



Appointing Legislators to Other State Posts: Robbing Peter to Pay Paul?

by Mike McLaughlin

This regular Insight department examines policymaking and the decision-making process in the legislative branch of state government. In this installment, Insight looks at the long-standing practice of North Carolina governors tapping legislators for appointments in the executive and judicial branches of state government.

Senate President Pro Tempore Henson Barnes (D-Wayne) likes to tell the story about how close he once came to getting appointed to a lofty judicial post. Barnes was chairman of the Senate Judiciary III Committee during the administration of Gov. James B. Hunt Jr. when Hunt appointed his two vice chairmen, Rep. Richard Erwin (D-Forsyth) and Sen. Willis Whichard (D-Durham), to the North Carolina Court of Appeals.

Those Appeals Court appointments—Erwin's in 1978 and Whichard's in 1980—made a strong impression on the young lawyer from Goldsboro. Here two of his colleagues—and actually his subordinates under the legislature's committee system—had been elevated to the state's second-highest court. But no one accused Barnes of being a slow learner. Figuring that the governor did not want to appoint a judicial committee chairman and thus remove him from the legislature, Barnes did the obvious thing. He took the chairmanship of another committee and got appointed vice chairman of the Judiciary Committee, a prime position in case Hunt followed prece-

dent and turned to the committee for another high-level judicial appointment.

And sure enough, Hunt dipped into the Judiciary Committee one more time—but not the way Barnes had envisioned it. “That next year, he took the chairman [Sen. William Creech (D-Wake)] and appointed *him* a judge,” says Barnes.¹

Barnes says the story is true, except that then-Lt. Gov. Jimmy Green had asked him to take another committee expected to face a heavy workload during the session. Green wanted an experienced hand at the helm. Still, the anecdote illustrates the kinds of plums governors hand out to loyal legislators—full time jobs that in most cases more than quadruple their part-time pay in the legislature of \$927 a month—and the maneuvering that can go on to get those jobs

Governors and legislators alike say the General Assembly, with its 170 members seasoned to the ways of policy and politics, provides an obvious talent pool for filling full-time positions in state government. But when a lawmaker resigns to accept another job in the executive or judicial branches, experience and leadership abilities are lost to the legislature. Are we robbing Peter to pay Paul? Or does this practice of picking off legislators for other full-time government positions have the benefits of opening the way for the

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development of new leadership in the General Assembly and infusing new blood into the bureaucracy?

To determine the extent of this legislative brain drain, the North Carolina Center for Public Policy Research traced the record of legislative resignations from 1973 to the present. The research spans three gubernatorial administrations—two Republican and one Democratic—and the overall findings are strikingly clear. Acceptance of a gubernatorial appointment is the leading reason for legislators' resignations when they resign their posts *before* their terms expire.

Since 1973, 66 legislators have resigned their posts, according to records kept by the North Carolina House of Representatives and the Senate principal clerks and the Secretary of State's Office. Nearly half of those resignations—33—were submitted in order to accept a judicial or executive branch appointment. (See table, page 60.) And these figures do not include lawmakers who served out their terms with the intention of accepting judicial or executive branch posts when their terms expired.

In fact, only the Grim Reaper came close to interrupting more legislative terms than the Governor's Office, with 15 legislators dying in office during the 17-year span. "If I've got a choice between the executive branch or dying, I'll take the executive branch," says former Sen. Bill Redman (R-Iredell), who resigned his post as Senate Minority Leader in 1987 to accept an appointment to the state Utilities Commission.

It seems that the promise of a better job in state government is the only allure that has enticed lawmakers to quit midterm in any significant numbers. During the 17-year period, 22 lawmakers quit to take executive branch appointments and 11 gave up their seats in favor of the judiciary. By comparison, only three gave up legislative seats to seek higher elected office, and three resigned House seats to take appointments to the Senate. Two lawmakers resigned after pleading guilty to felonies—Rep. G. Ronald Taylor (D-Bladen) in 1982, and Sen. John Jordan (D-Alamance) in 1985. Another, former Rep. Walt Windley (R-Gaston), resigned when he was charged with soliciting a prostitute outside a Charlotte nightclub.² Two lawmakers, Rep. Mary Pegg (R-Forsyth) and Rep. James Cole (R-Watauga), were required to resign when they moved out of their districts. One, former Sen. Hamilton C. Horton Jr. (R-Forsyth), resigned to return to his law practice, and one, former Rep. Tom Rabon Jr.

