

North
Carolina

Insight

\$6 Vol. 10 No. 4 June 1988



School Bus Drivers: How Old for Safety?

- Also:
- Regulation of Rent-To-Own?
 - Researching Legislative Votes
 - North Carolina's Long Ballot



N.C. Center for Public Policy Research

Board of Directors

Chairman

Thad L. Beyle

Secretary

Karen E. Gottovi

Vice Chair

Keith Crisco

Treasurer

V.B. (Hawk) Johnson

Thomas L. Barringer

James Bell

Beverly A. Blount

Daniel T. Blue, Jr.

Ruth Cook

Daphne T. Copeland

Francine Delany

Walter DeVries

William H. Edmondson

Charles Z. Flack, Jr.

Joel L. Fleishman

Virginia Ann Foxx

R. Darrell Hancock

William G. Hancock, Jr.

Mary Hopper

Betty Ann Knudsen

Helen H. Laughery

Thelma Lennon

Isaac Miller

Patricia Watts

Ed O'Neil

Roy Parker, Jr.

Betty Chafin Rash

H. Smith Richardson, Jr.

Grace Rohrer

Jerry Shinn

McNeill Smith

Asa Spaulding, Jr.

Robert W. Spearman

Geraldine Sumter

Mary Pinchbeck Teets

Frances Walker

Cameron West

Betty H. Wiser

The North Carolina Center for Public Policy Research is an independent research and educational institution formed to study state government policies and practices without partisan bias or political intent. Its purpose is to enrich the dialogue between private citizens and public officials, and its constituency is the people of this state. The Center's broad institutional goal is the stimulation of greater interest in public affairs and a better understanding of the profound impact state government has each day on everyone in North Carolina.

A nonprofit, non-partisan organization, the Center was formed in 1977 by a diverse group of private citizens "for the purpose of gathering, analyzing and disseminating information concerning North Carolina's institutions of government." It is guided by a self-electing Board of Directors and has individual and corporate members across the state.

Center projects include the issuance of special reports on major policy questions; the publication of a quarterly magazine called *North Carolina Insight*; the production of a symposium or seminar each year; and the regular participation of members of the staff and the Board in public affairs programs around the state. An attempt is made in the various projects undertaken by the Center to synthesize the integrity of scholarly research with the readability of good journalism. Each Center publication represents an effort to amplify conflicting views on the subject under study and to reach conclusions based on sound rationalization of these competing ideas. Whenever possible, Center publications advance recommendations for changes in governmental policies and practices that would seem, based on our research, to hold promise for the improvement of government service to the people of North Carolina.

Executive Director

Ran Coble

Center Staff

Jack Betts
Lori Ann Harris
Marianne Kersey

Mike McLaughlin
Katherine Bray Merrell
Sharon Moore
Nancy Rose

Interns

Melissa Jones
Kim Kebschull
Virginia McGee
Karen Salter

NORTH CAROLINA INSIGHT is a quarterly magazine published by the North Carolina Center for Public Policy Research, Inc. (a nonprofit, tax-exempt corporation), P.O. Box 430, Raleigh, N.C. 27602. Telephone (919) 832-2839. Annual membership rates: Individual, \$24; Organizational, \$30; Supporting, \$50; Corporate, \$100; Supporting Corporate, \$250; Patron, \$500; Benefactor, \$1000. Third class postage paid at Raleigh, N.C. Copyright 1988 by the North Carolina Center for Public Policy Research, Inc. Articles may not be reprinted without permission. Graphic design by Carol Majors. Production by PUBLICATIONS UNLIMITED. Printed by Edwards & Broughton Co. Raleigh, N.C. The Center is supported in part by grants from the Mary Reynolds Babcock Foundation and the Z. Smith Reynolds Foundation, as well as by 109 corporate contributions and 700 individual members across the state. The views expressed in this publication are those of the authors and are not necessarily those of the Center's Board of Directors or staff. Published June 1988.

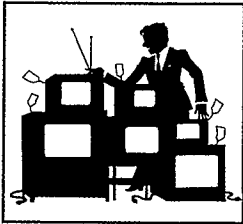
Cover: North Carolina's first school bus, built and operated for family and neighbors of John Bridges of Wendell in 1910. The youngster at the second window from the left is Henry Bridges, who would become State Auditor in 1947. Photograph from N.C. Department of Public Education.

North Carolina Insight

Vol. 10, No. 4

June 1988

FEATURES



- 2 *The Rent-To-Own Industry: Of Consuming Interest in North Carolina* — Anne Jackson
- 8 *How Can a 25-Inch TV Cost \$1100?* — Margot Roten
- 9 *What More does a Free Enterprise System Require?* — W. Woodard Webb
- 12 *Criminal Courts: Chamber of Justice or Collection Agency for Rental Dealers?* — Jack Betts
- 17 *School Bus Safety: Old Enough to Drive a Car, Old Enough to Drive a Bus?* — David S. Perkins
- 26 *The Statistics Don't Lie—But They May Mislead* — Jack Betts
- 29 *There's More to the Issue than Driver Age and Experience* — David S. Perkins
- 31 *Center's First Joint Production with Public Television Examines Two-Party System in North Carolina* — Jack Betts and Vanessa Goodman



DEPARTMENTS

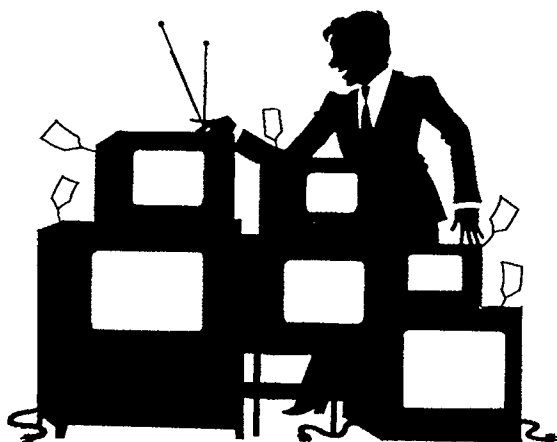
Editor
Jack Betts

Associate Editor
Mike McLaughlin

Production/Art
Director
Carol Majors

Production
PUBLICATIONS
UNLIMITED

- 40 *In The Executive Branch: The Council of State and North Carolina's Long Ballot—A Tradition Hard to Change* — Ferrel Guillory
- 45 *In The Legislature: So You Think It's Easy to Find Out How Legislators Vote, Eh?* — Paul T. O'Connor
- 49 *Legislative Computers—Tracking Takeoffs and Landings* — Mike McLaughlin
- 51 *From The Center Out: Center Releases Sixth Biennial Legislative Effectiveness Rankings* — Lori Ann Harris and Marianne Kersey
- 58 *Memorable Memo*



The Rent-To-Own Industry: Of Consuming Interest in North Carolina

by Anne Jackson

For most businesses, North Carolina law regulates interest rates and finance charges on furniture and appliance purchases. But for dealers in the state's growing rent-to-own industry, the sky may be the limit. While other businesses are limited to charging 24 percent on retail sales, these businesses often charge consumers what amounts to more than 100 percent—and sometimes more than 200 percent—on rent-to-purchase agreements. Are these charges fair, or should they be limited? What action, if any, should the 1988 General Assembly take when it convenes in Raleigh in June?

Jeanne Fenner didn't know much about the rent-to-own industry before 1982, when her housekeeper's sister asked her to look over a contract for a rent-to-own clothes washer. Fenner, then a Democratic state representative from Wilson, was dismayed to see that the contract called for 78 weekly payments of \$14—a total purchase price of \$1,092 for an appliance that would sell for about \$350 at retail prices.

"She really didn't know rent-to-own from buying something on time," Fenner says now about the woman. Because she was living on what Fenner

describes as "a very small disability check," the woman had liked the contract terms: no down payment and no credit check. But what she did not realize was that, like all rent-to-own agreements, she would own no equity in the appliance until the final payment was made. Neither did she know the actual cash price of the washer. Fenner says the rent-to-own dealer had refused to tell the purchaser.

Anne Jackson is a Raleigh writer who has covered the N.C. General Assembly for The New York Times regional newspapers.

Across North Carolina, scores of other consumers tell the same story—that they didn't know what they were getting, or what they weren't getting, for their money. The estimated 250 rent-to-own outlets in North Carolina—with names like Colortyme, Rent-A-Center and Remco—offer a variety of electronic equipment, furniture, and appliances. Old-line rental dealers—such as furniture rental companies which do not offer their items on a rent-to-own basis—have begun to describe themselves as strictly rental dealers, so they won't be confused with the rent-to-own industry.

But as the industry has grown in size and profitability, so has the controversy surrounding its practices. In 1984, the Attorney General's office obtained a \$20,000 fine from Remco for mailing threatening notices to customers whose payments were overdue. (The industry blames the incident on a mistake by a secretary for a lawyer who was handling Remco's past-due accounts.) The mailgrams warned of felony prosecution unless Remco received "the cash market value of its merchandise within seventy-two hours." Other consumers have come home to find their homes entered and their appliances repossessed by dealers, while others complain of being harassed in their workplace and elsewhere.

Such hardball practices have stimulated a growing number of complaints over the past few years, and Fenner introduced the first proposal for regulating rent-to-own charges during the 1983 General Assembly session. Although unsuccessful, her effort began an on-again, off-again legislative debate that has spanned five years. When state lawmakers return to Raleigh this year, the thorny issue of rent-to-own regulation will be waiting for them once more.

"The Attorney General's office examined 342 contracts executed by one rent-to-own company in 1986. Fifty-one percent of the goods were used. Generally there was no difference between the stated cash price of the used goods and new goods, contrary to a representation made by the industry . . ."

