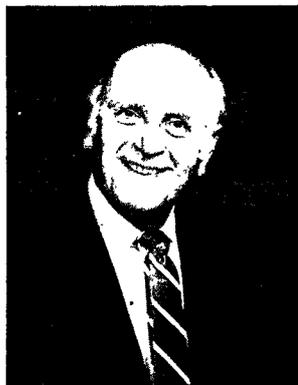


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# North Carolina Should Keep Its Elected Superintendent of Public Instruction

by J. Richard Conder



*An elected superintendent of public instruction is an inherently strong advocate for public education, one that we can build upon for the future. Yet every so often, along comes a wave of proposals to weaken the independence of the superintendent and make the office subservient to some other authority. Like the mythical phoenix rising from its ashes, the subject of electing or appointing the state superintendent of public instruction rose once again in 1987, as it has periodically*

since the State Board of Education was first created in 1868.<sup>1</sup> The conventional wisdom in 1987 was that the time was ripe, given the fact that the superintendent, Dr. Craig Phillips, was not seeking re-election, to lop off one of the three heads running North Carolina schools and establish a single, accountable voice for public education.

I supported the move to make the state superintendent position appointive rather than elective, a bill that passed the Senate and died in the House of Representatives.<sup>2</sup> I did so because I felt at the time that it was an expedient way to solve the problem of educational accountability, and I felt the constitutional amendment that the change requires had some chance of surviving a referendum.

The window of opportunity passed, however, and that option is no longer realistic. The voters have elected a new state superintendent of public instruction who is business-oriented, who has served 10 years in the General Assembly, and who has the background necessary to understand the needs of our public school operations. To suppose that a consensus could be achieved that could produce the three-fifths majority in both the Senate and House to approve a constitutional amendment to make the superintendent appointive and

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then get that amendment accepted by a majority of the people of North Carolina is unrealistic and a waste of time.

Citizens generally look with great misgivings at any move to take away their right to vote—such as the abortive attempt in 1982 to provide four-year terms for legislators.<sup>3</sup> They can be expected to adamantly oppose any attempt to dilute their right to elect a public official whose role is of paramount importance to our children and our state's future. Georgia tried such a change in 1986 with the support of its governor, its state superintendent, and leaders of its General Assembly. The move was soundly defeated by a margin of 65 percent to 35 percent. Fifteen states still elect their chief state officer (see Tables 1 and 2, pages 8 and 18, for more).

Even if the three-fifths majority could be obtained in the General Assembly to float a constitutional amendment, the referendum would immediately put the entire Council of State en masse in opposition to the amendment. For if a measure to appoint the state superintendent were submitted to the voters, every other Council of State position from attorney general to agriculture commissioner would be at risk. All 10 Council of State positions currently are elective. Can you imagine the army of opponents that would be created by the friends and neighbors of the agriculture commissioner, attorney general, state auditor, state treasurer, insurance commissioner, labor commissioner, secretary of state, and state school superintendent? (The other two members of the Council of State are the governor and lieutenant governor, and judging by recent history, the lieutenant governor doesn't necessarily agree with the governor on policy issues). We can better spend our time improving student achievement and fine-tuning the system we have.

## **Inherent Strengths of an Elected Superintendent**

As I have studied our educational structure since 1987, I have come to believe that there is an inherent strength in having an elected state superintendent, and we should build on that strength. The elected state superintendent means that we have an official whose entire attention can be devoted to public schools, who can be a full-time advocate for those schools, who can become expert in what works and does not work, and who is not tied to a particular governor who may—or may not—be a strong supporter of public educa-

tion. The fact is that there is enormous stability surrounding the office of superintendent. Not one of North Carolina's superintendents has ever been defeated for re-election, and the last three superintendents served for 18, 17, and 20 years, respectively. The public has voted to keep those officials in office because the public wanted them there. (See Table 3, page 20, for more.)