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(D-Brunswick), resigned to take a more lucrative post in private industry as a lobbyist for AT&T. Nearly half of the legislative resignations, then, can be attributed to executive and judicial appointments, and when death is excluded, it's closer to two-thirds.

Most such resignations occurred during the eight-year tenure of Democratic Gov. James B. Hunt Jr. In office from 1977 to 1985, Hunt depended upon the legislature for appointments much more than either of the two Republican governors who served during the 17-year period. Hunt appointed 10 legislators to executive branch posts and 11 to judicial seats during his eight years in office, for a total of 21 appointments of legislators. "In every case, they were the best person," says Hunt in explaining his relatively heavy reliance on legislators for executive and judicial appointments. "In almost every case, they wanted the position."

Republican Gov. James E. Holshouser Jr.—in office from 1973 to 1977—tapped only four legislators who had not completed their terms during his administration. Six lawmakers quit to take executive branch posts during Holshouser's term, but two of these, Rep. James E. Long (D-Alamance) and Rep. David M. Blackwell (D-Rockingham), took jobs as aides to Commissioner John Ingram in the Department of Insurance, which is not controlled by the governor. Ingram later fired both, but Long won election as insurance commissioner in 1984. Holshouser tapped no lawmakers for judicial posts.

Gov. James G. Martin, too, has appointed far fewer legislators than did Hunt. Martin, approaching the midpoint of his second term in 1990, has appointed six state lawmakers to executive branch posts. He is yet to appoint a lawmaker

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Legislative Resignations or Deaths Since the 1973 Session of the N.C. General Assembly¹

Year	Legislator	Reason Office Vacated
1973	Sen. Phillip J. Kirk Jr. (R-Rowan)	Appointed Administrative Assistant to Gov. James E. Holshouser Jr.
	Rep. Robert Q. Beard (R-Catawba)	Appointed Director, Division of Aging, Department of Human Resources
	Rep. Herschel H. Harkins (D-Buncombe)	Resigned for personal reasons
	Rep. Joe H. Hege Jr. (R-Davidson)	Appointed Assistant Director, state Services for the Blind
	Rep. Frank S. White (D-Robeson)	Died in office
1974	Sen. Hamilton C. Horton Jr. (R-Forsyth)	Resigned to return to law practice
	Rep. C. Dempsey McDaniel (R-Forsyth)	Appointed to Parole Commission
	Rep. Edgar M. McKnight (R-Forsyth)	Appointed to state Senate
	Rep. William E. Stevens (R-Caldwell)	Resigned to run for U.S. Senate
1975	Rep. David M. Blackwell (D-Rockingham)	Appointed Deputy Insurance Commissioner
	Rep. James E. Long (D-Alamance)	Appointed Deputy Insurance Commissioner
1976	Rep. Richard L. Brown III (D-Stanly)	Resigned to run for State Treasurer
	Rep. John J. Hunt (D-Cleveland)	Resigned to run for U.S. House
	Rep. Arthur W. Thomas Jr. (D-Cabarrus)	Died in office
1977	Sen. Wesley D. Webster (D-Rockingham)	Appointed Administrative Aide to Secretary of Transportation
	Sen. John W. Winters (D-Wake)	Appointed to Utilities Commission
	Rep. Conrad Riley Duncan (D-Rockingham)	Appointed to state Senate
	Rep. Robert L. Farmer (D-Wake)	Appointed Superior Court Judge
	Rep. Peter W. Hairston (D-Davie)	Appointed Superior Court Judge
	Rep. W.S. Harris Jr. (D-Alamance)	Appointed Superior Court Judge
	Rep. Ronald E. Mason (D-Carteret)	Appointed Coordinator of Civil Works, Department of Natural Resources and Community Development
	Rep. H.M. Michaux Jr. (D-Durham)	Appointed U.S. District Attorney (Middle District) by President
1978	Sen. Luther Britt (D-Robeson)	Died in office
	Sen. D. Livingston Stallings (D-Craven)	Died in office
	Rep. Richard C. Erwin (D-Forsyth)	Appointed to N.C. Court of Appeals
	Rep. Thomas Gilmore (D-Guilford)	Appointed Deputy Secretary of Human Resources
	Rep. Joy Johnson (D-Robeson)	Appointed to Parole Commission
1979	Sen. Irvin C. Crawford (D-Buncombe)	Died in office
	Sen. John T. Henley (D-Cumberland)	Named President of N.C. Association of Independent Colleges and Universities
	Sen. Cecil J. Hill (D-Transylvania)	Appointed to N.C. Court of Appeals
	Sen. Katherine H. Sebo (D-Guilford)	Named White House Fellow
	Rep. Joseph L. Bright (D-Craven)	Died in office
	Rep. A. Hartwell Campbell (D-Wilson)	Appointed to Utilities Commission
	Rep. Judson D. DeRamus Jr. (D-Forsyth)	Appointed Superior Court Judge
	Rep. Robert H. Hobgood (D-Franklin)	Appointed Superior Court Judge
	Rep. Mary C. Nesbitt (D-Buncombe)	Died in office
1980	Sen. Fred Alexander (D-Mecklenburg)	Died in office
	Sen. Willis P. Whichard (D-Durham)	Appointed to N.C. Court of Appeals
	Rep. H. Otha Carter (R-Stanly)	Died in office
	Rep. James Ezzell (D-Nash)	Appointed District Court Judge

