state challenged Manning's ruling before the Court of Appeals.

As the appeals court's three judges saw it, the case rested on the interpretation of a single provision of the IGRA, which provides that "Class III gaming activities shall be lawful on Indian lands only if such activities are . . . (B) located in a State that permits such gaming for any purpose by any person, organization, or entity. . . ." Video poker is classified as a Class III gaming activity.

The appeals court saw two separate issues. The first question was whether North Carolina "permits such [video poker] gaming." McCracken and Amick argued that a state that prohibits video poker generally, with exception of tribal gaming, has a public policy that does not "permit such gaming."

The appeals court was not impressed by this argument. "Here, the General Assembly has expressed the public policy of the State through N.C. Gen.

Stat. § 71A-8, which explicitly authorizes Indian gaming in accordance with IGRA, and N.C. Gen. Stat. § 14-306.1A, which criminalizes Class III gaming in North Carolina except for the Tribe's enterprises," wrote Judge Robert C. Hunter for the appeals court.

Also at issue was the meaning of the phrase "any person, organization, or entity."

state argued that because tribal gaming enterprises were not specifically excluded from the phrase, the state can grant the tribe exclusive gaming rights.

"Under the State's reading . . . 'any' means 'one' — the State may grant the Tribe exclusive Class III gaming rights under IGRA if state law permits Class III gaming for at least one purpose for at least one person, organization, or entity, including the Tribe itself," wrote Hunter.

The appeals court found this argument to be reasonable.

The court noted that special rules apply when dealing with Indian law. The U.S. Supreme Court held in a 1985 case *Montana v. Blackfeet Tribe* that federal laws passed to benefit Indian tribes are to be liberally construed, with ambiguities being resolved in favor of the tribes.

The case is *McCraken and Amick, Inc. v. Perdue* (09-431). CJ



COMMENTARY

An Appeals Court Gift to Homeowners

In December, the N.C. Court of Appeals ruled in a case that was very closely watched by local government officials across the state.

The issue was whether Union County could make use of an adequate public facilities ordinance (APFO) as a means of funding school construction. The appeals court struck down the ordinance, finding it a school construction impact fee by another name.

The appeals court was correct, as APFOs are indeed essentially impact fees. Even if they could be imposed legally in this state, they are a bad idea.

Localities in North Carolina have only as much authority as is granted to them by the General Assembly. And the legislature most certainly has not given the vast majority of counties the authority to impose impact fees to cover the costs of school construction. Durham County decided to test its luck

a few years back on this point by imposing a school impact fee on its own authority; the Court of Appeals found it to be illegal.

At least six counties — Currituck, Franklin, Camden, Cabarrus, Stanley, and Union — had adopted APFOs as an attempt to get around their lack of authority to impose impact fees. The idea is that counties will approve a proposed new development only if adequate public facilities, typically seats in schools, exist.

If there isn't enough school capacity, a developer has a number of choices: make a "voluntary mitigation payment" to get approval for the project; provide land for a school or otherwise help school construction; or wait until adequate school capacity becomes available.

In four of the six counties with APFOs, the mitigation payments were at least \$8,000 per single-family lot. Union County's mitigation payments were the highest, at \$14,953 per lot.

The Court of Appeals was not impressed.

"Defendant may not use the

APFO to obtain indirectly the payment of what amounts to an impact fee given that defendant lacks the authority to impose school impact fees directly," wrote Judge Barbara Jackson for the appeals court.

The appeals court did not address a number of other challenges that had been raised against APFOs. And certainly there are other issues with them.

My John Locke Foundation colleagues Michael Sanera and Haley Wynn showed in a September 2007 Spotlight research paper that the calculations behind the

mitigation fees charged are highly questionable. These impact fees by another name simply measure school construction costs. They don't bother to consider the revenue stream to the county that new houses generate from higher tax receipts.

"Nowhere in the APFO studies, or in any of the county school APFOs, are the positive im-

pacts of community growth even acknowledged.," wrote Sanera and Wynn.

"Such one-sided analysis treats new residents as a burden to be borne, rather than as contributors to a community."

And taking that a step further, impact fees and APFOs encourage gentrification. The dollar amount payable to a county is the same for a \$100,000 starter house or a \$1 million McMansion. Tacking on \$15,000 to a 4,000 square-foot estate doesn't have a lot of impact; adding \$15,000 to the cost of building a starter house reduces the number of families who can qualify for a mortgage. Existing housing is a good substitute for new construction, so APFOs drive up the price of older home sales as well. APFOs also apply to new apartments, tending to price low-income renters out of the community.

Thanks to the Court of Appeals, that's a problem working class families will no longer have to face. CJ

Michael Lowrey is an associate editor of Carolina Journal.



MICHAEL LOWREY

Local Innovation Bulletin Board

Housing Affordability

The U.S. Department of Housing and Urban Development defines housing as “affordable” if it costs less than 30 percent of a family’s income. A significant number of Americans spend a significantly higher portion of their incomes on shelter, including 12 million renters and households that spend more than half of their incomes on housing. A major reason: local government policies restrict the supply of housing and/or drive up building costs, writes James Franko of the National Center for Policy Analysis.

Local governments reduce housing affordability through an array of regulations, fees, and incentive programs. Minimum lot sizes and limits on multifamily housing are examples of common regulations that reduce affordability. Even more problematic are impact fees, many of which are higher than the cost of providing services, and inclusionary zoning, an attempt to mandate developers to set aside a portion of their developments for low-income housing. In practice though, studies show that inclusionary zoning results in higher housing prices, as developers seek to recover the costs of the low-revenue units.

Franko identifies a number of ways that communities can increase housing affordability, including allowing manufactured housing and single resident occupancy dwellings. Manufactured housing costs less than half per square foot what site-built homes cost. Allowing SROs — more commonly called boarding houses — would substantially increase the supply of affordable housing for low-income single adults.

“Removing regulatory barriers to affordable housing solutions like manufactured housing and SROs would increase the supply of housing for individuals and families currently priced out of local markets,” says Franko.

NYC’s war on salt

New York City has begun another effort to change what its citizens, and by extension Americans in general, eat. This time the target is salt, reports *The New York Times*.

The move is the city’s third, and most ambitious attempt at influencing people’s diet. New York City has previously banned trans fats. It has also required that restaurant chains include calorie information

on their menus.

The city’s goal is to reduce the amount of salt in packaged and restaurant food by an average of 25 percent over the next five years. Because those same packaged products are sold across the country, New York City’s proposal could affect packaged foods nationally. The city’s guidelines are necessarily complex, as salt is used for a variety of purposes in differing amount in different foods. The city has set salt-reduction targets, which range from 10 percent to 40 percent, for 61 classes of packaged foods and 25 classes of restaurant foods.

So far, few companies have signed on to the city’s proposal. This raises the question of what the city will do next if its guidelines are not commonly accepted. The city’s trans fat initiative started out as voluntary, but the city later adopted a ban.

City officials say that’s more difficult to do with salt.

“There’s not an easy regulatory fix,” said Geoffrey Cowley, an associate health commissioner. “You would have to micromanage so many targets for so many different products.”

Big bucks for small airports

Federal grant guidelines make it easy for small, little-used airports to obtain millions of dollars to expand. Where these grants are a good use of taxpayer dollars is questionable, reports *USA Today*.

Since the early 1980s, a portion of the ticket taxes that airline passengers pay has funded infrastructure projects at small airports that airlines don’t serve. In 2009, \$1.2 billion went to such small, general aviation airports.

That’s up from \$1 billion in 2007 and \$470 million in 1999. The increase is not justifiable by an increase in general aviation traffic; private flying fell by 19 percent from 1999 to 2007.

Indeed, an analysis of the general aviation airports in seven states found that almost half operate at less than 10 percent of their capacity; nearly 90 percent operate at less than one-third of capacity.

Small airports like the federal grant program, because it pays 95 percent of the cost of infrastructure projects.

“It’s free money,” says Steve Ellis of Taxpayers for Common Sense. “It encourages pie-in-the-sky projects.” CJ

Durham To Begin Using Staff Again to Monitor Construction

By MICHAEL LOWREY
Associate Editor

RALEIGH

The city of Durham is rethinking how it approaches contracting for some projects. It has relied on a commercial construction manager to coordinate the city’s construction and repair projects in recent years, but is again bidding out some work because that costs much less, reports the *Durham Herald-Sun*.

Durham started using construction managers after voters in a 2005 bond referendum approved projects totaling \$95 million. The city manager at the time, and the then-head of the city’s General Services division,

which oversees construction and renovation projects, didn’t feel that city staff could oversee the quantity of work fast enough to prevent significant cost increases from occurring. In 2006, labor and materials prices increased by 10.6 percent, and the city feared the standard bidding timetable would slow projects, making them too costly.

