

## Economic Stimulus Bill: N.C.'s Version of Insider Trading?

*Legislator lobbied hard for incentives program that could help his firm*

By **DON CARRINGTON**  
Associate Publisher

RALEIGH  
Conceived as North Carolina's answer to recession and unemployment, a new state business incentives program instead bears the birthmarks of questionable ethical conduct.

Helping to deliver the N.C. Economic Stimulus and Job Creation Act was Rep. Pryor Gibson — who is employed by Time Warner. Time Warner is expected to be one of the first beneficiaries of the act when it becomes effective in January.

Even though the Montgomery County Democrat recused himself from voting on the incentives bill, Gibson said he worked hard to get it passed. "I worked my fanny off to try to make sure people understood what the bill would do and what it would do for my district," Gibson said.

And although he represents a district far from the capital, Gibson works full-time at Time Warner Cable's Raleigh office. He does not appear to live full-time in Montgomery County. He and his family keep a residence in Raleigh (see related story).

Another company, Ernst & Young, also established a cozy relationship with state officials through the incentives bill. Last year the N.C. Department of Commerce hired the firm to study the use of incentives in Southeastern states. Now, Ernst & Young is advising Time Warner on how to extract incentives from the department, essentially working both ends of the issue.

For the last 10 years the General Assembly has steadily added new types of business recruiting incentives.

The most recent addition was the Economic Stimulus and Job Creation Act. Passed in the waning days of the 2002 short session, the act gives a five-person Economic Investment Committee, controlled by the governor, unprecedented discretionary power in rewarding selected companies with cash grants. The program is called the Job Development Investment Grant Program.

A story in the *Charlotte Observer* on July 28 reported that Time Warner Cable was



Montgomery County Rep. Pryor Gibson works at this Time Warner office near the RDU Airport.

planning to create a campus of 1,100 employees in Charlotte. The story said that a deal to move several hundred employees to Charlotte depended upon legislative approval of the incentives program and that Time Warner could reap as much as \$55 million in incentives.

On Aug. 2, the *Winston-Salem Journal* quoted House Speaker Jim Black as saying, "We're hurting for new jobs in this state. We're getting behind. We're losing companies...Look at Time Warner — we can't do that if we don't do these incentives."

### Gibson's role

During the debates and discussions in the House Finance and Appropriations committees, Gibson appeared to be planning strategy with the Department of Commerce to help pass the incentives bill.

Reached at his Time Warner office near the Raleigh-Durham Airport, Gibson told *CJ*, "I do federal and city regulatory work for Time Warner." He said that his title is manager of regulatory affairs and that he spends a lot of time in Washington, D.C. trying to help members of Congress understand how North Carolina works.

Gibson said he recused himself from

voting on the incentives bill for two reasons: "First, I have been an economic developer for 20 years and it could be seen as a possible personal method of getting something for my business. Then the other side of it is that Time Warner is considering coming to North Carolina and because I do work for Time Warner it probably is in the interest of every one that there be no conflict of interest."

When asked whether he advised Time Warner to apply for incentives, Gibson said, "Not at all. I let them know the bill was coming and I would be recusing myself. I assume they will have accountants or attorneys working on that [applying for the incentives]. I don't know anything about that, but Time Warner would be exactly the kind of company we should want to take advantage of it if they can."

Gibson also said he was involved in some other deals. "There is probably a lot bigger fish out there. Ironically, I have been beating down the doors at Commerce today because I know of a new biotech firm that's trying to come to North Carolina, but unfortunately they are not going to be eligible for the new incentives bill because

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*A tale of two households:  
Which does Gibson  
call his full-time home?*

By **DON CARRINGTON**  
Associate Publisher

RALEIGH  
How does a member of the N.C. House from Montgomery County hold down a full-time job in Wake County and still keep in touch with his constituents? He appears to do it by not actually living full time in Montgomery County but residing instead in Raleigh.

Rep. Pryor Gibson's district, the 33rd, lies along the South Carolina border and sits roughly between Charlotte and Fayetteville. It includes Anson and parts of Montgomery and Stanley counties.

While several legislators have bought homes in Raleigh, Gibson is apparently the only one who has a family and full-time job in town to go along with it.

On legislative directories and other official documents Gibson lists his residence as 207 Lakewood Circle, Troy, N.C. The property is a waterfront home on the Montgomery County side of Lake Tillery.

The home is situated in a development called Holiday Shores, about a two-hour drive from Raleigh. Montgomery County property tax records show that Gibson has the tax bill for the home sent to his Raleigh address. A recent *CAROLINA JOURNAL* curbside inspection of the Montgomery County property revealed a home that appeared to be vacant and in need of exterior repair.

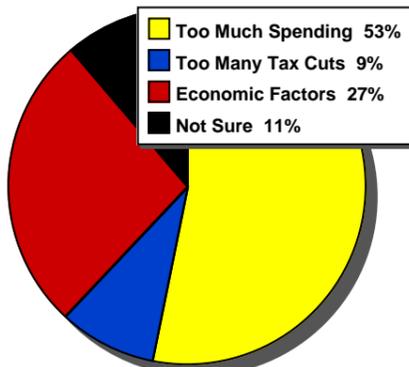
The Gibsons and their two children make their full-time home adjacent to Central Prison at 717 Montford Ave. in Raleigh. Wake County records show Gibson bought the home in 1994.

Gibson works full-time as the manager of regulatory affairs for Time Warner Cable in Raleigh. Gibson's wife, Barbara, has a full-time job in Raleigh. She is the manager of Human Resources for the Department of Justice, the agency headed by Attorney General Roy Cooper. She has worked for state government in Raleigh for more than nine years.

A resident of Gibson's neighborhood in

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### Main Cause of State Budget Deficits



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### NORTH CAROLINA

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## Calendar

### John Locke Foundation to Sponsor Election Wrapup

Mark your calendar for Nov. 11 to receive the best insight on the 2002 election results in North Carolina and the nation. The John Locke Foundation will host an "election wrapup" luncheon featuring Locke Foundation President and Chairman John Hood, Locke Senior Fellow Marc Rotterman, Rob Christensen of *The News & Observer* of Raleigh, WRAL-TV news anchor David Crabtree, and pollster William Lee, of one of the country's leading polling firms, Tel Opinion Research.

Lee has been professionally involved in political efforts and campaigns for more than 25 years in more than half of the United States, Central America, and Africa.

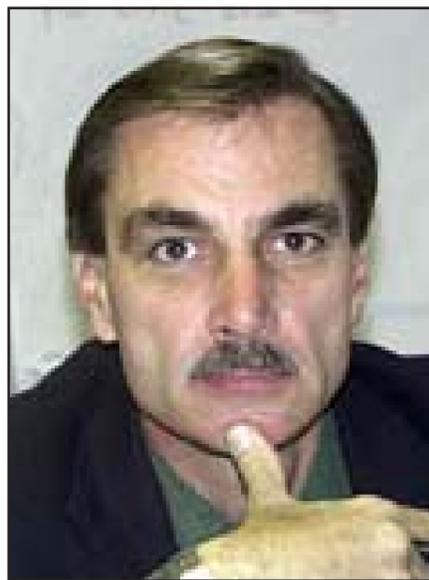
Lee, an expert in campaign planning and strategy, has taught planning, strategy, and other subjects in national conservative or Republican campaign schools, for a variety of professional associations and as a guest lecturer at the Harvard Institute of Politics and American University.

He was involved in several of the Reagan presidential campaigns, as well as in the presidential efforts of Jack Kemp (1988, as senior consultant), George Bush (1992, special projects), Sen. Phil Gramm (1996), and Sen. Bob Dole (political director, Platform Committee). Lee has been the general consultant for several successful congressional campaigns and with successful efforts for gubernatorial and senatorial seats.

Lee cofounded Tel Opinion Research, a political and commercial survey research firm. He is also president of the company.

Lee faced Bill Clinton in three gubernatorial contests. He won one, and is the only consultant to have ever defeated him.

His clients have included every major



Bill Lee of Tel Opinion Research

national Republican committee and several major professional associations and corporations.

He is one of the few nominating convention experts, having successfully managed or consulted on conventions in New Jersey, Virginia, North Dakota, Connecticut, and Colorado. He is also the cofounder and first chairman of the National Association of Republican Campaign Professionals.

Lee continues to serve in the U.S. Army Special Forces as a chief warrant officer in the Reserves. He is assigned to Special Operations Command South in Puerto Rico. He was recalled to active duty for Operation Desert Storm, serving with the Army's Special Forces Command. His background in unconventional warfare and psychologi-

cal operations and knowledge of the Hispanic culture and Spanish language is frequently of use in the political arena.

The luncheon will begin at noon at the Brownstone Hotel in Raleigh. The price is \$20 per person. For more information or to preregister, contact Thomas Croom at (919) 828-3876 or events@johnlocke.org.

### Shaftesbury Society

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

### Locke Lines

The John Locke Foundation produces a monthly audio magazine called LockeLines that features speeches made at JLF events each month. LockeLines includes Headliner speeches as well as Shaftesbury Society speeches and commentary by Locke staff. To subscribe, call Kory Swanson at (919) 828-3876.

### Carolina Journal in Your Library

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# Legislator Pushed for Incentives Despite Apparent Conflict

Continued From Page 1

they will not fit the 'but for' criteria — they already decided to come to North Carolina. It is a pretty slick company," he said.

When asked about the planned new jobs in Charlotte, Gibson said, "Time Warner is looking at more than the 400 jobs. North Carolina is now in the running for a much bigger project."

Even though Gibson did not vote on the incentives bill, his lobbying for its passage did not appear to meet the guidelines adopted by the legislature in 1996 when it established an ethics policy. The guidelines were published under the direction of Rep. Julia Howard, R-Davie, and Sen. Roy Cooper, D-Nash. Cooper has since become attorney general.

The guidelines state that "General Assembly members should not only avoid conflicts of interest but also the appearance of these conflicts so that the legislative institution and its members are not thereby denigrated."

The guidelines say that a legislator must resolve whether to actively support or vote on matters "after a self-examination to determine whether an actual conflict of interest exists and, if so, whether it would impair independence of judgment in acting."

Howard questioned Gibson's involvement with Time Warner and the incentives bill. "I know Rep. Gibson does not live in his district, I know he works for Time Warner, and I know he lobbied for the incentives bill," Howard said.

She said he is not the only state politician who apparently has suffered lapses in judgment. "It takes leadership to set an example of the meaning of ethics. My grandmother always told me that if I had to ask if it was right or wrong, I already knew it was wrong. We know from the inside what is right or wrong. The General Assembly's leadership has violated ethical standards, so then some of the rank and file members ask — why can't I?"

Investigation of possible violations of the guidelines is conducted by a Legislative Ethics Committee. The committee may investigate cases on its own motion, or in response to a complaint of any individual filed with the committee, the committee shall inquire into any alleged violation.

After conducting an investigation, the committee may decide to have a hearing. It then may dismiss the complaint, refer the matter to the attorney general, issue a cen-



Rep. Pryor Gibson

sure, require expulsion, or issue a private admonishment.

## Role of Ernst & Young

Ernst & Young is an accounting and business consulting corporation that has a workforce of about 110,000 employees and offices in 130 countries. The company performs a broad array of services, including consultation on audit, tax, finance, risk management, and other critical business-performance issues.

Ernst & Young also promotes the availability of a special Incentives Services group. "In the current economic environment, most states and many local governments offer business and tax incentives to attract and encourage development and investment within their jurisdictions. Ernst & Young's incentives group will provide the technical knowledge to identify, manage and help maximize the incentives," a company publication says.

In 2001 the N.C. Department of Commerce hired Marty Reid, an Ernst & Young consultant from Atlanta, to do a study of incentive practices in the Southeast. Reid was spotted in Raleigh during the debates on the new incentives bill. Sources told *CJ*

that he was working for Time Warner.

When contacted by telephone, he said, "We did a study for the state a couple years ago and that's public. Our policy as a firm is that we simply don't talk to reporters."

When asked whether he was lobbying or consulting for the Department of Commerce while here in Raleigh, he said, "I will have to get back with you. I really should call Commerce Secretary Fain."

Reid would not confirm or deny his firm's relationship with Time Warner. When asked whether he was working for Time Warner, he said, "I am going to have to end this conversation. You are asking about client matters, and I do not appreciate that. In fact, let me get back to the secretary of Commerce. I do not have any comment."

Even though Reid would not confirm his relationship with Time Warner, Commerce spokesman Tad Boggs did. Boggs told *CJ*, "We are aware that he has acted as a consultant to Time Warner."

## Time Warner

Although Black, Gov. Mike Easley, and Commerce Secretary Jim Fain warned that Time Warner would not move to Charlotte unless the legislature passed the incentives bill, research and news stories published by *CJ* and the *Charlotte Observer* showed that their statements were incorrect.

Time Warner spokesman Mark Harrad told *CJ* in August that his company had already decided to move 400 jobs to Charlotte. "We did an extensive analysis and selected Charlotte," he said.

Since the incentives program's guidelines require the awards committee to certify that a grant was necessary to keep the project in the state, Time Warner would not be eligible for a grant for the jobs that were already planned.

The news stories created a lot of confusion for the proponents of the incentives bill. The bill was pulled from discussion for a day so its proponents could fashion a different statement. Finally, they said the incentives program was needed to help get additional jobs beyond the initial 400.

The same confusion over which jobs should be considered for incentives would likely arise during future discussions of

corporate recruitment, some say.

Randy Fraser, Time Warner's vice president of government affairs for North Carolina, was unavailable for comment on Gibson's and Ernst & Young's role in the company's quest for incentives. A staff member at Fraser's office said he was traveling.

## Commerce runs the program

A key duty of the new committee is to certify that incentives would be necessary to persuade a company to locate or expand in North Carolina. In testimony before a Senate Finance Committee, Fain admitted certifying that the incentive program was necessary in every case would be difficult. "We may make some mistakes," he said.

Potential new and expanding businesses, at least the largest ones, usually maintain contact with the Department of Commerce. Any information about the significance of incentives would be controlled by Fain.

Although the committee is made up of five appointees, three are political appointees who report directly to the governor — the secretary of commerce, the secretary of revenue, and the director of the Office of Management and Budget.

The other two are appointed by the General Assembly, one each by the House and the Senate. The program's guidelines state that a decision by three committee members is final. In effect, the governor's appointees could control any decisions.

In exchange for new jobs, the committee may enter into contracts with selected companies to rebate as much as 75 percent of the state withholding taxes paid by the company's employees. The program is limited to 15 companies per year with \$10 million in initial grants per year, and with the grants continuing for up to 12 years. The committee is limited to \$10 million starting in 2003 and an additional \$10 million starting in 2004.

While there is no consensus on the total cost of the program, analysts at the John Locke Foundation concluded that with wage growth and a provision granting additional discretionary power to the committee, the program will likely cost at least \$300 million.

The committee may begin signing contracts Jan. 1.

Because of the presence of Ernst & Young, many observers expect Time Warner to be one of the first participants. *CJ*

*"General Assembly members should not only avoid conflicts of interest but also the appearance of these conflicts..."*

# Gibson Represents Montgomery County, Yet Lives in Raleigh

Continued From Page 1

Montgomery County, who did not wish to be identified, told *CJ* that Gibson lived in Raleigh and was rarely seen at the lake house.

The Democrat's first term in the House was from 1989 to 1990. He was defeated in the following election, but then came back and won in the 1998 and 2000 elections. He is running again for another term in the newly configured 69th District, which is made up of the entire counties of Anson and Montgomery.

In 1998 Gary Lowder, a Stanley County Republican, was Gibson's opponent in the legislative race. Lowder said that back then he thought Gibson actually lived in Raleigh instead of Montgomery County.

"I think it is a travesty that the people of the 33rd District do not have a representative that lives among them and shares their values, concerns, and problems on a daily basis," Lowder said.

Denise Lee Richardson has known Gibson for about 20 years and at one time considered herself a close friend, but she said the friendship soured over a number of issues.

She considered running against him in the Democratic primary, but has recently moved out of the legislative district. "I am real glad I am out of Anson County because maybe now I can hopefully get real representation in the House by someone who actually lives in my district," she said.

In addition to his duties at Time Warner, Gibson is one of two Democrats who regularly attend the special session in Raleigh. The meetings are brief and largely ceremonial, but are required to officially keep the session open. The other attendees are from the Raleigh area.

When asked about his residency, Gibson told *CJ*, "I live in Montgomery County. I spend way too much time in Wake County."

Immediately prior to working for Time Warner, Gibson had another job in Raleigh.

His organization was partially financed with public dollars that flowed through the N.C. Department of Commerce.

On Nov. 5, 1998, two days after being re-elected to the House, he became president of a nonprofit organization called the North Carolina Quality Leadership Foundation. The address for the foundation was 4904 Professional Court in Raleigh.

Information from the organization's Internal Revenue Service Form 990 for 1998 and 1999 said, "The Foundation provides education to the business community, public sector and educational institutions on quality. To encourage greater attention to quality, the foundation grants annual quality awards patterned after the Malcolm Baldrige National Quality Award." The forms state that Gibson worked 40 hours per week.

All nonprofit organizations are required to file these forms and make them public upon request. *CJ* obtained the forms from an Internet site.

According to a source familiar with the organization, the foundation folded in early 2000 because of a lack of funds, and specifically a discontinuation of funds from state government.

Some of the information on the forms appears to be inaccurate. For 1998 and 1999 the organization reported no government grants. However, information from the State Controller's Office shows that the Department of Commerce paid \$50,000 to the NC Quality Leadership Foundation in the 1998-1999 fiscal year. The organization failed to file a 2000 Form 990 with the IRS.

*CJ* was unable to obtain a complete list of 1999 award recipients. But at least two of the 15 organizations selected for awards while Gibson was president were state agencies.

The Department of Public Instruction and the N.C. Highway Patrol were both selected by the foundation. The awards were not cash grants, but merely certificates and trophies. *CJ*

## Around the State

- A resolution authorizing President Bush to prosecute war against Iraq received support from most of North Carolina's congressional delegation.

All of the state's Republican representatives voted for the resolution, in addition to Democrats Bob Etheridge, 2nd District, and Mike McIntyre, 7th District. Democrats Eva Clayton, 1st District, David Price, 4th District, and Mel Watt, 12th District voted against the resolution.

The House passed the measure by more than a 2-to-1 ratio, after debating and rejecting two Democrat proposals. One, cosponsored by Price, would have required U.N. Security Council approval before seeking congressional authorization to attack Iraq. Etheridge spoke before the House in a "hawkish speech," as characterized by *The News & Observer*: "[Saddam Hussein] must be thoroughly disarmed so he no longer poses a threat to world peace."

Leading up to the vote, N.C. Rep. Richard Burr, R-5th, was one of Bush's key supporters in getting his message out, according to the *Winston-Salem Journal*. A member of the House Intelligence Committee, Burr said Hussein "has more chemical and biological (weapons) than we ever dreamed."

- Meanwhile, keeping with his often contrary positions to the House majority, Watt voted "present" on a bill that supported keeping the words "under God" in the Pledge of Allegiance and maintained "In God We Trust" as the national motto.

- After the General Assembly approved a one-half cent local-option sales tax in September, county commissioners across the state hurried to vote on the measure. The *Wilmington Star-News* reported Sept. 30 that Brunswick County was the first in the area to adopt the tax increase, effective Dec. 1. Meanwhile, *The Charlotte Observer* reported Mecklenburg County commissioners considered a plan to raise the sales tax and simultaneously cut property taxes for residents. The newspaper said some Republican-run counties, such as Cabarrus, may not levy the tax. However, GOP-dominated Davidson County did implement the hike. The only county at press time known to vote down the sales tax increase was Henderson, which will draw money from its reserves instead.

- After lawmakers passed legislation permitting local governments to raise the sales tax, most across the state did so, as noted above. However, that hasn't seemed to change the opinion of those city and county leaders who are suing the state for seizing their tax reimbursements.

"We don't think we ought to punish the people of Cabarrus County for the actions of Mike Easley and the legislature," said Commissioner Coy Privette, who said Cabarrus is continuing with the lawsuit. "We want all that [Easley's] illegally withheld from the people of Cabarrus." Dan Boyce, a lawyer for the local governments, said, "None of our clients have asked us to back down." *CR*

## 'Clean smokestacks' law emboldens Cooper

## N.C. Tells Neighboring States to Clean Up Air

By PAUL CHESSER  
Associate Editor

RALEIGH

**W**hen the Improved Air Quality/Electric Utilities legislation, better known as the "clean smokestacks" bill, was overwhelmingly approved by the General Assembly in June, most lawmakers said North Carolina needed to regulate its power plants' emissions properly before it could tell neighboring states to clean up their act.

Empowered by the new law, the state is now telling the rest of the Southeast that it has taken the environmental high ground, and to jump on board — or else.

Attorney General Roy Cooper sent a letter to his counterparts in Alabama, Georgia, Kentucky, South Carolina, Tennessee, Virginia, and West Virginia, notifying them of the state's new "law that will dramatically reduce air pollution without increasing electricity rates for consumers." Cooper said, "North Carolina's Clean Smokestacks legislation became a model for the nation when it was signed into law."

**What the law says**

The Smokestacks law requires Progress Energy and Duke Energy to significantly reduce emissions of oxides of nitrogen, sulfur dioxide, and mercury on their 14 coal-fired power plants in the state. After passing the state Senate easily, the bill got stuck in the House because of concerns about higher electricity rates for industrial consumers. After much negotiation between the government, environmentalists, and the utilities, both companies agreed to freeze rates for five years despite a cost of more than \$2 billion to comply with the law.

The law also authorizes the state to "use all available resources and means," including interstate agreements and litigation, "to induce other states and entities... to achieve reductions in emissions... comparable to those required by [the Smokestacks law] on a comparable schedule."

Critics of the plan said it would do little to improve North Carolina's air quality, while preventing the utilities from reducing their power rates.

"It's going to cost industry a tremendous amount of money," said Rep. Don Davis, an Erwin Republican who also serves on the Environment and Natural Resources Committee. "I think we have enough regulations on business right now."

Davis was one of only four House members to vote against the bill.

**Easley's, Cooper's letters**

The new law inspired Gov. Mike Easley to notify neighboring governors of North Carolina's "creative and innovative" accomplishment. "We have passed a law that will clean our air without emptying our pocket books," Easley wrote. "There is not another law in the country that goes this far toward cleaning harmful smokestack emissions from our air."