—Lacy Thornburg
Attorney General

The Attorney General Intervenes

Last year, advocates of regulation won an influential ally in N.C. Attorney General Lacy Thornburg. Thornburg blasted rent-to-own agreements as a "cruel hoax" on "the poorest of our citizens." A study by his office's Consumer Protection Section determined that some rent-to-own contracts charged as much as 350 percent in "effective annual percentage rates" and that only about 22 percent of the contracts culminated in sales—a percentage confirmed by the industry. In other words, fewer than one in four consumers who enter into a rent-to-own contract actually wind up owning the merchandise. For the vast majority of rent-to-own consumers, the furniture, television, or washing machine goes back to the rent-to-own dealer—there to be rented again to another consumer.

Thornburg also said in a series of memoranda to the legislature that rent-to-own consumers often *aren't getting new merchandise*. As often as not, *it's used goods*. "The Attorney General's office examined 342 contracts executed by one rent-to-own company in 1986," Thornburg says. "Fifty-one percent of the goods were *used*. Generally there was no difference between the stated cash price of the used goods and new goods, contrary to a representation made by the industry . . ."

There's nothing wrong with offering used goods for sale, says Lawrence Davis, an attorney for Rent-A-Center. "So what [if it's used]," says Davis. "They tell 'em it's used." And under legislation the industry has backed in other states, he says, dealers would be compelled to say whether an item is used.

Thornburg last year urged the Senate Judiciary I Committee to support a House-passed bill that "closes a loophole through which a relatively small but growing number of companies are able to charge the least fortunate of our citizens, not 18 percent (the maximum credit card rate); not 24 percent (the maximum installment rate); not 36 percent (the maximum small loan rate); but 250 percent per year or more in finance charges when they are trying to buy washing machines, furniture, televisions, and other goods."

Davis says that without rent-to-own businesses, poor people with bad credit ratings would have to do without televisions, videocassette recorders, basic appliances like refrigerators, and even such items as rental tires. Rent-to-own businesses, he notes, provide these items at relatively low individual payments so poor people can afford them.

In an interview, Edward L. Winn III, gen-

eral counsel for the Texas-based Association for Progressive Rental Organizations (APRO), criticized efforts to regulate rent-to-own charges. Winn characterized those attempts as price-fixing by "lunatic legal aid lawyers" and "radical consumer activists." Winn contends that legislation offered by consumer representatives would limit the prices that could be charged both for the items themselves and for what the industry argues are rental charges rather than interest—thus "fixing" the price.

"We are providing [people at] a certain economic level nicer things than they could have otherwise," Winn says. Current regulatory proposals, he warns, would drive rent-to-own dealers in North Carolina out of business, penalizing "the poor folks who don't get to watch TV and don't get air conditioners and don't have furniture."

The Prospect for Legislative Action

The starting point for legislative deliberations in 1988 will be a 12-page bill hammered out by a three-member Senate subcommittee after two months of debate and sometimes raucous hearings during the 1987 session.³ That proposal would allow rent-to-own dealers to charge rates that would yield effective interest rates as high as 48 percent (on 18-month contracts), require dealers to apply 70 percent of every payment to the purchase price, and allow for reinstatement of a contract after a missed payment.

The Senate bill was drafted as a compromise

after the House, by a vote of 92-1, passed a bill to treat rent-to-own agreements like retail sales. That bill would have limited allowable charges to the 24 percent interest rate that state law allows retailers to charge for installment purchases.⁴

Neither the House nor Senate bill is acceptable, industry lobbyists say. "We're going to have to go in there [to the legislature] and duke it out again, I reckon," Winn said. "It's a survival issue—make no mistake."

Key observers on both sides of the issue predict that if a bill comes out of the 1988 legislative session, it probably will be fashioned after a New York law that requires half of each payment—rather than the 70 percent in the Senate Committee Substitute—to go toward the purchase price. Under North Carolina law, that would allow rent-to-own dealers to charge as much as 103 percent per year in effective interest rates—more than *four times* the maximum installment payment rate now allowed on retail purchases (see Tables 1 and 2). That would not be much of an improvement, consumer advocates say.

"That would cut out the very worst, but that probably would not change the average of what is being done now," says James C. Gulick, the special deputy attorney general who heads the state's Consumer Protection Section.

Is the 50 percent, New York-style formula one the industry could live with? "Experience [in New York] would tell that we probably could. But I don't know," says Colortyme General Counsel W.

Table 1. Effective Annual Interest Rates of Rent-To-Own Contracts Depending on Amount Applied to Equity and Length of Contract

Length of Contract	Percentage of Payment Applied to Equity						
	45%	50%*	60%	70%**	75%	80%	85%
Interest Rates							
24 months:	92.38%	77.88%	54.81%	36.90%	29.29%	22.40%	16.35%
18 months:	122.33%	103.07%	72.42%	48.67%	38.65%	29.56%	21.22%
12 months:	181.06%	152.35%	106.72%	71.58%	56.73%	43.36%	31.14%
6 months:	348.01%	291.50%	202.61%	135.03%	106.74%	81.32%	58.20%

Note: Annual percentage rates for weekly, biweekly or semi-monthly agreements are slightly higher than those for equivalent monthly terms.

* As so-called "New York" proposal would allow

** As Senate Committee Substitute for HB 1108 would allow

Source: N.C. Legal Services Resource Center

"To compare rent-to-own dealers with retail merchants is just not fair. It's not comparable in any way."

—Lawrence Davis
Attorney for Rent-A-Center

Woodward "Woody" Webb of Raleigh.

Consumer representatives says the industry is misleading the General Assembly, and that it could actually live with the Senate Committee Substitute, which requires that 70 percent of payments be applied to the purchase price. Both Gulick and Margot Roten of the N.C. Legal Services Resource Center point out that the industry last year cited a contract offered by a Raleigh rental dealer—Ted's TV—as typical of the industry. In that case, the industry said, Ted's TV offered rent-to-own contracts for appliances at about the same cost as a local furniture store did on retail sales contracts. Both Roten and Gulick say the Ted's TV contract applied the equivalent of 79 percent of the consumer's payments to equity—more than either the New York bill or the Senate Subcommittee substitute would require. "Obviously, they can live with even more than 70 percent," notes Gulick.

The experience of other states with new rent-to-own laws is still being judged. In New York, consumer representatives say they are studying the results. In Michigan, where the state requires that 45 percent of each payment be applied to owner's equity in the merchandise, Assistant Attorney General Fred Hoffecker says there are "very few complaints anymore." Hoffecker says Michigan's law, which took effect in 1985, also requires complete disclosure of terms and costs, ensuring that consumers realize "that it's a costly way to purchase something." Prior to adoption of the law, says Hoffecker, "We were seeing complaints on a regular basis, but now it's almost disappeared.

North Carolina Interest Rate Regulation

At the heart of the dispute between the rent-to-own industry and consumer activists is this question: Is a rent-to-own contract *just* a rental contract with an option to buy, as the industry maintains, or is it a sales contract with regular payments that accomplish the same thing as a sales contract

with interest provisions, as consumer representatives contend?

Consumer protection specialists maintain that rent-to-own contracts perform the same function as loan contracts—they require regular payments by a consumer to purchase an item, the item winds up costing more than it would if it were bought on a cash basis, and the difference between the cash price and the ultimate cost when the contract is completed amounts to finance charges that are not really different from interest on principal. They point out that North Carolina has a structured interest-rate regulation system that limits other businesses in what they can charge (see Table 2), and that to be fair to all parties, rent-to-own dealers also should be regulated—to create what the N.C. Retail Merchants Association, a supporter of regulating the industry, describes as a "level playing field."

Under current state law, banks and businesses with revolving charge accounts can charge consumers no more than 18 percent in annual interest rates. Retail merchants who sell furniture, appliances, and other items are limited to charging 24 percent interest—a higher rate than banks, because their cost of money is higher. And small loan companies can charge consumers up to 36 percent—a higher rate than retail merchants—because small loan companies operate on a smaller profit margin and take higher risks in offering loans to consumers with risky credit records. Consumer specialists like Roten say the rent-to-own industry could probably survive if it were treated like finance companies and limited to 36 percent, but she notes that the rent-to-own industry does have some higher costs—and says that an effective interest cap of 48 percent might be appropriate. That's what the Senate Subcommittee substitute would allow.

But rent-to-own dealers reject any contention that they are lending money, or that they should be restricted in what they charge. "To compare rent-to-own dealers with retail merchants is just not fair," says Davis. "It's not comparable in any way. Unlike retail merchants' installment sales customers or small loan customers who could unwittingly sign up for excessive future obligations, the rent-to-own dealers' customers do not sign up for any future obli-

gation except to return the merchandise at the end of the rental period of a week or a month for which payment has already been paid. There is no extension of credit and no loan is involved in any way. The



Table 2. Regulated Interest Rates for Other Types of Transactions

Type of Loan	Current Maximum Interest Rate	Statutory Citation
Credit Card Transactions	18 %	G.S. 24-11 and G.S. 25A
Retail Installment Sales	24 %	G.S. 25A
Small Loans	36 %	G.S. 53, Article 15
Rent-To-Own Contracts	No Limit	None
[Proposed Senate Subcommittee Substitute]	[48.67%]	[SCS for HB 1108]

customer is not required to make a long-term commitment which could be beyond the customer's means. The transaction is like a cash sale because payment is up front and is not truly comparable to an installment retail sale or loan, which would carry future payment obligations. The future ownership option does not substantially change this fact," Davis adds.