Legislative Resignations or Deaths Since the 1973 Session of the N.C. General Assembly, *continued*

Year	Legislator	Reason Office Vacated
1981	Sen. Glenn R. Jernigan (D-Cumberland)	Appointed Chairman of the Employment Security Commission
	Rep. J.M. Gardner (D-Johnston)	Died in office
	Rep. Patricia Hunt (D-Orange)	Appointed District Court Judge
	Rep. Ernest Messer (D-Haywood)	Appointed Assistant Secretary of Aging, N.C. Department of Human Resources
	Rep. Mary N. Pegg (R-Forsyth)	Moved out of district
1982	Sen. William A. Creech (D-Wake)	Appointed District Court Judge
	Sen. Joe H. Palmer (D-Haywood)	Appointed to Parole Commission
	Rep. Robert A. Jones (D-Rutherford)	Died in office
	Rep. G. Ronald Taylor (D-Bladen)	Resigned as condition of imprisonment after pleading guilty to charges of conspiracy and unlawful burning ²
1983	Sen. Julian R. Allsbrook (D-Halifax)	Died in office
	Rep. Samuel D. Bundy (D-Pitt)	Died in office
	Rep. Ruth E. Cook (D-Wake)	Appointed to Utilities Commission
	Rep. Tom Rabon Jr. (D-Brunswick)	Resigned to become lobbyist for AT&T
	Rep. W. Frank Redding III (R-Randolph)	Died in office
1984	Sen. Cary Allred (R-Alamance)	Resigned to be sworn in as county commissioner
1985	Sen. John Jordan (D-Alamance)	Resigned after pleading guilty to charges of misconduct in office, solicitation of a bribe, and extortion ³
	Sen. Julius A. Wright (R-New Hanover)	Appointed to Utilities Commission
	Rep. Charles H. Hughes (R-Henderson)	Appointed to head Governor's Research Office
	Rep. Tim McDowell (D-Alamance)	Appointed to state Senate
1986	Rep. James M. Cole (R-Watauga)	Moved out of district
1987	Sen. William W. Redman (R-Iredell)	Appointed to Utilities Commission
1988	None	
1989	Sen. Laurence Cobb (R-Mecklenburg)	Appointed to Utilities Commission
	Rep. Ann Duncan (R-Forsyth)	Appointed Assistant Secretary, Department of Environment, Health, and Natural Resources
	Rep. Billy Watkins (D-Granville)	Died in office
	Rep. Walt Windley (R-Gaston)	Resigned after being charged with solicitation of a prostitute and carrying a concealed weapon ⁴
1990	Sen. Wanda Hunt (D-Moore)	Appointed Assistant Chief, Child Support Enforcement Section, Department of Human Resources

Major Sources: North Carolina Government, 1585-1979, A Narrative and Statistical History, North Carolina Department of the Secretary of State, Raleigh, N.C., 1981, pp. 547-574; Office of the Secretary of State; House Principal Clerk's Office; Senate Principal Clerk's Office.