Easley said that "cleaning our air will require multi-state cooperation; no individual state in a region can resolve air quality problems without assistance from neighboring states."

If Easley's braggadocio was a friendly nudge for states to take action, Cooper's letter was a comparative shove.

"The (Smokestacks) law puts North Carolina at the forefront among states in combating harmful smokestack emissions," Cooper wrote. "We encourage our neighbors to pursue similar efforts.



Attorney General Roy Cooper

"...North Carolinians do not want the benefits created by this new law to be lost because of emissions from other states. We will look at all options available to us to ensure that does not happen."

An editorial by *The Charlotte Observer* characterized Cooper's letter to the neighboring states' attorneys general as "gentle saber-rattling."

"The letter was cordial and polite," said Cooper spokesman John Bason in an e-mail message to *CAROLINA JOURNAL*, "but firm about NC's intention to address the problem."

**Response from neighboring states**

Most states that received Cooper's letter acknowledged it, thanking him for information about the bill. However, the State of Tennessee responded in detail, including documentation showing that it has improved emissions controls for smokestacks owned by the Tennessee Valley Authority.

The reason for greater concern from Tennessee? The TVA is the only entity mentioned by name in the Smokestacks law as a potential target for litigation. The TVA is also run by the state of Tennessee.

"By and large, [TVA is] one of the largest generators of electricity using coal," said Rep. Danny McComas, R-New Hanover, and vice chairman of the Environment and

**Locke Foundation research**

## Asthma Link to Ozone Not Found

By PAUL CHESSER  
Associate Editor

RALEIGH

**A** Spotlight paper by the John Locke Foundation reported that contrary to assumptions often made by environmental advocacy groups and major media, there is no apparent correlation between incidences of asthma and high ozone levels in North Carolina.

Dr. Roy Cordato, a foundation scholar, analyzed data provided by the N.C. Division of Air Quality and the State Center for Health Statistics. His research compared days in which ozone monitors registered Code Orange levels or higher and asthma hospitalizations for children 14 years old or younger on a county-by-county basis, for 1995-1997 and 2000, the only years for which asthma hospitalization data were available.

Cordato's research revealed that for all four years studied, counties with a greater number of days that registered Code Or-

natural Resources Committee. "They are a likely culprit."

Justin Wilson, Tennessee's deputy governor for policy, wrote in a response to Cooper: "North Carolina need not fear that the benefits created by its new law will be lost to increasing emissions from Tennessee." He also wrote, "We believe we are on track to achieve deeper reductions and achieve them earlier than North Carolina, but the end result will be the same."

In a telephone interview Wilson's posture was less defensive, saying, "Mr. Cooper is doing his job. We did not consider it at all as inappropriate, and it gives us an opportunity to continue discussions." Wilson mentioned regional meetings such as the Southern Governors' Air Summit earlier this year as avenues for the states to work together to reduce air pollution.

At the same time, Wilson said Tennessee doesn't feel compelled to meet the standards established by North Carolina's Smokestacks law. "But that doesn't mean that the state of Tennessee doesn't intend to do what that law requires," he said.

"The channels of (our) state government are open, and this is something they will be talking about," said Tim Murtaugh, spokesman for Virginia Attorney General Jerry Kilgore. Asked whether his state leaders were concerned about being sued by North Carolina, Murtaugh said, "I'm sure that's something they will be discussing."

North Carolina's Division of Air Quality is asking utilities in neighboring states to provide data about emissions from their coal-burning power plants. The information it gathers will help the state decide what to do next.

Asked by *CJ* what standards are expected from neighboring states, Bason said, "At this time we decline to discuss portions of our strategy beyond the point that they have already been made public by us in, for example, the letters that were sent."

Rep. Davis questioned the wisdom of potential legal action against North Carolina's neighbors. "I don't think it would be appropriate," he said, "because we'd be spending a whole lot of taxpayer money and nothing would come of it. I don't think one state can dictate over another. Just because we had a bill passed, doesn't mean we can tell other states to do that." *CR*

ange or higher per ozone monitor also experienced a lower rate of asthma hospital admissions, and vice versa. For example, during 1997 Swain County had no days that exceeded the standard, but had the highest rate of asthma hospitalizations. Conversely in the same year, Caswell County had the highest number of days that exceeded the standard, yet had the lowest rate of hospitalizations.

"If ozone were the cause of increased asthma among children in the state," wrote Cordato, "one would expect to find a positive relationship between counties with the highest number of ozone 'exceedence days' and counties with the highest rates of childhood asthma."

"The relationship suggested by the conventional wisdom was turned completely on its head."

The full Spotlight report is available on the John Locke Foundation's website, at [www.johnlocke.org](http://www.johnlocke.org). *CR*

'The ACLU for real Americans'

## Institute for Justice to Open Chapter in North Carolina

By KAREN WELSH  
Contributing Editor

RALEIGH  
The Institute for Justice — a nonprofit public-interest law firm dedicated to economic liberty, school choice, private property rights, unlawful taxation, freedom of speech, and constitutional limits on the power of government — is coming to North Carolina early next year.

Founded in Washington D.C. in 1991 as the premiere libertarian arm of justice in the United States, the institute, with an annual budget of \$5 million, has grown substantially over the past 11 years, said attorney Clint Bolick, vice president of the institute and national director of state chapters.

"Our mission is to defend fundamental individual liberties," he said. "I sometimes refer to us as the ACLU for real Americans."

Up until now, he said, most of the litigation executed by the organization has involved federal constitutional issues. As a result, Bolick said the institute decided to branch out and open state chapters across the country in hopes of focusing on state constitutional issues.

He said the institution began to seriously look at medium-size states showing promise of early success. After careful consideration, Bolick said his organization decided to launch the first chapter last year in Arizona.

**Second chapter in North Carolina**

The institute's board of directors authorized North Carolina to be next on the list, he said, because the climate is ripe, and people of the state need someone to vigorously fight for less government involvement in their lives.

Bolick also said the state was chosen because its colonial constitution was written by 17<sup>th</sup> century philosopher John Locke, whose writings formed the intellectual case for the later American Revolution.

Because the state constitution inherited some of its philosophy from the earlier document authored by John Locke, "it contains probably more freedom-oriented contribu-



Institute for Justice



Clint Bolick

tions than any other state constitution in the country," he said. "It provides a fertile environment in which to vindicate the enormous promise of the state constitution."

North Carolina was also selected, Bolick said, because the state's court system, as a whole, tends to be more conservative than the state government. "This gives us lots of abuses to challenge," he said, "and a good forum in which to challenge them."

Although the final site hasn't been determined yet, Bolick said the state chapter will be located in Raleigh.

He said officials from the Institute for Justice have already met with key libertarians and conservatives in the area, including John Hood of the John Locke Foundation, and are excited about moving forward.

Recently, Bolick said they hired attorney Michael Byrne as the executive director of the North Carolina office.

Byrne, a former John Locke Foundation employee in the early 1990s, has spent the past six years as a civil litigation lawyer. Byrne said he's looking forward to working for the institute. "They've set forth an extremely impressive track record," he said. "It will be my privilege to associate with this high-quality organization."

Right now, Byrne is completing the groundwork needed to get the office off to an organized start. His preparation includes an in-depth study centering around the constitution of North Carolina. "It's a fascinating document," Byrne said. "It represents the protection of individual freedom."

Bolick said the institute is anticipating an opening date in January. When that happens, he said, the organization will boldly launch a lawsuit, demonstrating from day one how serious they are about their legal efforts in North Carolina.

"We never do anything quietly," he said. "Everyone who works at the Institute for Justice works here because they have a passion for freedom and for translating principles for freedom into reality. We've found the law to be an effective tool for restraining the excesses of government."

Services provided by the institute are available at no charge to the client.

Instead, Bolick said the organization relies exclusively on voluntary private donations. "We have the best lawyer job in America," he said. "We get to choose our cases and clients, we don't charge and, best of all, the people we sue are bureaucrats."

**Defender of the underdog**

The Institute for Justice generally represents the underdog, he said, or the "David versus Goliath" cases, with the organization defending the "David" in the litigation process.

For the most part, Bolick said the institute is using the American Civil Liberties Union model for expanding the organization across the United States. He said the office in North Carolina will sponsor two lawyers and one support staff member. "This model delivers a lot of bang for the buck," Bolick said.

However, he said, that's where the similarities to the ACLU end. "The ACLU is usually on the other side of our lawsuits," Bolick said. "We read the Bill of Rights differently than the ACLU does. They've also abandoned some of their core values."

Most importantly, Byrne said the Institute for Justice will stand for truth, justice and the American way.

"We are claiming protection for individual rights," he said. "We will bring the North Carolina Constitution to the forefront through the litigation process and protect the rights of North Carolinians." *cr*

## Counterterrorism Expert Shows U.S. Battle Strategies in Iraq

By PAUL CHESSER  
Associate Editor

RALEIGH  
Col. Andrew Finlayson, a former counterterrorism expert for the Marine Corps, says the media din about a U.S. war against Iraq fails to address one important question: How will the war be prosecuted?

"There's a paucity of detail in the media on war plans and war details," the Raleigh resident said at a John Locke Foundation luncheon Oct. 7.

Finlayson said the U.S. strategy in a second war against Iraq would have political, economic, and military components.

Politically, Finlayson said the United States and its allies would likely isolate Iraqi President Saddam Hussein from his military commanders. Economically, Finlayson suggested the allied forces would seek to control Iraq's oil fields.

Finlayson said he foresaw four possible strategies the United States could pursue in prosecuting the war. He called the first scenario "Desert Storm II," which would be nearly identical to the first Iraq war, and is

the least risky approach.

He called a second possibility "Desert Stun," in which the United States and its allies would rely heavily on air attacks under a "Kosovo model." Finlayson said such a plan would require a 5,000-sortie per-day attack, going after airfields and hitting the Republican Guard divisions "hard." He said no ground troops would enter Iraq until it gave up. Finlayson said 75,000 ground troops would be needed to secure Iraq under such a scenario.

A third approach, "Desert Slice," would avoid Baghdad initially and use a massive air campaign followed by a ground attack in the north and south, likely requiring 100,000 troops. Under this plan the United States would seek to control Iraq's oil fields and strangle the nation economically.

"Once you control the oil, you control Iraq," Finlayson said.

The last possibility, called an "Inside Out" plan, would send Special Operations officers inside Baghdad to fight there first, creating a "meat grinder" inside the city. Finlayson said this would be highly risky, and unlikely. *cr*

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## School Reform Briefs

- State Board of Education meetings in Raleigh this month covered a number of still-controversial issues in the state, including teacher turnover rates, teacher licensure, and instructional quality. The No Child Left Behind Act makes certain areas of state policy, such as alignment of state objectives to the act's adequate yearly progress, pressing current issues.

The official definition of teacher turnover reflects only the statewide numbers; intradistrict transfers and interdistrict transfers no longer appear in the official count. The statewide average turnover, reflecting the percentage of teachers leaving the classroom for any reason, was 12.6 percent for 2001-02, down from the statewide average of 14 percent the previous year.

- Plenty of counties are dealing with local situations that do not necessarily mimic official statewide teacher turnover figures for 2001-02. Seven out of 12 systems in the Cape Fear region had turnover rates above the state average. The highest of these occurred in Hoke County, where turnover was 23.4 percent. Bladen County came close to that figure with 19.8 percent. A few, such as Columbus County, were below the state average at 6.5 percent.

School systems that have difficulty hiring and retaining teachers are sometimes able to compete for faculty by offering bonuses or other perks. Some successful districts have forged partnerships with the community and local businesses to bolster the school district's appeal. Utility deposit waivers and rental property discounts are among the incentives paraded before potential employees. Educators say that they rate respect as an important component in job attractiveness and satisfaction. Reported by the *Fayetteville Observer*.

- The achievement gap between white students and black students has sparked numerous discussions in the media. The *News & Observer* of Raleigh devoted a series of articles to struggles between black families and the public school system, and to the failure of the two sides to make headway together.

The *N&O* articles point to the role parents play in their children's success in school. They examine national statistics on preparedness, habits, and achievement as well.

Black children nationwide, regardless of income, enter kindergarten less-prepared than do white children, according to statistics collected by the U.S. Department of Education. Figures published by the School of Social Work at UNC-Chapel Hill show that in the first year of schooling the differences become larger, rather than smaller.

A computer analysis of test scores in North Carolina is reported to reveal a firmly established gap by the third grade, which does not significantly decrease throughout the schooling years.

The *News & Observer* series also reports that black children of all income levels watch more hours of television, spend fewer hours on homework assignments, and spend fewer hours of leisure time reading than do children of any other ethnic group. *cr*

# N.C. Ranked First by Princeton Review

## Testing the Testers 2002: Princeton Review Annual Ranking of State Accountability

BY KAREN PALASEK

Assistant Editor

RALEIGH

The *Princeton Review*, long known for preparing students to take college and graduate study admissions tests like the SAT, the LSAT, and the MCAT, has ranked North Carolina at the top in their first annual evaluation of state testing and accountability.

In a talk delivered to educators, education leaders, policy makers, testing experts, and others at the September 2002 Education Leaders Conference in Denver Colorado, John Katzman of the *Review* explained the purpose and process of grading each state's tests, as well as what those grades mean.

Katzman argued that the measure of a test's worthiness changes depending upon the role the test will play in state education policy. A test which functions as a snapshot of what schools and students have been doing, without any prescriptive or policy import, is judged differently than a test which sets goals to affect behavior — the so-called high stakes test. In the era of No Child Left Behind, all states will be engaged in some high stakes testing.

As Katzman describes it, the purpose of a high stakes test is to encourage people to improve and to do good things. Accuracy and precision of the test itself is less important than the incentive effects the results produce. According to Katzman, good accountability should map to good outcomes. The question is, does it?

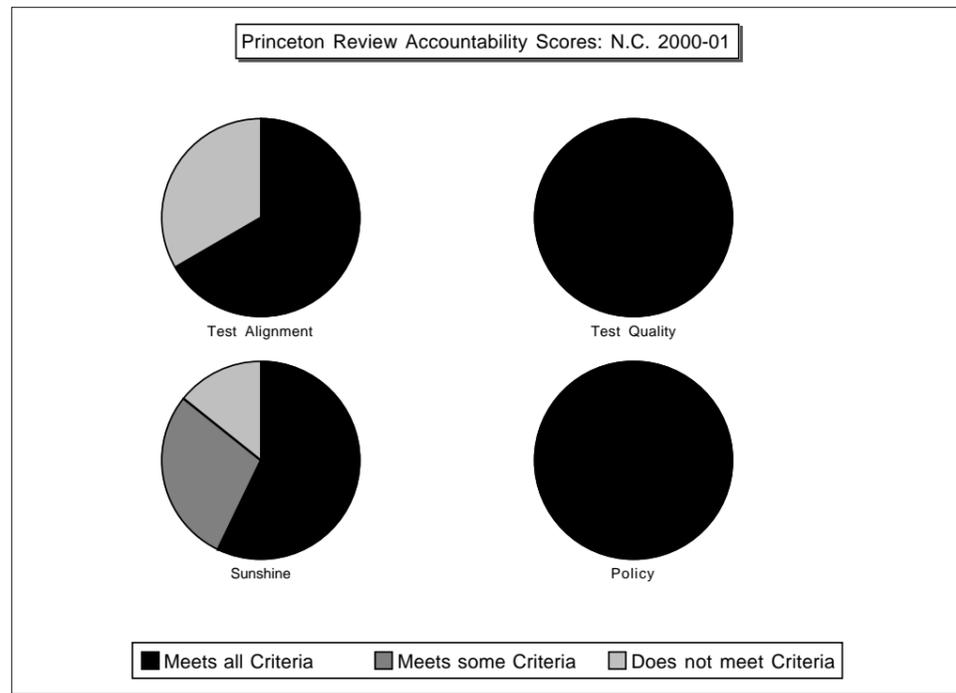
One way to get a look at how well state tests correlate to accountability measures is to compare state results to an outside, visible standard. *Princeton* chose the National Assessment of Educational Progress. Rankings of states with good accountability in testing do track the NAEP results, they found. In weighting the ranking index, therefore, they included correlation to some improvement in NAEP scores over an eight-year period.

### Not a test of rigor

The *Princeton Review* study is self-consciously different from other accountability studies. Unlike other measures, it does not gauge the rigor of academic standards. Nor does it assess the rigor of the tests that measure academic standards. This means that a state with high academic standards, using a test that is capable of measuring whether or not those standards are met, could be ranked identically to a state with

low academic standards, as long as it also uses a test which is capable of measuring whether those standards are met. The fit between a test, and its ability to measure what it claims it will measure, is the only relevant issue. North Carolina garnered a number one ranking for the 2000-01 year in the *Princeton* study. According to *Princeton*, it had the best fit between its test and the accountability criteria researchers chose.

The four criteria used to rank a state's accountability are academic alignment, test quality, sunshine, and policy. These areas were chosen because they reveal different aspects of the state's testing and reporting procedures. Researchers also felt that these areas would be ones that would provide tools that educators could eventually use to help align classroom practice with state standards. The *Princeton Review* takes the position that they (*Princeton*) are test ex-



perts, not test suppliers, with clients at the district and school level. This enables them to fairly assess, in their view, state testing practices which may fall short of good accountability standards.

Since test-based accountability is to some degree the future of education, states should be encouraged to do the best possible job of providing it, the study suggests.

It argues that an accountability program should produce the fewest unintended consequences and provide a means for improving classroom instruction. Openness, or "sunshine," is valued because disclosure leads to stronger tests as well as a more stable political environment for education. The *Princeton Review* firmly believes that "those who design and implement accountability should themselves be open to scrutiny."

The first criterion, alignment, evaluates how well state tests are aligned to academic content, knowledge, and skills, as specified by the state's curriculum standards. There are three sub-items in this category. One looks at the number of test questions required to measure mastery, another at the degree of overlap between published curriculum standards and those actually tested, and the third at a schools' ability to choose among tests with equated standards.

North Carolina received the highest score on the first two items, and the lowest score for test choice. Each separate item carries its own weight in the scoring, and alignment as a whole represents 20 percent of the state's ranking in the *Princeton Review*. The team gave North Carolina a "B+" for test alignment.

Test quality, also 20 percent of the state ranking, examines whether the tests administered are capable of determining that stated standards have been met. The reviewers determined that North Carolina had met all of the criteria in this category, which includes complete scoring, multiple types of items, an independent review, validation of items, pre-established controls, and a consistent curve.

In looking at test quality, reviewers were asking questions about how well written items appeared to be, as well as whether they had been scored accurately and completely. States received higher scores if their tests included a variety of types of questions, including open ended, performance, multiple choice, and computation. Review-

ers wanted to know whether anyone other than those writing the test were reviewing the test before placing it in front of students. If scoring or achievement cutoffs for the test were not established before it was given, the state scored lower on that component.

Finally, the research team tried to determine whether scoring curves and cutoff points were consistent on a year-to-year basis, as well as across subjects. On all of these points North Carolina satisfied the research criteria for the highest score. The state received an "A" in this category.

Sunshine was somewhat more problematic for North Carolina's accountability standards. This category represents 30 percent of the state's weighted score. It examines how open policies and procedures surrounding the test have been, and whether they are conducive to ongoing improvement.

This is a large category in the study, covering questions about how many students are tested (level of inclusion), whether all scores are included in a school's profile, the security of testing and scoring procedures, test score and test item release, and disaggregated information about the performance of different groups.

Because contract terms with the agencies responsible for constructing the N.C. test were not open to examination, few of the test specs were easily available, and the release of test scores to the public took too long. North Carolina received a "B" for sunshine.

A final criteria is policy, or how accountability systems affect education in a way that is consistent with state goals. This is the largest category of the four, and like sunshine, represents 30 percent of the state's weighted score in the rankings.

In the policy category, investigators wanted to know whether indicators besides test scores played a role in the state's school quality measure, and how many alternate measures were used. In some states, high stakes tests have different consequences for students than for schools, and the study reflected this. State scores were also higher if detailed data following each test was available, and in a format that would help align tests with curriculum standards.

Several items in policy address questions of flexibility, and public access to data. A final item looks at testing costs. For policy accountability, North Carolina earned an "A."

Even at the top of the rankings, North Carolina scored only 178.5 out of 200 possible points. Retaining flexibility and innovation is the acknowledged challenge. *cr*



President Bush spoke at an education rally at the Daughters of the American Revolution in Washington, D.C. in January.

### NEA resolutions passed at 2002 convention in Dallas

## NEA Intends to Play Hardball With Parents, School Choice, and *No Child Left Behind* Act

By KAREN PALASEK

Assistant Editor

**T**he National Education Association is arming for battle with parents, schools, and the federal government over choice and accountability provisions embedded in the Elementary and Secondary Education Act, better known as the *No Child Left Behind* Act.

Scott Howard, superintendent of Perry, Ohio Public Schools, quoted at the NEA 2002 Representative Assembly session in Dallas this summer, compared the act to a Russian novel: "It's long, it's complicated, and in the end, everyone gets killed."

This summer's NEA convention addressed many concerns of professional educators, repeatedly stressing the need to collaborate with others who support public education, describing teaching as a patriotic duty, and alerting members to the need to mobilize to elect pro-public education candidates to public office.

Another area of concern was the desire to incorporate a wider range of employees into the NEA. Early-childhood workers are one of the groups that NEA seeks to represent. "There's a potential for membership out there," said Patricia Reeves of Tennessee, who believes that, especially in public schools or where early-childhood programs were add-ons, employees need to be organized under NEA. JoAnn Falk, education support professional of the year, urged those in the English for Specific Purposes program to work together to strive for better working conditions, job security, and respect for support personnel. Conference participants had an opportunity to gather information and to discuss various issues surrounding the new law, the workplace, and the influence of NEA in shaping the future of American education. Sen. James Jeffords of Vermont was named the NEA friend of education recipient for his efforts to fight vouchers and cuts to federal education funding. With its Legislative Program, the NEA takes an active role in responding to issues that affect the quality of public education, student achievement, the rights of employees in the workplace, and other policy concerns. "We strive to create a program that gives lobbyists the flexibility they need to respond to emerging issues," said Gail Rasmussen of the Standing Committee on Legislation

### **Resolutions and issues with the act**

Resolutions adopted at the convention cover a broad range of areas, including the federal law, public financial support of schooling; nontraditional school options; early-childhood education; immigrant education; issues of gender, diversity, health, environment, and philosophy; comprehensive social services; licensing; and evaluation of teachers and education employees; religion; violence; and school-to-work policies.