To make sure that projects got built in a timely manner, the city started using Skanska USA Building Inc. as its construction manager. Since 2006, the city has added personnel with project management experience. The slow economy has also help reduce construction prices by more than 10 percent in the past year.

When Skanska wanted \$2.4 million to handle repairs to three city recreation centers, Joel Reitzer, the current General Services director, sought bids from contractors, with the city acting as its own project manager. Reitzer’s hunch proved to be correct; the bids for the repairs came in at \$1.2 million.

Murders down

Police officials in several of the state’s largest cities reported large drops in the numbers of murders in their jurisdictions. The reductions mirror national trends and come despite the weak economy, which had been thought to potentially drive up crime rates.

Perhaps the most startling reduction in murders came in Charlotte, which recorded 56 homicides in 2009, down nearly a third compared to 2008 and the lowest number in 21 years. The homicide rate per 100,000 residents was at its lowest level since police started tracking the statistic in 1977. Murders in Charlotte peaked in 1993 at 122.

“It’s not just a (one) city trend. ... It’s happened in so many places, and that leads you to think that it’s got to be social,” said Barry Krisberg, a criminologist at the University of California at Berkeley, to the *Charlotte Observer*.

“It’s obviously much more comprehensive than just the police force,” said Charlotte Mayor Anthony Foxx. “But that’s where our presence is felt, and that’s where we’ve tried to make a huge impact, particularly over the last couple of years.”

There were 15 murders in Raleigh in 2009, a sharp drop from the record-high 32 murders the city experienced the year before. Raleigh had 23 homicides in 2007.

Winston-Salem, meanwhile, saw 16 murders in 2009, down from 20 in 2008. In 2007, 25 people were killed in the city.

Durham experienced fewer murders in 2009 as well. The Bull City saw 21 murders in 2009, down from 24 in 2008, and 30 in 2007.

G’boro hotel regulations?

The city of Greensboro is studying whether to adopt new regulations for hotels in the city. The proposed rules would be modeled on regulations in Chula Vista, Calif, reports the *Greensboro News & Record*.

Chula Vista’s hotel ordinance, which took effect in 2008, requires hotels to obtain a permit and meet certain standards, including a limit on the number of calls to the police. The city can revoke a hotel’s operating permit if too many calls are made asking police to come to a hotel.

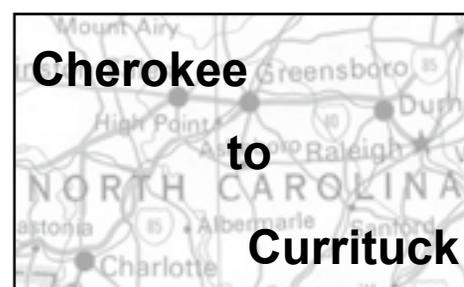
The ordinance is based on the assumption that hotel operators can reduce crime at their properties, even if they charge low rates or are in high-crime neighborhoods.

“Ultimately, what makes a difference is how the property is run,” said Karin Schmerler, a senior public safety analyst for the Chula Vista Police.

“It’s not a complex issue,” said community activist Ben Holder, who called Chula Vista’ ordinance to city council attention.

“Greensboro doesn’t have a set of standards. It needs to hold these people accountable.”

In the past, Greensboro has addressed public safety issues at hotels through a variety of means, including nuisance abatement laws, fire code regulations, and even buying the property and tearing the hotel down. CJ



Tax-Funded Redevelopment Alive and Kicking in Greensboro

BY SAM A. HIEB
Contributor

GREENSBORO

A couple of months after Greensboro voters elected Mayor Bill Knight and a new City Council to restore fiscal accountability in city government, the council has found itself embroiled in two complicated and controversial projects that involve some form of taxpayer financing.

The first was the city's new aquatic center, which is now under construction next to the Greensboro Coliseum. When construction costs exceeded voter-approved bond funding, the council, in a tight 5-4 vote, approved the use of hotel occupancy taxes to close the deficit, even though the city already was supplementing shortfalls in the hotel tax.

Guilford County commissioners also had to sign off on the aquatic center funding, and they did so unanimously without debate or a public hearing at a Jan. 14 meeting.

The other controversial project is a proposed downtown luxury hotel that would be built with the help of federal recovery zone bonds. The bond program is part of the federal stimulus program and provides private developers with favorable financing terms such as interest reimbursement and tax-exempt status.

The hotel originally was planned for a site on the corner of Lee and South Elm streets, a blighted corner of Greensboro that the city has sought to redevelop for years. The project was pitched by Urban Hotel Group, a company headed by former Shelby County (Tenn.) Commissioner Bridget Chisholm, who was instrumental in leveraging \$12 million in private-public funding to develop the Towne Center at Soulsville, a Memphis-area "lifestyle



Artist's rendering of the 74,000-square-foot Greensboro Aquatic Center (Image courtesy of the Greensboro Coliseum Complex)

center."

Another partner in the deal was Greensboro's Ole Asheboro Neighborhood Association, which represents a redeveloped area on the edge of downtown. But it's never been clear exactly what role the neighborhood association would play in developing or operating the hotel.

The Elm-Lee Street site was still in play when city staff brought before the council a request to apply for the federal bond program at its Dec. 15 meeting. City Manager Rashad Young told the council that the deadline for applying for the program was midnight, so it was crucial that the council make a decision, although members had not learned details of all the projects that would be eligible for the bonds.

Sensing the controversy the hotel project would generate, council member Zack Matheny grilled city staff, seeking a guarantee that approving the application "in no way shows absolute support for an individual project."

After receiving that assurance, the council unanimously approved the application. In late December, owners of the Elm Street Center, a downtown development group, announced they

also would be investing in the project.

The Elm Street Center's involvement in the project appeared to give it much-needed legitimacy. But confusion suddenly arose over the city's role in the project. Knight and Thompson discovered that approving participation in the federal bond program meant approving all projects that would be funded with the bonds. Young and Scott confirmed the misunderstanding during a council briefing session, advising the council that it could rescind the vote approving the bonds if it so chose.

The council has taken no action so far, and for the moment, it appears as though the city's role in the project will be limited to funding a parking deck near the site.

Randall Kaplan, managing partner of Elm Street Center, again told the council at a January meeting that only the private investors would be on the hook for the bonds.

"If this doesn't work, the investors have millions to lose," Kaplan told the council. "Government has no risk in this project."

The controversy took another turn when two respected Greensboro

hoteliers, Mike Weaver and Dennis Quaintance, notified the city they would file a lawsuit in order to obtain all information related to the downtown hotel project.

The involvement of two public officials raises more questions about the project.

Guilford County Commissioner Skip Alston brokered the deal to move the hotel to the Davie Street site, which is across the street from the recently opened International Civil Rights Museum. Alston chairs the museum's board.

Guilford County school board member Deena Hayes also serves on the museum's board and has advocated publicly for the Ole Asheboro Street Neighborhood Association to benefit financially from the hotel.

But questions arose over Hayes' role in the project when it was revealed that she shares a residence with one of the prospective construction managers on the project.

At the Jan. 19 City Council meeting, Elm Street Center's Kaplan introduced John Greene of JFG & Associates as the project's local construction manager.

Hayes' school board contact information lists her address as a post office box, but when Greene introduced himself to the council, he gave the same street address as the one listed on Hayes' voter registration info.

Carolina Journal asked Hayes several questions about her role in the project. "I simply have no comment at this time," she replied. CJ

Editor's note: A photo of the Greensboro City Council that ran in last month's issue was not the current council. CJ regrets the error.

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From the Liberty Library

• *The Real Global Warming Disaster* considers one of the most extraordinary scientific and political stories of our time: how in the 1980s a handful of scientists came to believe that mankind faced catastrophe from runaway global warming, and how today this has persuaded politicians to land us with what promises to be the biggest bill in history.

Author Christopher Booker interweaves the science of global warming with that of its growing political consequences, showing how just when the politicians are threatening to change our Western way of life beyond recognition, the scientific evidence behind the global warming theory is being challenged like never before.

The book exposes the myth that the global warming theory is supported by a consensus of the world's top climate scientists. It also shows how the United Nations' Intergovernmental Panel on Climate Change is run by a small group of global warming zealots, who have repeatedly rigged evidence to support their theory. Visit www.continuumbooks.com to learn more.

• After her dazzling convention speech in August 2008, Sarah Palin was on track to win John McCain the presidency of the United States. Never before had a vice presidential candidate gotten such a strong response. Then Katie Couric and Tina Fey came along.

In *The Persecution of Sarah Palin: How the Elite Media Tried to Bring Down a Rising Star*, Matthew Continetti argues that Palin was a strong and popular conservative with traditional values — work, family, and religion — and Washington Democrats and their allies in the so-called mainstream media decided she had to be destroyed. More at www.penguin.com.