The strength of our system was demonstrated during the spring 1990 debate over the budget shortfall when state Superintendent of Public Instruction Bob Etheridge mobilized the educational forces to oppose cuts in educational programs—cuts that had been requested by the governor. The public disagreement was resolved to the benefit of the schools. Had the state superintendent been a gubernatorial appointee, he would not have dared to oppose the governor's wishes, and public education would have lost.

I have also been struck by the fact that the present superintendent was able to run on a campaign of cutting the bureaucracy and then deliver on that promise. The staff of the state Department of Public Instruction has been reduced by more than 10 percent over the past year—from 1,014 workers to 912, a feat that is little short of remarkable in our system of government and one that I simply don't believe would have been possible by a gubernatorial appointee. At least, I haven't seen that kind of reduction in any other department in state government under either a Republican or a Democratic administration. In addition, the department has 94 vacancies, so the work force totals 820—nearly 200 below the previous authorized strength.

At the same time, we should all recognize that the present debate is somewhat political in nature. The superintendent is a Democrat, as are eight of the 10 Council of State members and a majority of the General Assembly. The governor is a Republican and is vested with the power to appoint all 11 voting members of the State Board of Education.<sup>4</sup> To expect that politics can be erased from a public service that annually eats up some 44 percent of the state's General Fund budget is to dream the impossible dream. The Republican Party has made the appointment of the state superintendent one of its basic platform issues, feeling apparently that would be the way to break into the Council of State.<sup>5</sup>

To blame our present educational status on the governance system that we have employed since 1868 is ludicrous. In Arkansas and West Virginia, the governor appoints the board and the



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*Bob Etheridge, state superintendent of public instruction, consults with Howard Haworth, former chairman of the State Board of Education.*

board then appoints the superintendent. The same system has been suggested for North Carolina, but these are not exactly the states whose school systems we would seek to emulate, for their educational results are hardly the envy of the nation. On the other hand, California, Indiana, Oregon, and Georgia elect their superintendents, and their students do well on national tests. We might do well to emulate their systems. But the point is that the system of governance used by a state apparently has little to do with educational outcomes. Wisconsin, which annually produces excellent SAT scores (it ranked 8th in 1989 on the combined verbal and math scores), elects its superintendent, yet does not even have a state board of education.

Those who are so anxious to change our system of governance in education remind me of the novice painter who was forever searching for Michelangelo's brush, secure in the conviction that if he could just find that brush he would immediately be able to match the masterpieces on the ceiling of the Sistine Chapel. Appointing the state superintendent is not going to solve our problems in public education. In fact, if we chase that phantom long enough and hard enough, we will multiply our problems.

But accountability in public education's administrative structure is important, and I think we do need to analyze carefully the structure we have. It is *not* a good structure. But simply changing the state superintendent from an elective post to an appointive post is unlikely to provide us with the "accountable chief executive officer" our business leaders are proposing. For the truth is, we do not have a two-headed monster running public education in North Carolina, as the media are fond of saying. We have a Hydra-headed monster with little pieces of power scattered around among state officials, the State Board of Education, the Office of the Governor, the General Assembly, and various interest groups. Turning the state superintendent into an appointive post would be dealing with only one piece of the educational accountability maze. Until Bob Etheridge began asserting the power of his office over the last six months or so, we had at least five or six state superintendents at once, only one of whom had been elected by the people expressly for the job.

Let's look briefly at the structure. The state superintendent is elected by the people and is charged with the responsibility "to organize and

**Table 2. Governance Structures of Public Education, by Type and by State**

**Model 1:** Governor appoints board of education; board *appoints* superintendent  
(14 states)

Alaska, Arkansas, Connecticut, Delaware, Illinois, Kentucky, Maryland, Massachusetts, Missouri, New Hampshire, Rhode Island, South Dakota, Vermont, West Virginia

*Note: Until 1990, Kentucky had an elected superintendent. Beginning in 1991, Kentucky will have an appointed superintendent*