FOOTNOTES

¹Legislators were included in this table if they vacated their office before their terms expired.

²A.L. May, "Taylor's Guilty Plea to End His Candidacy," *The News and Observer* of Raleigh, Aug. 31, 1982, p. 2C.

³"State Law Requires Jordan Resignation," *The News and Observer* of Raleigh, Aug. 18, 1985, p. 1A.

⁴"Windley Resigns Following Solicitation Charge, Asks Forgiveness," as reported by the Associated Press, *The News and Observer* of Raleigh, Dec. 10, 1988, p. 10A.

Table prepared by Mike McLaughlin, with assistance from Center intern Adrienne Goins.

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to the judiciary. Martin says that's because few Republican legislators want to take a judicial appointment and risk defeat in the next election.

"I believe the state judiciary, for many years in the past, has been the last exclusive domain of one-party hierarchy," says Martin. "For a Democratic legislator, appointment to a judgeship typically meant a lifetime appointment. For a Republican legislator, it could mean surrendering a secure legislative seat for a very short-run judicial term followed by a tough statewide race. While this political fact of life is changing, the introduction of two-party politics in the judiciary is slower than every other elected position. Judicial appointments are simply not an attractive prospect for many Republican legislators, so they don't tend to seek them."

Republican governors say one reason they have relied less on the legislature for executive appointments is that there have been far fewer Republicans from whom to choose. Republicans controlled only 50 of the 170 seats in the General Assembly when Holshouser took office in 1973, and many of these were first-term legislators swept into office during the Nixon landslide of 1972. Then in the 1974 elections, the GOP gains in the General Assembly were erased, leaving Republicans with 10 legislators. Holshouser says throughout his term he had to guard against depleting the thin ranks of allies in the legislature. "You have to keep in mind the relative number of Democrats versus Republicans in the legislature," says Holshouser. "There is more of a pool of potential appointees among Democrats and people who are interested in appointments."

"In appointing legislators, governors are able to choose among knowledgeable people who have withstood a higher level of public scrutiny and have a record of public service."

"You obviously had to look at the impact of what an appointment did to the delegation," Holshouser adds. "I think that's something a Republican governor is more likely to consider because Republicans have been a minority in the legislature for such a long time."

Martin says Governor Hunt had a pool of 160 Democratic legislators to tap for appointments at the beginning of his first term, and 136 potential appointees when his second term began. The Republican pool stood at 50 state lawmakers when Martin took office and reached 59 after the 1988 election. The defection of Sen. James C. Johnson Jr. (D-Cabarrus) to the Democratic Party in 1989 has reduced Republican ranks to 58. "There are many more safe Democratic seats than Republican, so appointments from the legislature are less likely to dilute legislative numerical strength," says Martin.

But despite much stronger numbers overall, Hunt had to weigh similar considerations when he appointed *black* lawmakers to key executive and judicial posts during his administration. Of the six black lawmakers who started the 1977 session, all but one wound up leaving the legislature and taking other government appointments. The one black legislator who did not take another state or federal job, Sen. Fred Alexander (D-Mecklenburg), died in office in 1980. Rep. Joy Johnson (D-Robeson) got a Parole Commission appointment, and Rep. Richard C. Erwin was appointed to the N.C. Court of Appeals. Sen. Henry Frye (D-Guilford) served out his term and briefly returned to private practice as a lawyer before he was appointed to the state Supreme Court, and Rep. H.M. "Mickey" Michaux got a presidential appointment as a U.S. Attorney. Sen. John Winters (D-Wake) accepted a Utilities Commission appointment.