Federal law and federal funding are two of the largest

issues on the NEA agenda. While the NEA takes the position that the *No Child Left Behind* Act is a great threat to the union, and that its members need to galvanize to oppose provisions that shift power from the union, resolutions A-14 and A-15 advocate substantial increases in federal funding for programs. The NEA is expressly opposed to distributing that funding among states, particularly since states may opt to use them for sectarian or private schools. "The Association opposes providing any public revenues to sectarian pre-K through 12 schools," and "The Association opposes any federal legislation, laws, or regulations that provide funds, goods, or services to sectarian schools..."

The NEA's position on any property used by the public school system has also been decided in the new resolutions. Public school property is treated not as public property, but as exclusive property of the public schools. The association believes that closed public school buildings should be sold or leased only to those organizations that do not provide direct educational services to students and/or are not in direct competition with the public schools. Since the association believes that voucher plans, tuition tax credits, or other funding arrangements that use tax monies to subsidize pre-K through the 12th grade in private schools can undermine public education, the NEA clearly believes that opportunities to provide direct instruction outside public schools should be limited to those who do not need to rely on tax credits, vouchers, and the like. Nevertheless, the NEA states in resolution A-24 that the availability of such tax credits, vouchers, or other funding mechanisms that use tax monies will weaken the wall between church and state, and cause racial, economic, and social segregation of students.

### **Union fears loss of control**

Charter and nontraditional schools, including home schools, are inadequate in a number of ways, according to the 2002 resolutions. Current charter school laws give too little control to union members, resolution A-30 states. "When concepts such as charter schools and other nontraditional school options are proposed, all affected public education employees must be directly involved in the design, implementation, and governance of these programs."

Home schools are also suspect. NEA resolution B-69 says home schools cannot provide a comprehensive education experience. NEA officials lobby to bring home schools under the scrutiny and control of state boards of education, stating, "When home schooling occurs, students enrolled must meet all state requirements. Instruction should be by persons who are licensed by the appropriate licensure agency, and a curriculum approved by the state department of education should be used. The Association believes that home-schooled students should not participate in any extracurricular activities in public schools." *CF*

## Charter School Cap Discourages Change

**M**ore than 400 inspiring, professional educators attended the fifth annual North Carolina Charter Schools' Conference sponsored by the Department of Public Instruction in September. While the DPI and the State Board of Education claim to support the charter school concept, there is some question about whether that claim is lip service to the legislative mandate, or real commitment.

Charter schools do not include "failure" in their vocabulary. They have demonstrated innovation, beaten the odds, and succeeded with struggling students. The best news is that charter schools are accountable — they succeed or they are closed!

Not so with traditional public schools, which can fail for years and face no threat of closure. With the implementation of the ABC's, data on fail-

ing schools was revealed, and public ignorance about failing schools finally came to an end. Ignorance about the success and revolutionary possibilities of charter schools could mean that this reform will serve only a few lucky school lottery winners in North Carolina.

Nationally, the number of charter schools increased by 14 percent in 2002, and there are now about 2,700 charter schools in the nation. North Carolina's charter school numbers are capped at 100. More than 16,000 students attend the schools, and many more are on waiting lists.

The law exists to ensure viability and compliance, but the cap limits the possibilities for success of the movement, and financial inequities between charters and other public schools add further difficulties. The charter cap reveals an "if we have to offer options" mentality.

The State Board established the Charter School Advisory Board to make recommendations for charters. This intermediate board evaluates applications and interviews potential charter school boards. Recommendation by the advisory board to the State Board is the only way to gain a charter.

But the trend in charter approval rates is disturbing. In 1997-98, 57 percent of charter applications were approved. That percentage has been dropping almost yearly, and for the last three years has fallen to 31 percent, 27 percent, and 23 percent of applications, respectively. Ninety-five schools currently operate as charters. Since only five charter openings are left under the cap, the opportunity for innovation in North Carolina is dwindling.

Success stories in the state's charter school movement are remarkable. Charters make up only 3.9 percent of all schools in the state, but include nine "schools of excellence," eight "schools of distinction," 21 "high growth" schools, 12 "expected growth" schools, six of the 25 "most improved" K-8 schools, and one of the 10 "most improved" high schools.

There are also 11 "low-performing" charter schools. This is not so surprising, considering that charter schools tend to attract students who are below grade level and considered "at risk," those for whom the regular public schools have not worked. The fact that charters beat the odds, not only with difficult student situations, zero state funding for capital expenses, and 15 percent fewer dollars per pupil, makes their success all the more remarkable.

The General Assembly has the power to change the current situation. If the cap is not raised, the enthusiasm and innovation that charter schools bring will be stifled. The state's lip service to family options must translate into action. The legislature should remove the cap, defer to the advisory board, and approve other chartering agencies. If they do not, it will be too late for thousands of families in North Carolina that remain on long waiting lists to get an opportunity for school choice. *CF*



Lindalyn  
Kakadelis

## School Reform News

Anticipation mixes with disappointment as parents across the nation look for opportunities to exercise school choice. In Florida, some schools that parents would like to elect as next-year alternatives to their child's current school are oversubscribed.

Families in Pinellas County report that movement between existing schools and programs may make finding a good school fit for some children less certain. Special-education programs that are being dropped or relocated are one reason. Magnet programs that parents feel amount to little more than a lottery are another. Even with the existence of specialized programs in middle and high schools, there is no guarantee of placement.

**Competition for students**

Another twist to school choice involves the schools that students leave when they attempt to find better placement in the system. In response to the threat of mass migration out of their schools, some school officials have taken the initiative by trying to convince students that their school is a good place to stay. The *St. Petersburg Times* reports that school principals and faculties are trying to figure out ways to attract the "good" students. They don't want to be one of the schools that everyone avoids. In an effort to accomplish this, schools are initiating ad campaigns in the educational marketplace. Advertisements are loaded with what is known as attractor terminology: "success," "proud," "opportunity," "best kept secret," and the like. Parents receive brochures highlighting the school's strengths, reinforced by PowerPoint presentations for community meetings, and radio spots over the airwaves. Evening discovery tours are available to parents shopping for schools.

Some believe that the competitive transformation will be good for schools, forcing them to improve their standards and fostering pride among the faculty. Critics argue that ads won't fund textbooks, computers, or special programs, nor will it improve test scores or the quality of teaching. In fact, some of the special attractors, the come-on programs that schools advertise, don't yet exist.

Others may exaggerate features that every school has, such as reading. The question remains open as to whether choice will transform schools in ways that will make a difference to their newly choosy clientele. Reported by the *St. Petersburg Times*.

**Private support, public schools**

Public schools are drawing more heavily for resources from the private sector, according to the *New York Times*. While some public administrators and parents question the line that public schools may be crossing with new ventures into private sector fund-raising, many don't see an alternative.

Private foundations contribute substantially to public education, but officials believe that there is a largely untapped corporate sector that they can approach. But difficulties may arise because of philosophical tensions between organizations like the American Association of School Administrators and corporations. *CT*

**Education leaders convene in Denver****Revolutionaries Lead the Way to School Reform**

By KAREN PALASEK

Associate Editor

RALEIGH

In 1995, a group of state school revolutionaries met in a restaurant in Vermont to discuss how to effectively revamp public education. They had at least three areas of concern that the education establishment was not willing to hear about: choice, innovation, and accountability. No one inside their organizations wanted to discuss those ideas at the time, so the revolutionaries were gathering to discuss them among themselves.

The birth of the Education Leaders Council followed that Vermont dinner meeting. The result was the beginning of an organization that in September 2002 brought more than 400 state school superintendents, teachers, policymakers, education analysts, and consultants to Denver.

Reform, choice, and accountability are no longer items on the wish list of a few education malcontents. Supported in its inception by then-governor of Pennsylvania Tom Ridge, ELC today boasts among its supporters Rod Paige, U.S. secretary of education; John Boehner of the U.S. House; Eugene Hickock, U.S. under-secretary of education; E. D. Hirsch of the Core Knowledge Foundation, and numerous leaders in the education policy and research community. The ELC board includes 10 state chiefs representing 30 percent of the nation's K-12 enrollment.

**"No excuses" beliefs**

The ELC is an advocacy group that describes itself as an action tank, not a think tank. It has a no-excuses philosophy that the leadership translates into practices.

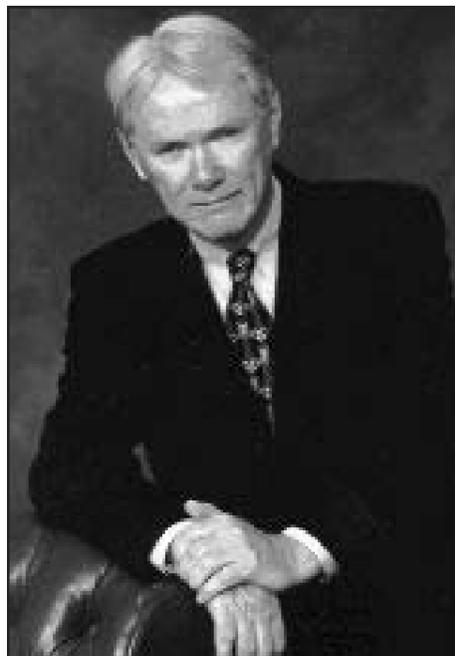
Public education at ELC means "the delivery of the highest possible academic and social achievement for all students." The aim of K-12 education is to prepare students for a full range of post-high school choices, a preparation that starts with great teachers and proper instruction. School choice, of whatever type, is the right of parents.

The education marketplace, according to ELC, can deliver the beneficial effects of choice to students, provided that rigorous standards, reliable annual assessments, and public access to results are available. Finally, successful education strategies depend upon excellent teachers. Teacher potential can only be realized within a professional atmosphere that supports excellence and innovation.

**Rethinking outdated assumptions**

*From Good Intentions to Results: Transforming Federal Education Policy*, a Winter 2000 ELC policy/position paper, outlined features that appear in the final version of the No Child Left Behind Act. The ELC proposal for education reform included high expectations for every child, focusing on students and families instead of systems, districts, or schools, empowering parents, and promoting local control.

In testimony given in September 2002 before the Senate committee on health, education, labor, and pensions, William J. Moloney, Colorado commissioner of education and chairman of the board of ELC, talked about the need to achieve balance in education policy. Strict insistence on unam-



William J. Moloney, ELC chairman

biguous goals should be balanced with flexibility in implementation under No Child Left Behind, Moloney said. The hearing, on "Successful Implementation of Title I-State and Community Perspectives," gathered information from state education leaders on the condition of the states in light of No Child Left Behind.

As of mid-September, Moloney reported that Colorado's 178 districts were in 178 different places, despite that fact that Colorado is closer to the goals of the new law than many other states. "We are very proud that Colorado districts were among those recognized last week in a White House ceremony by President Bush and members of Congress." "Nonetheless, [We] must know that this great task is no sure thing," Moloney said. Scepticism harbored by large segments of the population, particularly those of poverty and color cannot be dismissed, Moloney said. "America cannot afford such an ebbing of confidence in our public school system," he said, speaking of frustrations and failures that cannot wait for reforms sometime in the distant future.

*The coalition describes the situation (of two systems) as more than just a crisis — calling it a state and national emergency.*

The Coalition to Close the Achievement Gap, founded in Colorado in 2000, is built upon the model of Ron Edmond's Effective School Movement. Colorado adopted the position that American education cannot be founded upon two different systems, one with high expectations for fortunate children, and a second, for poor and minority children, with low or no expectations. The coalition describes the situation as more than just a crisis — calling it a state of national emergency. Commitment to change, according to the coalition, is a challenge as well as a moral imperative.

By describing these problems in urgent terms, organizations such as the Colorado Coalition hope to turn up the volume on possible solutions, especially where they may involve breaking some old molds. A premier innovation effort of ELC is called *Following the Leaders*, which offers support to states undertaking rapid implementation of No Child Left Behind.

**Measurement with NAEP**

The role of the National Assessment of Educational Progress under No Child Left

Behind was one of the central themes of the Denver conference. Roy Truby, executive director of the national governing board that sets policy for the NAEP, described the changing role of the exam throughout its history.

The NAEP test, also known as the "nation's report card," has been in use in U.S. education since the 1960s. The first-generation NAEP was designed, Trudy said, as a survey that would indicate how well our students were learning.

The push for national measurement was inspired by an alarming realization in the early 1960s that the United States might not be a pre-eminent intellectual power, especially in the sciences. Despite this, early NAEP results had few policy repercussions.

A second and third generation of NAEP exams arose after 1988. Following the Alexander-James report recommendations of 1990, state NAEPs, achievement goals, and mandates for reform were put in place. The post-2000 NAEP extended the scope of the test's earlier role to a new prominence in education. That expanded role aims to incorporate freedom and flexibility for families, stressing prevention rather than remediation.

NAEP will surely play a large part in the future of accountability under No Child Left Behind, Trudy said. Compatibility issues will likely lead to revision of the test as well, and the governing board recognizes the need for improvement both in the test and in its reporting strategy.

The next rounds of NAEP, in 2003 and 2005, will be scrutinized more closely than ever before in key areas of measurement and accountability.

**Accountability that works**

The ELC panel discussion on accountability systems that work was chaired by Chester Finn, president of the Thomas B. Fordham Foundation.

Finn, whose organization supports research and action projects in education reform at the K-12 level, spoke on accountability criteria for states.

Finn said five criteria are required for good state accountability: report cards for individual schools, a school rating system, rewards for successful schools, the threat of sanctions for schools that don't meet standards, and the use of sanctions against schools that fail to correct their problems.

The Fordham Foundation study also looked at standards, creating a rating system based upon a combination of components. Seventeen states met at least three of the criteria, making them strong states in the study. The remaining 33 states met fewer than three criteria.

Similar criteria were advanced by panelists Lynn Olson of *Education Week*, Lisa Keegan of the ELC, and Theodor Rebarber of *Accountability Works*. Areas of concern for the schools will become, in part, how to mesh federal and state accountability systems over the course of the coming years. A large part of this discussion will focus on the states' definitions of adequate yearly progress.

About half of states are still defining AYP. The remaining half have defined AYP for their state, but have not created the needed subaggregates, or have subaggregates that don't represent 100 percent of the student population.

All participants in the panels agreed that flexibility and choice are imperatives, but they don't yet know what is the best accountability system for states under the new federal law. *CT*

*Fast track for No Child Left Behind*

## Following the Leaders Program Spells Achievement for Students

By KAREN PALASEK

Assistant Editor

**T**he most recent revision of the 1965 Elementary and Secondary Education Act was signed into law Jan. 8. The law requires states to comply in many evaluation and performance areas, and to verify the results of their programs with annual testing. State plans to carry out the requirements of ESEA, or the No Child Left Behind Act, were due to be completed by May 28. Implementation was to begin in fall of 2002. No wonder some schools, school districts, and states were apprehensive as the school year approached.

Specific goals of the act, as detailed in the *Federal Register* of March 6, include the following for the 2013-14 school year: proficiency as a minimum standard for all students in reading and math, proficiency in reading for all children in third grade in 2013-14, and proficiency in English by all limited English proficiency students. By 2005-06, the law requires that all students be taught by highly qualified teachers. In addition, it specifies that learning environments be safe, drug free, and conducive to learning, and that all students graduate from high school. Given the current state of public education, the law imposes considerable demands upon states to quickly come into compliance, and to produce results.

Enter the Following the Leaders program. Recognizing that states vary widely in degrees of compliance with the No Child Left Behind Act, the Education Leaders Council, together with education reformers from Project Achieve, Accountability Works, the Milken Family Foundation, and the Thomas B. Fordham Foundation, introduced a rapid-deployment strategy for the act called Following the Leaders.

**A school-based program**

Following the Leaders does not provide schools or states with direct additional funding. Instead, it is designed to provide

services and materials that will translate into changes in individual student performance. According to the Following the Leaders fact sheet, teachers get access to tools that let them view test analysis, track student performance, determine academic deficiencies, and link curriculum planning and assessment with state standards. Administrators can use information management systems for better reporting under the act, parents get regular updates on children's performance, and policymakers can receive the collected information to adjust state standards for better outcomes.



Lisa Graham Keegan, CEO of Following the Leaders

Begun as a program designed to model implementation of the No Child Left Behind Act, Following the Leaders was funded at \$3.5 million by the U.S. Department of Education. Developing state model plans of action for the law, Following the Leaders conducted a search for six states that were "ready to go" with an integrated assessment and accountability system.

**Twenty-eight apply, six begin**

As a pilot program, Following the Leaders chose six of the initial 28 applicants to initiate its program. Designers of the program were particularly surprised at the response, since it offered no financial rewards to participating states and schools, just a lot of assistance in areas that would help the schools reach compliance as quickly as possible.

States with districts participating in Following the Leaders represent a total of 33,895 students in 25 school districts and 75 schools in the nation.

Alaska uses Following the Leaders in eight schools, serving 3,666 students. Mississippi has put the program into 15 schools, serving 7,873 students. Seven schools in Pennsylvania, serving over 7,000 children, use FTL, and in Tennessee 15 schools, with a total enrollment of 5,927 have Following the Leaders in place.

West Virginia and Illinois also adopted Following the Leaders. Ten schools in Illi-

nois and 15 schools in West Virginia adopted the program. Combined, they encompass an additional 9,107 schoolchildren.

**Program tools**

One of the tools offered to schools under Following the Leaders was developed by Project Achieve. Achievement Technologies, developer of the Project Achieve application, uses a web-based system to track diagnostics, state standards, and curriculum to help manage data for assessment and accountability. Since schools will be obligated to address weaknesses in student performance, teachers and administrators can make use of detailed information about each student's progress and areas of need as the year progresses. A number of standardized tests offer details about which questions were missed, Project Achieve's uniqueness lies in its linkage to curriculum. Ideally, weaknesses from one testing period become teaching guidelines in the next.

Technical assistance to produce policy compliance with the No Child Left Behind Act under Following the Leaders will come to schools from Accountability Works, a nonprofit organization that has expertise in standards, assessment, and accountability. Between Project Achieve and Accountability Works, policy, standards, and curriculum alignment, and data management for teachers and administrators, should be streamlined.

A third idea imported into Following the Leaders is the Teacher Advancement Program sponsored by the Milken Family Foundation. Starting with a few schools in Arizona, the Teacher Advancement Program now reaches into Arizona, Arkansas, the Archdiocese of Indianapolis, South Carolina, and a school district in Colorado. More are scheduled to implement the plan embodied in the advancement program.

The Teacher Advancement Program dovetails with the No Child Left Behind's mandate that by 2005-06 all students be taught by highly qualified teachers. As a part of Following the Leaders, TAP represents an attempt to fast-track the process of meeting the teacher quality goal.

Key elements of the Teacher Advancement Program are multiple career paths, performance-based compensation driven by student progress, and applied professional growth built into the weekly work schedule. If all of these facets are in place, TAP hopes to help attract and retain high-quality teachers.

As a total package, Following the Leaders intends to gather up the means needed for compliance with the act. Schools that stay with Following the Leaders will continue to be funded in successive years, and states may expand the program at their own expense if they find it worthwhile. Reformers hope it will make the process quicker and easier, and ultimately more successful for all.

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## Course of the Month

## Get out the vote — for credit

For this issue *CM* visits Meredith College to take a look at an “experimental course” that isn’t yet listed in the college catalog.

The course was featured in *The News & Observer* of Raleigh Oct. 7 as “Meredith’s own rock the vote.” The course, which the *N&O* reported has only seven students this fall, is popularly known as “Meredith Votes” and offered by the Department of History and Politics:

**Public Leadership: Practice and Theory (POL 941)**

*Students will get practical experience with different aspects of public leadership and organization building as they design and implement a nonpartisan, campus-wide voter registration and turnout campaign. They will also learn about the role of elections in a democracy and study the techniques of campaign management as they are implemented in a presidential election campaign. Application toward requirements: social science elective, major, elective. Level of work: 300-400.*

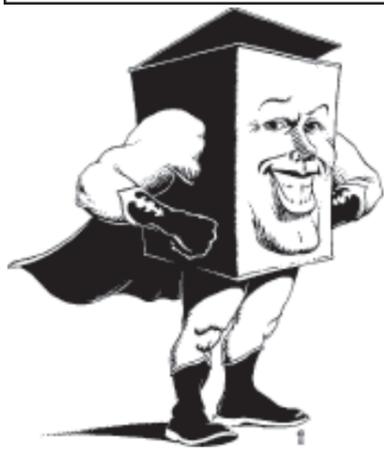
According to the *N&O*, “The course has no exams. The test of the students’ A-plus worthiness is determined by how well they register and educate Meredith students, faculty, and staff, and then get them to the polls Nov. 5.” (The voter-registration deadline was Oct. 11.)

The professor offering the course told the *N&O* that it was “a practicum or a campus internship more intensive than licking letters, stuffing envelopes, and dialing telephones — the usual drill for many student volunteers who want experience in voter registration or candidate campaigns.”

It’s not that other colleges in the area don’t have their own get-out-the-vote volunteers. Voter-registration tables are a regular sight on college campuses in election years. What’s different at Meredith is that the volunteers for registering students are voter-registration “volunteers” only in the sense that English students at Meredith are Chaucer-reading volunteers — a fact that becomes rather obvious, if unstated, in the *N&O* article. The article discusses what the students are doing for class credit and compares it with what other volunteers are doing.

As it turns out, the two groups, one receiving credit and the other receiving only satisfaction, are doing remarkably similar things. *CM*

Super Ballot Box Says:  
**VOTE**



## First revision since 1980

## University of N.C. Committee Proposes Major Overhaul of General Curriculum

By JON SANDERS

Assistant Editor

RALEIGH

**M**ore than 100 faculty members worked with a handful of students and staff members at the University of North Carolina at Chapel Hill to produce a proposed new general education curriculum for the university.