• In his breakthrough new book, *The War on Success*, Tommy Newberry exposes how the Obama administration has used the cloak of "fairness" and "compassion" to usher in a new era of Big Government, wealth redistribution, and a fatal dependence on government assistance.

Make no mistake — President Obama and his cronies in Congress have declared war, only it's not on the terrorists who plot to blow up planes or attack our embassies. It's war against hard-working Americans.

But all is not lost, says Newberry; *The War on Success* can be defeated. More at www.regnery.com. CJ

Movie review

'Holmes' Movie Not Worthy of Conan Doyle Canon

• "Sherlock Holmes," Directed by Guy Ritchie, Warner Brothers Pictures, Released Dec. 25, 2009, 128 minutes

By JOHN CALVIN YOUNG
Contributor

CASTING American actor Robert Downey Jr. (Iron Man, Tropic Thunder) as Sherlock Holmes was the first clue that Guy Ritchie was not following in the steps of Holmesian cinematic tradition. Shot on location in Liverpool and London, Ritchie's lavish cinematic reimagining of Sir Arthur Conan Doyle's classic characters will please many, but readers of the original books will find more at stake than Sherlock's use of the King's English.

The film opens with one of Holmes' daring escapades, infiltrating an underground crypt and interrupting an occult blood ceremony. Tearing off the perpetrator's hood, Holmes and Watson (Jude Law) reveal none other than Lord Blackwood (Mark Strong), a prominent member of Parliament. Inspector Lestrade (Eddie Marsan) turns up in due course to collar both the criminal and the credit for the capture.

Blackwood is duly hanged (and his death certified by none other than our own Dr. Watson.) Yet his tomb is mysteriously broken open, and the dead man seen walking, apparently unharmed.

It is quickly revealed that the hanged Blackwood was a member of a mystical order dedicated to using their black arts to manipulate the course of history. As mysterious killings crop up around London, Holmes and company must sift through a myriad of clues to find Blackwood and expose his nefarious plot before it changes Britain forever. On the way, Holmes and Watson will spend a night in jail, ransack illicit laboratories, and survive a rigged powder explosion before bringing the case to a successful conclusion. It sounds clichéd, because it is.

The film is set at the end of Watson's time living with Holmes at 221B Baker Street. Holmes refuses to admit it, but he is afraid of missing Watson

and tries repeatedly to draw him back into the chase and distract him from his fiancé Mary Morrison (Kelly Reilly). Watson sees this as betrayal, and the repartee between the two drives many scenes through the film. Deviating from the books, Holmes has a romantic interest of his own — Irene Adler (Rachel McAdams), object of Holmes' professional admiration from *A Scandal in Bohemia*. She makes a splashy entrance back into Holmes' life, unafraid of using her feminine wiles to manipulate him for goals of her own.

The film is set in Victorian London, and the overall feel is predictably grimy, especially in the underworld that Holmes frequents. Ritchie has gone for more of an action vibe in this film than previous Holmes iterations, with shaky handheld camera work more reminiscent of *The Bourne Ultimatum* than *Amazing Grace* or other period dramas. Holmes and Watson walk, run, and fight their way through a richly detailed world, but the flat lighting in many computer-enhanced scenes gives it a feel of unreality in conflict with

the gritty tone of the production as a whole. Hans Zimmer contributes a tense, discordant action score based on Hungarian dulcimers and other unusual instruments — while its manic energy suits the film, it isn't one I'll be revisiting.

Surprisingly, given the gritty staging, the filmmakers still showed some restraint. Holmes' relationship with Adler is somewhat risqué, hinting at more than is said or shown directly, but still less than I expected after watching the trailer. Drinking and smoking is quite prevalent, but the cocaine use mentioned in the books has been sidelined. The film is extremely violent, however, depicting in somewhat gory detail numerous fistfights, including a bare-knuckle boxing match, and leaving lingering images of gruesome killings — a man burned to death, another hanged, a third drowned. Several occult rituals, including one reconstructed by Sherlock Holmes himself, are depicted in hair-raising detail, although in classic Conan Doyle fashion, most supernatural events have very physical explanations. Families would do well to exercise caution before allowing children or younger teens to see this film.

The plot definitely delves into the realm of the strange and absurd. The occult ceremonies, megalomaniacal villains, and the macabre discoveries as Holmes closes in — while farfetched and occasionally absurd — are all details true to the original books, as are the strained relations between Holmes and Watson on a number of occasions. Even such eccentricities as Holmes' bare-knuckle prowess and his encyclopedic knowledge of London soils are taken straight from the original. Though each is accurate, these details do not make up the full picture.

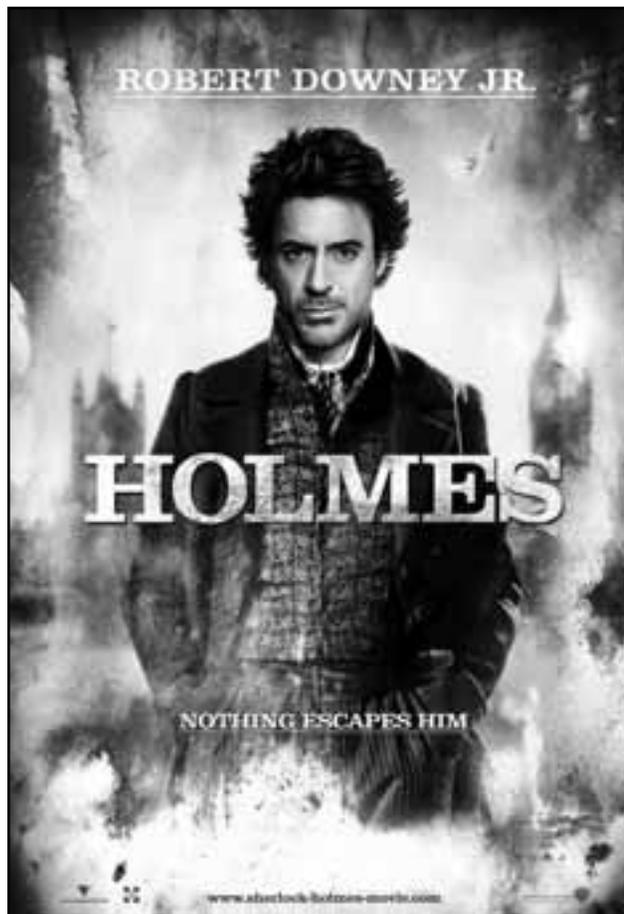
The romantic entanglement with Irene Adler, while a favorite theory of Sherlock Holmes fans, is not in the books and is indeed contrary to Holmes' stated character — the precise, sometimes cold logician is gone, and in his place merely an eccentric.

The physical action even devolves into slapstick humor when Holmes is confronted with a pugnacious giant of a henchman seven feet tall. The

classic Victorian reserve demonstrated even in the midst of precipitous action by previous cinematic Holmeses — such as Jeremy Brett — is absent, and both Holmes and Watson feel much more direct ("American," perhaps?). The action in the film is so frenetic that when Holmes finally does sit down and put his logical mind to work, it feels more like an aberration than his true nature.

Ritchie has produced a rollicking action film that just happens to be set in Holmes' London. It is a watchable and even enjoyable film for fans of Doyle's characters, but with the original Holmes concentrated, enhanced, and caffeinated for the American market, any trace of intellect or nuance is gone in favor of beautifully choreographed fight scenes and big-budget spectacle.

While large box office receipts and plentiful hooks for a Moriarty-centered sequel all but guarantee a successor, this blockbuster reboot of the series adds nothing worthwhile to the canon. CJ



N.C. Farm Boy Malcolm P. McLean Revolutionized Shipping

A farm boy turned trucker from Robeson County, Malcolm P. McLean, revolutionized global shipping and proved that big ideas can originate in small places.

"The Father of containerization," McLean revolutionized the shipping industry during the 1950s and 1960s and his innovations increased trade between the United States and China. His big idea: an independent box container (trailer) placed in a truck bed on wheels. These standardized containers were removable from trucks and stackable on barges, allowing more goods to be shipped at cheaper prices. In doing so, McLean adapted to and overcame government regulations.

While growing up in Maxton, McLean assumed extra work to supplement the family income. After graduating high school, McLean entered the workforce in the midst of the Great Depression.

He transformed McLean Trucking from a one-truck, shoestring operation in 1934 into the largest trucking firm in the Southeast and fifth-largest in the United States. Like some other Depression businesses, including North Carolina Mutual Life, McLean Trucking grew during lean financial times by cutting costs and embracing innovation. By the 1950s, McLean Trucking operated approximately 1,800 trucks shipping products to 37 terminals.

Government regulation prompted McLean to seize on the idea of container shipping. Different states had different weight regulations, and truckers were fined frequently for carrying overweight shipments.

So McLean purchased Pan-Atlantic Steamship Co., letting trucks, with his newly designed, stackable trailers (containers), transport goods to ports. There, the containers could be hauled by barges to other ports, and then removed and placed on truck trailer beds and driven to warehouses.