**Model 2:** Governor appoints board of education; superintendent is *elected*  
(11 states)

Arizona, California, Georgia, Idaho, Indiana, Montana, **North Carolina**, North Dakota, Oklahoma, Oregon, Wyoming

**Model 3:** Board of education is elected; board *appoints* superintendent  
(10 states)

Alabama, Colorado, Hawaii, Kansas, Michigan, Nebraska, Nevada, Ohio, Texas, Utah

**Model 4:** Governor appoints board of education and *appoints* superintendent  
(7 states)

Iowa, Maine, Minnesota, New Jersey, Pennsylvania, Tennessee, Virginia

**Model 5:** Board of education is selected by mixed method; board *appoints* superintendent  
(3 states)

Louisiana, Mississippi, New Mexico

**Model 6:** Legislature appoints board of education; board *appoints* superintendent  
(1 state)

New York

**Model 7:** Legislature appoints board of education; superintendent is *elected*  
(1 state)

South Carolina

**Model 8:** Board of education composed of governor's cabinet, which is elected; superintendent is *elected*  
(1 state)

Washington

**Model 9:** Board of education is elected by local boards of education; superintendent is *elected*  
(1 state)

Florida

**Model 10:** No state board of education; superintendent is *elected*  
(1 state)

Wisconsin

**Source:** National Association of State Boards of Education, 1012 Cameron St., Alexandria, Va. 22314, (703-684-4000).

establish a Department of Public Instruction ... for supervision and administration of the public school system" and with various other duties, including the administration of "policies established by the Board" (of Education).<sup>6</sup> Since 1987, the General Assembly has increased appreciably the power of the state superintendent in relation to the State Board of Education by giving the state superintendent control over the funds appropriated to the Department of Public Instruction, by making the controller subject to the state superintendent's appointment, and by clarifying that the superintendent is the chief executive officer of the department.<sup>7</sup>

Imagine trying to run a department without the power to hire staff, control the budget, enter into contracts, or even implement a staff organization plan. That is essentially the situation previous state superintendents found themselves in after their election. The General Assembly began giving more power to the superintendent in 1987 and has endowed the present superintendent with the power to actually be the chief executive officer of the department.

## New Superintendent Should Be Given a Chance

In effect, we only recently have created a state superintendent of public instruction and have yet to give the new officer a chance to make the office work. Prior to 1989, the chief state school officer in this state didn't even control the money in his own department, and had to go hat-in-hand to the board when he wished to employ staff. The changes that have been made deserve a chance to work.

The State Board of Education consists of the lieutenant governor, the state treasurer, and 11 members appointed by the governor subject to confirmation by the General Assembly. Appointments are for eight-year terms, and only three states (Arkansas, Tennessee, and West Virginia) have longer terms, a factor that sets up a potential conflict in accountability anytime there is a change in the individual who occupies the governor's office. A new governor doesn't have control of the board and may not achieve such control until well into the governor's administra-

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*Sen. J. Richard Conder (D-Richmond), chairman of the Senate Education Committee, huddles with a colleague during the 1990 session of the legislature.*



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**Table 3. Superintendents of Public Instruction  
in the 20th Century**

<u>Name</u>	<u>County</u>	<u>Years Served</u>
Charles H. Mebane	Catawba	1897-1901
Thomas F. Toon*	Robeson	1901-1902
James Y. Joyner	Guilford	1902-1919
Eugene C. Brooks	Durham	1919-1923
Arch T. Allen	Alexander	1923-1934
Clyde A. Erwin	Rutherford	1934-1952
Charles F. Carroll	Duplin	1952-1969
A. Craig Phillips*	Guilford	1969-1989
Bob R. Etheridge*	Harnett	1989-

\*Toon, Phillips, and Etheridge were the only superintendents to have been elected to the job when they first attained it. All the rest were first appointed to the post by the governor. With 20 years' service, Phillips served longer than any other superintendent of public instruction. No superintendent of public instruction has been defeated in an election in North Carolina in this century.