Their report, “Making Connections: An Initial Proposal to Revise the General Education Curriculum,” submitted in September, is a significant step toward the first major overhaul of UNC-CH’s general education curriculum since 1980. Its genesis was a 1995 study within the university that called for a re-evaluation of the curriculum in place. The Curriculum Review Steering Committee presenting the report considers its proposal just a “draft,” expecting a vigorous campus discussion over their suggestions.

Among the major changes proposed:

- Reducing the general-education component of an A.B. degree at UNC-CH to 42 hours and the “upper level” arts and sciences general-education requirement to nine hours, from 44 hours and 12 hours, respectively.

- Replacing the English 11/12 requirement with Rhetoric A/B, courses that would teach the arts of written and oral argument, composition, and rhetorical analysis.

- Replacing the mathematical science course requirement with a quantitative reasoning requirement.

- Eliminating the swim-test requirement and the required two physical-activity courses (for no academic credit) with one wellness course for one hour of academic credit. The wellness course would, “in addition to physical activity, ... include topics such as nutrition, exercise science, weight control, time management, and stress management.”

- Changing the requirement for two social sciences courses to three courses in social and behavioral sciences, including one that “engage[s] in historical analysis.”

- Changing the philosophy requirement to one of “philosophical and moral reasoning,” stipulating that the philosophical course taken “contains significant content in ethics and moral reasoning.”

- Replacing the Western Historical/Non-Western/Comparative (two courses) and Cultural Diversity requirements (one course that also must meet a different requirement) with Connections requirements.

The first Connections requirement is “Applying Foundations Across the Curriculum,” which involves one “C” course (for communications skills), one “language integration experiences” course (which involves either taking an additional hour of a foreign language, living for at least a semester in a “campus language house,” studying abroad or working at an approved internship where a target language is used predominantly), and one “Q” course (either a course that applies quantitative reasoning to a discipline or a course in mathematical sciences).

Another is “U.S. Diversity,” which is one course (that must also meet a different requirement) that deals with “the interaction between at least TWO of the following groups or subcultures: African Americans, European Americans, Asian Americans, Latinos, or Native Americans” and “might also engage other aspects of diversity, such as age, class, disability, gender, region, reli-

## UNC-CH’s Changing Definition of a General Education, 1934-95

*Note: The following is an excerpt from a 1996-97 Pope Center for Higher Education Policy study that examined how the UNC-Chapel Hill curriculum has changed since 1934-35.*

The changes in the educational requirements in general... can be explained by — and were possibly driven by — the shifting definition of a *general education*, contained within the undergraduate bulletins, over the 60-year period of this study... [They] provide insight into how the university’s perception of a general education had changed.

In 1934-35, the undergraduate bulletin stated simply:

*The curriculum leading to the degree of Bachelor of the Arts is designed to provide a general, well-rounded, liberal education.*

By 1954, ... the definition of a general education had shifted... According to the 1954-55 undergraduate bulletin:

*The studies in the General College are intended: (1) to offer experience in a sufficient variety of basic and liberal subjects to constitute the foundations of that general education which is regarded as essential to balanced development and intelligent citizenry, (2) to supply opportunities for the discovery of intellectual interests, and (3) to provide preparation for later collegiate or professional training.*

In the 1974-75 undergraduate bulletin a definition had become so unfocused that it was buried beneath a definition of the General College itself:

*...the General College provides a basic pattern of required courses and electives de-*

*Source: Jon Sanders, “Extra Curricular: How general education at UNC-Chapel Hill has changed from 1934 to 1995,” Clarion magazine, December 1996.*

*signed to introduce every student to concepts, modes of thought, and methods of the various academic disciplines, to encourage an intelligent choice of a degree program, and to facilitate changes in the program, usually without loss of time of [sic] credit.*

By 1994 the university had restructured its curriculum, dividing it between what it called “perspectives” and “basic skills.” The perspectives were massive clusters of courses designed to teach students “both the content and the methodologies of several disciplines.” There were five clusters of perspectives: aesthetic, natural science, philosophical, social sciences, and Western historical/non-Western/comparative.

The 1994-95 undergraduate bulletin’s definition of general education... has more focus than the two previous definitions, it is the first to provide agency for the definition itself (instead of ascribing it by omission to society as a whole, as in 1954-55’s “which is regarded as essential to balanced development and intelligent citizenry”), and it appears somewhat lightweight as a reflection of collegiate learning. The 1994-95 undergraduate bulletin’s definition is:

*The faculty believe that General Education rests upon the knowledge and practice of the Basic Skills. These include the ability to:*

- write clearly,
- read critically,
- speak effectively,
- comprehend a foreign language,
- use mathematics,
- reason analytically,
- understand abstract ideas.

## The Proposed New Definition of a General Education at UNC-CH

*The University of North Carolina at Chapel Hill strives to cultivate the skills, knowledge, values, and habits that will allow graduates to lead personally enriching and socially responsible lives as effective citizens of rapidly changing, richly diverse, and increasingly interconnected local, national, and worldwide communities. The undergraduate experience aims to foster in Carolina graduates the curiosity, initiative, integrity, and adaptability requisite for success in the complex, demanding environment of the twenty-first century world.*

*To this end our curriculum seeks to pro-*

*<sup>1</sup> These include the ability to write lucidly, read perceptively, and speak effectively in English, reasonable facility in one foreign language, and a confident competence in the use of quantitative reasoning.*

*vide for all students: (1) the fundamental skills that will facilitate future learning;<sup>1</sup> (2) broad experience with the methods and results of the most widely employed approaches to knowledge; (3) a sense of how one might integrate these approaches to knowledge in a way that can cross traditional disciplinary boundaries; and (4) a thorough grounding in one particular subject. The General Education Curriculum focuses on the first three of these curricular goals; the undergraduate major is dedicated to the fourth.*

gion, or sexuality.”

Another is “Global Citizenship,” which involves three courses that also must meet a different requirement: “Global Issues: Transnational Connections,” “Cultural Breadth: Chronological Scope,” and “Cultural Breadth: Spatial Scope,” which are intended to give students an “understanding of at least one major area of the world outside the United States, of at least one non-western [sic] culture, and of global forces, patterns, and trends as well as the

historical origins of those trends.”

The last is “Experiential Education,” which includes “service learning, internships, intensive fieldwork or field-based research, study abroad, and practice-centered courses in the creative arts.”

The proposal awaits the approval process, which will take place during the present academic year. The proposed curriculum revision is available online at [http://www.unc.edu/curriculumrevision/documents/draftproposal1\\_2\\_1.pdf](http://www.unc.edu/curriculumrevision/documents/draftproposal1_2_1.pdf). *CM*

# North Carolina Ranks Low in Tuition, High in Appropriations, Study Shows

By JON SANDERS  
Assistant Editor

RALEIGH

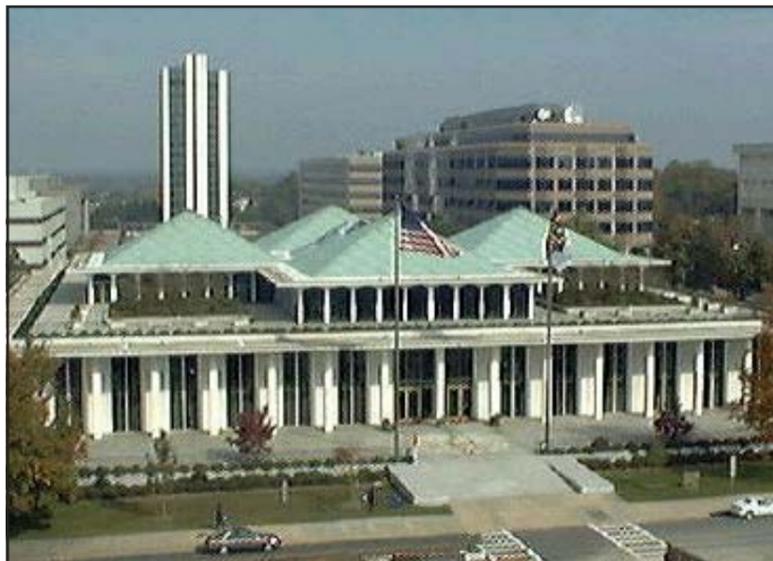
**T**axpayers in North Carolina pay the fourth-highest per-pupil amount in the nation to subsidize public-college students in their state. Also, N.C. students attending the state's community colleges or public universities pay the second-lowest amounts in tuition and fees in the nation in either category of institution.

Those findings are according to an October *Inquiry* paper (No. 14) by the Pope Center for Higher Education Policy. While announcing those results, the *Inquiry* paper did note the fact that the most recent data are from 1999-2000, and that tuition has increased in both those years as the state has buckled down under a budget crisis. So North Carolina likely has fallen somewhat in those comparisons over the last two years.

Nevertheless, the paper suggests that the state's standings in those categories as late as the 1999-2000 academic year should alleviate concerns over the long-term impact of the state's fiscal crisis on the state's public universities and community colleges. According to the report:

- The average cost in tuition and fees for an in-state student attending a public, two-year institution in North Carolina in 1999-2000 was \$778, less than half the national average of \$1,647 and the second-lowest in the nation.

- The average cost in tuition and fees for an in-state student attending a public, four-year institution in North Carolina in 1999-2000 was \$2,054, only about 61 percent of



The North Carolina Legislative Building in Raleigh.

the national average of \$3,376 and also the second-lowest in the nation.

- The average amount appropriated by the N.C. General Assembly per full-time-equivalent student enrolled in public institutions of higher education in North Carolina was \$7,066, which was 40 percent higher than the national average of \$5,061 and the fourth-highest amount in the nation.

(The table below shows how the states compare in appropriations per full-time-equivalent student enrolled and includes an explanation of the meaning of the term "full-time-equivalent student.")

## How States Compare in Higher-Education Appropriations<sup>1</sup> Per FTE Student Enrolled,<sup>2</sup> 1999-2000

Rank	State	Amount appropriated	Rank	State	Amount appropriated
1	Hawaii	\$7,358	26	Missouri	\$4,905
2	Mississippi	7,233	27	Florida	4,880
3	Connecticut	7,189	28	Illinois	4,824
<b>4</b>	<b>North Carolina</b>	<b>7,066</b>	29	Oklahoma	4,767
5	Alaska	6,871	30	Delaware	4,760
6	Georgia	6,544	31	Virginia	4,756
7	Kentucky	6,315	32	Maryland	4,729
8	Minnesota	6,200	33	West Virginia	4,725
9	Iowa	6,161	34	Texas	4,723
10	Arkansas	5,857	35	Washington	4,697
11	New Jersey	5,845	36	Louisiana	4,681
12	Massachusetts	5,730	37	California	4,552
13	New York	5,668	38	Michigan	4,514
14	Alabama	5,581	39	Oregon	4,444
15	Pennsylvania	5,570	40	Wisconsin	4,305
16	Nebraska	5,376	41	Utah	4,239
17	Indiana	5,315	42	Kansas	4,138
18	Idaho	5,308	43	Rhode Island	3,936
19	South Carolina	5,295	44	South Dakota	3,812
20	Maine	5,280	45	Montana	3,612
21	New Mexico	5,276	46	Nevada	3,588
22	North Dakota	5,106	47	Colorado	3,278
23	Tennessee	5,086	48	Arizona	3,134
24	Ohio	5,013	49	Vermont	3,080
25	Wyoming	5,000	50	New Hampshire	2,743
				<b>U.S. Average</b>	<b>5,061</b>

<sup>1</sup> Sources: For appropriations, the Center for Higher Education & Educational Finance, Illinois State University Dept. of Educational Administrations and Foundations; for enrollment, The Chronicle of Higher Education Almanac, 2002-03.

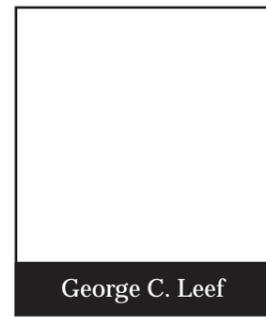
<sup>2</sup> FTE stands for "Full Time Equivalent"; FTE student enrollment accounts for the differing course loads of students, including part-time students, by dividing the total student hours taken by the number of hours considered to constitute "full-time." "Appropriations Per FTE Student Enrolled" is a measure of the amount a state government appropriates to its public institutions of higher education divided by the FTE student enrollment.

## Do Our Professors Brainwash Youths?

**A**re claims that some professors use their classes more to indoctrinate students in their own political ideology than to teach them anything true? Or are they like Elvis sightings? Liberal faculty members and administrators often scoff at such complaints, saying the students who lodge them are just hypersensitive gripers.

I don't think the complaints about courses that amount to stuffing a political agenda down the throats of students should be brushed aside. For one thing, knowing something about the writings and behavior of many professors outside the classroom, where they often display a single-minded vehemence for their pet causes, I find it easy to believe that they tend to treat their students as revolutionaries-in-the-making.

A newly begun web site may help concerned parents, taxpayers, alumni, and others who are concerned about the academic integrity of colleges and universities. It is found online at <http://noindoctrination.org>. Started by a woman in California who was upset over the strongly political nature of some of her son's classes, the web site invites students to post information about courses where the emphasis is more on imprinting certain beliefs on students than expanding their knowledge and sharpening their reasoning faculties.



George C. Leef

Here are some examples from the web site.

- A mandatory workshop course in writing at the University of California, San Diego is described as an indoctrination by the professor and teaching assistant, where the students are expected to agree with the instructors' views on race, or else face intimidating questioning.

- A student taking a course on "Poverty and Income Distribution" at Barnard College wrote that, "All classroom discussion had the same moral: it is America's fault that people are impoverished and they are therefore the victims."

- In a course at the University of California at Santa Barbara ("Blacks in the Media"), the professor informed the students that "capitalism is a system based on racism." Students who dissented from the professor's views were met with "hostility and aggression." Wrote the posting student, "I cannot comfortably express my own opinion at my public University, which is supposed to be a place of tolerance, open-mindedness, and higher education."

None of the dozen postings on the web site as of this writing are from schools in North Carolina, but I suspect that the reason is that students have not yet heard about NoIndoctrination.org. I hope that students quickly learn about it and post their dissatisfaction with courses where the professor is preaching rather than teaching.

In fact, I suggest colleges and university administrations publicize NoIndoctrination.org and encourage students to assert their displeasure with politicized courses. Yes, I mean it. It is utterly inappropriate for educational institutions to allow professors to use their classrooms to promote their personal agendas. College presidents who are true to the ideals of higher education and the implicit contract they have with students who enroll with the expectation of acquiring skills and knowledge should be diligent in cracking down on professors who try to brainwash their students.

But what about academic freedom? Three cheers for academic freedom, but it does not trump every other consideration. Faculty members (and other employees) must recognize that they have contractual obligations to fulfill, obligations that center around *teaching* their students.

Is political indoctrination a problem on campuses in North Carolina? Students who think so should go to NoIndoctrination.org and let everyone know about it.

Bats in the Belltower

## Teach-In at Alternative-UNC Calls for Military Action

Below is a recent news item from the alternative-universe University of North Carolina at Chapel Hill. The story follows verbatim as it was published in the Chapel Hill *Dlerah*:

### Teach-In Supports Military Action

On Wednesday, Oct. 9, the Invisible Faculty Network held a "teach-in" on the campus of UNC-Chapel Hill to discuss what event advertisements promised would be "Truly an alternative view of the U.S. War on Terrorism."

The forum, entitled "Terrorists Attacked America; Now, Let's Go Get 'Em," featured speakers from a range of backgrounds — military and civilian, academic and activist. UNC-CH art professor Erin Ourfavor opened the forum with a few brief remarks and a slide show presenting her canvas renderings of "Terrorists America Needs to Bomb." Receiving the most audience applause was her collection of pop art entitled "War-Hole: Several Cans of Whoop-Ass."

Ourfavor talked about the vibrant arts community in New York City and the many people she knew that were personally affected by the attacks. "I want us to instill fear in terrorists," Ourfavor said.

Next to speak was Gen. Lee Hawkish, author of the book *Get Your Head Out of the Sand and Fight Like a Man*. Hawkish asked everyone in attendance to stand who agreed that the United States owed an apology to "the widows and orphans, the tortured and impoverished, the abandoned puppies, and the countless other victims of American imperialism, which is just like a fledgling Nazi holocaust."

After several stood up, Hawkish encouraged them to kick each other in the butts, hard and swift, for being so foolish.

"This war isn't about 'American imperialism,' you nitwits," Hawkish said. "Stop swallowing every load of Marxist propaganda handed you on a spoon and learn to think for yourselves. And don't do it for Gen. Hawkish; do it for your country."

UNC-CH anthropology professor Olga Klink, author of *Fayettenam: A City Wronged*, spoke of the time she spent in Fayetteville observing the military personnel of Fort Bragg. She said the attacks of Sept. 11 were "very similar to the surprise attack on Pearl Harbor, and anyone who can't see that is a blinking imbecile."

Klink also said that the "one thing I can say from the time I spent studying with the fighting men and women of Fort Bragg is that they are going to completely annihilate those terrorist bastards; you mark my words."

Following Klink, Stan Dup, author of *Force for Good: A Guide to the World's Only Superpower*, shared his expertise of military and world affairs. Dup praised the president for his stamina in setting U.S. policy towards the terrorists. "It's admirable the way the big guy can withstand all those nancy boys snivelling about how he's only doing it for Big Oil

and American Empire and his Daddy; you know, the whole litany of flippant critiques from leftists who're still annoyed to find themselves saying the same thing about America as fascist Islamic extremists."

Dup issued a challenge to the students in attendance: "Don't let yourself get taken in by the captivating lies of the blame-America-first crowd. Ask yourself: Could this *really* be a conspiracy by the president to re-militarize the country? Is America *really* a terrorist nation, let alone the world's biggest terrorist nation? Can anyone *really* be dumb enough to buy that?"

After Dup, the NAACP's Curtis Ticked spoke. Ticked opened his re-



marks with, "First off, I'm not here to try to manipulate these attacks to fit into my racist agenda. Screw that. Terrorist assholes just attacked our country, and it's time for us all to rise up as one people and go pop a cap in every last one of 'em."

Ticked explained that he planned to return to pushing the cause of black people in America "after we don't have to worry any more about getting our butts blown out of the sky by some foreign extremists. We all need some perspective around here, people."

Students at the event left with a favorable impression of it. "It sure was nice to get an alternative view of the attacks around here," said sophomore Justin Attendee. "Everyone else around here has been 'America, we suck, we're too rich and arrogant, we deserved it' and 'those towers blocked my view of the harbor anyway.'"

"Until today, I thought I was the only one on this whole campus who thought we [the U.S.] might actually need to respond to the attacks," said Ann Other, sophomore. "This forum has been a relief from all the candle-waving pansies I've had to step over on my way to class."

Chancellor James Moeser said his office had received several phone and email messages from outraged campus pacifists following the teach-in. "This campus firmly supports the First-Amendment rights of everyone, including those who spoke at the teach-in," Moeser said.

Even if the pacifists are upset, Moeser added, "it's not like they are going to do anything about it, now, are they? Yeah, c'mon Mr. Hate-America Pacifist, I dare you. Take your best shot, big guy. Hmph. Thought so." *cr*

## UNCG Faculty Donate Money To Staff During Budget Crisis

By JON SANDERS  
Assistant Editor

RALEIGH

The faculty at the University of North Carolina at Greensboro has provided state legislators and others a lesson in responsibility and charity in the face of dire fiscal times.

The budget recently approved by the N.C. legislature provided no pay raises to state employees. That means at UNCG that none of the about 1,000 staff members will receive increases this year. Faculty members at UNCG, however, have received raises owing to this year's tuition increase.

Now the approximately 700 faculty members at UNCG are raising money among themselves to give to the university staff. As word of the faculty's generosity got out, alumni and citizens joined in.

The idea got its start in the spring in the faculty senate, where UNCG faculty members first heard that they would be getting raises but that the staff would not. Chairman Ben Ramsey, associate professor of religious studies, started the discussion and got other faculty members involved through a letter-writing campaign.

Ramsey said the goal is to raise \$250,000 for the staff in time for Christmas.

### Budget hurts struggling workers

Not only did the N.C. legislature schedule no salary increases for state workers, the revised budget that legislators approved appears certain to harm workers, especially poor workers, across the state. According to an analysis by John Locke Foundation President John Hood, the new budget directly raises the state tax burden by about \$157 million. The increase owes primarily to changes in business taxes and the cancellation of tax cuts — cuts intended to help families weather last year's \$700 million increase in sales and income taxes.

Worse, the revised budget would probably provoke tens of millions of dollars in property-tax increases, Hood said, thanks to the state's confiscation of \$333.4 million in tax reimbursements to local governments.

That's on top of the \$75 million increase in property-tax increases by city and county governments in 2002-03, because of withheld tax sharings and reimbursement dollars, that was previously estimated by the foundation.

"These tax increases couldn't have come at a worse time for our state's businesses and families, many of whom are struggling with layoffs, declining wealth, and at best an uncertain future," Hood said. "Our leaders should be debating which of North Carolina's relatively high taxes to cut to get our economy moving again, not which ones to raise to preserve government programs."

### Similar moves by other faculty

Last year 66 faculty members and administrators at N.C. Central University chose to forgo a scheduled raise in order to help the university offset budget cuts, especially to help prevent positions from being cut. The combined amount forgone by the N.C. Central faculty ended up being about \$41,000.

The effort at NCCU wasn't a group effort, but a combination of individual sacrifices, Faculty Senate Chairman Percy Murray, a professor of history, told the *Herald-Sun* of Durham.

Faculty at N.C. State in 1996-97 volunteered to forgo \$4.2 million in new tuition money, which was scheduled to go toward increasing their own salaries, and directed the money instead to improving the library. Their contribution was a key factor in a decade-long effort of improving the library at N.C. State. *cr*

## North Carolina College Leaders Denounce Anti-Semitism in Academe

By JON SANDERS  
Assistant Editor

RALEIGH

Several North Carolina college and university heads have signed a statement decrying anti-Semitic actions on college campuses and in academe. The North Carolina college leaders joined 300 peers in signing the statement, published Oct. 7 in an advertisement in *The New York Times* placed by the American Jewish Committee.