Although containers had been used to ship products for centuries, the U.S. method — McLean's method — was new: the containers were never opened in transit and the containers

were detachable and standardized to fit onto trucks, railroad cars, or ships. Eventually, containerization became the global standard.

Government regulations once again forced McLean to adapt. McLean sold his trucking company because seven railroads accused him of violating the Interstate Commerce Act; he needed the ICC's approval to own two or more carriers with a common interest. After failing to acquire the government's approval, McLean did what many would never do: he sold his 75-percent interest in McLean Trucking to embark on a risky economic venture. He changed Pan-Atlantic's name to SeaLand Industries.

Under McLean's helm, SeaLand Industries grew to be the world's largest cargo-shipping business. The maiden voyage of the *S.S. Ideal X*, a converted World War II oil tanker, proved that containers could transport goods safely. Clients were readily available.

With McLean's encouragement and persuasion, ports started building facilities compatible with container ships, which could adapt to changes in the shipping industry; Oakland, for one, attracted Asian trade by building a container-ship facility. SeaLand In-

dustries grew exponentially while increasing global trade because McLean insisted on standardized containers and a standardized shipping process.

For \$160 million, R.J. Reynolds purchased SeaLand Industries in 1969. When the Interstate Commerce Commission's regulatory power was scaled back in the 1980s, containerization became more popular in the United States and more and more goods were transported to the country.

Few had imagined containerization's widespread influence. Business leaders had predicted correctly that McLean's containerization would replace older transportation methods. They failed to envision how the North Carolinian's innovation ultimately increased goods production and global trade.

According to Anthony J. Mayo and Nitin Nohria in *In Their Time: The Greatest Business Leaders of the Twentieth Century* (2005), McLean had revolutionized an industry, and by the end of the 1900s, "container shipping was transporting approximately 90 percent of the world's trade cargo." CJ

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



TROY KICKLER

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Squall Lines is the JLF's blog in Wilmington. A group of JLF staffers and coastal friends keep folks on the coast updated on issues facing that region of the state: <http://wilmington.johnlocke.org/blog/>



Piedmont Publius is the JLF's blog in the Triad. Greensboro blogger and writer Sam A. Hieb mans the controls to keeps citizens updated on issues in the Triad: <http://triad.johnlocke.org/blog/>



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Short Takes on Culture

'Avatar' a 3D Eden

• "Avatar"
Directed by James Cameron
20th Century Fox

James Cameron's "Avatar" is everything you have heard. It is ham handedly anti-American, anti-market, and anti-military with an overt parallel to the Pocahontas story.

Cameron's created Eywa religion is a barely veiled Gaia cult, though with some Christian elements. It provides a reminder of the Left's propensity to venerate any religion that isn't explicitly Christianity or Judaism.

As if that weren't enough, there are the Bush-era references to "shock and awe" and "daisy cutters." The natives don't want the proffered roads, schools, or medicines because they have a literal connection to all of nature.

The entire planet is a networked system. Nobody listens to the scientists who have all the answers and manage not to scoff at the religious natives because the biology of the planet is evidence of the higher intelligence.

The former soldiers and marines turned mercenaries are the ones who do not recognize the divinity of the planet. Cameron's humans are a diverse crew, but the white men and Sigourney Weaver are the leaders. Despite their connections with the planet, the blue natives seem to have no trade or other regular ties with each other except to fight the outsiders. The biology of the natives also makes no sense.

The film is a stunning visual and technical achievement. In spite of everything, it is a joy to spend two and a half hours in Cameron's bioluminescent 3D Eden.

— JOSEPH COLETTI

• *The Ascent of George Washington: The Hidden Political Genius of an American Icon*

John Ferling
Bloomsbury Press

Even if you've long realized that the famous "cherry tree" story was a myth, your impression of our first president is likely based on a standard historical narrative that paints George Washington as an almost mythic, god-like character.

John Ferling tries to separate the fact from the myth in his recent book *The Ascent of George Washington: The Hidden Political Genius of an American Icon*. Despite his use of the word "genius" in the subtitle, Ferling frequently pans Washington, his po-

litical choices, and even his decision-making ability.

The book certainly rebuts the notion that Washington was apolitical. It's clear that he employed numerous rent-seeking schemes to benefit his personal land holdings, and it's hard to ignore Ferling's evidence that Washington mastered the strategy of finding scapegoats to take the blame for his military failures.

Still, this reader gets the sense that Ferling takes his case too far. The author has an annoying habit of playing mind reader and armchair psychologist. (Washington "must have known" this; he "had to have felt" that.)

Regardless of its faults, this book has enough good points to make it a worthwhile read for those who enjoy books about the Founders. For different perspectives on Washington, you might also try alternative titles from Richard Brookhiser and Paul Johnson.

— MITCH KOKAI

• "2012"
Directed by Roland Emmerich
Columbia Pictures

Anybody with an active imagination shouldn't see "2012." From beginning to end, the movie is more like an interactive video game than a yarn of Earth's crumbling demise.

It's easy to figure out that storyline clichés are going to be abundant, the impossible is going to happen — at times with ease — and the "what would you do?" factor will plague almost every scene. And depending on your belief system, the movie ignites a spiritual tone that cannot be avoided.

The screenplay never divulges to whom people from all nations are praying, while the world erupts in earthquakes, volcanic activity, and tectonic shifts. Rather than define God, "2012" uses an abundance of unfulfilled Biblical prophecy elements. It also presents a few other spiritual viewpoints to engage its audience.

Keep in mind this movie is science fiction, not prophesy. It is like most doomsday-type movies with its own unique twists and turns. If you've ever wondered what it would look like to watch California fall off the map, this is the movie to go see.

As fragile as the world system is today, the movie depicts a compelling story of irrelevant power grabs when facing catastrophic conditions.

— JANA BENSCOTER CJ

Book review

Griswold: Trade Not Job-Loss Culprit

• Daniel Griswold, *Mad About Trade: Why Main Street America Should Embrace Globalization*, Washington: Cato Institute, 2009, 208 pages, \$21.95

BY JOSEPH COLETTI
Contributor

RALEIGH

Trade is great for consumers and producers. It gives us more choices, lower prices, and better quality goods than we would otherwise have. It helps the country weather economic storms, improves foreign markets for our goods, makes the world safer, does more for the poor than foreign aid, reduces illegal immigration, has little net effect on employment, and gets a bad rap for other problems that it does not cause. Protectionism, by contrast, is a swindle and "a conspiracy against the public."

Such are the conclusions Daniel Griswold, director of the Center for Trade Policies at the Cato Institute, reaches as he makes the case for free trade. He marshals an impressive amount of data in a relatively short space. The data are, if anything, more surprising than the conclusions.

The U.S. middle class is indeed shrinking, but so is the percentage of Americans with low incomes. Even so, the proportion of American households earning \$75,000 or more, adjusted for inflation, grew from 25.6 percent in 1990 to 32.1 percent in 2007. Household incomes have grown despite the increasing share of compensation that has gone to non-monetary benefits, NAFTA, and China's entry into the World Trade Organization.

Looking back further, America's growth in the late 1800s came in spite of trade barriers, not because of them. Immigration and population growth drove the American economy.

"From 1854 to 1944, the U.S. economy suffered 21 recessions averaging 21 months in length," Griswold writes. "During that era, despite tremendous growth, the U.S. economy was contracting 41 percent of the time. ... According to the National Bureau of Economic Research, our nation suffered through nine recessions totaling 96 months in length between 1945 and 1985, representing 20 percent of the time. Since then ... our economy has

been in recession about 12 percent of the time. Like a superior investment, our more globalized economy has delivered growth rates at least as good as past protectionist eras but with less volatility."

And yet America still is not as open to trade as it could be, ranking behind 26 other countries. The trade barriers that remain have hurt poor and middle class Americans, who face higher prices for food, basic clothing, shoes, and other low-price essentials.

Someone earning \$15,000 a year pays a week's worth of salary for tariffs, while someone earning \$100,000 pays just two or three hours' worth of salary. Tariffs impose the equivalent of a \$155 food tax on Americans, according to international statistics.

America is losing some jobs, Griswold writes, but trade is not the culprit. Job losses result from emerging technologies, new companies, and a changing economy. Also, those jobs being lost often offer lower wages than the new jobs being created in service sectors.