In a strongly worded memo to the Senate Subcommittee last year, industry attorney Samuel Choate said it was apparent that Attorney General Thornburg did not understand the rent-to-own industry.⁵ Choate explained the industry's view that without debt, there can be no creditor-debtor relationship requiring interest. Because rent-to-own contracts can be interrupted at any time by the consumer, without further financial obligations by the consumer, rent-to-own contracts cannot be regarded as either sales or as loan contracts. Rent-to-own customers, he points out, "are given an option to own but no obligation."

Adds Choate, "It was disappointing . . . to discover that the Attorney General of North Carolina could not recognize the difference between a debt and a lease with an option to renew. It was equally as disappointing to see the Attorney General take the position that an item so uniquely a creature of debt as interest could be discussed in the context of a lease with no obligation."

Industry lawyers say dealers must charge higher prices on their goods than other retail businesses because their costs are higher—as much as 56 percent higher, the industry claims. And it says the reason so few consumers wind up owning merchandise is that many of them have no intention of owning—only 55 percent of rent-to-own customers plan eventually to own what they rent. Many consumers decide they cannot afford the item, decide

they no longer need it, decide to switch to another item, or decide they only need it for a short period, says Choate.

The Fenner Treatment

Jeanne Fenner's 1983 bill would have treated rent-to-own contracts like retail sales, subject to the 24 percent interest cap. Like the similar bill that would come four years later in the 1987 session, it passed the House easily before running into trouble in the Senate. What emerged in 1983 was a law that merely encouraged dealers to disclose the cash price of rent-to-own merchandise and exempted most rent-to-own contracts from the retail installment sales act.⁶ Rent-to-own contracts that required a final balloon payment of more than 10 percent of the item's cash price would not be regulated. The Senate "was pressured into adding that little loophole," says Roten.

Fenner's efforts only won her a place on the industry's political hit list.⁷ The Wilson County Democrat lost her re-election bid in 1985 (in a special election mandated by a controversial redistricting plan) to Republican Larry Etheridge after political action committees funded by rent-to-own dealers from as far away as Texas poured more than \$6,000 into Etheridge's campaign. That's an unusually large amount from one industry, especially in a

"A lot of people feel like it's a rip-off, and government has a place in regulating situations like that"

—Rep. Joe Hackney
(D-Orange)

Table 3. State Regulation of Rent-To-Own Transactions

State	No Regulation	Rent-to-Own Transactions Exempt From Retail Sales Regulations	Rent-To-Own Transactions Subject to Retail Sales Laws	Requires That a Certain Percentage of Payment Be Applied to Equity	Requires Disclosure of Charges
Alabama					X
Alaska	X				
Arizona	X				
Arkansas					X
California	X				
Colorado	X				
Connecticut	X				
Delaware	X				
Florida	X*				
Georgia					X
Hawaii	X				
Idaho	X				
Illinois	X				
Indiana					X
Iowa					X
Kansas	X				
Kentucky	X				
Louisiana	X				
Maine		X			
Maryland	X				
Massachusetts					X
Michigan				X (45% to equity)	X
Minnesota		X			
Mississippi	X				
Missouri					X
Montana	X				
Nebraska	X				
Nevada	X				
New Hampshire	X				
New Jersey	X				
New Mexico	X				
New York				X (50% to equity)	X
North Carolina		X			
North Dakota	X				
Ohio	X*			X (50% to equity)	
Oklahoma	X				
Oregon	X				
Pennsylvania			X (18% rate cap)		
Rhode Island	X				
South Carolina					X
South Dakota	X				
Tennessee					X
Texas					X
Utah	X				
Vermont	X				
Virginia					X
Washington	X				
West Virginia	X				
Wisconsin		X			
Wyoming	X				
Totals:	32	4	1	3	13

* Disclosure legislation pending in current legislature.

Source: N.C. Attorney General's Office and Association of Progressive Rental Organizations

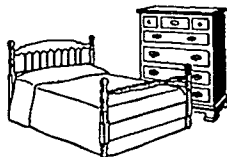
modest-sized county like Wilson. The same thing occurred in 1986, when Fenner ran for an N.C. Senate seat. Her opponent got \$15,000 from rent-to-own industry officials in the 1986 race. "I think it certainly had its impact," she says. "You take away \$15,000 from any campaign—it pays for telephone banks, it pays for a lot."

Etheridge spent \$12,000 in his 1985 upset campaign, while Fenner spent about \$2,000 in the general election and \$5,700 to win an earlier four-way Democratic primary. The average winner in 1984 House races spent about \$5,000.

The APRO's Winn had a role in the 1985 election. Winn told *The Charlotte Observer* in 1985 that he "sent out a memo to North Carolina dealers saying, 'Jeannie Fenner's up for reelection. She's the one who tried to run you out of business.'" Contributions from across the state and the country poured into Etheridge's campaign, and

when the dust settled, Fenner was out and Etheridge was in.

The rent-to-own issue slumbered through the 1985-86 General Assembly session, but awoke with a roar in 1987. Rep. Joe Hackney (D-Orange), with the backing of the Attorney General's office and the N.C. Legal Services Resource Center, introduced the bill that created the 1987 debate. Hackney's bill



passed the House before industry lobbyists could marshal their forces against it. (In fact, hardly anyone was against the bill, including Etheridge. When the House voted 92-1 to pass the rent-to-own legislation, the new state representative from Wilson County did not vote. He was not on the floor at the time. Etheridge missed that and other votes because he was ill with pneumonia at the time.)

"I frankly thought on an issue like that, the more quickly it moved the better off we were," Hackney says. While the industry describes his bill as price

How Can a 25-Inch TV Cost \$1100?

On Feb. 21, 1986, Ms. Lynda D.* decided to buy a television. She called Lion TV, a rent-to-own dealer, and asked them about the prices for various models. After some discussion, she agreed to purchase a 25-inch TV at a cost of \$60 a month. The Lion TV salesperson said that the TV would be delivered to her home that afternoon for her inspection and that if she liked it she would be requested to sign certain documents. The television was delivered, Ms. D. signed the attached rental agreement, and paid Lion TV \$60.

The agreement provided that payments could be made weekly, biweekly, or monthly. To purchase this television valued at \$604.80, payments of \$60 were required to be made for 17 months, plus an additional payment of \$66.53 (for a total of \$1,086.53). The annual percentage rate on this contract was in excess of 80 percent.

Ms. D made irregular payments, sometimes weekly, biweekly, or monthly, all of which were accepted by Lion TV. Her last payment was made Dec. 20, 1986. She had paid a total of \$561.

Although Lion TV had her home address and telephone number, and despite her request not to be contacted at work, on two occasions in late November 1986 a Lion TV employee confronted Ms. D. at her workplace and complained about her missed payments. She made two payments in December, which were accepted.

On Jan. 3, 1987, a Lion's employee swore out a criminal warrant against Ms. D. for failure to return rental property. The case was dismissed because no demand had been made to return the property. Immediately after the dismissal, a notice demanding the return of the property was left on Ms. D.'s front door, in plain view of all passersby. After an attorney intervened on Ms. D.'s behalf, the case was settled.

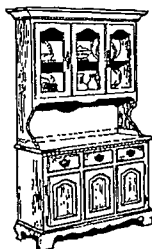
—Margot Roten
N.C. Legal Services Resource Center
Testimony supplied to Senate
Judiciary I subcommittee on HB 1108
in 1987

* The consumer's name has been abbreviated for this article at her attorney's request.

fixing—it would limit the amount dealers could charge on transactions—Hackney points out that many consumers don't think such contracts are fair. "A lot of people feel like it's a rip-off, and government has a place in regulating situations like that," Hackney says.

By the time Hackney's bill got to the Senate, industry representatives were prepared. Winn flew in from Texas, Choate came from Washington, D.C., and former Speaker of the House Phil Godwin was summoned from Gatesville. The industry also signed on Davis, a former legislator and candidate for the U.S. Senate, and former N.C. Attorney General and 1984 gubernatorial candidate Rufus Edmisten, who once championed consumer protection legislation. At several meetings, the crowd of industry lobbyists and rent-to-own dealers spilled out of the committee room and into a hallway.

Sen. Charles Hipps (D-Haywood), the Judiciary



I subcommittee chairman, recalls that at most meetings, lobbyists were "stacked up like cord wood," and he once quipped that the committee meeting would have to be moved "to the Dean Dome"—the 22,441-seat Smith Arena in Chapel Hill.

Choate proved himself to be a fierce opponent of the rent-to-own bill—even interjecting himself into the news gathering process. Once two reporters were interviewing Hipps after a committee meeting, and one scribe asked how much of a weekly payment might be applied to ownership. "That's not a fair question. He hasn't taken evidence on that in a subcommittee," interrupted Choate. Says Hipps, a lawyer himself, "I thought to myself, 'This isn't court. What is this nonsense?' That sort of ended most of our goodwill and rapport."

Davis says Choate later apologized to Hipps, but the damage was done. Legislators continue to grumble about "hired gun" lobbyists the industry

What More Does a Free Enterprise System Require?

As the attorney for Lion TV in the matter of Lynda D., I state for the purpose of correcting the record developed by the N.C. Legal Services Resource Center (which was not, incidentally, even involved in the case) that the documents in the file show that:

- Ms. D. signed the rental agreement on Feb. 21, 1986, not in one place but in two places, attesting that she had read and understood the agreement and, in particular, the ownership option provision.

- The agreement clearly revealed that the 25-inch Quasar television set was new and had a cash value of \$604.80.