North Carolina signers were: Francis T. Borkowski, Appalachian State University; Johnnetta B. Cole, Bennett College; Earl J. Robinson, Lees-McRae College; Maureen A. Hartford, Meredith College; James C. Renick, North Carolina A&T State University;

Other signers included: John R. Dempsey, Sandhills Community College; James Moeser, University of North Carolina-Chapel Hill; James R. Leutze, University of North Carolina-Wilmington; Thomas K. Hearn Jr., Wake Forest University; and Douglas M. Orr Jr., Warren Wilson College.

The statement they signed reads: "In the current period of worldwide political turmoil that threatens to damage one of our country's greatest treasures — colleges and universities — we commit our-

selves to academic integrity in two ways. We will maintain academic standards in the classroom and we will sustain an intimidation-free campus. These two concepts are at the core of our profession.

"Our classrooms will be open to all students, and classroom discussion must be based on sound ideas. Our campus debates will be conducted without threats, taunts, or intimidation. We will take appropriate steps to insure these standards. In doing so, we uphold the best of American democratic principles.

"In the past few months, students who are Jewish or supporters of Israel's right to exist — Zionists — have received death threats and threats of violence. Property connected to Jewish organizations has been defaced or destroyed. Posters and websites displaying libelous information or images have been widely circulated, creating an atmosphere of intimidation.

"These practices and others, directed against any person, group or cause, will not be tolerated on campuses. All instances will be investigated and acted upon so that the campus will remain devoted to ideas based on rational consideration.

"We call on the American public and all members of the academic group to join us." *cr*

## Issues in Higher Education: Academic Freedom

## At Least, Academic Freedom Didn't Use to Mean Freedom from Criticism

By JON SANDERS

Assistant Editor

**T**he cherished principle of academic freedom has been invoked with great frequency since Sept. 11, 2001. More specifically, it has been invoked with great frequency since college campuses starting discussing Sept. 11 through the fadish campus lenses of postcolonialism, identity politics, and the litany of über-socialist spinoff viewpoints.

Generally, the academic-freedom invocation is used as a sort of collegiate Get-Out-of-Raillery-Free card, to shame the critic or soothe the hurt egos after the criticisms. An example of this use is the American Association of University Professors' citing academic-freedom concerns over the criticism two Colorado colleges received for inviting a Palestinian activist to speak at the campus ceremony to mark the Sept. 11 anniversary. In some cases, however, it's invoked where academic freedom is truly imperiled. For example, the Foundation for Individual Rights in Education has worked on ending the "Guidelines for Classroom Discussion" enforced in a women's studies class in the University of South Carolina that demands students commit to and profess an ideology in the classroom in order to receive class credit.

Those two organizations, the AAUP and FIRE, are in the vanguard in holding institutions accountable to the principle of academic freedom, the AAUP as the main advocacy group for college professors, and FIRE as an outside nonprofit advocating the rights of individuals — whether professor, student, or staff member — on college campuses.

**Academic freedom defined**

But what *is* academic freedom? The AAUP defined it in its founding document, its 1915 "Declaration of Principles," and expanded upon it in 1940 under "Statement of Principles on Academic Freedom," co-authored with the Association of American Colleges. FIRE President Thor Halvorssen said those two statements "are the definitive interpretation of academic freedom and are the model for all subsequent policies and standards."

Here is the AAUP's 1940 definition:

*a. Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.*

*b. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject...*

*c. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.*

Concerning (b), the AAUP in 1970 has stated: "The intent of this statement is not to discourage what is 'controversial.' Controversy is at the heart of the free academic inquiry which the entire statement is designed to foster. The passage serves to underscore the need for teachers to avoid persistently intruding material which has no relation to their subject."

*The AAUP general secretary blamed a "distrust of intellectuals" for the "voluble reactions" to "the discourse of academics."*

**Is criticism counter to it?**

One might be tempted to think so if one had heard only academe's recent jeremiads on the subject. AAUP General Secretary Mary Burgan wrote last year about how "the discourses of academics" on the terrorist attacks of Sept. 11 have been met with — "the voluble reactions of those who believe" — note the presumption here — "that thinking out loud in our colleges and universities is so subversive that it ought to be stopped, somehow." Burgan blamed all this



on "A distrust of intellectuals [that] has always lurked beneath the surface of American popular opinion."

The loudest carping over a supposed threat to academic freedom has been over the American Council of Trustees and

Alumni's report, "Defending Civilization: How Our Universities Are Failing America and What Can Be Done About It." What ACTA did in this report was quote 117 statements made on college campuses about the terrorist attacks, to call into question the near-uniformity of sentiment against any retaliatory action by the United States against the terrorists. It's instructive to note that the report itself stated: "Although most faculty presumably shared America's horror and condemnation of the terrorist attacks, some did not. And while professors should be passionately defended in their right to academic freedom, that does not exempt them from criticism."

Nevertheless, despite that caveat, the report was heralded as the greatest threat to academic freedom in the young century. A few examples: MIT Professor Hugh Gusterson told *The New York Times* that ACTA's listing of the names of each speaker had a "whiff of McCarthyism." Tufts Pro-

fessor Martin J. Sherwin also compared the report to McCarthyism and to a Nixonesque enemies list. Columbia Professor Eric Foner said ACTA was trying "to enforce a particular party line on American colleges and universities" and to "suppress the expression of alternative points of view."

As soon as the "enemies-list" criticism began, ACTA withdrew the names from the report, trying to keep the focus on the reason for the report. In fact, a strong portion of the report criticizes the *restriction* of freedom on campuses after Sept. 11, such as campuses banning the display of American flags or UC-Berkeley withdrawing a cartoon depicting the dead terrorists in hell. But the outrage continued, oblivious to ACTA's good-faith changes, its concern for the freedom of those bucking the antiwar campus orthodoxy, and especially its report's statement that "Academic freedom does not mean freedom from criticism."

That statement is so obvious that it formed the unstated premise of the AAUP's definition (c), which deals with how professors should speak responsibly in public under their "special obligations" as members of the professoriate and an institution of higher education. It's a few steps removed from the present behavior of many (but not all) professors, accusing their critics of seeking to silence them *by virtue* of expressing their criticism. It is enough to make one wonder if there is a new definition of "academic freedom." At last check, however, there wasn't. *CS*



**A New Web Site Providing a State Perspective  
on 9/11 and the Current International Crisis  
From the John Locke Foundation**

*Recent Articles and Columns Spotlighted on NCAatWar.com Include:*

- Military historian Victor Davis Hanson argues that the Western way of war — and Western notions of freedom and civilization — are proving their worth.
- Moderate Muslim clerics preach peace in Durham and Greensboro while a former Black Panther leader calls First Lady Laura Bush a murderer at Duke.
- North Carolina's economy, hurt further by wartime deployments, awaits help from Washington, where disagreements about tax cuts block a stimulus bill.
- Dr. Andrew Taylor, NCSU Political Scientist, on the likely impact of the war on North Carolina politics and the U.S. Senate race.
- As U.S. Marines from Camp Lejeune participate in military action near Kandahar, Seymour Johnson airmen prepare for deployment to the Mideast.
- Gov. William Yarborough, former head of Special Warfare Center at Ft. Bragg, distinguishes terrorism from legitimate armed resistance.
- Locke Foundation President John Hood argues that North Carolina short-lived anti-war movement unknowingly exposed its own fallacies.

*For the latest news, analysis, and commentary on the war on terrorism, visit what National Review once named its "Cool Web Site of the Day" located at [www.NorthCarolinaAtWar.com](http://www.NorthCarolinaAtWar.com) — or [www.NCAatWar.com](http://www.NCAatWar.com).*

cartoon goes here

## Town and Country

• Billboards may soon be appearing around parts of the Urban Loop around Greensboro. Or not, depending on the outcome of an intense local debate on the issue.

The Urban Loop, also known as Painter Boulevard, will be a 44-mile long beltway around Greensboro. The first portion is already open; another section will be completed next year.

The Greensboro City Council is considering how much development to allow along the portions of the road that are within the city. The council plans to designate the street a scenic corridor. Originally, that was meant to, among other things, ban all billboards from the roadside. A last-minute amendment to the measure, which passed by a 5-4 vote, would allow a limited number of the signs.

Under the amendment, a limited number of signs could be placed by the road as long as they were at least a half-mile before or after each on ramp or off ramp. The Urban Loop will eventually have 21 exits. In addition, there could be no more than two signs per half mile and billboards could be within 1000 feet of each other. The size of the billboards also would be restricted.

"I'm trying not to be so negative," Councilmember Sandy Carmany told the *Greensboro News & Record*. "The ordinance, except for this billboard provision, is very good. But to me, the words scenic corridor and billboards don't belong in the same sentence."

Billboard proponents noted that they were just trying to help local businesses attract customers and help help travelers informed.

Billboard opponents on city council promise to continue the fight even if the signs are allowed by council. Under a rarely used Greensboro ordinance, a petition signed by enough registered city voters would automatically bring an issue before city council. If the council agreed with a petition's proposed ordinance, it would become law. If, on the other hand, council rejected or modified the petition, the matter would automatically go before voters in an up-or-down referendum.

• A signage issue of a different sort emerged in Raleigh: How many and what size of signs to allow on a round building? The building in question is the RBC Center, formerly known as the Entertainment and Sports Arena, home of the Carolina Hurricanes hockey team and North Carolina State University Wolfpack basketball.

Clyde Holt, lawyer for the Centennial Authority, which owns the building, described the issue with the sign ordinance to the *News & Observer* of Raleigh: "It is hard to apply because the ordinance doesn't talk about round buildings. It talks about sides, and the ordinance says you are allowed to have 300 square feet per side. We don't know where our sides are. On a round building, how do you determine where the sides begin and end?"

In the end, Raleigh's Board of Adjustment didn't go around the issue. It approved a request from the Centennial Authority for a variance for a 1,200-square-foot sign. *CR*

## Charlotte OKs \$250 Million NBA Arena Deal

City commits public money despite referendum that rejected projects in 2001

By MICHAEL LOWREY

Associate Editor

CHARLOTTE

Under a tentative agreement with the NBA, the City of Charlotte is prepared to spend \$250 million on a new arena to bring professional men's basketball back to the Queen City. Given the structure of the deal, the city is unlikely to directly recover much of the expense. The expansion team would begin play in the fall of 2004 and move into the new arena the following year. The NBA will select an ownership group later this year or early next year.

The agreement comes despite a referendum in May 2001 in which Charlotte voters soundly rejected an increase in the car rental tax to help fund a variety of projects, including a new arena for the Charlotte Hornets.

The election was widely regarded as a vote on public funding for a new arena for the Charlotte Hornets. The Hornets left for New Orleans at the conclusion of the 2001-02 season.

### The tentative deal

The arena itself would cost about \$200 million, while the city would spend an additional \$35 million to acquire land for the arena proper and \$10 million for street construction and associated land purchases.

The city is also considering buying adjoining parcels of land, which might add up to \$10 million to the total cost of the project. These extra tracts would probably be resold in the future for preferred developments with restrictions of usage. The city would own the building and also would be responsible for any cost overruns.

The city would pay for the arena from a variety of sources. The largest chunk would come from hotel-motel tax money, which by law must be used for tourism-related projects.

The city thinks it can float more than \$100 million in bonds, to be backed by future revenues from the tax. The city also would tap into revenue from the city's car retail tax, and sell \$75 million in assets.

### Paying for Charlotte's New Arena

#### Item

Bonds backed by hotel-motel tax	\$100 million+
Loan from Charlotte corporations	\$50 million
Asset sale to Charlotte corporations	\$50 million
Other asset sales	\$25 million

#### Total Arena Cost

\$245 - 255 million

*Notes: The city would be responsible for \$26.8 million of the corporate loan with \$10 million to be repaid through an as-yet unidentified mechanism. The city's hotel-motel tax generates \$3.5 million per year, its car rental tax brings in an additional \$1.5 million per year.*

### Corporate loans

Bank of America, Wachovia, and Duke Energy — which all have headquarters in Charlotte — have agreed to help the city. The businesses will purchase assets, including the city's old convention center and the current Charlotte Coliseum, from the city for \$50 million. The city plans to sell an additional \$25 million in property to help pay for the new arena.

The three corporations will also provide a \$50 million low-interest loan to help finance construction of the new building. The city would repay \$16.8 million of the loan and the team would cover an additional \$23.2 million. It is unclear how the remaining \$10 million will be repaid, though the city would presumably be responsible.

The city's Coliseum Authority and the team would share responsibility for operating the new building, though the team would receive the majority of the revenue it generates. The team would also retain all revenues from naming rights, sponsorships, and revenues generated by holding non-NBA events at the arena. It would also be responsible for any operating loss that the building might incur. The city and the team would split the cost of any future capital upgrades at the facility.

Details of the lease between the future

team and city, including its length and the yearly rent, will only be worked out after the NBA picks the ownership group for the expansion club.

"Is it a fair agreement? No," Chicago-based sports marketing consultant Marc Ganis said to *The Charlotte Observer*. "It's one-sided. But that's what cities wanting expansion teams have to do."

### The opportunity cost

One consequence of the arena deal is that very little, if any, hotel-motel tax money would be available in the foreseeable future for other projects. An Uptown baseball stadium for the Class AAA Charlotte Knights — which play just over the border in Fort Mill, S.C., a whitewater park, an expansion of the Discovery Place science museum, and a relocation of the Mint Museum of Art to Uptown Charlotte have all been listed as possible uses of hotel-motel tax money.

Some, or all, of these projects could still be built, but they presumably would have to be funded through the city's general fund, which comes largely from property and sales tax revenues. All are also substantially less-expensive than a new basketball arena. The Knights and the proposed whitewater facility have both requested public funding in recent months. *CR*

## Committee Rejects Coastal Insurance Pool

State senator raises concerns about subsidizing expensive, at-risk houses

By MICHAEL LOWREY

Associate Editor

RALEIGH

A state Senate committee has, for now, shelved efforts to subsidize homeowners insurance for residents of eastern North Carolina. The move comes after Sen. David Hoyle, D-Gaston, questioned the wisdom of the measure.

Homeowners insurance typically covers properties against all major perils (including windstorm) except flooding. While the risks of loss for most perils are similar across the state or are at least easily adjusted for, areas near the coast are at the much higher risk for flood and wind damage from hurricanes.

Since 1968, the federal government has assumed nearly complete responsibility for flood insurance, with coverage available even in at-risk areas at rates that are substantially lower than what would be available in the market place. Taxpayers pick up the tab for providing the subsidized coverage.

The situation is different for homeowners insurance, which private insurance companies sell. As would be expected, rates near the coast are substantially higher than those further inland. A typical homeowners policy on a \$150,000 house costs \$391 and carries a \$500 deductible in Charlotte, Greensboro, or Winston-Salem. The cost for a similar policy in Raleigh is \$422 with, again, a \$500 deductible. By comparison, such a policy would cost \$1,283, and carry a \$1,000 deductible, in Wilmington.

### Insurance pools

Under the proposal, the state would create an additional insurance pool to offer insurance to homeowners who could not otherwise obtain it. Insurance companies that offer homeowners insurance in North Carolina would be required to contribute to the pool.

The proposal is similar to two other insurance pools, BEACH and FAIR, that the state already operates. The BEACH plan,

which offers wind coverage when insurance companies have been unwilling to offer it, operates at a profit in most years. In years when a hurricane strikes, it runs a large loss.

The proposed new insurance pool enjoys strong support from the banking industry, home builders, and from real estate agent groups.

Opposition to the new insurance pool centers on the high dollar value of homes that could be insured through it. The proposed limit is \$1.5 million. Insurance industry officials argue that this high limit, plus caps on rates that the pool could charge, amount to asking inland residents to subsidize expensive at-risk dwellings.

For Hoyle, that potential subsidy is the critical issue. "I'm real skeptical," Hoyle told *The Winston-Salem Journal*. "What we have to be careful about is rate shifting, a cost shifting... I want to know what we're doing, and what it's going to cost people in Winston-Salem and Gastonia for me to own a house that may be in harm's way." *CR*



Statesville depends upon the Yadkin River for its water supplies. The river dropped to no-flow levels during the drought.

### Public vs. private: sanctions vs. voluntary conservation

## Water Supplies: A Tale of Two Systems

By RHETA BURTON

Contributing Editor

**T**his year, consumers dependent upon public water systems across North Carolina encountered strict government-imposed restrictions as one of the worst droughts in history hit the state.

Customers of privately operated water systems, on the other hand, fared far differently. Companies that operate the systems did not impose any mandatory water restrictions during the drought.

Forty-seven public water systems in 21 counties imposed mandatory water restrictions, while 43 water systems in 26 counties imposed voluntary conservation, according to the N.C. Department of Environment and Natural Resource.

More than 912,000 households in North Carolina are served by private water wells. North Carolina ranks third among all states in the number of homes using wells, the National Groundwater Association said.

About 250 regulated water-sewer businesses supply water to homes in the state, according to the state utilities commission. About 150 regulated water-sewer resale businesses supply water to apartment complexes.

State officials asked millions of consumers to conserve water in various ways: to water lawns on certain days, reduce the washing of vehicles, and to fix leaky pipes. Some consumers even bought rain barrels to catch rain and recycle it on their plants and gardens.

In June, Greensboro imposed Stage IIB Level II mandatory water restrictions in order to conserve water. The city banned the washing of vehicles (except in commercial washes) and the serving of water in restaurants unless water was requested by customers. The restrictions were still in place as late as mid-October. Fines of \$100 to \$1,000 were imposed on violators.

Raleigh also imposed strict restrictions and imposed similar fines. The city, however, did not increase its rates.

### **Crisis in Statesville**

The most strict water restrictions were imposed by Statesville. City Public Relations Manager Nancy Davis said that unlike most cities in North Carolina, Statesville was not interconnected with any other water resources. "When this drought hit, it dried up the lakes, and the South Yadkin River dropped to 'no-flow' levels," Davis said.

"We are trying to get our numbers down. So far, our goal is to have two million gallons of water pumped each

day," Davis said. "We even went so far as to tell our customers that they are subject to a surcharge of five times the normal rate on any water used over their allotment. That has seemed to work."

The city has been under a Stage III water restriction since August. But on Oct. 14, after recent downpours replenished some water supplies, city officials declared water holidays in which consumers could use irrigation systems, wash cars, and fill swimming pools and fountains.

Statesville officials are considering constructing a water line between the city and Salisbury so the cities could share water during an emergency.

### **Wells vs. surface supplies**

Jerry Weed, vice president of Heater Utilities, which provides water for about 50,000 homes in North Carolina, said the company didn't impose any mandatory water restrictions except in one or two cases. Heater, instead, asked its customers to conserve water voluntarily.

Weed also said Heater didn't raise its rates during the drought.

Unlike publicly owned systems that use surface water, groundwater, and reservoirs, privately managed systems use deep well water to serve their customers, Weed said.

All private water facilities are regulated by the state and must obtain permission from the State Utilities Commission before imposing any restrictions, Weed said. Public water systems do not have to go before the board.

Another company that operates a private water system, Alpha Utilities in Chapel Hill, also did not impose any mandatory restrictions. The company, instead, asked its customers to conserve water voluntarily. Company officials said they anticipate emergencies such as droughts and prepare for them ahead of time.

Most surface water, such as that in lakes and rivers, is considerably polluted and must be heavily treated at a plant before it's considered fit for human consumption, according to the NGA. And these public systems are constantly affected by short-term and long-term droughts.

Deep drilled wells, however, usually don't fluctuate during drought and provide a constant, steady supply of water. Deep-drilled wells also consistently recharge themselves, the NGA said.

Although heavy rains in mid-October refilled lakes in the state, some municipal officials said they weren't sure whether they could depend upon more rainfall. Many cities, such as Raleigh and Hillsborough, did lift some restrictions. Others, however, are waiting for more rain over a longer period of time. *CF*

## Budget Crisis? Cities Spend More

**P**erhaps it should be called just a budget discomfort. Despite Gov. Mike Easley's impoundment of local government reimbursements, and the ensuing local governments' cry that they could not live without the money, their actions speak contrary to their rhetoric.

A few examples should suffice.

In Raleigh the so-called crisis has not prohibited Mayor Charles Meeker and the new left-leaning city council from spending more money in the form of a \$248,000 tree program. According to local officials, Raleigh needs more trees planted along the city's roads.

"Trees are a key part of Raleigh's heritage and [they] are great assets to our city," Meeker said. To follow Meeker's logic, budget shortfall be damned, trees are more important.

To make matters worse, Meeker recently proposed that the city spend \$45 million for parks and greenways. And just in case you think he has no more public funds at his disposal, there is talk of building a new convention center.

A convention center is also on the mind of the left-leaning Wilmington Mayor Harper Peterson. Even though the city has had to resort to forced annexation of affluent neighborhoods to supplement its financial base, the city seems every more inclined to spend money faster than it receives it.

Probably the most arrogant and egregious example comes from the city of Charlotte. Despite the overwhelming opinion of Charlotteans rejecting a new stadium for the now-departed Hornets, the city council has reportedly decided to spend millions on a new arena for an NBA expansion franchise. City officials are trying to avoid voter hostility to the plan by arguing that much of the revenue will come from the hotel-motel tax.

However, a tax is still a tax and the residents of North Carolina will still be flipping for this latest example of corporate socialism. However, the revenue problem does not end there, as officials admit that there are outstanding questions as to where some revenue will come from. Are there any doubts, really?

Sports intoxication also visits Greensboro, where the Guilford County commissioners are trying to renovate a stadium for a Class AA minor league baseball team. The price tag for this taxpayer subsidy? Between \$12 million and \$16 million. However, that's not enough for some people who want to jettison the renovation idea and build the team a luxury playing field situated on prime real estate the county owns in downtown Greensboro.

These examples of free spending force us to wonder whether local governments are preparing themselves for the next fiscal storm.

No wonder that voters have developed a deep cynicism for politics. It's difficult to believe what any politician says when he argues that taxes must be raised for a budget shortfall while he simultaneously votes to institute new spending programs.

In the end, the actions of many of these local governments bolster Easley's argument (disregarding the legality of the governor's withholding) that North Carolina's localities have enough resources at their disposal to shoulder the state's burden.

It is fiscally irresponsible to undertake millions of dollars in new spending programs while cutting other budgeted programs during a so-called crisis.