Frye says criticism leveled at Governor Hunt for depleting black leadership was ill-founded. "I remember telling people, 'You can't fault Governor Hunt for appointing people who are willing to take the appointments,'" says Frye. "'We can develop new leadership.'"

In appointing legislators, governors are able to choose among knowledgeable people who have withstood a higher level of public scrutiny and have a record of public service, says Frye. "They are accustomed to being in the public light, have won the respect of their constituents, and have attained a position of leadership in the General Assembly. The chances of getting a good person are much better in that way."

Michaux, a longstanding member of the Legislative Black Caucus who returned to the General Assembly in 1985, says blacks clearly lost some leadership and experience during the early years of the Hunt administration. But Michaux points out that blacks were winning groundbreaking appointments in the Hunt administration, and in every instance a black was appointed to fill the job of the black lawmaker who resigned. "At that time, it was a fairly friendly atmosphere," says Michaux, adding that the new black appointments to the legislature were well qualified and were fast learners. "We knew it wouldn't take them long to catch on to the ropes. The Hunt administration was a little more sensitive to the needs and aspirations of minorities—much more than the current administration."

Adds Erwin, now chief U.S. District Judge for the Middle District of North Carolina, "I don't think anybody left the General Assembly against his will to take a judgeship."

"It was a time of real breakthrough in black leadership during my administration," says Hunt. "A lot of times, no blacks had ever held these positions, or very few. . . . I was honored to have the chance to appoint them." And Hunt says the fact that the ranks of black lawmakers have expanded from the six black lawmakers who started the 1977 session to 17 in the 1989-90 session indicates that there were more able black leaders waiting to move into legislative seats. "There was a short time of less experience among blacks in the legislature," says Hunt, "but obviously others came along."

Martin vigorously defends his administration's record of hiring and promoting minorities, providing data from the Office of State Personnel that shows he hired a higher percentage of blacks during his first year in office than did Hunt. Martin says black men made up 17.4 percent of hiring during his first year in office, when most job changes occur, while 16.8 percent of those hired by Hunt were minority men. Martin says he also held a slight edge in hiring of minority women, 10 percent to 9 percent. "My point is not to gloat," says Martin. "Those numbers indicate only slight percentages favoring my administration. But I hope to make the point that this administration has been every bit as sensitive to the needs of minorities as any previous administration. In fact, many people would say I have tried harder than any previous governor."

Hunt says that as governor, he thought about whether he was depleting legislative leadership

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—Former Gov. James B. Hunt Jr.

when considering lawmakers for appointments, but the overriding concern was whether the legislator was the best person for the job. "Sometimes you need somebody more in an executive or judicial position" than in the legislature, says Hunt, "It's not that you don't have more good legislative leadership coming along."

In many cases, adds Hunt, lawmakers sought out judicial or executive posts because they had achieved their goals in the General Assembly or wanted full-time work. "Many of them felt they had been in the legislature almost as long as they could, either for financial reasons or just wanting to get back to a full-time position," says Hunt. "You know, you can't force somebody to stay in the legislature. In many cases, they had achieved the ultimate in getting legislation through, had achieved a pinnacle It then made sense for them to go in and try to administer these programs."

Martin says that although he considers the loss of legislative leadership when deciding on an appointment, the attainment of a leadership role in the General Assembly is itself an indication of inherent leadership abilities. Two of his six executive appointees, in fact, held the position of minority leader in the Senate when tapped for Utilities Commission appointments.³ "Clearly, they held high leadership posts, but that experience qualified them for the commission," says Martin. "In those and other appointments, I must look at the personalities available to step into the leadership role being vacated."

And Martin says aside from judicial appointments, he and Holshouser were more likely to appoint legislators from the available party pool than was Hunt. Holshouser's appointment of four legislators to executive branch positions represented 8 percent of the pool of GOP legislators available when he took office in 1973, Hunt's 10 appointments represented only 6 percent of 160 Democrats available when he took office in 1977,

"Governors do not want to risk their legislative agendas by depleting the ranks of allies in the General Assembly."

and Martin's five Republican executive appointments totaled 10 percent of the 50 GOP lawmakers in office when he was inaugurated in 1985. A sixth lawmaker, Sen. Wanda Hunt (D-Moore), also got an executive branch appointment during the Martin administration, but Martin says he did not make the decision to appoint her.