- The agreement also clearly disclosed that Ms. D. would have to pay \$60 per month for 17 months and one additional payment of \$66.53 in order to own the set (i.e. to stop renting and acquire outright ownership). These terms were set out not once but twice in the agreement and specifically signed off on by Ms. D. At the time Ms. D. signed the agreement she was employed by Sears in "Ladies Security."

- The agreement clearly provided that rental payments were due on or before the last day of the previous rental period.

According to the store files, Ms. D. made exactly one payment on time (her first payment due on Feb. 21, 1986) in over nine months. A demand letter was finally sent on Nov. 16, 1986, requesting that the set be returned within five days for failure to make timely rental payments. As a matter of practice, if Ms. D. had brought her account current and agreed to pay her rent on time in the future, no further action would have been taken. Because Ms. D. did not return the television set or bring her account current, a warrant was applied for and issued on Jan. 3, 1987, by a Wake County magistrate.

The matter was ultimately settled when Ms. D. voluntarily paid Lion TV a sum certain to buy the set. The documents and store files referred to herein are available for inspection and verification by anyone at any time.

—W. Woodard Webb
Legal Counsel, Lion TV

brought in from out of state to fight the bill. And several legislators also have pointed out that, as of May 4, 1988, neither Winn nor Choate had registered to lobby with the legislature, according to the N.C. Secretary of State's office.⁸

Rent-to-own dealers fought the bill by arguing that their profit margins are already slim because they provide service on rental items, and because they take a risk on low-income consumers that other merchants and lenders will not take. Choate told the legislators that under the Hackney bill, on an appliance with a retail price of \$200, the industry could charge only \$285 in fees over an 18-month lease—a margin of only \$4.72 per month for the dealer. But committee members weren't impressed, pointing out that such an appliance with a "retail price" of \$200 would have cost the dealer *far less* at wholesale prices—and would allow the dealer to make much more money on the transaction.

Hipps' subcommittee examined laws from other states and spent an estimated "50 or 60 hours," he says, in meetings and discussions with individual lobbyists. Hipps had asked the subcommittee staff to come up with what they believed was the

toughest law in the nation. What the staff came back with was the New York law—requiring 50 percent of payments to equity, and allowing 103 percent interest rates on an 18-month contract. Hipps' subcommittee then beefed up that law to arrive at the 70-percent-to-equity formula, allowing an equivalent interest rate of 48.67 percent on 18-month contracts.

Hipps was pleased with the bill that emerged. "It was a consumer-oriented bill, but I didn't think it was a death-defying act," he said. "The subcommittee report is probably the toughest [proposed law] in the nation, yet it probably doesn't go far enough."

Barnes Balks

It went too far for some, however. Sen. Henson Barnes (D-Wayne), chairman of the Judiciary I Committee assigned to study the bill, thought the proposal went overboard, and he never called a committee meeting to act on the panel's report. "If they're going to have a bill that's going to wipe out the industry, I don't think we'd be doing North Carolina any good," Barnes says. "There are some folks who would not have furniture if they could not

U-RENT
Your "Rent To Own" Store

Washer/Dryer Pair
• Large Capacity • Heavy Duty
RENT BOTH FOR ONLY \$19.95 A WEEK

22-Karat GOLD
7 NECKLACES, 7 BRACELETS LAYERED IN HEAVY 22-Karat Gold
FREE
OFFER GOOD FOR A LIMITED TIME ONLY

Super Special
Microwave
Lowest Price Ever
ONLY 4.99 A WEEK

Freezers
All Sizes
Chest and Uprights
10.00 WK.
13.00 WK.
10.00 WK.
15.00 WK.

U-Rent
Elegant Living At Affordable Pricing
Matching Lvscent Incliners and Dual Step Corner Table
17.99
Includes 3-Pc. Group ONLY

Free Service-Free Delivery
3 For The Price Of 1
Choose Your Entertainment System
19" Color TV
100 Watt Stereo
Deluxe Rack
26.95 A WEEK

25" Remote Color TV
White
Quantities Last
17.99 A WEEK
Rent By Phone

U-RENT
Any 3pc Cocktail And End Table Group
4.99
A Week With Any Furniture Rental

Save Space With Bunk Beds
Special
9.99
A Week While Quantities Last

Crews Bed
Super Space Saver
• 2 Beds
• Matching 3 Drawers Chest
• Bedding Included
16.99 A WEEK

U-RENT
Rack Stereo Systems
Lowest Price Ever
12.99
A Week

FREE
7 NECKLACES, 7 BRACELETS LAYERED IN HEAVY 22-Karat Gold
14

U-RENT
Amazing
7 NECKLACES, 7 BRACELETS LAYERED IN HEAVY 22-Karat Gold
FREE
OFFER GOOD FOR A LIMITED TIME ONLY

Table 4. Advantages and Disadvantages of Rent-To-Own Contracts

Advantages

- Poor consumers with bad credit can buy appliances and other goods they might not otherwise be able to afford.
- Payments on rent-to-own contracts are low and can be made weekly, biweekly, or monthly.
- Dealers take care of delivery of appliances and provide free service when they malfunction.
- Consumers can halt their rental agreement anytime and return the item to the dealer without penalty.

Disadvantages

- Consumers are not often told (a) the actual price of the appliance, (b) how much they will have to pay the dealer, or (c) how much those charges would add up to in annual interest rates — as much as 350%.
- Rent-to-own merchandise is often used, not new, and may have been used by more than one rent-to-own consumer in the past.
- Few rent-to-own consumers — fewer than one in every four — wind up owning the article they have contracted to buy and made payments for.
- Rent-to-own consumers often must pay a large balloon payment — sometimes nearly as much as they would have paid if they bought the item on a cash basis — at the end of the contract before they “own” the appliance.
- Consumers may be harassed by bill collectors if they miss payments, and may be prosecuted in criminal court for failure to return merchandise.

get it by paying for it over a period of time.”

Barnes said he would instruct the subcommittee to go back to work in June 1988 and draw up a second compromise. He said he liked the New York law, which he has discussed with members of the Attorney General's staff in that state. “They think they’ve gone far enough,” Barnes said.

While he agrees that the fee on some rent-to-own contracts “shocks our conscience,” Barnes warned against over-regulation in a recent edition of *Barnotes*, a newsletter published by the N.C. Bar Association. “No one stops to question the idea that the customer can simply refuse to purchase the overpriced appliances . . .,” he wrote. “If we are not careful, we are going to regulate everything from your civil rights to your rent.”

Industry representatives concur. “If the prospective clients are told up front exactly what they’re getting into and they’re free to turn around and walk out of the store . . ., why doesn’t that satisfy all the requirements of a free enterprise system?” asks Webb, the Colortyme lawyer who also represents about 250 stores that make up the N.C. Association of Rent-to-Own Dealers.

Webb says regulations should be limited to disclosure requirements—not currently required in North Carolina, but which would be mandated under the pending committee substitute—because rent-to-own payments do not constitute interest payments. Since no equity changes hands until the final payment, “there is no debt upon which a finance charge can be fixed,” he says. “That’s the legal confusion

that seems to throw most people.”

Attorney General Thornburg, however, criticizes such contentions. “With one breath the industry claims it offers poor people with poor credit the means to buy goods they could not otherwise afford,” he wrote in a memorandum last year to members of Barnes’ Senate committee. “With the next the industry denies it is in the business of selling.”¹⁰



Adds Gulick, the consumer protection chief, “The ownership ‘carrot,’ if you will, is used as a selling come-on, and a great many customers enter into it because they want to buy.” Rent-to-own dealers, he said, “sell ownership and yet they turn around and want to make it a rental contract.”

The industry embraces another view, however. “We see it as a way to allow consumers to use an item” until the consumer exercises his final-payment option to buy, says Rent-A-Center’s Davis.

Thornburg believes that simple disclosure of terms is not enough. The rent-to-own industry has supported such legislation in the past, he says, because those laws usually define rent-to-own sales as special contracts, not as installment loans or installment purchases. That puts rent-to-own businesses in a special category, he says. “Primarily these are disclosure statutes, which do little more than give official sanction to the industry’s current practices,” Thornburg told the committee in his memo. “I urge you to reject this approach. I do not think it will provide adequate protection to those customers. . . .”

Criminal Courts: Chamber of Justice or Collection Agency for Rental Dealers?

Should North Carolina’s criminal courts be used as a collection agency for rent-to-own dealers whose customers are behind on their payments? It depends upon the circumstances, says the N.C. Attorney General’s office, which hopes to prevent a deluge of collection cases from overwhelming the court system. The Attorney General has received several complaints from local district attorneys’ offices that the courts are being used as collection agencies by rent-to-own dealers. “Our office has had a recent flood of cases charging failure to return hired property,” notes James W. Copeland Jr., assistant district attorney in Wayne County.¹

Copeland and others have complained that rent-to-own dealers are swearing out criminal warrants under G.S. 14-167, a state law that makes it a crime to fail to return rented property.² The law was written to protect dealers from customers who, for instance, rent a car and then fail to return it at the end of the rental period. But rent-to-own dealers are seeking criminal warrants against consumers who are late or who cease making payments on a rental contract and who do not immediately return property.

“In essence,” says R. Alfred Patrick, assistant district attorney in Wilkes County, “the lessor [rent-to-own dealer] uses the criminal court as a collection agency; this can be quite aggravating since the equities are rarely [present] with the lessor acting as a prosecuting witness.”³

In response, the Attorney General’s office has advised prosecutors that they should wait until the stated end of the rental contract—not just until the consumer stops paying—before prosecuting such cases. “Prosecution under G.S. 14-167. . . would only be appropriate if the property were not returned after expiration of the lease. . .,” says William P. Hart, an assistant attorney general.⁴ Only if the dealer has evidence that the consumer has sold or otherwise disposed of the property should prosecutors pursue a case before the end of the contract.