*Source:* North Carolina Manual

tion, if ever. Is that accountability? (Retaining the lieutenant governor and state treasurer on the State Board of Education is a century-old tradition, dating to the time [1868] when all members of the Council of State, including these two officers, comprised the board.)

The Office of the Governor has appreciable clout in the administration of the public schools because the governor is in charge of the budget, appoints members of the state board, generally suggests who will be chairman, and has the ability to focus public attention by appointing various educational task force groups or study panels. Most governors wish to be known as education governors, and they spend a lot of time and effort, making speeches and appearing in the news, to promote education. In recent years, Govs. Terry Sanford and Jim Hunt have been particularly interested in education.

The General Assembly has also been and continues to be a major player in the public school

arena. As the final word on budget appropriations, the General Assembly can be the effective final voice in determining which program is approved. The General Assembly has even dictated such mundane matters as staff development by providing funds that must be spent with various schools or organizations. The legislature has also dictated curriculum on a number of occasions, including free-enterprise economics, driver training, fire prevention, and the danger of drugs and alcohol.<sup>8</sup>

Then there is the whole vast area of educational interest groups. Senate Bill 2 of the 1989 General Assembly, the state's big educational reform package of 1989, came not from the state superintendent or the State Board of Education or the governor, but from a study group set up by the private, non-profit Public School Forum of North Carolina, which also administers the Teaching Fellows Program designed to award scholarships to prospective teachers.<sup>9</sup> Daily in the General

Assembly, you will see lobbyists for the Forum, the N.C. School Boards Association, the North Carolina Association of Educators, and others representing school psychologists, curriculum areas, textbook publishers, and any number of groups working to see that their particular interest is protected.

The administration of public education in North Carolina is a vast, complex, maze-like process that has been and is affected by the political winds that blow back and forth across our state. Schools are inherently political because they are so close to the hearts of our people. The Public School Directory put out by the Department of Public Instruction lists more than 60 associations or councils whose aim is to influence some facet of the educational scene. To suppose that we can solve our accountability problems in public education by appointing the state superintendent is simplistic.

I should add parenthetically here that I do believe strongly that the state superintendent must be a person with strong administrative abilities. The time has long passed when the position could be viewed as the highest rank to which an educator could aspire. The state Department of Public Instruction manages the largest food service in the state, presides over the largest transportation program in the state with the task of seeing that our children are transported to and from school safely, and assures that our teachers and administrators have the proper certification and are paid the salaries the General Assembly has set for their positions. Those are duties that require a top administrator, from whatever background that person may come. I believe the current process—where a person must not only seek the approval of the voters of this entire state, but who must also take a program, a vision, and his or her abilities out there for public inspection—is most likely to produce the kind of person we need speaking up for public education. And, I might add, if we find out that the person we elect is not the person for the job, we have the ability to change it at the next election. An appointed superintendent might very well remain in office so long as his or her party could hold the governorship.

### **Superintendent Should Chair State Board of Education**

Then, what should we do at this point in North Carolina's history? Short of convening some type of public school constitutional convention and

attempting to remake the North Carolina public schools laws and get those changes approved by the people—a long and involved process that I believe would be detrimental to our whole system of public education and would steal energy better spent on improving student achievement—I believe we must work with what we have. The General Assembly has the power to continue the streamlining process that it has been about since 1987, and it should continue that process.

The General Assembly, for example, can solve the State Board of Education chairman versus state superintendent dichotomy by legislation making the state superintendent chairman of the State Board of Education—as is the case in Indiana, North Dakota, and Oklahoma. I realize this change would not satisfy those who learned everything they know about government in an introductory course in political science, but the change has a number of points in its favor. It is practical. It is achievable. It eliminates one of the prime conflicts the present system encourages. It would not subject the state and its people to a long and involved constitutional amendment process that, I am convinced, would fail anyway. And it would somewhat simplify the political and administrative maze by removing a redundant figure—a state board chairman appointed by the governor—and replacing that person with an individual already in office, the superintendent.