Perhaps cities and counties have all the money they need. One thing is certain, however: No matter how the localities finance their new programs, taxes will not be as low as they otherwise could have been. It's the government's propensity to spend that got us into this mess in the first place. *CF*



Erik Root

## Local Innovation Bulletin Board

## Election Timing and Turnout

In 2001, a strong and diverse field of candidates ran for mayor of Los Angeles, and surveys indicated that the race was too close to call. Yet only about one-third of the city's registered voters cast ballots in the primary nominating election and runoff, raising concerns about declining civic participation and its potential consequences.

Researchers calculate that less than half of all registered California voters living in cities cast ballots in the most recent municipal elections. However, they also point out that overall turnout in city elections could be increased substantially by rescheduling more of them to coincide with state and national contests.

The data indicate the average turnout was 48 percent of registered voters for city council elections and 44 percent for mayoral races — averages that mask dramatic differences in voting rates across California's communities, where turnout ranged from a low of 10 percent to a high of 89 percent.

Research indicates that about half of the difference in turnout among California cities can be explained by election timing, because for more than 100 years, California cities have scheduled off-cycle or "local-only" elections, most of which occur in the spring.

However, local contests that coincided with presidential elections drew 36 percent more turnout than off-cycle elections. Similarly, local contests that ran concurrently with gubernatorial races and presidential primaries drew 26 percent and 21 percent more registered voters.

Researchers estimate that if all municipal elections in the state had coincided with a presidential election, 1.7 million more California voters would have voted in their most recent city council contest. This measure would enhance democracy in a diverse state with powerful city governments.

Researched by Zoltan Hajnal, Paul Lewis and Hugh Louch, "Municipal Elections in California: Turnout, Timing, and Competition," Research Brief No. 56, March 2002, Public Policy Institute of California.

## Texas population growth

Whether it is federal, state, or local taxes, people are working harder and longer just to pay their tax bill. For example, Texans' tax burden is 11 times larger today than in 1972, according to a new study.

While some legislators believe population growth requires higher taxes due to the cost of providing essential government services for new residents, the opposite is true, researchers say.

New residents who participate in the labor force at high levels tend to raise more revenue at the margin for governments than they cost in incremental spending — so population growth in low-tax states adds revenues that exceeds the cost of serving more people.

As population increases, the cost per person of providing government services decreases — put simply, the costs

are spread among more people.

The tax burden in low-population-growth states was 12 percent higher (per \$1,000 in personal income) than in high-growth states.

While increasing population does require new infrastructure — roads, schools, and utilities — the costs do not outweigh the added benefits those individuals bring to local and state economies, and therefore tax rolls.

Meanwhile, advocates of big government look for every opportunity to raise taxes and spending. If population increases, they say more is needed to pay for new services, and if population declines they want more to cover existing expenses, critics say.

But businesses and people want low taxes more than big government, and vote with their feet by moving to low-tax havens like Texas.

Researched by Richard Vedder, "Boom or Bust: Does a Growing Population Require More Government?" Taxing Texans: a Six Part Series Examining Taxes in the Lone Star State, Part 3, Texas Public Policy Foundation, April 2002

## Arizona public takings

Arizona was once known for its strong protection of private property rights. Before 1997, takings of private property for public use were strictly limited and each case was subject to extensive judiciary review. But a 1997 redevelopment statute greatly broadened the power of municipalities so that specific areas could be targeted for redevelopment.

The 1997 redevelopment statute made it easier for municipalities to take private property that has a "defective or inadequate street layout" or if it lacks in "diversity of ownership."

Targeted areas known as redevelopment zones are being taken by municipalities and handed over to other private entities. Under the 1997 statute the number of clearly abusive eminent domain cases has risen. These include:

- Several small businesses including a grocery store condemned by the city of Phoenix in 1998 are vacant and the city has yet to accept a proposal for redevelopment.

- Several businesses and dozens of homes in a 30-acre area targeted by the city of Mesa in 1998 for redevelopment sit empty because the developer is still seeking funding.

- The city of Phoenix condemned Hi Dreams head shop in 2001 to redevelop the property for a less-controversial business.

These abusive condemnation cases in Arizona may have an impact on private property owners across the nation, critics say. If they go unchallenged and precedents are set, the rights of all private property owners are threatened.

Researched by Jordan R. Rose, "Eminent Domain Abuse in Arizona: The Growing Threat to Private Property," Arizona Issue Analysis 174, Aug. 16, 2002, Goldwater Institute. *CR*

**Local elections that coincided with presidential elections drew 36 percent more turnout than off cycle elections.**

Raleigh's Kieran Shanahan,  
Lawyer and City Councilman

By ERIK ROOT

Associate Editor

RALEIGH

*CJ: Tell us about your background.*

**Kieran Shanahan:** I was born actually in Frederick, Maryland. I grew up in the Washington, D.C. area. I was one of nine children — six sisters and two brothers. My father worked for the Central Intelligence Agency, and my mother was a schoolteacher for 29 years. We moved to the Raleigh area in the mid-1970s.

I went to East Carolina for my undergraduate degree. I received a business degree from that institution. I then went to the University of North Carolina at Chapel Hill for law school.

I began my practice at a fairly large law firm in Atlanta. Two years later I went to the United States Attorney's Office and served as assistant United States attorney in the criminal division, where I prosecuted white-collar crime for about five years. The last three of those five years I was back here in Raleigh — I came back to Raleigh and have been here ever since, practicing law.

Growing up in the D.C. area I guess I have always had an interest in politics and law — it is just a hotbed for politics and law.

*CJ: So public service was a natural fit for you.*

**Shanahan:** I remember getting a call from former Raleigh Mayor Tom Fetzter. He thought it would be a good idea for me to run for city council. I took a look at it and concluded it was doable and I would not have to give up my day job [laughs]. That was about eight years ago now.

I certainly care very deeply about the City of Raleigh. I think we have a great city. There's lots of things going on in this town. There is a lot of volunteerism that goes on in this town. There is just lots of things to do here as well.

*CJ: Let's talk about the political climate in Raleigh.*

**Shanahan:** There have been a couple things going on over the last eight years. We have had a sea-change politically where we have had an influx of new people to the area, which has resulted in a political shift in general. This has resulted in a more conservative, or more-level playing field [electorally].

City council issues are driven more by developer, or development versus antidevelopment, issues. But at the same time, there a lot of the issues where the rubber meets the road in terms of fiscal responsibility and setting priorities. While on the city council my background as a prosecutor has proved beneficial, as I am chairman of the law and public safety committee.

Even though I am technically in the minority, I guess I was respected enough by my colleagues that they left me as chair of that committee, which was nice. So that is the one thing — knowledge about the public safety issues — I bring to the council other than my fiscally conservative approach to government. You cannot have economic development if people do not feel safe. It's just that simple.

We have had a large commitment to public safety issues — beefing up the police force and instituting take-home car pro-

grams, and creating special units to eradicate particular problems. So I would say that serving on the council is a way to give back to the community.

Both my parents were public servants in a way and it has been ingrained in me and my family.

*CJ: What are the most important issues?*

**Shanahan:** How to revitalize the downtown area has been a continuing discussion. Former Mayor Paul Coble and Russell Capps, I remember, fought against the convention center and now here we are full circle and the convention center is back to the forefront.

The difference is there seems to be an overwhelming — right now — pace at which they are moving forward with the concept. That pace is scary. There is a lot of economic uncertainty right now and to commit to a \$150 million to \$200 million project when nationally conventions

are down, when Raleigh is not a destination spot, and the location of the complex all suggest caution.

The other day the Wake County commissioners voted to spend \$170,000 for a study to tell us more why we should build it. So we are using taxpayer dollars to support their preconceived notions of why we should do this.

*CJ: It seems that while local governments decry the governor's withholding of local reimbursements they simultaneously take on new spending programs.*

**Shanahan:** That is a very good point. We spent one or two million or so dollars for a two-acre tract of land that is supposed to be for a park because special-interest groups hold sway downtown. The flip side is that Raleigh has, the City of Raleigh is, I think, relatively austere in terms of the way it has budgeted itself especially in the handling of exponential growth.

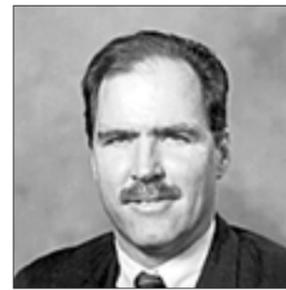
What is happening now is, you see, a shift and they are looking for additional revenues. In my mind, we need to emphasize prioritized spending as opposed to rampant runaway spending. Once you get away from prioritizing, you become concerned with the secondary things.

It is better, for example, for the private sector to take care of the nonprofit stuff because when an individual donates a dollar to a nonprofit, he gets a tax deduction for it. It is an inefficient use of resources to tax somebody and then direct that money to a nonprofit.

I think that, in addition to the convention center, is whether we will choke off our economic engine by killing development. Development is not a bad thing.

What is happening is we are beating back some projects to the point where they are not economically viable. If you are against urban sprawl you've got to support intense development somewhere. And if you are in favor of mass transit you can't have one home per acre. Those who say they support mass transit are the same who oppose most development.

The Oberlin project is a great example. Our staff said that the Oberlin project was not dense enough. You need something like what we have in D.C. The Metro line there, at every stop, has intense development around it. You have to have that kind of density to convince folks to give up their cars. *CJ*



Kieran Shanahan

*From Cherokee to Currituck*

## Wal-Mart Battles Union County Over Special-Use Permit for Store

By MICHAEL LOWREY  
Associate Editor

CHARLOTTE

Wal-Mart's zoning dispute with Union County continues. The mass marketer announced last year that it wants to build a 206,000-square-foot store in the western part of Union County.

Some local residents, however, oppose the planned store. In January in response to Wal-Mart's decision, the Union County Commission approved new regulations requiring that any future store over 50,000 square-feet obtain a special-use permit, setting the stage for the dispute.

Wal-Mart contends that the new rule does not apply to its proposed store and has sued to force the county planning board to hold a hearing on its request for a major development permit. The board would be obligated to issue the permit as long as Wal-Mart meets all zoning requirements.

Union County, in contrast, argues that Wal-Mart must obtain a special-use permit for the proposed store. Special-use permits are issued by the county's Board of Adjustments. The board can reject an application if it finds the store would reduce nearby property values, pose a health or safety threat, be out of harmony with the area, or conflict with the county's planning for the area. The board can also require changes in a project as a condition for obtaining a special-use permit.

It is unclear when the case will go to trial.

**Charlotte trash service**

The City of Charlotte has decided to again contract out part of its trash collection service. Inland Services, Inc, an Oklahoma-based firm, won a five-year, \$17.1 million contract to collect trash and recyclable material from 34,000 household on the city's west side. Inland Services' bid was \$2.3 million less than that submitted by the city's own Solid Waste Services Department.

The contract with Inland Services comes only two years after Charlotte ended its relationship with Browning-Ferris Industries. In 1995, BFI won a five-year contract to serve 33,000 homes in south Charlotte. BFI's bid may have been too low; in any case, the company at times had trouble getting trash collected in a timely manner.

The city has learned from its mistake; the contract with Inland Services includes stronger penalty provisions. The company, for example, will pay \$200 for each rollout container that it misses.

"This forces the city to act like a business," said Clark Jackson, head of the city's Privatization and Competition Advisory Council to *The Charlotte Observer*. "If the city is running efficiently — because they don't have a profit motive — they should win the bid."

**Iredell incentives failure**

In 1998, in an attempt to lure a company back to Mooresville, Iredell County offered a company \$100,000 in incentives over five

years. Three years and \$56,918 later the plant has again been shut down. The incentives were granted to Aeroquip to reopen the factory, which it did after closing several facilities in Michigan. Last month, the plant closed again, idling 300 workers.

"I don't think we can take any action retroactively," said Iredell County Commissioner Steve Johnson to the *Statesville Record & Landmark*. "But in the future we need to be more careful who we give these things to."

**Cary campaign lawsuit**

The N.C. Court of Appeals has ruled against the Town of Cary in a lawsuit about the municipality's attempts to influence the outcome of elections. In 2001, Nelson Dollar ran for an at-large seat on the town's council on a progrowth agenda. Running against him were several candidates who favored "smart growth" or "managed growth" approaches — both terms for attempts to limit the town's growth. Growth was by all accounts a key issue in the campaign.

On March 8 and again on June 28, 2001, the town council decided to spend \$200,000 on an advertising campaign to "better inform citizens about growth management issues" through a series of direct mailings and media buys that would run from Sept. 6, 2001 through Nov. 19, 2001.

Dollar sued, seeking a declaratory judgment to prevent the ads from appearing and a temporary restraining order until the

issue could come to trial.

On Sept. 6, 2001, Superior Court Judge Donald W. Stephens agreed with Dollars and issued a preliminary injunction prohibiting the ads from appearing until after the election. The judge found that "it is more likely than not that a... jury would find that a primary purpose of this [campaign] is to influence [the town's] voters in favor of 'slow growth' or 'managed growth' candidates in the [2001 council] election."

On appeal, Greene, writing for a three-judge panel of the Court of Appeals, noted that the key issue was whether the advertising would be informational or promotional. The appeals court decided that Stephens' factual determinations were reasonable and that the preliminary injunction was appropriate.

**Kinston retail sales**

With a generally down economy, the latest retail sales figures from the N.C. Department of Revenue came as a shock to Kinston and Lenoir County officials. Retail sales in the county were up by 7 percent last fiscal year, climbing to \$840 million from \$779 million the year previous. Even after adjusting for inflation, the jump was still over 5 percent. "That's pretty high, unless you can point to a new, big establishment coming in," said UNC-Chapel Hill economics professor Patrick Conway to *The Kinston Free Press*. In neighboring counties, including Pitt, Craven, and Wayne, sales decreased. *CL*

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## From the Liberty Library

• Best-selling author and award-winning White House correspondent Bill Sammon has written a new book, *Fighting Back: The War on Terrorism—From Inside the Bush White House*. The *Washington Times* reporter uses his unparalleled access, including interviews with President Bush, to provide an insider's account of the White House from September 11th and beyond. *Fighting Back* explains how Bush faced media bias, political doubters, and a treacherous enemy as he led the country in the war on terrorism. Further details on the Internet at [www.regnery.com](http://www.regnery.com).

• If the Second Amendment collapses, so does the entire Bill of Rights. And make no mistake, there are powerful, organized political forces that want to take away gun rights and shove the Second Amendment into the ashcan of history. That's the message from Wayne LaPierre, executive vice president and chief executive officer of the National Rifle Association, and James Jay Baker, former executive director of the NRA's Institute for Legislative Action. In their new book *Shooting Straight: Telling the Truth About Guns in America*, LaPierre and Baker break down the agenda of the antigun lobby point by point, exposing its deceit and hypocrisy, and provide a strategy for defeating the enemies of gun rights. Also published by Regnery.

• Los Angeles radio talk show host Larry Elder is the author of *Showdown: Confronting Bias, Lies, and the Special Interests That Divide America*. *Showdown* demonstrates how the nation would be better, stronger, and safer with less government intervention and how individuals would not only cope but thrive without the so-called social safety net. Elder discusses in the book: What a Republican-led government means for progress; where a responsible government would put its citizens' tax dollars; and why racial and sex discrimination are nonissues in the 21st century. See [www.stmartins.com](http://www.stmartins.com) for more information.

• In *The War Against the Terror Masters: Why It Happened, Where We Are Now, How We'll Win*, the American Enterprise Institute's Michael Ledeen explains in detail why the United States was so unprepared for the September 11th catastrophe; the nature of the terror network we are fighting — including its state sponsors; the role of radical Islam; the enemy collaboration of some of our traditional Middle Eastern "allies;" and what America must do to win the war. An examination of the rise of the international terror networks, and the past and current efforts of our intelligence services to destroy the terror masters in the United States and overseas, Ledeen's book also visits countries in the Near East and describes the terrorist cancer cells in each. Revelations include: how the terror network survived the loss of its main sponsor, the Soviet Union; how the FBI learned from a KGB defector — 20 years before Osama bin Laden's assault on September 11th — of the existence of Arab terrorist sleeper networks inside the United States; and more. More information at [www.aei.org](http://www.aei.org). CJ

## Book Review

## Question of Intent Huffs and Puffs, Avoids Answers

• David Kessler: *A Question Of Intent*, Public Affairs Publishing, 2001, 492 pp, \$27.50

By SAM KAZMAN  
Guest Contributor

WASHINGTON  
**H**ow should we regard the tobacco industry? Specifically, how should we view its actions before the late 1990s, when a combination of regulatory and litigation onslaughts changed its very nature? Before that time, was the industry engaged in dishonestly hooking the public on a product that it knew to be deadly, or was it legitimately catering to human desires?

## Too many open questions

My own view is that, once the federal government mandated cigarette warning labels in 1965, people had adequate notice of the risks of smoking. They had adequate notice even though the industry continued to argue that there was no proven link between smoking and disease, and even though tobacco ads were full of healthy, vibrant people. Perhaps there was a time before 1965 when the industry was culpable for not disclosing what it knew about the risks, but once those warnings appeared that time was over.

But even this view leaves many open questions. I didn't expect to have them all resolved by David Kessler's book, but I was surprised at how few answers it actually provides.

*A Question of Intent* is Kessler's detailed account of the campaign he waged to regulate tobacco as head of the U.S. Food and Drug Administration. It begins with his appointment as commissioner in 1990, and ends a decade later, when the Supreme Court ruled that the Food and Drug Administration does not have the power to regulate tobacco as a medical drug or device.

Much of the book deals with the routine business of the FDA: orange-juice seizures, a fight to restrict the sale of body tissues from foreign sources, how he responded to complaints that syringes were found in Pepsi cans, and so on. But the driving force behind Kessler's narrative is how he slowly woke up to the possibility of regulating cigarettes.

## Smoking and the FDA

The FDA had considered and rejected regulating tobacco before 1990, but it was Kessler who came up with the innovative characterization of smoking as a pediatric disease. His book focuses on his hunt for proof of nicotine "spiking" — that is, that the industry chemically manipulated tobacco to raise either the amount or the impact of nicotine; the result, supposedly,

would be a more-addictive cigarette. If nicotine spiking occurred, this would be further evidence that cigarettes were a pharmacological product subject to FDA control.

But is nicotine spiking bad? The answer is far from clear. Higher nicotine, after all, means that a smoker can get the nicotine he craves with less tar, and tar is the real medical poison in cigarettes.

In fact, there was a time when some health researchers expressly advocated nicotine spiking as a means of reducing the risks of smoking. And if Kessler had produced evidence not of nicotine spiking, but of nicotine lowering, one could well imagine government charges that this was a ploy to

increase cigarette sales to smokers who were less satisfied by each puff. Kessler, unfortunately, ducks this issue.

The book occasionally reads like a good detective novel, but too often it stumbles into details, most of them involving Kessler. There is hardly a page that doesn't contain the words "I" or "me", and Kessler constantly reminds us of his devotion and diligence.

Despite this, we get a surprisingly opaque picture of Kessler himself. Consider his description of his child-

hood ambitions: "Early on, I knew that I wanted to work in Washington. I also knew that I would become a doctor." Now the desire to be both a politician and a physician is a somewhat unnatural combination of youthful career plans, and it begs for a bit of explanation. Kessler provides none.

## Contradictions plague Kessler

While industry-bashing is to be expected in such a book, Kessler sometimes contradicts his own jibes. He repeatedly criticizes tobacco companies for portraying the FDA's proposal as a prelude to total prohibition: "a smart move, one based on consistent findings that the word 'prohibi-

tion' had consistently negative connotations." But as Kessler later admits, the industry was not the only one to predict prohibition; many FDA staffers, including Kessler himself at times, believed that regulation would inevitably lead to a ban.

Kessler does offer, perhaps unintentionally, some arguments for deregulation. He notes that the FDA, in its focus on preventing the approval of unsafe drugs, tended to ignore the risks of delaying needed drugs: "Speeding access to urgently needed products was not nearly so deeply ingrained in our culture... Many drug reviewers had become accustomed to working at an academic tempo, largely devoid of deadline pressure." Nonetheless, Kessler doesn't waver in defending FDA's power.

Similarly, he notes how the very possibility of FDA regulation may have restricted tobacco industry research decades ago. Executives feared that their pharmacology studies might lead not only to a better, safer cigarette, but also to FDA jurisdiction. So on the advice of industry lawyers, the research was carried on clandestinely. As Kessler's book demonstrates, the lawyers were right — the FDA seized on those studies to build its case.

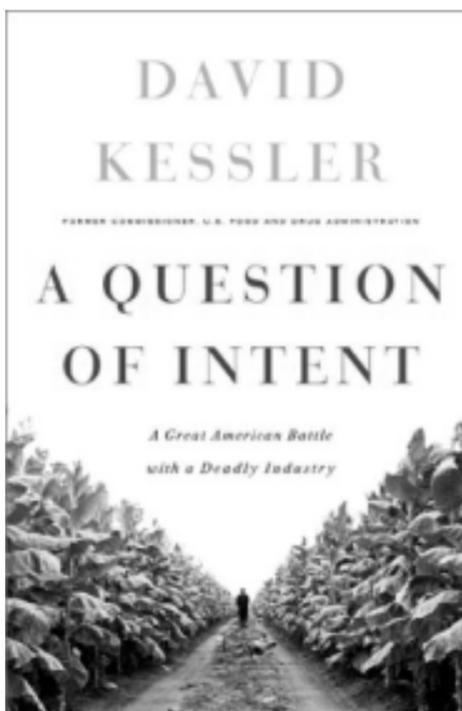
## Book ignores human need

But the real problem with this book is not Kessler's proregulatory ideology, but his refusal to even consider whether cigarettes might not satisfy some legitimate human need. His only explanation of how tobacco executives live with themselves is that they "compartmentalize" their jobs. His only explanation of the Supreme Court's ruling is that it "followed ideological lines".

This inability to comprehend other points of view is maddening. How would he respond to Cornell Professor Richard Klein's view, in his book *Cigarettes Are Sublime* (1993), that "cigarettes, though harmful to health, are a great and beautiful civilizing tool, and one of America's proudest contributions to the world"?

And if you asked Kessler whether it was remotely possible that the industry, through all its playing around with nicotine, had been trying to produce not a more addictive cigarette, but only a better smoke, he might well have been dumbfounded. CJ

Sam Kazman is with the Competitive Enterprise Institute.