That advice may relieve the courts of the burden of some rent-to-own cases. James Gulick, director of the Consumer Protection Section in the Attorney General’s office, says those cases were running up to 20 a week in at least one judicial district. “We view the use of the criminal process in these cases as a big problem, and some

Nationally, four states—Maine, Minnesota, North Carolina, and Wisconsin—treat rent-to-own contracts like retail sales, but exempt them from rate regulation. One state—Pennsylvania—defines rent-to-own contracts as retail sales and applies a rate cap of 18 percent. Three other states—Michigan, New York, and Ohio—require that a percentage of every payment be applied to equity. New York and Ohio require that 50 percent be applied to equity, while Michigan requires that 45 percent apply to equity. Thirteen states have passed laws that recognize rent-to-own agreements as special contracts and require certain disclosures, such as the



total of payments and the cash price (see Table 3). The toughest rate control law on rent-to-own businesses is Pennsylvania's. That law, which took effect March 1, 1988, was enacted in the closing days of the legislative session and took the industry by surprise. The APRO's Winn said the Pennsylvania law, if it stands, will mean the end of the rent-to-own business in that state. Overhead costs like delivery and free repair make it impossible for dealers to make a profit at such rates, industry spokesmen say.

"We're rent-to-rent dealers now [in Pennsylvania]," Winn said. "Customers no longer have a purchase option. They like to hope they get to own that

of these companies are using it very widely."

Meanwhile, legislation is pending in the General Assembly to accomplish much the same goal—permitting prosecution only after the rental contract's full term has expired.⁵ Supported by the N.C. Legal Services Resource Center and backed by Rep. Dan Blue (D-Wake) and Sen. Joe Johnson (D-Wake), the legislation—which creates a new provision limiting criminal prosecution of rental contracts with purchase options—is pending in the Senate Judiciary II Committee, where it has a fair chance of passage in the 1988 short session.

Sen. Charles Hipps (D-Haywood), chairman of a Senate subcommittee dealing with other rent-to-own legislation, says rent-to-own dealers should pursue recovery cases in civil court, just as other businesses do, and not in the criminal courts. "We don't need to have collections in criminal court," says Hipps. "These merchants [rent-to-own dealers] are the ones who let this stuff out on contract, and their remedy should be in civil court, not criminal court."

UNLESS REMCO RECEIVES THE CASH MARKET VALUE OF ITS MERCHANDISE WITHIN SEVENTY-TWO HOURS, WE WILL FILE FELONY CRIMINAL CHARGES AGAINST YOU.

IF YOU HAVE PAWNED OR SOLD OUR MERCHANDISE, THE ONLY WAY TO PREVENT FACING FELONY CRIMINAL CHARGES IS TO PAY REMCO FOR THE MERCHANDISE.

THIS IS YOUR ONLY NOTICE.

LARRY J. POULAIN
ATTORNEY FOR REMCO

05832
2044 EST

HGMCOMP HGM

FOOTNOTES

¹ Letter from James W. Copeland Jr., assistant district attorney, Eighth Prosecutorial District, to James Coman, Special Prosecution Division, Attorney General's Office, Feb. 18, 1988.

² G.S. 14-167 (Chapter 61, 1927 Session Laws, and amended in Chapter 1063, 1965 Session Laws, and Chapter 1224, 1969 Session Laws).

³ Letter from R. Alfred Patrick, assistant district attorney, Twenty-third Prosecutorial District, to Lacy H. Thornburg, attorney general, Oct. 1, 1987.

⁴ Letter from William P. Hart, assistant attorney general, for Lacy H. Thornburg, attorney general, to R. Alfred Patrick, assistant district attorney, Twenty-third Prosecutorial District, Oct. 15, 1987.

⁵ HB 1240, "An Act to Make Certain Changes in the Law Regarding Fraudulent Disposal of Property," sponsored by Rep. Dan Blue (D-Wake); and SB 863, sponsored by Sen. Joe Johnson (D-Wake), pending in Senate Judiciary II Committee, 1987 General Assembly (Second Session 1988).

"If we are not careful, we are going to regulate everything from your civil rights to your rent."

—Rep. Henson Barnes
(D-Wayne)

stuff that they rent. Now they can't do that."

Legislators and lobbyists agree that North Carolina is not likely to adopt regulations as stringent as Pennsylvania's. Hipps predicted that the regulatory issue will be resolved "more in line with Senator Barnes' theory (the New York bill) of where it should go than the subcommittee's theory of where it should go." Says the industry's Webb, "We're encouraged by the spirit of compromise we see from the Senate."

Hipps says that about 10 of the 50 senators—perhaps remembering Fenner's experience—had told him they were not eager to vote on rent-to-own regulations of *any* kind. But he adds: "If [a bill] comes out of committee with Henson's support, then there's a good chance it will pass."

But whether such a bill would be accepted by the House is another matter. Hackney is adamantly opposed to the bill that Barnes favors, and says he has already compromised by considering the Senate subcommittee substitute bill as a good alternative to his own bill. "We'd be worse off with [the New York style bill] than we would with nothing," contends Hackney. "Most of the dealers usually charge the same thing the New York bill would permit, so we won't have gained a thing."

But if the House is firm in its rejection of Barnes' approach, says Barnes, it may be the legislature will do nothing this year. "If they [the House] work it out, they can get a bill this year," says Barnes. "If not, maybe it'd be better to keep that sucker where it is right now [inactive in the Senate]."

This is an election year, of course, and some consumer advocates hope the prospects of facing the electorate will enhance chances for the Committee Substitute on HB 1108. But legislators have heard a great deal from the industry and very little from their other constituents about the rent-to-own issue, Hipps notes, and some don't like the notion of "playing Big Brother, trying to protect people from themselves," he says. "The average Joe Six-Pack doesn't know

anything about that bill or care. He just wants that TV now."

Fenner, who attended many of the subcommittee meetings last year, agrees with Hackney that the legislature should take a strong regulatory stance. "I would dare say that if this was a middle-income [or] high-income problem, there would have been a law a long time ago," she says. ☐☐

FOOTNOTES

¹Memorandum from Lacy H. Thornburg, Attorney General, to Senate Judiciary I Committee Members, July 9, 1987, regarding HB 1108, p. 3.

²*Ibid.*, p. 1.

³Senate Committee Substitute for House Bill 1108, pending in Senate Judiciary I Committee, 1987-1988 General Assembly.

⁴Retail Installment Sales Act, G.S. 25A (Chapter 796 of the 1971 Session Laws, as amended by Chapter 686 of the 1983 Session Laws).

⁵Memorandum from Sam Choate, counsel to the North Carolina Rental Dealers Association, to members of the Senate Judiciary I Committee, July 14, 1987, p. 1.

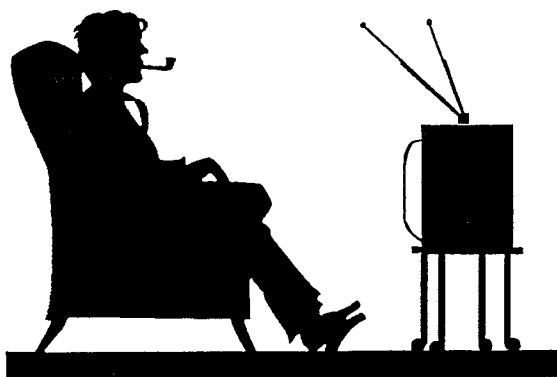
⁶See G.S. 25A-2(e) (Chapter 686, Sections 2 and 3, of the 1983 Session Laws).

⁷For more on the political impact of Fenner's bill, see Katherine White, "Rent-To-Own Firms Spent Freely To Defeat Legislative Foe," *The Charlotte Observer*, Special Reprint From *The Charlotte Observers* of June 16-25, 1985, p. 5; and Jim Morrill, "Challenge Proves Costly," *The Charlotte Observer*, April 15, 1987, p. A1.

⁸G.S. 120-47 (Chapter 820 of the 1975 Session Laws), which requires paid lobbyists to register with the state. Failure to register, a misdemeanor, can bring a fine of from \$50 to \$1,000, plus up to two years imprisonment, and prohibits the individual from lobbying the N.C. General Assembly for two years following conviction.

⁹Henson P. Barnes, "Legislative Trends Affecting The General Practice Of Law," *Barnotes*, publication of the N.C. Bar Association, December 1987/January 1988, pp. 1, 6, and 7.

¹⁰Memorandum from Lacy H. Thornburg, Attorney General, to Senate Judiciary I Committee Members, July 9, 1987, regarding HB 1108, p. 1.



RECOMMENDATION

North Carolina Should Regulate Rent-To-Own Contract Sales

North Carolina's rent-to-own industry provides a service to many consumers by making items available on a rent-to-own basis. However, many of these individuals are poor and cannot afford to purchase appliances and other items from conventional lenders, where they must pay annual interest rates ranging from 24 to 36 percent. Instead, they turn to rent-to-own dealers, and because state law does not regulate charges by this industry, low-income consumers pay prices equivalent to 100 percent or more and in some cases, more than 200 percent. The N.C. General Assembly has received testimony from retail merchants that would justify regulating rent-to-own contracts on the same footing as retail installment sales—at an effective rate of 24 percent on 18-month contracts. But because the rent-to-own industry must take greater risks on consumers with no credit ratings or poor credit records, some legislators believe they should be allowed to charge more than retail merchants, setting an effective annual interest rate cap at 36 percent, the same as small loan or finance companies.