Legislators and former legislators say executive and judicial branch appointments are attractive because they combine better pay—and in some cases more prestige—with the opportunity for continued public service. Former Sen. Phil Kirk Jr. (R-Rowan) says he resigned to become Holshouser's administrative assistant because with the inauguration in 1973 of the first Republican governor elected this century, he accurately foresaw the shift in 1974 from biennial to annual legislative sessions. As a school teacher, Kirk says he could not afford the financial sacrifice of coming to Raleigh every year. The move paid off for Kirk. In 1976 he was appointed Secretary of Human Resources under Holshouser, and when Republicans regained control of the Governor's Office in 1985, Kirk was again tapped as secretary of Human Resources.⁴

Kirk says he sees no problem with the appointment of legislators to positions in the executive branch. "I think it helps relations between the executive and legislative branches," says Kirk. "Any time you get someone in the executive branch who understands the legislative branch, it helps both branches."

Others say the issue is not so clear-cut. "I have no quarrel whatsoever with the governor appointing people out of the legislature to executive or judicial posts," says Barnes. "The legislature is becoming a full-time job and the pay is becoming very much part-time." But Barnes says there is a cost. "As for the legislature, it then decimates leadership and [removes] people who are moving toward leadership positions."

Still, Barnes says governors traditionally have shown "wise discretion" in waiting until the long session of the General Assembly has ended to pluck off legislators for other posts. And he says he does not fault legislators for taking the better-paying positions. "You cannot quarrel with a person for giving up an \$11,000-a-year job and taking a \$50,000- to \$60,000-a-year job that works you less hard, with less meetings and less pressure than the legislature. How can you quarrel with that? Yet there are those who love the legislative branch, who would decline any price paid, any job offered in the judicial or executive branch, because they feel they are filling a particular niche of service."

A legislator makes \$11,124 a year, plus \$465 a month for expenses and a daily allowance of \$81, seven days a week when the legislature is in session. The typical legislator got \$34,200 in 1989 from these sources. That does not include mileage paid for travel to and from the legislature and study commission meetings, or payment for attending meetings or conferences when the legislature is out of session. By comparison, a parole commissioner makes five times a legislator's base salary at \$57,504, and the pay range for the assistant secretary for aging in the Department of Human Resources is \$38,549 to \$63,072. Starting pay for an Appeals Court judge is \$79,968 a year, while Utilities Commission members make \$70,992—the same salary as Superior Court judges.

Former Rep. Thomas Gilmore (D-Guilford) says not every acceptance of a gubernatorial appointment by a legislator represents a promotion and a lighter workload. Gilmore, who resigned to become deputy secretary of Human Resources in 1978, says Hunt appealed to his sense of public service in urging him to accept a post in the administration. "He personally appealed to me to resign and come in and manage the Department of Human Resources—to run it on a day-to-day basis," says Gilmore. "It was a mistake politically. I did the moral, ethical right thing."

Gilmore says by affiliating himself directly with the Department of Human Resources, which oversees the delivery of social services statewide, he became known as a liberal, and that hurt him in later bids for public office. But Gilmore, a successful nurseryman, says the notion that he gave up his legislative seat and torpedoed his political career for a posh state government job is nothing more than a myth. "I worked a 12- to 14-hour day as a member of the executive branch," says

Gilmore. "Never have I worked that hard in my own business."

Redman, the current Utilities Commission chairman who gave up his legislative seat in 1987, says family considerations helped him make the decision to take an executive branch post. "I've been able to combine the opportunity to serve in an office that affects people with the ability to spend time with my family and also to get a little financial reward out of it," says Redman.

If the legislature were treated more like a full-time job, there would be fewer resignations, says Redman, but then the tradition of a citizen legislature would be lost. That would usher in a whole new set of problems.⁵ "It would be more like Congress, where you get them in and they don't ever get out," says Redman. "Some people feel the legislators would lose sight of why they are here. They would spend all their time campaigning instead of taking care of the business at hand. People would probably stay in longer and the price of campaigning would probably go up."