## Book Review

## Adventures of Jonathan Gullible: Rough Seas for Government Lovers

• Ken Schoolland: *The Adventures of Jonathan Gullible: A Free-Market Odyssey*, Small Business Hawaii, 2001, 118pp. \$19.95

By **GEORGE C. LEEF**

Contributing Editor

Sometimes you can do more damage to a bad idea with humor and satire than with a great scholarly treatise. That's the working premise of Ken Schoolland's *The Adventures of Jonathan Gullible*. This book is a wonderful takeoff on Jonathan Swift's political satire *Gulliver's Travels* and it romps all over the big, dumb ideas of socialism, egalitarianism, and democracy. Written in 1981, the book is now in its fourth printing and has been translated into 21 languages. It's wickedly good fun with a serious purpose.

## Jonathan Gullible

The plot is simple. A young man, Jonathan Gullible, is caught up in a great storm one day while out sailing his small boat, and washes up on the shore of a strange and suggestively named island of Corrupto. There he encounters people who have mostly succumbed to advanced stages of governmentitis; that is to say, they embrace the same authoritarian notions that becloud the minds of most Americans today. That suits the rulers and moochers (to use Ayn Rand's apt term) who benefit from the ignorance and foolishness of the mass of the people. In one episode after another, Schoolland lampoons idiotic ideas and demented laws that the reader will easily recognize as having counterparts on the American political scene.

One of the first lessons Jonathan learns, for example, concerns the superficially attractive idea of collective ownership. He comes upon a man who has just caught a small fish in a lake. The fisherman laments that the lake is not nearly as productive as it once was because people dump

trash in it and overfish it. He explains to Jonathan, "This isn't my lake. It belongs to everyone — just like the forests and streams."

"These fish belong to everyone..." Jonathan paused, "including me?" He began to feel a little less guilty about sharing a meal that he had no part in making.

"Not exactly," the man replied. "What belongs to everyone really belongs to no one — that is until a fish bites my hook. Then it's mine."

"I don't get it," said Jonathan, frowning in confusion. Half speaking to himself, he repeated, "The fish belong to everyone, which means that they really belong to no one, until one bites your hook. Then the fish is yours?" But do you do anything to take care of the fish or to help them grow?"

"Of course not," the man said with a snort of derision. "Why should I care for the fish just so someone else can come over here at any time and catch 'em. If someone else gets the fish or pollutes the lake with garbage, then there goes all my effort!"

And now Jonathan is on his way to understanding the tragedy of the commons and the folly of collective ownership.

## Lady Bess Tweed

In another chapter, entitled "Power Sale," Jonathan encounters his first politician, Lady Bess Tweed (Schoolland's names are always good for a chuckle), who asks Jonathan to vote for her and to make a campaign contribution. She promises to pay him well.

"Pay me for a contribution and a vote?" asked Jonathan with a puzzled look.

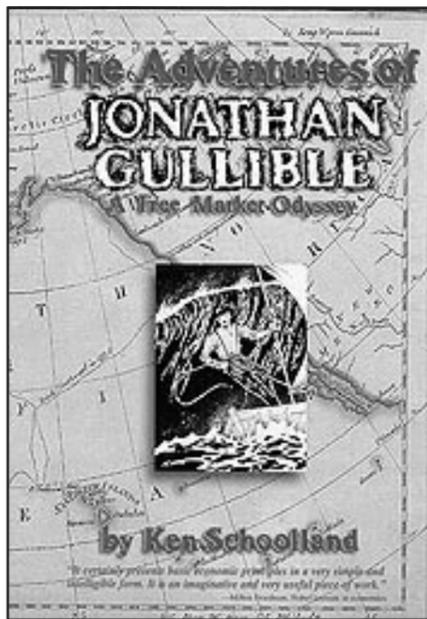
"Of course, I can't give you cash — that would be illegal, a bribe — say no more, say no more!" said Lady Tweed winking slyly at him and poking him in the ribs with her elbow.

"But I can give you something just as good as cash and worth many times the amount of your contribution to me. It's as easy as priming a pump. A few bills in my palm right now and you can expect a gusher of goodies later. That's what I'll do and how about that?" she said.

Lady Tweed explains, of course, that in office, she could arrange loans or licenses or subsidies or tax breaks for Jonathan or ruin his competitors with regulations and fees and inspections, or arrange for new government projects to be built so as to benefit him. Befuddled, Jonathan wonders how she can be so generous. Lady Tweed explains that it's easy for a politician to be generous — with money taken from taxpayers.

Occupational licensing takes a direct hit ("Lords approve death penalty for outlaw barbers!" reads a newspaper headline), as do victimless crime laws, rent control, eminent domain, sin taxes, the governmental postal monopoly, welfare programs, and just about every other piece in the mosaic of needless government.

Schoolland's writing is reminiscent of the biting sarcasm of H. L. Mencken. You'll have fun reading it, but perhaps much more fun in giving copies to statist-minded friends or relatives. It will no doubt lead to a lot of juicy arguments. *CL*



## Book Review

## Preference Pollution: a Wildly Distorted View of the Marketplace

• David George: *Preference Pollution: How Markets Create the Desires We Dislike*, University of Michigan Press, 2001, 184pp., \$49.50

By **GARY M. GALLES**

Guest Contributor

David George, professor of economics at LaSalle University, wishes to tar markets for what he sees as adverse social trends. To put the blame where he wants, he begins by asserting a "retreat in governmental efforts to alter market outcomes." The truth, however, is that far from markets squeezing out government control, they are increasingly distorted or displaced by government intervention. Despite all the talk about scaling back government regulation and redistribution, there has been very little of it, while new laws, regulations, and taxes are added continuously.

## Few supporting references

George's over-reaching for his premise is clear from his meager supporting references. One is from a book about what politicians say, which ignores the gulf between what they say and what they do. Another cites Clinton's 1998 Economic Report of the President stating that he was "committed to reducing the burden of government regulation" as further proof. He even credits libertarians' "strong influence on traditional conservatives and traditional liberals alike" for rapidly growing reliance on markets — surely a surprise to libertarians.

The core of the book, a twist on the long-since refuted argument in John Kenneth Galbraith's 1958 *The Affluent Society*, is no more compelling.

Galbraith claimed that marketing created artificial consumer wants (termed the "dependence effect"), so that the market system should not be given credit for its superiority in satisfying those "frivolous" wants.

However, that argument was decimated by Hayek's 1961 article "The Non-Sequitur of the 'Dependence' Effect" (which George cites only once). Hayek pointed out that all human desires beyond the most primitive are culturally influenced. Galbraith's argument implied that people's tastes for art, music, and literature would not merit satisfying either, being similarly influenced. Hayek pointed to the advantages of private sector advertisers competing for consumer patronage, versus the alternative — government coercion.

George's book attempts to rescue Galbraith's antimarket attack from Hayek's demolition. In particular, he tries to resurrect the claim that the preferences that marketing creates are objectionable, so that markets produce socially inefficient results. He does this by using what he calls "higher-order" preferences, which he claims markets give insufficient attention to, resulting in market failure.

Higher-order preferences are preferences about your preferences. For example, while your preference now may be a hot dog rather than something healthier, you wish you preferred the healthier food. But that means marketing efforts that increase the value you place on hot dogs (an "unpreferred preference"), which you respond to by buying more, imposes a cost on you by moving you away from the preferences you wish you had. Further, George asserts, that cost will not be reflected in market choices, because sellers need not compensate consumers for any such change in preferences. As a result, he morphs Galbraith's criticism of markets for "frivolous" taste creation into a criticism of markets

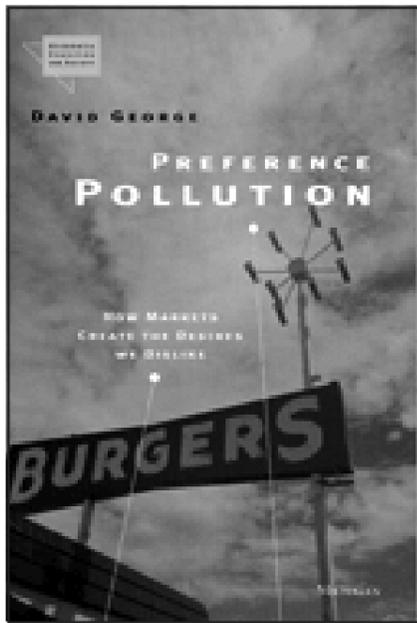
for paying insufficient attention to our supposed desires to change our preferences. There are many holes in George's argument. Even if people have preferences about their preferences, that would not cause a market failure. Buyers would include the value of any movement away from their preferred preferences as one of the costs in making a choice, and any movement toward them as one of the benefits. Therefore, it would be reflected in their market choices.

## Changing of tastes

George also recognizes the rapid growth of markets explicitly devoted to taste changing (e.g., diet centers). But rather than recognizing that it severely undercuts his argument, he claims it just proves the existence of "market failure in preference production in the economy at large." In other words, that some specialize in changing tastes proves a market failure in changing tastes. One would expect an economist to be less willfully blind to the logic of specialization according to comparative advantage.

After all this, George puts forward no specific solutions to the market failure he imagines. He says that "collective action is the only possible solution," but if he were to spell out the details of any imagined government "solution," the problems and contradictions would be so obvious that no one would "buy" what he has to say.

While George's book is hard to take seriously, his argument could be recast as an endorsement of markets over government action. Let's say that people would generally prefer to be more ethical. They wish they didn't want to steal. Market systems, by preventing theft, move people closer to that ideal. But government makes stealing so tempting, it attracts people into theft via politics, moving them away from how they wish to be. Would George conclude that we need to whittle the state back to the libertarian ideal so that it doesn't interfere with our "higher order preferences?" *CL*



Gary M. Galles is professor of economics at Pepperdine University.

## Wanted: Leaders With a Conscience

By **RICHARD WAGNER**  
Editor

RALEIGH

In August, Democrat Rep. David Redwine, chairman of the House Appropriations Committee, referred to a "little man on his shoulder," his conscience, who wouldn't allow him to vote for a state budget that cut services for the aged and sick.

A few months later — after the smoke began to clear from two of the most chaotic and free-spending legislative sessions ever — some of us among the ranks of government watchdogs are wondering where Redwine's and other legislative leaders' consciences were hiding the rest of the time.

I'm not doubting Redwine's sincerity. I commend him for standing up for his avowed principles. But many observers of the political scene in Raleigh agree that they can't remember a time when back-door wheeling and dealing, downright meanness, and corruption so saturated state government.



Richard Wagner

Let's start with the state budget, the most important responsibility the people entrust to their elected representatives. Facing a financial emergency created by a \$1.3 billion deficit engineered during the 2001 session of the General Assembly, Gov. Mike Easley stole \$543 million from county and city governments that they were supposed to have received in sales-tax reimbursements. Later, the legislature approved a budget that, incredibly, increased actual spending by \$600 million, though it did fall short of what had been originally authorized.

In an attempt to balance the budget on the backs of taxpayers, legislators last year raised the sales tax by half a cent and hiked other taxes on income and consumer spending to bring in about \$700 million. Adding insult to injury this year, legislators increased the burden by approving a half-cent increase in the sales tax for localities. Still, legislators sent an unconstitutional budget to Easley that was \$100 million out of balance. Next year, the bloodletting will continue when the deficit is expected to again hit \$1 billion.

Like pirates pillaging a town and raping its inhabitants, the scoundrels again gouged taxpayers by granting at least \$300 million in giveaways to corporations that move to the state. Euphemistically named the Economic Stimulus and Job Creation Act, the so-called incentives legislation sets the table for inestimable pork-barrel spending and corruption.

Saving the worst for last, legislative leaders continued to conduct a shameful shadow session that Democrats evidently hoped might enable them to retain power should they lose it in the November election. Since the spring this little-known shadow session — created for redistricting — has run concurrently with the short session, which adjourned in early October.

The shadow session works this way:

Every few days a handful of Wake County legislators trudge over to the nearly empty Legislative Building to meet for only a few minutes. Since May, the routine for the session has not varied. Legislation is neither introduced nor debated. The session is called to order, the chaplain reads a prayer, and the session adjourns for another few days.

Although leaders of the Democrat-controlled legislature won't divulge their motives, it's apparent they're hedging their bets should their party lose in the November election. Obviously it would be safer for them to allow a lame-duck Democrat legislature to redraw districts this year than to let a possibly Republican-controlled body do it next year.

And so the betrayal of the public's trust continues *ad nauseam* in North Carolina. Who among North Carolina's leaders has a conscience when we need it most?

CF

### Editorials

## LIGHTHEADED LEFT

*Liberals search for an excuse to avert war*

**N**aiveté is nothing new when it comes to our friends of the liberal persuasion. In traditionally conservative North Carolina, the guardians of gullibility are warming up their voices for an operatic campaign against the war on terrorism.

History is littered with the corpses — both those of their own ilk and more tragically, those of innocent victims — who suffered the consequences of appeasers' irresponsible dalliances.

British Prime Minister Neville Chamberlain, who foolishly tried to appease Adolf Hitler before the onslaught of World War II, stands as one of history's more infamous monuments to left-wing paralysis during crises. During the Vietnam War the Left succeeded in drumming up so much anti-American fervor that an insecure nation conducted a half-hearted war effort and lost the cause. Their efforts didn't go unnoticed by communist leaders in Hanoi, who said after the war that

dissension in the United States proved to be North Vietnam's most effective weapon. The lives of 58,167 American servicemen were sacrificed in the process.

Today's leftists are singing the same old songs of American self-doubt and appeasement of tyrants. Their loudest reprise came last month when Congress voted on a resolution to allow President Bush a free hand to force Iraq's compliance with U.N. sanctions. Three members of North Carolina's congressional delegation, all of them Democrats, fell to their knees when the time came to stand up and be counted. They were David Price of Chapel Hill, Mel Watt of Charlotte, and Eva Clayton of Littleton.

The Doubting Democrats trotted out threadbare excuses in a pitiful attempt to explain their reluctance to join nine of North Carolina's congressional delegation, including other Democrats, who voted for the resolution.

"Our job is to provide a responsible and rational guide to policy should compliance and enforcement fail," Price was reported as saying in *The News & Observer* of Raleigh. "The open-ended resolution requested by the president would represent an abdication of that responsibility."

Price obviously sets his standards for compliance and enforcement surprisingly low. In 1991, Price also voted against the Gulf War resolution after Iraq invaded Kuwait — earning him the distinction of being the only member of North Carolina's House delegation who voted against the resolution at the time.

Watt said that since there was no imminent threat to the United States, there was no need to grant wartime authority to Bush.

Clayton unfurled liberalism's banner to its fullest. "A unilateral, first-strike action would undermine the moral

authority of the United States, result in untold loss of life, destabilize the Mideast and undermine our ability to address pressing domestic needs," she said.

Apparently, to Clayton the horrific attacks of September 11 don't count as a first-strike action against the United States; Iraq doesn't aid and abet terrorists; Saddam Hussein and his arsenal of chemical, biological, and possibly nuclear weapons don't pose a threat to the lives of millions of people; the Mideast has always been a modicum of stability; and 'domestic needs' trump all matters of national security.

*The News & Observer* itself couches its tiresome leftist agenda in squishy editorials that offer as much substance as a leaf of iceberg lettuce. In an editorial Oct. 11, the *N&O* advised Bush that he should heed the "hesitations" of critics of his "cowboy" diplomacy. The newspaper supported a "sensible" proposal sponsored by Rep. John Spratt, D-S.C., that would have required Bush to return to Congress for authority to use force if the United Nations failed

to cooperate. Spratt said he feared that if the United States acted alone, "this will be the United States versus Iraq and in some quarters the U.S. versus the Arab and the Muslim world." In other words, cool your heels, Mr. President, until we run out of hoops for you to jump through.

Cowboy Bush shouldn't consider war his only option, the *N&O* opined. No, no. The president should, at the least, give Hussein an opportunity to fulfill his promises to allow unfettered weapons

inspections, "until it's clear that Hussein is simply not going to cooperate." Tra-la-la, Saddam really hasn't ignored U.N. sanctions for more than a decade, has he?

The United States has every right to defend its security, the *N&O* proclaims in its illuminating wisdom, but Bush should "consider whether such action would be prudent in terms of maintaining global peace, beyond the defeat of one enemy at one outpost." Bush should continue to try to enlist the support of other nations, the *N&O* said. Then the newspaper's editorialist unleashed a remarkably heavy barrage of logic: "Let us hope any military battle does not begin until he has considered fully to what degree he should use it — or not." Such profundity speaks for itself.

Steve Ford, the *N&O's* editorial page editor, followed his newspaper's editorial with a column Oct. 13. Ford painted a bogeyman scenario in which a desperate Hussein could exact woeful revenge on the United States if we tried to step on him, like the rattlesnake he is. Then Ford cited the three Doubting Democrats' votes and praised Price, especially, for making a good case against the resolution. Although they try hard to disguise it, these left-wing bedfellows cling to the belief that it's safer to appease tyrants than to squash them. Their mottoes? Discomfort and hard decisions are to be avoided at all costs. Never allow the shockwaves of the real world to rock your cocoon, be it spun so snugly with the strands of statism.

All of this apparent rumination by the Left is merely rationalization veiled by smoke. Ask about their true intentions and they will answer that all they are saying is, give peace a chance. And a chance. And a chance.

The U.S. did give peace a chance — before terrorists, cheered on and possibly supported by Saddam, crushed it on September 11<sup>th</sup>.

CF

# A FINAL INSULT

*Incentive bill invites political corruption*

The North Carolina General Assembly wrapped up its 2002 session with a final insult to taxpaying families and small businesses. After two years of fiscal mismanagement and tax increases totaling more than \$1 billion in annual fiscal impact, our legislature spent its last day in Raleigh setting up a new pile of taxpayer money to be doled out to a few selected corporations for "economic development."

That's right, they raised your taxes and then decided to use some of the proceeds for corporate socialism — corporate welfare seems too kind a term — that will discriminate against existing businesses, skew the distribution of taxes and services among industry sectors, and serve as an invitation to the kind of political and financial corruption North Carolina has traditionally avoided.

Under the new policy, corporations looking for hand-outs will naturally think that the way to get to the top of the list for consideration is to provide financial support for the governor and other top politicians. The panel, for its part, will be privy to lots of private information about corporate relocations.

It isn't hard to imagine the possibilities for misbehavior, even of an inadvertent variety. With all the news about Wall Street shenanigans, didn't anyone think to examine the perverse incentives created in the legislation? It's appalling that so many members in both parties were so exhausted, or so deluded, that they failed to think this policy through.

## **An unwelcome message**

They should at least have considered the political message they were sending.

The General Assembly enacts four budgets in a row with large and growing holes in them. Two years in a row (and probably three given the likely 2003 shortfall), lawmakers raise taxes on North Carolina families. The state also withholds hundreds of millions of dollars in tax revenues legally due to local governments, forcing another round of property tax hikes.

And after all this, lawmakers decide that a few big corporations deserve tens of millions of dollars in hand-outs? Do they have any idea how infuriating this will be to the average voter?

Yes, there are lobbyists who argue that corporate socialism — we will continue to insist on the correct term for this — is the only way for North Carolina to compete for the industries and jobs of tomorrow.

This is pure bunk. No society builds a successful economy through political intrigue, insider dealing, and having government bureaucrats try to pick the winners and losers in a constantly changing marketplace. The best incentive North Carolina can offer to new or existing businesses is to reform our anti-growth income tax, keep marginal tax rates as low as possible, and improve core public services so that property and contracts are respected, workers adequately educated, and goods are able to travel quickly and easily over well-maintained roads.

Don't take our word for it. Look at the evidence. The available research on what makes state economies grow suggests that targeted tax incentives play a limited role, at best. Economic studies for the John Locke Foundation, the American Legislative Exchange Council, Clemson University, and other institutions have confirmed the importance of such factors as tax rates and regulations. But intrusive state "industrial policies" have more negative and positive affects.

## **Some humility, please**

Talking to some lawmakers and legislative candidates, CAROLINA JOURNAL gets the feeling that they believe without their personal leadership and involvement, there will be no new industries in North Carolina to replace traditional ones in decline. These politicians need equal doses of economic education and modesty. Past legislators didn't "create" the textile, apparel, tobacco, and furniture industries. Private initiative did. It can do so again in the 21st century if left unfettered by unwise and counterproductive taxes and regulations.

Some are speculating that Democratic leaders, worried about new districts and an anti-tax backlash in the coming fall elections, wanted to act this year on incentives because they were worried that they might not be in power next year to do it. OK, so this theory is plausible if a bit nauseat-

ing, but how does it explain the many Republican votes for the measure? Our view is that many lawmakers were told that this was a "pro-business" vote and felt they had no choice but to go along with it.

That's not legislation. It's emasculation.

We predict that legislators across the political spectrum will look back on this vote and shudder. They will wonder why so many gave so much to so few with so little serious thought. They will regret it. But it will be too late.

Creating new subsidies and tax breaks for selected corporations, having just stiffed taxpayers and localities by hundreds of millions of dollars for the second year in a row, was a policy without either an economic or a political justification. It was the final insult in a year of outrages.

# NEEDED: DIVERSITY

*Stop counting heads & see what's in them*

It's important not to let a perfectly good word be hijacked by those who aren't willing to use it meaningfully. A good example is the word "diversity." In an academic context, it should refer to a condition in which varied and conflicting opinions, experiences, and perspectives are made available to students or to the larger community.

All too often, diversity has simply come to refer to the number of races represented, the balance between male and female, etc. Rarely do academic leaders seem interested in the manifest lack of intellectual diversity in their midst — distracted, as they are, by counting and categorizing heads. What should matter far more than the color or amount of hair on those heads is what is contained within them.

We've written in the past about the overwhelmingly liberal and Democratic nature of university faculty. Of course, even these labels may miss diversity in expressed opinion.

Take the proposed war in Iraq. While many Democrats and liberals are staking out a skeptical or even openly antagonistic position to that of the Bush administration, others have concluded that intervention against Saddam Hussein is warranted. You can find quite a few supporters of the war among Democratic lawmakers (Sen. John Edwards of North Carolina may turn out to be one; wannabe senator Erskine Bowles already is, of a sort). You can find them among liberal journalists and academics.