Still others believe rent-to-own companies, with their higher costs of operating—including costs related to taking greater credit risks, providing free delivery, providing free service, and allowing consumers to cease making payments and terminate contracts without penalty—should be allowed to charge closer to 50 percent. Yet another alternative is legislation similar to that enacted for New York, Michigan, and Ohio which sets effective interest rate caps of roughly 100 percent. Such legislation might win the approval of the 1988 N.C. Senate, but House leaders have sworn to reject it in the short session of the N.C. General Assembly because, they argue, rates of 100 percent are unconscionable.

They also say such rates would give the rent-to-own industry an unfair competitive advantage over other retail merchants.

Based on this research, the fact that rent-to-own purchases differ only slightly from credit and installment sales, and the desirable public policy goal of maintaining a competitive equilibrium among the various types of regulated business transactions in North Carolina, the N.C. Center for Public Policy Research recommends that the N.C. General Assembly adopt legislation regulating rent-to-own contracts as a separate type of sales transaction. This would impose the equivalent of an effective interest rate ceiling of 48.67 percent on rent-to-own contracts, giving the industry more than a 12 percent interest rate advantage over small loan companies, more than a 24 percent interest rate advantage over retail merchants, and more than a 30 percent interest rate advantage over bank credit card and other revolving charge account transactions.

The Center believes there are two reasons justifying a higher interest rate for rent-to-own transactions: (1) Such contracts include the cost of free servicing of the appliances or other items sold under the rent-to-own contract; and (2) the transactions involve customers who are greater credit risks than customers of other businesses. However, the Center could find no evidence that would justify interests rates as high as are currently allowed under North Carolina's system of token regulation of rent-to-own contracts. As William L. Rustin of the N.C. Retail Merchants Association puts it, "It would seem logical that this type of transaction, where equity changes from a seller to a buyer, should have some way to restrict the interest rate that is charged, and that rate should not be out of line with charges that

— *continued on page 16*

RECOMMENDATION

—*continued*

other businesses are restricted to in North Carolina.”

The new law should require disclosure of all contract terms, require that at least 70 per cent of each rental contract payment be applied to the cost of the item rented, and direct the N.C. Attorney General to monitor rent-to-own transactions and report to the 1991 General Assembly. That report should gauge the industry's compliance with the law and make recommendations on whether interest rates should be reduced to match those of small loan companies (36 percent) or retail merchants (24 percent), or increased to ensure the viability of the industry.

Specifically, the law should require:

1. That consumers be told *in writing* the actual sales prices of the item they are renting-to-own, the total sum of the payments they will make to the dealer under the contract, and the effective annual interest rate equivalent that they will be charged.

2. That a minimum of 70 percent of each rent-to-own contract payment be credited to the consumer's ownership of the item (producing an effective equivalent interest rate cap of 48.67 percent on an 18-month contract); and

3. That the N.C. Attorney General be directed to monitor rent-to-own contracts to determine compliance with the new law, to determine whether there are abuses of the law, and to file a report to the 1991 Regular Session of the N.C. General Assembly on the status of the rent-to-own business in North Carolina, including recommendations on whether any further amendments are needed to correct abuses in the field or to ensure the industry's viability.

4. In addition, the N.C. General Assembly should adopt legislation to limit the use of the *criminal* courts as collection agencies for rent-to-own dealers. Rent-to-own dealers would continue to have full access to civil courts for past-due collection procedures, as other lenders have under current law, and would still have access to criminal courts where there is evidence of commission of a crime in the unauthorized disposal of rental property.

—Jack Betts

N.C. Center for Public Policy Research

How can you tell who's who in the legislature?

By reading the 1987-88 edition of ...

ARTICLE II

A Guide to the N.C. Legislature

Complete with past and current legislative effectiveness rankings compiled by the N.C. Center for Public Policy Research. Also, information on each of the legislator's occupation, education, committee assignments, and voting record.

\$16.80 plus \$1.50 for postage and handling

So give us a call at 832-2839, and ask for a copy of our who's who—Article II

School Bus Safety

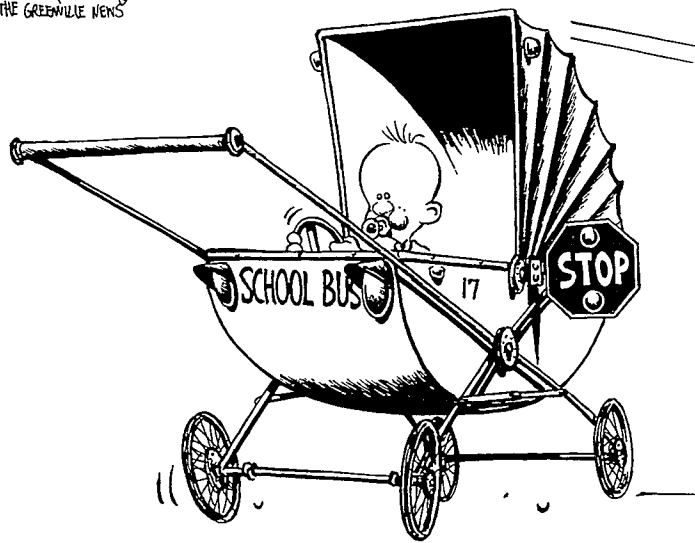


Greg Gibson

Old Enough to Drive a Car, Old Enough to Drive a Bus?

by David S. Perkins

Since the end of the Great Depression, North Carolina has allowed almost anyone with a bus driver's license and a few months' experience to drive a school bus. But nationally, many states have begun to raise the age for drivers of school buses. Now the U.S. Labor Department has decreed that North Carolina should join the ranks of those states requiring drivers to be at least 18 years old—but the N.C. General Assembly has to cough up \$18.8 million to pay for more adult drivers. What's the state's safety record in school bus driving—and what other safety concerns should the 1988 legislature address?



Lambert Der/The Greenville (S.C.) News

Barring an unforeseen court challenge, student bus drivers, like the family farm economy that gave rise to them, will become a thing of the past.

Replacing 17-year-old drivers with adults will not be an easy task for local school systems. New screening and training programs will be required, and so will better reporting on criminal and driving violations. More important, if local systems are to hire qualified, competent adults, the General Assembly will have to increase the bus driver's

wage and benefit package considerably when it convenes for a short session in June 1988.

"I'm worried about starting up next September," Gardner says, "and whether we'll find enough qualified people and not just go out and get warm bodies, people [who will take the job] until they find something better."

How much additional pay is needed? In February, the State Board of Education approved a \$24 million budget request for the salary adjustment—later pared down to \$18.8 million. The money would raise the bus driver's average pay from \$4.91 an hour (with no benefits) to \$6.10 an hour (plus prorated Social Security, health, and retirement benefits). The Department of Public Education had recommended a bigger increase—up to an average of \$6.50 (with benefits). But the Board wanted the bus driver's wages to be on a par with wages of teaching assistants, some of whom may want to take on part-time bus driving duties.

Prospects for passage of most of the \$18.8 million—equivalent to a 1 percent salary increase for all state teachers—appear to be good. Gov. James G. Martin has included the funding request in his proposed expansion budget for 1988-89. But Lt. Gov. Robert B. Jordan III, president of the Senate and Martin's opponent in the fall governor's race, warns that if budget constraints make it impossible to fund the request in full, he won't rule out a lawsuit

David S. Perkins is a freelance writer who lives in Raleigh.

School buses spent the night over a span of nearly 36 years in the same driveway in the Rawls Community outside Fuquay-Varina. Norfleet Gardner, now director of transportation in the state's Department of Public Education (DPE), remembers the bus driving job being handed down from one family member to another after he graduated from Lafayette Senior High School in 1952. His younger brother Alfred passed the bus to their younger sister, Gaynelle, who after she married and moved into a new house next door, saw her son Jim take over the same job in 1985. Some first cousins and neighbors had driven the bus in the meantime. And Jim's younger sister, Tanya, was next in line for the job next fall.

Drive down any of thousands of rural roads in North Carolina, and you'll see schoolbuses with similar stories behind them. Since the 1940s, student bus drivers have been woven into the fabric of school and community life—as inevitable as booster clubs or cheerleaders. For school principals, they were convenient and generally safe. For students, driving a bus was a symbol of status and competence, as well as a supplement to the family income.

Next fall, however, most of those driveways will be empty. The U.S. Department of Labor has declared that student bus drivers under the age of 18 in North Carolina are unsafe. Under the federal Fair Labor Standards Act, the department is forcing school systems to find adults to fill some 3,000 expected vacancies—about a fifth of the total force.

to force the Labor Department to give the state an exemption, with or without the Governor's cooperation.

"The Labor Department has not proven that 17-year-olds in North Carolina are less safe drivers. Indeed, the facts are the other way," says Jordan (see Tables 2 and 3 for more on the conflicting data on this point). "So, for them to put us through these gymnastics is expensive, and I don't appreciate it. They've put us in the position where if we're going to get further variances, we're going to have to go to the courts. If we find that the safest way to transport our kids next fall is to allow some of the better 17-year-olds to drive buses, then maybe we'll have to do that."

The \$18.8 million request can't be cut much without forcing some local systems to double the length of some bus routes and take longer to run them, DPE's Gardner says. Even the Charlotte-Mecklenburg school system has trouble finding enough good adult drivers now at its pay rate of \$8.09 per hour. Thus, the question appears not to be whether \$18.8 million is too much, but whether it is enough. And the answer, for some systems, is no.