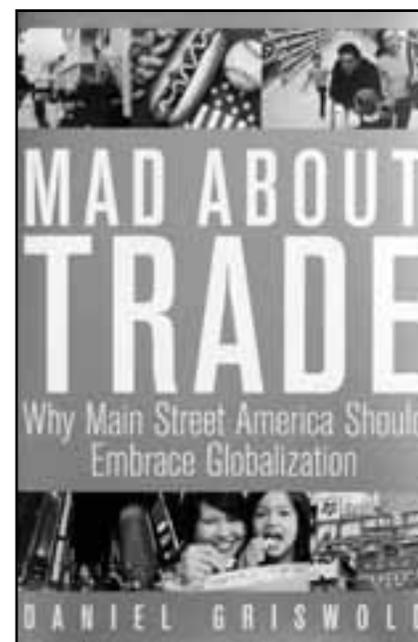
Between 1991 and 2008, America lost 3,613 manufacturing jobs with an average hourly wage in 2008 of \$17.72. Over the same period, it gained 18,895 jobs in service sectors with an average wage of \$20.52 and another 9,681 jobs in service sectors with an average wage of \$14.54.

Griswold adds, "America's share of the world's manufacturing value added has remained steady at about 21 percent since the early 1990s."

Griswold finds that employment in the U.S. grows when American companies employ more people abroad, overseas investments have generated more overseas sales, and the trade deficit grows when unemployment falls. Foreign investments in government bonds have reduced interest rates by 0.9 percentage points, allowing Americans to borrow for less, despite government deficits.

Griswold's final recommendation: National leaders should extol the benefits of competition from imports. Free trade is a matter of good economics, justice, fairness, and social equity, he concludes. After reading his book and examining the data, you may find it harder to disagree. CJ

Joseph Coletti is the fiscal policy analyst for the John Locke Foundation.



Paul Johnson's *Churchill* Concise, Enjoyable, and a Joy to Read

• Paul Johnson, *Churchill*, New York: Viking, 2009, 181 pages, \$24.95.

BY HAL YOUNG
Contributor

On Jan. 2, 1900, newspapers reported the escape of Lt. Winston Churchill from a military prison in the Second Boer War. It was the first of many footprints Churchill would stamp on the new century.

The man who would be Britain's first lord of the admiralty in World War I and prime minister in World War II held an officer's commission in both conflicts and commanded troops in the trenches personally. He modernized the Royal Navy, invented the tank, championed the Royal Air Force when others would not, and warned England of the threat of Nazism for years while all others declared both him and Hitler crackpots. The same year he slipped away from the Afrikaners he was elected to Parliament, at the age of 26, where he served for five and a half decades. As a journalist, author, and statesman, he may have put as many as 10 million words in print.

So the reader may be forgiven for approaching Paul Johnson's thin, 181-page biography (compactly titled, *Churchill*) with skepticism. How can a biographer do justice to such a towering historical figure in such a short compass?

Surprisingly, Johnson succeeds. The book unfolds Churchill's life with the affection — and frankness — of a long friendship. Johnson inserts himself into the book on several occasions, including his brief encounter with the elderly Churchill and his personal impressions of some Churchill associates the author met. While the book reads like the popular history it is (no foot-

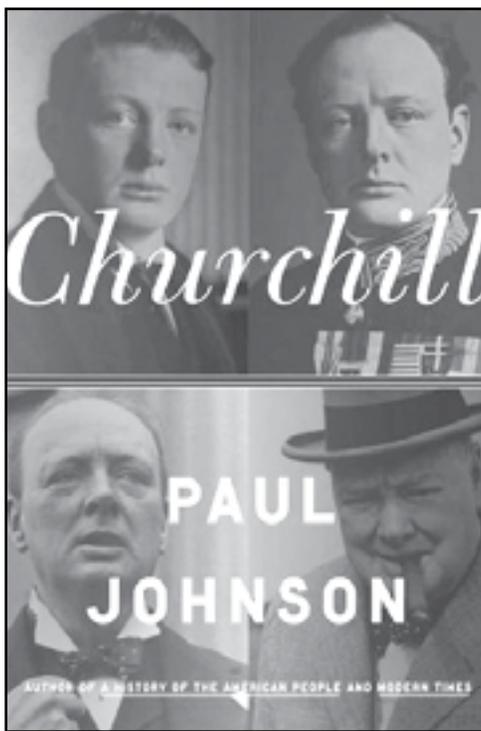
notes, for example), it often flows like an epic story told after dinner.

The book opens without introduction, and I was snared by the first paragraph:

Of all the towering figures of the 20th century, both good and evil, Winston Churchill was the most valuable to humanity, and also the most likeable. It is a joy to write his life, and to read about it. None

holds more lessons, especially for youth: How to use a difficult childhood. How to seize eagerly on all opportunities, physical, moral, and intellectual. How to dare greatly, to reinforce success, and to put the inevitable failures behind you. And how, while pursuing vaulting ambition with energy and relish, to cultivate also friendship, generosity, compassion, and decency.

Like Theodore Roosevelt, Winston Churchill's life was so active and multifaceted it staggers the imagination. Johnson records, by the way, that the two future statesmen met during the war in Cuba; Roosevelt took a dislike to the young Englishman, complaining, "That young man Churchill is not a gentleman. He does not rise to his feet when a lady enters the room." Like the older Roosevelt, though, Churchill was an enthusiastic self-promoter, with



his eyes always on the next opportunity to establish himself in the eye of the public and the next level of influence. Cuba was a stepping stone to future glories.

Much of Churchill's life was conducted with an eye toward vindicating the memory of his father, Lord Randolph Churchill, a rising member of Parliament whose career flamed out in erratic behavior

that developed into insanity and an early death. Johnson discreetly omits the reason — Randolph Churchill's mind failed due to advanced syphilis, which he contracted as the result of a cruel prank by his friends in early adulthood. In fact, Johnson steers clear of any mention of impropriety in the Churchills, though other biographers record that there were lapses of fidelity on both sides of their otherwise solid marriage.

Johnson doesn't hesitate to point out Winston's many other faults, though. "He was accused" — with good reason — "of abusing his position as a British officer and his civilian status as a journalist, and of breaking his word of honor as a war prisoner," Johnson writes. As a young man he had a reputation as "brash, arrogant, presumptuous, disobedient, boastful,

and a bounder." His political allegiances were often quixotic and rooted in a romantic vision of the Empire; he nearly scuttled his career over self-rule for India (which he opposed) and support for the abdicating Edward VII (whom he tried to prop up).

Amidst the narrative Johnson drops in some sharp analysis. When Churchill was handed the premiership over a demoralized Britain in 1940, for example, Johnson delineates 10 distinct strengths Churchill brought to the position. As Johnson describes it, Churchill was as much a dictator as Hitler and Stalin, but on the side of the angels. The epilogue draws five examples from the completed life of Churchill, including the value of hard work, resilience in the face of defeat, and refusal to waste energy on pettiness.

Johnson also throws sudden lights on our current situation. Most of the world's problems in the 20th and 21st centuries can be traced back to the First World War, he says.

Britain, in Churchill's time at the Colonial Office, redrew the map of the Middle East to empower moderate Hashemite princes, but American petroleum interests secured the Saudi Wahhabist factions who give us such trouble today. Johnson notes that Britain had been fighting Muslim fundamentalists since the early 1800s, and hints that we might have done better to follow their lead in that region. It's food for thought.

There are many books about Churchill, not the least those he wrote about himself. There are larger single-volume biographies of the man. However, it will be hard to find a more concise and enjoyable Churchill than Paul Johnson's. As he promised, it is a joy to read. *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

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

COMMENTARY

If This is Oppression, It's Fine By Me

If you're looking for a job these days, there's a good chance you've interviewed with a company run by a woman. Nearly one in four chief executives is a woman, reports the U.S. Department of Labor, based on 2008 figures. In fact, so many women are now in charge that DOL will likely soon remove chief executive from its list of non-traditional occupations for women.

A job is classified by the feds as nontraditional only if women comprise 25 percent or less of the work force. Doctors, lawyers, and chemists already have fallen off the list. If trends continue, criminal investigators, detectives, and software engineers will follow, since women account for one in five workers in these fields.

You'd never know about these achievements by listening to feminist rhetoric about the state of women in society. That's a shame. Many outspoken feminists helped spur, or have witnessed, the rise of women in America. They should be proud. Instead, they remain married to the same old complaint: Women are victims of a patriarchal, oppressive society that fails to both recognize their worth and provide the opportunities it doles out to men.

Every now and then, a well-known feminist treats us to a new twist on the Big Bad Men fable. *New York Times*

columnist Maureen Dowd recently targeted President Obama's golfing buddies as proof that even the president who, as she told the L.A. Times' Patrick Goldstein, "loves smart women," can't be counted on to change male-dominated Washington. "I mean, Obama still goes off golfing with the guys for four hours at a time. I give him credit for appointing a lot of women to important posts, but I would never have predicted that the first black president would have a lot of the same man-cave tendencies as the guys who came before him," she

told Goldstein.

While Dowd spends time on this silliness, many women have been concentrating on much more important things.