With the state superintendent serving as state board chairman, we would have created a climate for cooperation between the state superintendent and the members of the State Board of Education and, by extension, between the state superintendent and the governor, no matter what the political party of the individuals involved. It would simply be in the best interests of the state superintendent and members of the state board to cooperate, to speak with a united voice. As it is now, there is a constant temptation for both the state superintendent and the chairman of the board to posture in public and at board meetings. It is a testimony to their integrity that the two individuals holding these positions at present have cooperated as well as they have.

As we contemplate changes in the structure of our public education system, we also should look carefully at the length of terms of members of the State Board of Education and at how the members are chosen. The eight-year term is clearly a product of a gentler, slower day, not the product of our rush-rush world when new ideas and new energy are at a premium. Certainly, any plan that does not

address the length of term of members of the State Board of Education would go only part of the way to bringing true accountability to our public education system. The changes in term would, however, have to be made by a constitutional amendment, because Article 9, Section 4(1) sets the terms at eight years.

More important than anything else we can do right now is to encourage all citizens of North Carolina to unite behind our public schools as the one best hope we have of achieving progress in the future. Our children are our most important resources, and our schools must be supported by all of us, whether we are political leaders, businessmen and businesswomen, parents, or just plain ordinary citizens. At no other time in our state's history has it been more abundantly clear that education is the highway to progress for us as a state and for us as a nation. ☐☐☐

#### FOOTNOTES

<sup>1</sup>Section 7, Article IX of the 1868 Constitution of North Carolina, adopted in convention on March 16, 1868. The original Board of Education comprised the governor, lieutenant governor, secretary of state, treasurer, auditor, superintendent of public works, superintendent of public instruction, and attorney general.

<sup>2</sup>SB 149, which passed the 1987 N.C. Senate on a 42-7 vote but which never came to a vote in the House of Representatives.

<sup>3</sup>Chapter 504 of the 1981 Session Laws proposed a constitutional amendment making terms of members of the General Assembly four years long rather than two years, but

the amendment was defeated by a vote of 522,181 against to only 163,058 for, or 76 percent to 24 percent, on June 29, 1982.

<sup>4</sup>G.S. 115C-10 specifies that the State Board of Education comprises the lieutenant governor and the state treasurer, as ex-officio members, plus 11 persons appointed by the governor and confirmed by the House and Senate in joint session.

<sup>5</sup>The Council of State comprises the 10 constitutional officers in the executive branch of North Carolina state government, including the governor, lieutenant governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general, commissioner of agriculture, commissioner of labor, and commissioner of insurance. The Council of State is cited in Section 8, Article III, 1971 Constitution of North Carolina.

The N.C. Republican Party adopted a resolution endorsing an appointive superintendent of public instruction at its May 1989 state convention.

<sup>6</sup>Section 7, Article III of the 1971 Constitution of North Carolina authorizes the position of superintendent of public instruction. The duties of the superintendent are outlined in G.S. 143A-45.

<sup>7</sup>Chapter 752 of the 1989 Session Laws, now codified at G.S. 115C-21, gave the superintendent control over funds appropriated to the Department of Public Instruction;

Chapter 1025 of the 1987 Session Laws (Second Session 1988), repealing and amending G.S. 115C-29, made the controller subject to the superintendent's appointment and clarified that the superintendent is the chief executive officer of the Department of Public Instruction.

<sup>8</sup>These course requirements and others are found in G.S. 115C-81.

<sup>9</sup>Chapter 778 of the 1989 Session Laws, the School Improvement and Accountability Act of 1989, now codified in G.S. 115C-238.

Chapter 1014 (SB 2) of the 1985 Session Laws (Second Session 1986), now codified as G.S. 115C-363.22, delegated authority for administering the N.C. Teaching Fellows Program to the Public School Forum of North Carolina.

*Howard H. Haworth, chairman of the State Board of Education, left the post in September 1990. He was replaced by long-time board member Barbara Tapscott of Burlington. Haworth remains a board member.*



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