But apparently not among UNC "experts." That was the message sent by a recent panel discussion on the war held at UNC-Chapel Hill. Actually, two days earlier, on Sept. 23, a collection of the usual leftist suspects held a "teach-in" on the campus to heap opprobrium on Bush's war plans, but as the speakers were kooks it seems hardly worth examining their lunatic ravings about CIA conspiracies, oil-man conspiracies, and the like.

Furthermore, there is nothing inherently dubious about events organized by independent, non-governmental institutions, even when those events are on campus. Students, faculty, and others are usually free to organize after-hours events on UNC campuses that represent whatever points of view they may wish to propagate. It is true that left-of-center groups get more favorable treatment in setting these up and promoting them, and of course quite a few are coercively funded via mandatory student fees. But a university is supposed to be a forum for free speech and debate, so the occasional "teach-in" by the lunatic fringe is more properly the subject of ridicule than principled objection.

## **An official lack of diversity**

The event we initially referred, however, to wasn't just held on campus. It was co-hosted by two official arms of our state university: the UNC General Alumni Association and the Curriculum on Peace, War, and Defense. It featured eight professors discussing the potential war.

So, did this *officially sanctioned* event fairly present alternative views on the issue? Here's how the "moderator" of the event, history professor Richard Kohn, characterized the outcome to the *Daily Tar Heel*: "The panelists had varying perspectives and disciplines. Overall, they expressed deep skepticism of whether it is in the national interest of the United States to engage in a pre-emptive war against Iraq without congressional and [United Nations] sanction."

Perhaps, it could be argued, this is just how it turned out. Perhaps it was impossible to find, for a panel of eight, at least three or four UNC-CH scholars who favored the administration's policy.

Exactly.

# English Politics Sounded Familiar

LONDON

After spending a week in England in early October at a meeting of the worldwide Mont Pelerin Society, I couldn't help but ruminate a little about how familiar the politics of the country would seem to the average, politically aware North Carolinian.

Here are a few snapshots from the headlines and BBC newscasts (supplemented by some stimulating conversations with London cabbies, tour guides, and other locals):

- A major issue in the U.K. right now is standardized testing. Just as we are seeing in North Carolina, English educators, parents, and politicians are expressing a variety of opinions about how best to measure student achievement. Even Prince Charles weighed in on the issue while I was here, suggesting that too much emphasis on basic-subject tests would distract from teaching children the history, the arts, and the sciences they need to be well-rounded British citizens. On the other hand, some testing critics are obviously trying to protect low-scoring British schools from facing any accountability for their failures, or are trying to protect low-scoring children (and their parents) from feeling embarrassed or inadequate. So much for the stiff upper lip.

- According to a couple of media reports, one of England's major problems is urban sprawl. There is now a net outflow of people from the London metroplex, as people flee exorbitant housing prices, traffic jams, soaring crime rates (now higher than America's in almost every category against murder), and urban regimentation for new suburbs in the southeast and southwest of the country. Traditionalists are horrified, environmentalists are apologetic, owners of downtown London properties are worried about future valuation, and average folks are simply looking for a safe and affordable place to pursue their dreams. Oh, and remember that London has a very extensive and convenient transit system.

- During its weeklong party conference, the Conservative Party talked a lot about a major problem facing the country: out-of-control medical spending. Despite the fact that the U.K. long ago adopted socialism in health insurance, problems remain in the health care system. I kid you not. Patients wait for weeks or months for access to needed services. Costs are exploding, with reformers of both parties (which basically means the rank-and-file in the Conservative Party and Tony Blair, all by his lonesome, in the Labour Party) are talking about introducing new incentives for patients to consume care efficiently.

- I spent much of my time in and around London's Palace at Westminster, where the Parliament meets. Across the traffic circle is a green, much like the park across the street from the White House in Washington.

A gaggle of anti-war protesters wandered, gesticulated, and muttered whenever I walked by. I went up to one of them, a disheveled man of about 50, and asked what his major complaint was about President Bush's policy on Iraq. "He's a war criminal," the brilliant foreign policy analyst responded, and then he wandered away. On another occasion, my wife and I visited the historic town of Bath near the western coast of the country. At the beautiful Bath Abbey, church officials were passing out official newspapers with the headline "Give Peace a Chance: Bishop leads campaign against 'immoral' war."

Felt just like I was back home — in Chapel Hill.

*Hood is president of the John Locke Foundation and publisher of CAROLINA JOURNAL.*

John Hood

## Editorial Briefs

**Companies reduce pension fundings**

Historically, pension plans' excess assets "reverted" to the firm if the fund was terminated, and were subject to normal corporate tax treatment. In the 1980s, advocacy groups prompted government action to prevent firms from terminating their pension funds, paying termination benefits to workers and retirees, and using the excess assets for corporate purposes.

Lawmakers in 1986 levied a 10 percent (nondeductible) excise tax on reversions from defined benefit plans — the "reversion tax." In 1988, they made it 15 percent, in 1990 boosted it to 50 percent, and tacked a corporate tax onto the reversion amount. If that tax rate is 35 percent, the firm is left with only 15 cents of each reversion dollar.

Analysts who examined the reversion taxes' impact between 1986 and 1990 concluded they were the root cause of the decline in corporate pension funding. Firms drastically reduced their pension funding ratios despite the fact that investments were yielding record returns.

Reversion taxes reduced plan assets in 1995 by about 20 percent. Even in the face of historically high investment returns, plan sponsors reduced their excess pension assets by 60 percent — a dollar value ranging between \$218 billion and \$262 billion. Without the reversion tax, after 1986 excess assets would have been at least 2.6 times higher, or about \$350 billion.

**Charities opt for immediate payouts**

Charitable foundations have traditionally aimed at self-perpetuation, allowing their core capital to grow year-by-year so they can continue to fulfill their mission ad infinitum.

But some foundations are adopting precisely the opposite strategy: self-liquidation through immediate grants and endowments over a planned, finite period. Their founders want to see results within their own lifetimes, figuring future generations of benefactors will rise to address future goals.

A federal tax code change in 1981 relieved foundations of the obligation to distribute at least as much as they earned on their assets each year and, since then, payout rates have drifted down to near the legal minimum of 5 percent of assets.

Consequently, during the same period, foundation assets have increased from \$47.6 billion to \$486.1 billion in 2000. Last year, foundations paid out about \$29 billion.

The recent stock market decline, in which some foundations saw 15 percent to 30 percent of their capital disappear, also argues for immediate giveaways, some benefactors reason.

**Allocation of scarce water supplies**

Water shortages are common in arid areas. The usual solution is for the government to institute rationing and engage in production of fresh water.

Some experts believe this is impractical. They contend that government is the primary cause of water misallocation, arguing that governments worsen the water situation by engaging in Soviet style centralized water control. The best solution is for governments to create an initial allocation of water and a legal framework that allows individuals to trade their quotas.

Chile offers a telling lesson for water-deprived states. In 1966, Chile nationalized its water supplies. But 15 years later allocated rights to individual farmers, businesses and municipalities, and allowed each group to trade its quotas.

In 1970 only 27 percent of rural and 63 percent of urban dwellers received drinkable water. By the mid-1990s, the respective percentages were 94 percent and 99 percent. These figures are better than any other mid-income developing country in the world.

Experts believe that other arid areas should implement similar reforms. This would divert water away from entrenched agricultural interests, direct water toward more efficient ventures and allow more efficient uses of the land. *CF*

## How Taxing Is North Carolina?

By MICHAEL L. WALDEN

Contributing Editor

**I**n this election year, as in most elections, taxes have been one of the issues most discussed and debated. Unfortunately, all the information put out about taxes isn't — how should we politely say — accurate. Fortunately, two new studies from the Tax Foundation, a Washington, D.C. think tank, provide some relevant and important information about taxes in North Carolina.

**The North Carolina tax burden**

One of the first questions asked about taxes is their size, or relative burden. How much do North Carolinians pay in taxes, particularly compared to other states? In other words, is North Carolina considered a high-, average-, or low-tax state?

Before this question can be answered, we must decide how to measure the tax burden. One problem in comparing the tax burdens of states is that states divide their functions between the state level and local level differently. For example, more of the responsibility for funding K-12 education is at the state level in North Carolina than in Ohio.

The solution to this problem is to compare the combined state and local tax burden of states. If this wasn't done, then states like North Carolina that fund more functions at the state level would be unfairly ranked high on the tax burden.

It's also best to compare some rate of taxation, and not simply the amount of taxes collected, because total taxes collected will be influenced by population and, more importantly, by income. Since most taxes are directly or indirectly based on income, the usual rule is to compare taxes as a percentage of personal income in the state.

OK, so if we compute total state and local taxes and government fees as a percent of state personal income, where does North Carolina rank? In 1999, the last year of available data, the Tax Foundation shows North Carolina ranked 27<sup>th</sup> among all states, almost smack in the middle.

That's the good news. But there's some bad news. The same study shows North Carolina's rank has moved up somewhat in recent years. In 1995 North Carolina's total state and local taxes as a percent of personal income was 31<sup>st</sup> among the states, and in 1992 North Carolina ranked 35<sup>th</sup>.

Perhaps even more worrisome is our rank among our neighboring states of the Southeast, including Virginia, Tennessee, Georgia, South Carolina, and Florida. In 1999, North Carolina had the second highest tax burden among these states, again as measured by the percent of income paid in state and local taxes and government fees. South Carolina had the highest tax burden among these six states. In the last decade, North Carolina has never ranked lower than third.

**The Feds taketh and the Feds giveth**

The second new Tax Foundation study addresses this question: If the taxes that North Carolinians pay to the federal government are compared to all the federal spending taking place in North Carolina, does North Carolina come out ahead or not? Stated another way, does North Carolina receive more or less back from the federal government than what North Carolinians send to Washington in taxes? Key to this question is all kinds of federal spending are included, such as military and transportation program spending and so-called transfer spending such as Social Security, Medicare, and Medicaid.

Traditionally, North Carolina came up short on this comparison. For example, in 1991 North Carolina received only 95 cents in federal money for every dollar paid in federal taxes. But the latest comparison, for 2001, shows a turnaround. Now North Carolina comes out ahead in the comparison of federal taxes and federal spending. Now North Carolina gets back \$1.06 in various kinds of federal spending for every dollar of federal taxes paid. However, North Carolina ranks 30<sup>th</sup> in this comparison — that is, 29 other states get back more in federal spending compared to what they pay in federal taxes.

What caused the improvement for North Carolina between 1991 and 2001? Did our elected officials work harder to "bring the bacon" home from Washington? The answer is more mundane, and in a word it's retirees! The number and proportion of retirees in North Carolina have increased in the past decade, and with the additional retirees has come more federal Social Security and Medicare spending.

**Smile or frown?**

What should we make of these two studies, one which paints a worrisome picture of the tax burden in North Carolina when compared to other states, and the other that shows a more positive picture of our state's fiscal net payoff from Washington?

I put more stock in the first study. In our increasingly competitive world and national economies, how our state stacks up in taxes compared to other states and regions is becoming more of a consideration in business location. And the fact that our ranking in the tax burden has moved up in the last decade will lead more investors to think North Carolina is a taxing place. *CF*

*Michael Walden is a William Neal Reynolds distinguished professor in the Department of Agricultural and Resource Economics at North Carolina State University and an adjunct scholar with the John Locke Foundation.*



Michael Walden

# Unborn Babies Back Feminist Organizations Into a Corner

By **DONNA MARTINEZ**

Guest Contributor

**N**ovember is going to be a tough month for feminists. A federal rule change that allows states to consider fetuses as "unborn children" is causing more than the usual fuss and furrowed brows for groups such as Planned Parenthood and the National Partnership for Women and Families. Scheduled to take effect next month, the rule will make unborn children eligible for health-care services under the federally funded State Children's Health Insurance Program for children in low-income families.

In North Carolina the program is known as NC Health Choice for Children. State Health and Human Services officials aren't sure whether or when the program will adopt the unborn-children rule, or what action would be needed for it to take effect.



Donna Martinez

## An unsteady Roe vs. Wade

The federal rule change turns babies into... well, babies. And that's the rub for most feminists. To them, unborn babies aren't babies. Shouldn't be babies. Can't be babies. You see, if they admit unborn babies are more than a mass of cells, the legal and psychological house of cards they've built around *Roe vs. Wade* will come tumbling down.

No matter the merits or beneficiaries, any rule or program that poses a real or perceived threat to *Roe vs. Wade* is an instant target of "prochoicers." Several groups contend the new rule advances a back-door antiabortion agenda of the Bush administration, a charge denied by Health and Human Services Secretary Tommy Thompson. He said the goal is to expand prenatal coverage to poor women who don't qualify for Medicaid. Maybe so, but prochoicers correctly point out that states already can expand prenatal coverage under current CHIP rules by applying for a waiver, making the unborn-child designation unnecessary, in their view.

Clearly there are important issues to be discussed here,

and we should all welcome the debate. But some of the arguments emanating from feminists cause many observers to doubt they can rise above their traditional emotion-laden scare tactics.

For example, Planned Parenthood President Gloria Feldt described the new rule as "a weapon against women." The National Abortion and Reproductive Rights Action League has actually suggested the rule can be dangerous to women's health, citing a number of scenarios, it contends, would pit mother against child and ultimately deny a woman medical treatment.

Fetal surgery, NARAL said, could be beneficial to the child but risky to the mother, pressuring women to undergo chancy procedures. What if a woman needs treatment or medications that might adversely affect the baby, they ask. And what if a woman can't get an epidural during delivery because technically she's not the patient, they wonder.

## Feminists and a litany of 'what ifs'

These are questions worth considering, but it seems part of the feminist strategy is to what-if this change into oblivion. I have trouble believing there would be no hope of a rational solution for both baby and mom under any of these circumstances. Fact is, every day doctors face delicate balancing acts with some pregnant women and their babies. Common sense tells us the unborn-child definition can't cure every conceivable nightmare scenario. Difficult ethical situations are bound to occur. Always have. Always will. That's life.



What feminists fail to understand is that their abortion-rights-trump-everything tunnel vision creates bad public policy and threatens to deny poor mothers a service they desperately need. It's a no-brainer that healthy babies are a good thing, and this policy change will deliver healthier children into the world.

## In a corner

The new rule has backed feminists into an intellectual and rhetorical corner and instead of responding with thoughtful discussion, they've resorted to the same old

Stepford-like mantra that the unborn are nothing more than a mass of cells. Give it a rest, ladies. We're smarter than that. Customers of fetal-portrait studios, a growing industry that provides 3D and 4D ultrasound photos, aren't buying pictures of cells. They're buying the first images of the children they already love.

Most feminists I know are smart women, yet they refuse to admit the obvious: Babies are wonderful, joyful creations. It's not a slap in the face of women's rights to admit this simple yet profound fact. I don't recall any woman excitedly showing me the sonogram of her cells. I never went shopping for the perfect gift for my girlfriend's cells. And I didn't cry with my sister over the miscarriage of her cells.

As the policy debate heats up and states decide whether to enroll unborn children in their programs, we'll find out whether feminists are willing to sacrifice prenatal care for low-income moms out of fear it may work against abortion on demand. Then we'll know who to look to for concrete answers to issues affecting women's health, and who to rely on for tired, outdated rhetoric. *cr*

# Distorted Estimates Undermine Planning of Public Projects

By **MICHAEL LOWREY**

Associate Editor

**I**f your sense is that road and transit programs almost always cost more than was originally estimated, your sense is correct. A new study by three Danish professors shows that major transportation infrastructure projects built over the past 70 years have habitually gone over budget. To make matters worse, the overruns are not caused by random errors, but rather stem from deliberate distortion and lies to get projects approved. Though not included in the study, cost overruns on several major projects in North Carolina — the Charlotte and Triangle transit systems and the state's Highway Trust Fund — are remarkably similar to those documented by the Danish researchers.

The paper by Bent Flyvbjerg, Mette Skamris Holm, and Søren Buhl, titled "Underestimating Cost in Public Works Projects: Error or Lie," appears in the Summer 2002 issue of the *Journal of the American Planning Association*. It is the first large sample, statistical analysis comparing forecasted cost to actual cost for transportation-related infrastructure projects.

The core of the paper is a comparison between estimated costs at the time the decisions were made to proceed with the projects and the projects' final cost. The difference between the estimate and the final cost was the amount of the cost under or over estimation. The authors collected data on 258 transportation infrastructure projects costing a combined \$90 billion. They found that costs were underestimated in 86 percent of projects with actual costs, on average, 28 percent higher than estimated costs. For rail projects, the cost underestimation averaged 44.7 percent.

Based upon these findings, the authors conclude that

the original cost figures were off not because of some error in estimation, but rather because the forecasters and promoters of projects were engaging in deception and lying to get favored projects started. Often this involved not including all relevant costs in the original estimates.

## North Carolina examples

If rail projects are more likely to have a large cost escalation, then the cost explosion in Charlotte's transit system should come as little surprise. In 1998, Mecklenburg County voters approved an additional half-cent sales tax to fund a major expansion of the transit system. The expanded Charlotte Area Transit System would operate either light rail or buses on dedicated busways on five key corridors in Charlotte. Details of the plan, such as exact routes, location of stops, and even choice of bus or rail for each corridor were not specified. The estimated cost was \$831 million.

By 2002, the total cost of the system had ballooned to \$2.9 billion. Included in that figure is more than \$1 billion in increases in project scope to what was presented to voters just four years earlier. Also, the costs of four of the five corridors had increased by at least \$95 million each.

While Charlotte's transit plan involves five corridors to bring people to and from its center city, transit in the Triangle has emerged as a means to link cities together. The keystone of the endeavor is a regional rail link between Durham, the RTP, and Raleigh. The first phase of the project was estimated to cost \$622 million, cover 35 miles, have 16 stations, and be ready by 2008. After the concept

was approved, it proved more difficult, and expensive, to build than was originally thought. As a result, completion of the last five miles (three stations) of the project in north Raleigh will be delayed until at least 2010. Current total cost estimates are at least \$754.8 million and will likely be revised upward again later this year.

Cost overruns in North Carolina are not limited to transit projects. In 1989, the General Assembly established the Highway Trust Fund to address some of the state's road needs. An additional gasoline tax and higher highway use and title fees were to go toward completing 28 designated intrastate projects, seven urban loops, and paving dirt roads. The trust fund, and the additional fees that fund it, were successfully sold to the legislature as being temporary. When the projects were completed, the extra taxes were supposed to have been removed. Completion of the specified projects was estimated to take 13.5 years to complete.

The reality has proven different. A 1998 audit showed that the state had not considered inflation or the possibility of cost overruns in its cost calculations. Planning and engineering costs and the expense of conducting environmental impact studies were also not considered. The completion date remains uncertain, though the state auditor projected 2019 in his 1998 audit of the Trust Fund.

The wise use of public funds is based upon a project's benefits being greater than its costs. All too often — in North Carolina and elsewhere — cost estimates are being used that bear little resemblance to reality. As long as these distortions continue, poor decision making will inevitably be the result. *cr*

*...the overruns are not caused by random errors, but stem from deliberate distortion and lies to get projects approved.*

# What's for Deener? Nothing But a Hard Time

UNC1 students who 'did not respond' (sniff) demand respect, some sensitivity, and a place to eat Ho-Hos

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SECTOR 37.U1 (Oldmap: Chapel Hill)  
No matter where she or he goes, something always happens to re-mind Eva Kingpity that he or she is different. A student at the University of North Carolina Institution One, Eva is one of a small number of students who deliberately choose not to identify themselves according to their race or gender.

They are part of the growing DNR movement in university sectors across the United States collective. The movement's moniker refers to how universities characterize them in official documents: "DNR," for "Did Not Respond" (to prompts on official documents requesting them to indicate their race or gender).

"Do they think I don't see the ugly way my professors look when they see D-N-R next to my name?" Eva said, looking at the floor. "Do they think I can't hear them whispering behind my back? Do they think I like being called a 'deener?' Something needs to be done."

Yesterday Eva and other members of the student group Does Anyone Really Need Racial Interrogation from Government to Have Tolerance (DARNRIGHT) decided to do something. They staged a protest on the campus to highlight the insensitivity to their concerns they have felt on campus. Leaders of the group accused the university of a pattern of discrimination and institutional intolerance against DNR students.

"You know, most people here have their own special designations, campus advocates, and campus hangout, since they believe in identifying themselves by race and



Wherever she or he goes, Eva Kingpity feels he or she is different.

gender," Eva said. "But what about the rest of us who think that's none of their business? Where are our campus advocates? Where's our campus center?"

DARNRIGHT's demands to the university are: (1) a new curriculum devoted to Studies in Non-Race-or-Sex Identities, (2) setting up of a campus Office of DNR Affairs, including a counselor sensitive to DNR concerns, (3) a new campus building to be devoted to DNR Culture, which will contain the Office of DNR Affairs, (4) mandatory sensitivity training for all faculty and staff for DNR issues, and (5) substantially lower prices for Hostess Ho-

Hos™ in all campus stores.

Helena Handbasket, UNC1 chancellor and assistant deputy secretary for diversity, said she sympathized with the students' aims. "Rest assured this administration will give full respect and attention to every one of the demands made by those deeners," she said.

"UNC has built a reputation on placating whole aggregations of students with special curricula and campus centers," Handbasket said. "For this group to go overlooked for so long really says something we don't want to hear about this community's commitment to diversity."

Handbasket said Diversity Secretary Gene Muchado had directed Executive Provost Mega Bucks to set up a blue-ribbon study commission on the students' request.

Purody said she-or-he wouldn't be impressed until he or she sees results.

"I'm tired of all the stares I get whenever I walk down Franklin Street," he or she noted. People don't have to say anything, but I know exactly what they're thinking. They're thinking 'There goes one of those guys or gals who's screwing up UNC's race and sex statistics.' And that's just wrong. Hate is wrong!"

Purody said students who choose not to identify themselves according to racial or sexual groupings feel singled out, which means they begin their academic career frustrated, worried, or even scared for being different.

As for Eva, he or she said although she or he was "pleased" with the event, he or she wouldn't be satisfied until she or he saw some "real changes" at UNC1.

"When I don't feel like everyone's out to get me, then I'll know this place has really changed," Eva said. "Until then, they could at least make a good-faith effort to show us they're sensitive to our concerns. A good first step would be building me and my friends our own place to hang out and eat Ho-Hos." CF



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