Since the 1980s, women have dominated higher education, earning the majority of bachelor's and master's degrees. In 2005-06, women earned 57.5 percent of all bachelor's degrees and half of the bachelor's degrees in business. During the same period, women earned 60 percent of master's degrees and nearly half of doctoral degrees in all disciplines. At Harvard, Princeton, Penn, and Brown, women run the show.



**DONNA
MARTINEZ**

Educational achievement has paid off in the marketplace, despite feminist criticism of the "wage gap." The Bureau of Labor Statistics survey shows women earn 80 cents for every dollar earned by a man. Problem is, the gap reflects only the difference between the median wage of a female full-time worker and a male full-time worker. It ignores differences in experience, education, and hours worked — factors we choose based on personal priorities that,

many times, have nothing to do with the workplace.

For women interested in politics, achievement is also the lesson of recent history. The careers of Nancy Pelosi, Condoleezza Rice, Hillary Clinton, Sarah

Palin, Sonia Sotomayor, and Michelle Bachmann certainly haven't been hurt because they're women. In 2009, 90 women served in the U.S. Congress — 17 in the Senate and 73 in the House. Six states have a woman in the governor's mansion, including our own.

If all this achievement is due to an oppressive society dominated by men, then count me among those who hope things never change. CJ

Donna Martinez is an associate editor of Carolina Journal.

**Listening to
feminists,
you'd never
know there'd
been any
achievements**



EDITORIAL

What Next For Easley?

Mike Easley is in trouble. If you were not convinced when the State Board of Elections made a criminal referral to state prosecutors in October, then take a few minutes reading the 51-count federal criminal indictment of the former governor's right-hand man, attorney Ruffin Poole.

The indictment alleges that Poole, referred to as both the "go to guy in the governor's office" and the "little governor," accepted free trips and other gifts from major donors to Easley's campaigns who were seeking development permits from the state. Poole leaned on regulators to approve the permits and then profited personally by investing in those projects.

For obvious reasons, none of these transactions was reported on ethics disclosure forms. The indictment also suggests that Poole laundered his ill-gotten gains through a business owned by his family, making it harder for journalists and other public watchdogs to follow the money. If true, it's little wonder Poole may face years in prison and fines reaching six figures.

That said, Poole is not the primary target of federal investigators. It's Mike Easley. While the Easley team insists that the former governor had no knowledge of what his most trusted adviser was doing, Easley is (or should be) sweating.

Much like Poole, the former governor appears to have not disclosed fully benefits he received from people who had business before the state. These were top campaign donors, many of the same characters in the Poole indictment, some of whom Easley gave plum political appointments.

And since Easley put in place many of the ethical guidelines he allegedly violated, he would have a hard time claiming ignorance as an excuse.

For starters, Easley would never have provided full detail of the sweetheart real estate deal he secured at the Cannonsgate development in Carteret County, first reported in 2006 by *Carolina Journal*. Public records stated Easley paid \$549,000 for a lot that certainly would have sold for more on the open market; the private closing statement, obtained last year by *The News & Observer*, reported that he also got a 25-percent discount at closing. The deal had to be concluded in secret or it never would have been consummated.

Several major donors appear in the Cannonsgate saga. Gary and Randy Allen, Easley appointees to the state Wildlife Commission, owned the development.

An investor was Lanny Wilson, another Easley donor who had been appointed to the Department of Transportation board. And the governor's real estate agent was McQueen Campbell, who testified to providing the governor dozens of flights that should have been charged to the campaign but were not — and who, at age 30, was picked by Easley to the Board of Trustees at N.C. State University, where he helped create a high-salaried, makework job for Mike's wife Mary.

At its core, the Easley scandal is about the abuse of public service for personal gain. Poole's indictment is the most recent indication that the individuals responsible for this sordid behavior may finally be held accountable. CJ

EDITORIALS

Wake School Blunder

Wake is lagging behind, not leading a trend

The North Carolina chapter of the NAACP is pursuing legal action under the federal Civil Rights Act to force the school system in Wayne County to end student-assignment practices that, according to the NAACP, are infringing on the civil right of poor, black students to obtain an education.

Rev. William Barber, president of the NAACP chapter, has made it clear that Wake County may be the next target of litigation. By any fair reading of the evidence, however, he should have sued Wake County first, years ago. Its disadvantaged students have lower scores than Wayne's.

The NAACP is under the impression that sorting and assigning students by race and class is the only way to provide them educational opportunity. Wake is the only urban school system in the state, and one of the few left in the nation, that engages in widespread forced busing. That's the policy the NAACP is trying to maintain and expand, despite its manifest failure and broad unpopularity.

By virtually every measure, Wayne County matches or outperforms Wake County when it comes to student achievement among the disadvantaged. According to the most recent state test scores:

- About 49 percent of Wayne

County students eligible for free or reduced-priced lunch scored at grade level on their reading and math tests. The comparable share of Wake County students was 44 percent. The passing rate for black students was about the same in each county, 45.5 percent in Wayne and 45.2 percent in Wake.

- Among high-school students, the average passing rate on end-of-course tests among disadvantaged students in Wayne was 60.4 percent, vs. 58.5 percent for Wake. Black students in Wake did do slightly better than Wayne on those tests, however.

As with previous warnings about the dire consequences of Wake County following the lead of Charlotte-Mecklenburg by junking forced busing, the NAACP and its supporters among politicians, activists, and editorial writers appear not to have done their homework on the Wayne vs. Wake comparison.

Charlotte-Meck's supposedly regressive school system also posts higher test scores among disadvantaged students than the Wake system does.

Just about every other urban school system has abandoned these policies because they are costly, unpopular, and ineffective, not because of a secret longing for racial segregation. Wake is lagging behind, not leading a trend. CJ

Road Progress

But we can learn a lot from our neighbors

North Carolina has a weak economy, a corrupt political class, and a host of other challenges. But not all the recent news is bad: according to an annual study of highway performance, North Carolina has been getting better at managing its systems of roads and bridges.

Dr. David Hartgen, a professor emeritus at UNC-Charlotte, has produced the study for 18 years, using a combination of funding and performance data to evaluate the cost-effectiveness of state highway systems nationwide. The John Locke Foundation was the publisher of the study for awhile, until it found its natural home at the California-based Reason Foundation, which has a national purview.

In the most recent report, Hartgen and his colleagues ranked North Carolina 20th. That's a significant improvement from the state's 31st ranking two years ago. Keep in mind, however, that this is a measurement of

cost-effectiveness. It doesn't mean that North Carolina's highway system is 20th in quality or adequacy. Unfortunately, there are still many transportation problems to address:

- North Carolina is worse than the national average in highway fatality rates, narrow lanes, and bridges that are either deficient or obsolete.

- Only four states have more congested miles of urban interstate than North Carolina does.

- Only seven states have more rural interstate miles in poor condition.

Looking at the national findings, it's clear that North Carolina can still learn a lot about managing highway systems from neighboring states with better rankings, such as South Carolina (4th), Georgia (9th), and Virginia (12th).

Anyone who drives the roads across these borders extensively can see and feel the difference. CJ

COMMENTARY

A Farce Playing in Garner

North Carolina's state and local politicians have officially exhausted my ability to understand what the heck they think they're doing.

The setting for this achievement is ConAgra Foods' Slim Jim plant in Garner, the setting of one of the state's most tragic industrial accidents in years. Last June, a contractor at the plant was trying to light a water heater in a room into which gas had been vented, due to a mistake by another contractor.

The resulting fire killed four, injured about 70 more, and did millions of dollars in damage to the plant.

One state agency, the N.C. Department of Labor, went into regulatory mode. After an investigation with ConAgra, officials announced an agreement in which the company would admit to 26 health and safety violations, pay a \$106,440 fine to the state, and agree to various safety improvements.

Meanwhile, other state and local government agencies went into economic-development mode. The Slim Jim plant had employed 750 residents at the kind of manufacturing work that isn't available elsewhere. Because of the damage to the plant, 300 workers have been laid off.

In an effort to save the remaining jobs, public officials are hammering out a subsidy package reportedly to include \$450,000 from the Perdue administration, a similar amount from the town of Garner, a grant from Wake County, and other perks still under consideration.

So North Carolina government will accept a check from ConAgra and then send an even bigger check to ConAgra. At the very least, one might advise the relevant clerks to save on the postage and handling by allowing the company to submit a single invoice for the net amount.

These policies aren't just contradictory. They are nonsensical.

I know it always makes the political class feel better to "stick it" to private firms, but the practical benefits of fining compa-

nies after major industrial accidents are hard to find. While the ConAgra accident may, at least on paper, end up costing the company a little over \$100,000 in fines, it has already cost the company millions of dollars in property damage, lost production and sales, and higher workmen's compensation premiums. If the prospect of losing millions of dollars isn't sufficient to motivate other companies to learn from ConAgra's mistakes and seek to reduce the likelihood of future accidents, then adding a \$100,000 fine is pointless.