Those that will be spared any harsh adjustment are Charlotte-Mecklenburg—which already has an all-adult force—and three other city school systems—Rocky Mount, Asheville and Statesville—that hire private carriers to transport students. Some systems have few student drivers. Twenty-one of the state's 140 school systems had 10 or fewer drivers under 18 in the fall of 1987, and most have been recruiting adults since last August, when the Labor Department began making noises about withdrawing the state's traditional exemption.¹

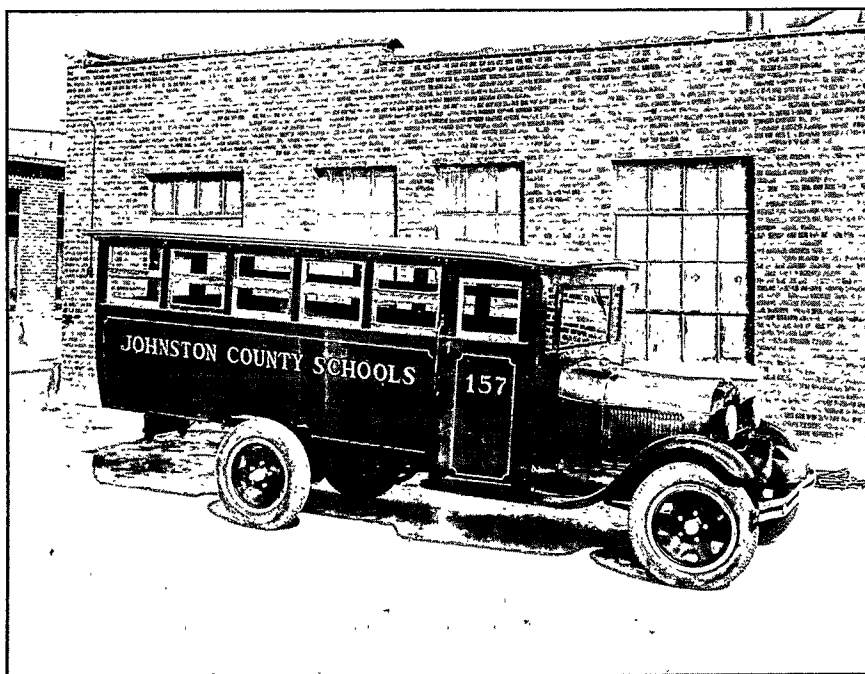
Largely rural school systems with urban centers—and large labor pools—are also expected to make the transition smoothly, DPE officials say. Cumberland County, which merged with the Fayetteville city system in 1985, had nearly 300 under-18 bus drivers last fall—the second largest of any system (after Guilford

County, which had 350). But Cumberland schools Director of Transportation Ted Chappell says he has received applications from housewives, retirees, students, and the unemployed, stimulated by news reports of higher pay ahead. "We've had a recruiting push since last August, and we think we can make it," he says.

But serious problems could arise in the sprawling rural areas of eastern North Carolina without urban centers—such as Duplin, Sampson, and Johnston counties. "Some of these systems are going to have to turn to their professional people, their clerical, custodial, cafeteria, and even some of their teacher assistants, as substitute drivers," Gardner says. "There's no way they're going to be able to find qualified people willing to take the jobs part-time." Before they do, however, some local school boards will have to rewrite policies defining the workday for the teacher assistant or non-certified worker.

Adding bus driving to the duties of the state's 3,600 part-time cafeteria, clerical, and custodial workers could help solve two problems. Some school systems have had trouble filling those support jobs because they are part-time and carry no benefits. By adding bus driving responsibilities, they would become full-time jobs with benefits. The Charlotte-Mecklenburg and Winston-Salem/Forsyth school systems already have combination jobs.

But using teaching assistants as drivers is more controversial. The N.C. Association of Educators,



Department of Public Education

Table 1. Minimum Age for School Bus Drivers, by State

State	Minimum Age of Drivers					
	16	17	18	19	20	21
Alabama			X			
Alaska				X		
Arizona			X			
Arkansas				X		
California			X			
Colorado						X
Connecticut			X			
Delaware			X			
Florida			X			
Georgia			X			
Hawaii					X	
Idaho			X			
Illinois						X
Indiana						X
Iowa	X					
Kansas			X			
Kentucky			X			
Louisiana						X
Maine			X			
Maryland						X
Massachusetts						X
Michigan			X			
Minnesota			X			
Mississippi		X				
Missouri			X			
Montana			X			
Nebraska			X			
Nevada						X
New Hampshire			X			
New Jersey			X			
New Mexico			X			
New York						X
North Carolina		X				
North Dakota			X			
Ohio			X			
Oklahoma			X			
Oregon			X			
Pennsylvania			X			
Rhode Island			X			
South Carolina		X				
South Dakota			X			
Tennessee						X
Texas			X			
Utah						X
Vermont			X			
Virginia			X			
Washington			X			
West Virginia			X			
Wisconsin			X			
Wyoming	X					
Totals	2	3	32	2	1	10

Source: Fourth Annual School Bus Magazine State Directors of Pupil Transportation Survey Report, March 1988.

the state's largest teacher organization, opposes the use of teaching assistants outside the classroom, and suggests that if the state wants more adult bus drivers, it ought to raise driver salaries to attract them.

"If we need teaching assistants at all, and we do, we need them full-time in the classroom," says Glenn Keever, NCAE's communications director. "Our suggestion is that it's been shown that when you have a job [such as a bus driver vacancy] and you're not attracting enough applicants, all you have to do is raise the salary."

A Vestige of World War II

Students began driving North Carolina school buses in large numbers during the war years of the 1940s. There was a shortage of adult manpower, and teenage boys, raised on farms and used to driving tractors, knew how to handle the unwieldy vehicles. Student drivers became a custom that held on for nearly five decades, long after other Southern states like Georgia and Virginia discarded it in the late 1970s. Gardner attributes its longevity to the state's tradition of local control. North Carolina is one of the few remaining states in which buses are owned by local school boards. And 80 percent of the state's school bus routes are still in predominantly rural areas—outside city boundaries—where many student drivers have experience operating farm vehicles.

Using student drivers has offered a number of advantages. Principals have found student drivers cheap and convenient. If school had to be closed because of snow or a burst water main, the bus drivers could be called together over the school intercom and dispatched. Student drivers were easier to screen and supervise than adults. In many systems, students had to be nominated by their teachers to become drivers, and it was a point of pride to get the job.

In the 1960s and 1970s, the driver's job became more demanding as urban areas became more congested and bus routes more complicated, particularly in systems with court-ordered busing. Top students, meanwhile, were less interested in driving a bus. They had other demands on their time, including more stringent course requirements. "We just stopped getting the caliber of student we used to," says Don W. Baucom, Charlotte-Mecklenburg schools director of transportation.

Federal policy had also taken a shift that was to affect student school bus drivers. In 1966, Congress amended the Fair Labor Standards Act of 1938 to bring the public sector, including school and hospi-

tal employees, under its provisions.² The provisions included the "Hazardous Occupations Order No. 2," a 1940 regulation that had forbidden employment of youths under 18 as motor vehicle drivers or outside helpers on motor vehicles.³

The order created immediate problems for states like North Carolina that relied on student bus drivers. Nearly 80 percent of the state's drivers were under 18 at the time. In 1968, the Labor Department agreed to exempt certain states from the order, at the request of each state's governor.

For almost 20 years, North Carolina was exempted routinely, although it had less and less company from other states. By 1985, only North Carolina and 9 other states were receiving exemptions. Of those, Wyoming, Oklahoma, Iowa, Nebraska and Virginia used just a few student bus drivers on rural routes. Nevada filed for an exemption but did not use any student bus drivers. The other states were South Carolina, Alabama, and Mississippi. By 1987, only Mississippi, Iowa, Wyoming, and the Carolinas were seeking exemptions.

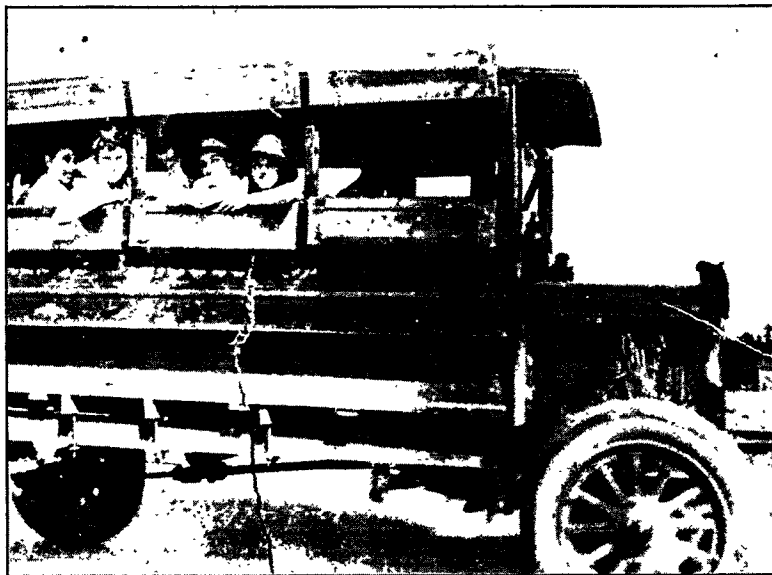
The Labor Department began to resist further exemptions. When Governor Martin asked for an exemption for 1987-88, the Labor Department asked, for the first time, for comparative statistics on the accident rates of under-18 and 18-and-over drivers. In August 1987, then-Labor Secretary William E. Brock approved exemptions for North and South Carolina—but only through December. The other exempted states—Iowa, Mississippi, and Wyoming—were exempted for the full year.