As long as legislative pay falls short of the time commitment required to serve effectively in the legislature, the allure of executive and judicial branch appointments will remain strong for state lawmakers. But there is one check against an over-reliance upon legislators for gubernatorial appointments. Governors do not want to risk their legislative agendas by depleting the ranks of allies in the General Assembly. "Governors are always going to have to have strong ties to the legislative branch," says Lt. Gov. Jim Gardner, the presiding officer in the Senate. "There could be a point where you could deplete some legislative experience if you went totally overboard. So far, I haven't seen that."

Three legislators have resigned to accept executive branch appointments from Martin since Gardner took office in 1989. They include former Sen. Laurence Cobb (R-Mecklenburg), now a Utilities Commission member, and former Rep. Ann Duncan (R-Forsyth), now assistant secretary in the Department of Environment, Health, and Natural Resources. Hunt, the Moore County Democrat, took a job in December as assistant chief of child support enforcement in the Department of Human Resources⁶ and resigned her legislative seat in January 1990. Hunt led the ticket in the competitive 16th Senate District when she won re-election in 1988, but Martin says she "contacted the department" about the job and was not lured away to improve Republican chances of winning another legislative seat. He says Human

Resources Secretary David Flaherty made the decision to hire Hunt.

Gardner says both Cobb and Duncan came from Republican-leaning districts, which probably helped sway the decision to appoint them to executive branch positions. "I think the first thing would be that the governor would look for a qualified person," says Gardner. "Then if you have a political bone in your body, you've got to say, 'We don't want to lose two members.' In my own mind, I felt we could keep both [seats]."

So the best control against depleting the legislative branch with an excess of judicial and executive appointments may be old-fashioned self-interest on the part of the chief executive. As the Center's biennial survey of legislative effectiveness points out time after time, seniority is among the major keys to building power in the legislature.⁷ Governors do not want to head over to the General Assembly—legislative agendas in hand—only to find they have no friends in high places. ■■

FOOTNOTES

¹Another former Judiciary III Committee member, Sen. Henry Frye (D-Guilford), who served as vice-chairman along with Barnes, was appointed a Supreme Court justice by Hunt after Frye completed his Senate term in 1983.

²Windley's criminal record was to be wiped clean when he completed a first offenders' program (*The News and Observer* of Raleigh, Feb. 8, 1989, p. 2C). Taylor and Jordan faced forced resignations because they pleaded guilty to felonies. Charges against Taylor centered on his conspiring to burn Sen. J.J. "Monk" Harrington's warehouse (A.L. May, *The News and Observer* of Raleigh, Aug. 31, 1982, p. 10A). Jordan pleaded guilty to charges stemming from using his influence as a legislator to try to enhance the value of property he owned in Chatham County (*The News and Observer* of Raleigh, Aug. 18, 1985, p. 1A).

³The two were Sen. William Redman (R-Iredell), appointed to the commission in 1987, and Sen. Laurence Cobb (R-Mecklenburg), appointed to the commission in 1989.

⁴Kirk recently resigned his position as Governor Martin's chief of staff to become president and secretary of N.C. Citizens for Business and Industry and publisher of *We the People of North Carolina*, the association's magazine.

⁵For more on this topic, see Chuck Alston, "The Citizen Legislature—Fact or Fable?" *North Carolina Insight*, Vol. 8, No. 2, November 1985, pp. 50-53.

⁶Seth Effron, "Statehouse Democrat Takes \$41,436 Post Working for Martin," *Greensboro News and Record*, Jan. 4, 1990, p. 1D.

⁷Longevity of service has long been a key factor in obtaining a high ranking among North Carolina lawmakers in the Center's biennial legislative effectiveness survey, the latest example being the 1987-88 study. Of the legislators ranked in the bottom 40 in the 120-member House, only seven had served more than one prior term. In the Senate, only four of the 50 senators ranked in the bottom 10 had served more than one prior term. Effectiveness rankings are reported every other year in *Article II: A Guide to the N.C. Legislature*, first published in 1978.