As I wrote years ago for Policy Review magazine, there is little evidence that the advent of stringent federal and state regulation has had a significant effect on workplace safety. Acci-

dent and death rates fell at about the same rate after the creation of the Occupational Safety and Health Administration as they did before its creation, because competitive markets already punish industrial accidents severely.

On any given day in America, thousands of local, state, and national safety regulators are inspecting businesses, studying test data, issuing regulations, and adjudicating violations.

But on that same day, millions of American workers, managers, designers, and engineers are working to make their workplaces safer, to maximize sales and revenues, minimize losses, and maintain good, long-term relationships with productive employees.

The magnitude of private-sector safety efforts, both in time and money spent, far exceeds that of even today's bloated regulatory bureaucracy.

The ConAgra fine is best thought of as political theater, not as a deterrent to protect worker safety. And now that public officials are preparing to give the company an incentive package worth several times the fine, what was supposed to be a tragic theatrical performance is turning into a farce. CJ



JOHN HOOD

John Hood is president of the John Locke Foundation.

EDITORIAL BRIEFS

World Less Free
in 2009

According to Freedom House's annual report on political and civil report, Freedom in the World 2010, 2009 was not a good year from freedom around the world. For the fourth year in a row, global declines in freedom outweighed gains. This represents the longest continuous period of global declines in freedom in the report's 40-year history.

Freedom House classifies countries each year as "Free," "Partly Free," or "Not Free." In 2009, 89 countries, accounting for 46 percent of the world's population, qualified as Free. Another 58 countries, comprising 20 percent of the world's population, were Partly Free. The remaining 47 countries, comprising a third of the world's population — some 2.3 billion people — were Not Free.

Among the Not Free countries, Burma, Equatorial Guinea, Eritrea, Libya, North Korea, Somalia, Sudan, Tibet, Turkmenistan, and Uzbekistan were the worst of the worst, receiving the lowest rating possible for both political rights and civil liberties.

The number of democracies was at its lowest level since 1995.

"The decline is global, affects countries with military and economic power, affects countries that had previously shown signs of reform potential, and is accompanied by enhanced persecution of political dissidents and independent journalists," wrote Arch Puddington, Freedom House director of research.

More FCC regulation ahead

The Federal Communications Commission is close to implementing the most comprehensive government oversight of broadcast programming in many years. Whether such regulation will pass constitutional muster is a different matter, writes First Amendment expert Robert Corn-Revere in a new Cato Institute policy analysis paper.

Many conservative pundits had feared a return of the "Fairness Doctrine", which required that the broadcast media present "balanced views", under the Obama Administration. That hasn't happened. Instead, the FCC is moving, with bipartisan support, to impose regulations that broadcast outlets file extremely detailed reports describing exact what they aired.

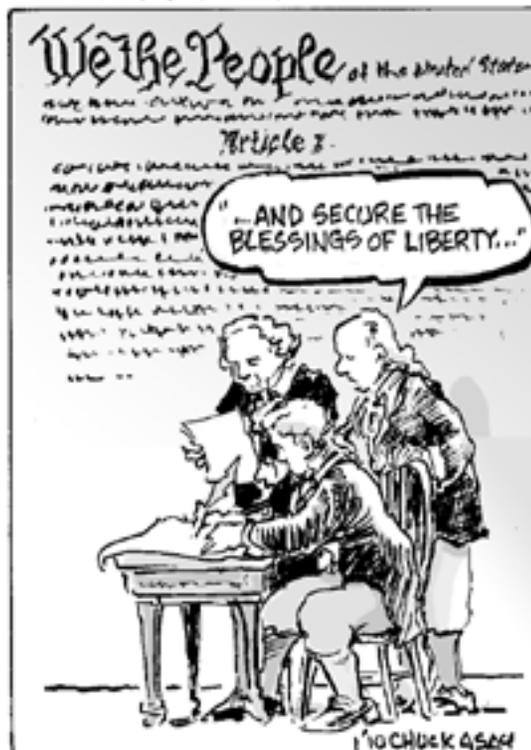
Linked to the documentation requirements are proposals to assure that broadcasters address local needs, with advisory boards of "local officials and other community leaders to periodically advise them of local needs and issues."

"The change in FCC procedures reinforces the government's ability to supervise content more intensively," says Corn-Revere.

FCC regulation of broadcast media traditionally has been based on spectrum scarcity, the contention that a finite amount of radio and television signals can be broadcast, justifying government regulation of content in the public interest.

In the Internet age, this argument fails. CJ

WHAT OUR FOREFATHERS GAVE US!



WHAT WE HAVE NOW!



Innovation is the Key to Prosperity

I make about 80 presentations each year all around the state where I talk about the economy and forecasts for the future. Many of the questions I get from attendees are about jobs. Questions like, "Where will the new jobs be?", and, "How can we ever hope to compete against countries where wages are so much lower?"

These are important questions, and their urgency has increased with the recession and the growth of global competition. And, as is frequently the case with economic issues, there are different answers to the questions.

One answer is pessimistic. Some think the outlook for U.S. workers is quite gloomy. They think manufacturing jobs will continue to be lost to foreign countries where worker salaries are much lower and where products can be made at a fraction of the cost. They also think better-paying service jobs — particularly professional positions — will increasingly follow the same pattern.

This pessimistic outlook sees increasing numbers of U.S. workers limited to lower-paying service jobs in retailing, health care, and the restaurant industry.

But there is an alternative answer that is more upbeat about the future of the U.S. workplace for three reasons. First, it argues that foreign countries may not maintain their wage advantage with the United States. Countries with sharply rising standards of living usually experience corresponding increases in wages and salaries.

So while foreign workers may continue to be cheaper than their U.S. counterparts, the pay gap between the two may actually narrow — thereby making it less lucrative to move U.S. jobs to foreign lands.

Second, the optimistic viewpoint says there continues to be advantages for companies locating near their customers. Foreign production may be fine for standardized, mass-produced products and services, but customized products require feedback and interaction with buyers. So, as the marketplace becomes more specialized and customized, the value of having a U.S. based location may increase.



MICHAEL
WALDEN

But the third reason for being optimistic may be the most important — indeed, it may be the "ace in the hole" for the U.S. economy. In a word, the reason is "innovation." Economies never stand still. There is an on-going process of some products and companies being destroyed while new companies and products are developed. The 20th century economist Joseph Schumpeter coined the term "creative destructionism" to describe this transition.

If creative destructionism is inevitable — in other words, if a better mousetrap is always going to be made — then countries that are best able to create new things — to innovate — will be the ones that prosper over time.

And here's the good news. By many standards, the U.S. has an economy that is most inviting to innovation. We have a flexible economy that allows businesses to shift resources and workers with little restriction. For the most part, failing companies are not propped up and protected by the government — although certainly some of the "bailouts" occurring in the past year went against this principle — and new companies aren't barred from competing. We also have an open and flexible education system that facilitates worker retraining and the development of new areas of study.

However, innovation is messy. It requires the old and outdated to be closed to make way for the new and modern. Losses will occur as new profits are made. Innovation is also hard to predict. Because the concept deals with the future and the unknown, much trial and error goes into the development of a new product or idea before it is commercially viable. Hence, innovation best thrives in an unregulated, unrestricted economy with minimal rules and requirements.

Where will the next innovations be made? It's impossible for me — a mere economist — to say. But I do know they will occur, and both the U.S. and North Carolina are in great positions to foster them.

Yet keeping our innovative edge requires that both sides of the process — the destructive as well as the creative — be allowed to progress unimpeded by government to the greatest extent possible. This requirement may be our biggest challenge! CJ

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

Most Important Republican Since Reagan

Like many of you, I was in the audience at the John Locke Foundation's 20th anniversary dinner in January. I had come to pay tribute to the Foundation's work and to chat with friends. I also had come to hear arguably the most important Republican politician since Ronald Reagan — and yes, I haven't forgotten about the two George Bushes.

Newt Gingrich became the first Republican Speaker of the U.S. House of Representatives in 40 years when he was sworn in on January 3, 1995. Although he was in the position for just two Congresses, he did much to push public policy in a conservative direction. Without Gingrich there would have been no welfare reform and no balanced budget.

As Speaker, but more importantly before, Gingrich had trained an entire generation of young Republican candidates in the science of modern campaigns. He taught them how to understand their districts, utilize new technologies, and construct compelling narratives. He mobilized many House Republicans with his Conservative Opportunity Society and instructed them in the art of parliamentary opposition. He exposed the



**ANDY
TAYLOR**

Democratic majority for what it was—tired, wasteful, and corrupt.

Gingrich tirelessly chased down the facts of the House post office and bank scandals. He brought transparency to a system of perks and privileges that threw money away on things like daily ice deliveries to members' offices. He went toe-to-toe with Democratic speakers Tip O'Neill and Tom Foley. He understood the value of C-SPAN and a rousing floor speech. In short, Newt was a hero.

At the Cary Embassy Suites last month, Gingrich was back to his old self. Visibly older and more measured, to be sure, but still combative and sharp. He went aggressively after President Obama and the massive expansion of government power and commitment of public resources that have occurred during his young administration. Gingrich accused Obama of neglecting national security at a time of great vulnerability. Conversations before and after the speech inevitably revolved around a possible 2012 presidential run. Would Gingrich do it? And if he did, could he win?

If he does jump in, Gingrich would first have to win the nomination. That will be no mean feat. Among his probable opponents are former or current governors Tim Pawlenty of Minnesota, Mitt Romney of Massachusetts, Mike Huckabee of Arkansas, Bobby Jindal of Louisiana, and, perhaps, Sarah Palin of Alaska;

former or current Sens. Jim DeMint of South Carolina, John Thune of South Dakota and Rick Santorum of Pennsylvania; and House members Eric Cantor of Virginia and Mike Pence of Indiana.

Gingrich cannot win on star power alone, even without Palin in the field. He maintains a high profile with several recent books, a Web site — Newt.org — and by leading a think tank called American Solutions for Winning the Future. But Romney and Huckabee are as recognizable as the Speaker these days. Both are eagerly sought after by the cable news stations and the Sunday morning talk shows.

If the field is going to be that crowded, moreover, it is hard to see how Gingrich can generate a unique message. As a former Speaker and party leader, he has a reputation as a generalist. He will not be able to claim solitary specialization in a particular policy. It will also be hard for Gingrich to claim ideological distinctiveness. His conservatism is as broad as it is deep. He also has no real "base" in the party. Whereas Romney can look to business and Palin towards social conservatives, Gingrich has no real home — even though he's generally welcome everywhere.

Gingrich may also be disadvantaged by the tenor of the times. None of the other names I have mentioned can boast the kind of training appropriate for a future president that he can. But, at least from the vantage

point of early 2010, populism, not experience, is very much in style. Successful candidates will need to rage against big banks, big government, and political elites. They will have to exhibit strong anti-Washington bona fides.

Even though Gingrich inhabited a national politics of the distant past — a pre-9/11 one with Bill Clinton and budget surpluses — he is part of the Republican establishment. He also made what proved to be a strategic mistake by backing Dede Scozzafava in a New York Republican primary late last year. Under pressure for her activities as a state legislator, Scozzafava promptly dropped out of the race and endorsed the Democrat. Gingrich's personal approval ratings, while not as low as the party's, reflect his image as an insider at a time when it's not particularly good to be one.

Still, don't count Newt out. He is nothing if not persistent — it took him three tries to win his House seat and he had his eye on the Speakership the day he entered Congress in 1979. But winning the Republican presidential nomination will be a tremendous challenge. I think both the party and country will benefit if he decides to take it on. *CJ*

Andy Taylor is Professor and Chair of Political Science in the School of Public and International Affairs at N.C. State University.

Can GOP Capitalize on 'Mass. Miracle'?

The chattering political class in Washington has been working overtime analyzing and dissecting the upset victory that Scott Brown engineered over Martha Coakley for the Senate seat previously held for nearly 50 years by the late liberal icon Teddy Kennedy.

Finger-pointing among the left and the White House began before Democratic nominee Coakley lost. It continues both privately and publicly among a confused and dispirited Democratic Party.

Some on the left argue that that President Obama has not tacked hard enough to the left, while the White House blames the defeat on the same "anger" that propelled Obama to victory in 2008.

The view by the president and his political advisers that there is a correlation between what transpired

in his election and what took place in 2010 in the bastion of American liberalism is a complete disconnect, and utter folly.

Brown's campaign platform consisted of being the 41st vote in the U.S. Senate to both defeat Obamacare and deny Miranda rights for terrorists. Brown also understood that it was the "economy, stupid" — he stressed tax cuts and private sector job creation, not the massive expansion of the federal government advocated by President Obama, House Speaker Nancy Pelosi, and Senate Majority Leader Harry Reid.

What happened in the Massachusetts Senate race was the complete rejection of Obama's agenda and his stewardship of America's national security and domestic policy.

To be blunt, Scott Brown's election has transformed the political landscape in this country. What were once guaranteed Democrat victories for the U.S. Senate and House have dissipated into competitive races with the retirement or withdrawal of key Democratic congressman and senators and some top-flight recruits.

Veteran political analyst Charlie

Cook says retirements are creating a "vicious circle" for Democratic politicians. For the first time Cook in this election cycle, Cook sees a significant risk that those Democrats could lose the House this year.

Cook also predicts that come November there is a 50-50 chance Democrats will end up with fewer than 55 Senate seats in the next Congress.

The question is, Can Republicans capitalize on the rejection of Obama's misguided programs and policies and offer commonsense solutions that resonate with independents and the middle class?

Former House Speaker Newt Gingrich argues in the affirmative.

In recent speeches and in articles, Gingrich has outlined his vision for a "new" Contract with America centering on the economy and budget, government reform, ethics, and homeland security.

Speaker Gingrich believes there would be a lot of advantages in October to having a contract-centered campaign. He suggests that releasing a new contract in September would serve as a "powerful unifier" ahead of this fall's midterm elections.

Gingrich, who helped organize the Contract with America in 1994 that helped the GOP take control of both the House and Senate, outlined 10 suggested areas for GOP leaders to focus on ahead of a potential new contract for America.

1. Jobs, jobs, jobs
2. Balance the budget
3. An American energy plan
4. Congressional appropriations reform
5. Litigation reform
6. Real health reform
7. Every child gets ahead
8. Protect religious liberty
9. Protect the rights of Americans, not terrorists
10. Make defending America "job one" for government

Gingrich has outlined a well-thought-out policy blueprint for GOP success in November 2010. Republicans would be well advised to consider Gingrich's counsel. *CJ*

Marc Rotterman, a senior fellow at the John Locke Foundation, worked on the national campaign of Reagan for President in 1980 and worked in the Reagan Administration from 1981-1984.

Financier Seeks to Compete With Pedro's I-95 Empire (a *CJ* parody)

BY MARK SANFORD
Southern Travel Writer

SOUTH OF THE BORDER, S.C.

Armed with an estimated \$125 million in government subsidies, Wilmington financier Lanny Wilson is launching a head-to-head competition with the South of the Border tourist resort.

Located in South Carolina on Interstate 95, just across the North Carolina state line, South of the Border opened in 1949 and is best known for its souvenir shops, miniature golf, Mexican cuisine, and a mascot named Pedro.

Business dropped off considerably after South Carolina banned video poker 10 years ago. At one time more than 700 persons worked at the tourist center, but employment has dropped below 250. But South of the Border owners expect a turnaround, announcing in December 2009 investments in major renovations that will be completed this year.

News accounts of the South of the Border renovations caught Wilson's attention. He told *Carolina Journal* that he just had to do something. "North Carolina has lost out on 60 years of tourism dollars and we cannot allow this to



Lanny Wilson's "North of the Border" tourist development will erect a large "Gringo" mascot to compete with SOB's Pedro for I-95 tourists. (CJ tourism photo)

continue. This will truly be a war between the states," he said.

Wilson's resort, to be named North of the Border, will be located just north of the South Carolina line, a few hundred yards from its rival. Wilson plans to offer many more attractions than his competition — including a 2,500-foot concrete observation tower he purchased from Titan Cement Co.

Wilson recently resigned from the state Department of Transportation board, and said he had to either start a

new venture or spend more time with his family.

"I like my family, but I got to be making deals or I will go nuts. With my bold vision, and subsidies from the state of North Carolina, I believe we can put that cheesy South Carolina tourist trap out of business," he said.

And for a mascot? "I'm developing a character named 'Gringo,' and certainly hope that would not offend anyone," he said.

The \$130-million project would

receive funding from the following sources: Golden LEAF Foundation, \$80 million; federal stimulus financing, \$20 million; One North Carolina fund, \$10 million, Rural Economic Development Center, \$20 million; Lanny Wilson Tourism Venture Fund, \$5 million

Wilson credits Ruffin Poole, formerly of the McGuire-Woods law firm, for negotiating the incentives package with the North Carolina Department of Commerce. "The 'Little Governor' no longer works for the law firm, but I think we can find a position for him at North of the Border," Wilson said.

"Tourism is the state's largest industry, and North of the Border will help the state remain competitive," Commerce Secretary Keith Crisco told *CJ*. "Lanny Wilson has an excellent reputation, and our studies show that the project will create 1,300 jobs and produce an annual economic impact of \$249 million."

At press time, Gov. Bev Perdue had not responded to requests to discuss the project. Spokeswoman Chrissy Pearson told *CJ* Perdue was out of the country at an undisclosed warm location, and "trusts her commerce secretary to make sound judgments that create jobs, jobs, and more jobs," *CJ*



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