Why single out North and South Carolina? First, the two states now had most of the nation's under-18 bus drivers. Second, in 1985, two headline-grabbing accidents—one involving a 17-year old driver, the other an 18-year-old driver who was found not to be at fault—in Ashe and Greene counties, North Carolina, led to inquiries by the National Transportation Safety Board. In its reports, the Safety Board for the first time compared accident rates for student drivers and for adults, with results that were unfavorable to the students. In 1984-85, according to the board, 16- and 17-year-old drivers had an accident rate of 13.2 per million miles, as compared to 9.2 for those 18 years old and older.⁴ A comparable gap was found for the preceding two years. (DPE officials dispute those findings, contending they were based on a different methodology for counting accidents. North Carolina's actual accident rate for those years was much lower, they say. The figures cited by the board were developed by the N.C. Department of Transportation.) The

**Table 2. Comparison of N.C. Student and Adult Bus Driver
Accident Experience, 1986-87**

Number of:	Students (16- and 17- year-olds)	Adults (18 years old and older)
Drivers (% of total)	5,773 (37.2%)	9,760 (62.8%)
Miles driven (% of total)	44,055,841 (37.2%)	74,373,839 (62.8%)
Property damage accidents over \$100 (% of total)	292 (36.4%)	512 (63.6%)
Accidents per million miles	6.63	6.88
Fatalities and disabling injuries to school bus drivers (% of total)	0 (00.0%)	0 (00.0%)
Non-disabling injuries to school bus drivers (% of total)	3 (23.1%)	10 (76.9%)
Injuries per million miles to school bus drivers	.07	.13
Bus passenger fatalities	0	0
Bus passenger injuries (% of total)	39 (36.4%)	68 (63.6%)
Injuries per million miles to bus passengers	.89	.91
Fatalities in other vehicles (% of total)	2 (40.0%)	3 (60.0%)
Fatalities per million miles (% of total)	.05	.04
Injuries in other vehicles (% of total)	25 (15.0%)	142 (85.0%)
Injuries per million miles	.57	1.91
Pedestrians injured (% of total)	0 (00.0%)	6 (100.0%)
Per million miles	0	.08

Source: Controller's Office, N.C. Department of Public Education



ing more adult drivers with *local* tax dollars. In 1984-85, three accidents involving under-18 drivers occurred in Charlotte-Mecklenburg, prompting school officials to analyze the accident rates. To the officials' surprise, under-18 drivers were having approximately twice as many accidents as over-18s, and an even higher percentage of the accidents with injuries. "I was shocked," recalls Baucom, the local director of transportation. "In the 1970s, our student drivers had a lower accident rate than our adults. I had assumed that still was true."

The school board voted to hire an all-adult force in fall

transportation board recommended that the Carolinas and Alabama stop hiring 17-year-olds.

In response, the N.C. Department of Public Education conceded that 16- and 17-year-old drivers should be reduced on dangerous routes, particularly in urban areas. But there was disagreement over the numbers used in the comparison. In fact, North Carolina officials and federal officials use statistics that vary so widely in their conclusions that each side seems to be able to prove its own points. (See page 26 for more on this inconsistency.)

And, as Gardner put it in a response to the safety board's findings, the elimination of student drivers "may create severe economic and operational problems." Gardner said a 20 percent under-18 force—a reduction of about 10 percent—was the "ideal statewide percentage" at least as a short-term goal, and an additional \$12 million would be sought from the General Assembly to hire more adults.⁵

In 1987, the legislature raised the minimum bus driver age to 17, effective January 1, 1988, eliminating about 600 16-year-olds hired the previous fall.⁶ But, with rural representatives insisting that their local systems had no safety problems (in 1985-86, 52 counties had 5 or fewer accidents, and 23 had 2 or fewer), the legislature did not approve the \$10 million for a pay hike sought by the state board. Instead, bus drivers got an across-the-board pay raise of 5 percent, increasing the bus drivers' average hourly wage from \$4.68 to \$4.91. "The legislators must have thought that we were moving ahead, and that we could keep getting exemptions," Gardner says.

Individual urban school systems, meanwhile, were already addressing the safety problem by hir-

ing more adult drivers with *local* tax dollars. In 1984-85, three accidents involving under-18 drivers occurred in Charlotte-Mecklenburg, prompting school officials to analyze the accident rates. To the officials' surprise, under-18 drivers were having approximately twice as many accidents as over-18s, and an even higher percentage of the accidents with injuries. "I was shocked," recalls Baucom, the local director of transportation. "In the 1970s, our student drivers had a lower accident rate than our adults. I had assumed that still was true."

1985 (about half its drivers were under 18 at the time) and approved a large pay supplement, now \$1.8 million a year, to attract competent drivers. Charlotte-Mecklenburg's overall accident rate the next year—1985-86—declined from 11.38 to 6.0 accidents per million miles, Baucom says. The following year, 1986-87, it rose to 8.5 per million miles, but dropped to 5.0 per million miles through March 31 for the 1987-88 school year.

The Winston-Salem/Forsyth school system is phasing out its under-18 drivers gradually, creating a local pay supplement in order to hire more adults and developing a seven-step pay scale that rewards safety as well as seniority. Last fall, Winston-Salem/Forsyth had only 35 drivers who were younger than 18.

A Battle of Statistics

Despite the apparent advantages of going to an all-adult force, the Department of Public Education maintained that local boards should be left to make their own decisions. Urban areas had the most accidents and their systems were addressing the problem. The state's overall accident record had improved steadily since the mid-1970s, state officials said. In any case, the state couldn't afford to hire an all-adult force, DPE said.

The Labor Department was not impressed by that argument. In rejecting Governor Martin's request for an exemption for the full 1987-88 year, then-Secretary Brock noted that under-18 drivers had a worse accident rate in 1985-86 than that of over-18 groups, and that several fatalities had oc-

Table 3. Accident Data on North Carolina School Bus Drivers, 1982-1987

	1982-83	1983-84	1984-85	1985-86	1986-87
1. No. of 16 and 17-year-old-drivers (% of total)	4,599 (36.0%)	4,580 (35.7%)	4,249 (32.9%)	5,123 (35.7%)	5,773 (37.2%)
2. No. of 18-and-older drivers (% of total)	8,160 (64.0%)	8,245 (64.3%)	8,666 (67.1%)	9,229 (64.3%)	9,760 (62.8%)
3. Total drivers	12,759	12,825	12,915	14,352	15,533
4. Miles driven by 16- and 17-year-old drivers [millions of miles] (% of total)	39.9 (36.3%)	39.5 (35.7%)	36.8 (32.9%)	38.2 (33.0%)	44.1 (37.2%)
5. Miles driven by 18-and-older drivers [millions of miles] (% of total)	69.9 (63.7%)	71.1 (64.3%)	75.1 (67.1%)	77.5 (67.0%)	74.4 (62.8%)
6. No. of school bus accidents for 16- and 17-year-old-drivers (% of total) Per million miles	413 (48.3%) 10.3	430 (48.5%) 10.9	329 (41.0%) 8.9	321 (43.1%) 8.4	293 (36.3%) 6.6
7. No. of school bus accidents for 18-and-older drivers (% of total) Per million miles	442 (51.7%) 6.3	457 (51.5%) 6.4	473 (59.0%) 6.3	423 (56.9%) 5.5	512 (63.7%) 6.8

curred involving the younger drivers (see Table 3, above, for more). Future exemptions, Brock added, would hinge on North Carolina's ability to show a favorable comparison for the 1986-87 year. That touched off a year-long war of memos between Washington and Raleigh, with each side putting forth statistics to prove their point.

This battle of statistics points up one of the key difficulties in resolving whether North Carolina's under-18 drivers are safe enough to continue driv-

ing. North Carolina officials over the years have maintained that the overall bus accident rate in the state has always been better than the national average (though they admit there is no reliable national average figure to compare with North Carolina's record). And they point out, as shown in Table 2, that the accident rate per million miles is about the same for both under-18 and 18-and-older drivers. But using the exact same data in Table 2, federal authorities correctly point out, for instance, that North

Table 3. Accident Data on North Carolina School Bus Drivers, 1982-1987

	1982-83	1983-84	1984-85	1985-86	1986-87
8. No. of passenger fatalities when 16- and 17-year-olds are driving	0 (00.0%)	0 (00.0%)	0 (00.0%)	0 (00.0%)	0 (00.0%)
9. No. of passenger fatalities with 18-and-older drivers (% of total)	0 (00.0%)	0 (00.0%)	6 (100.0%)	0 (00.0%)	0 (00.0%)
10. No. of driver fatalities all ages (% of total)	0 (00.0%)	0 (00.0%)	0 (00.0%)	0 (00.0%)	0 (00.0%)
11. No. of non-bus* fatalities when 16- and 17-year-olds are at wheel (% of total) Per million miles	2 (40.0%) .05	3 (37.5%) .08	0 (00.0%) 0	2 (22.2%) .05	2 (40.0%) .05
12. No. of non-bus* fatalities when 18-and-older drivers are at wheel (% of total) Per million miles	3 (60.0%) .04	5 (62.5%) .07	5 (100.0%) .07	7 (77.8%) .09	3 (60.0%) .04

* "Non-bus" fatality means fatalities to persons in other vehicles or to pedestrians.

Source: Office of the Controller, N.C. Department of Public Education

Carolina's under-18 drivers account for 37.2 percent of the drivers and 36.4 percent of the accidents, but that they account for almost as many non-bus fatalities as 18-and-older drivers. The difference between the two—two fatalities for the younger group, three for the older, a difference of just one—is a statistically minute number. Figured on a basis of *fatalities per million miles*, the younger group was involved in accidents with 56 percent of the fatalities per million miles (.05 fatalities per million miles) compared to

the older drivers, who were involved in accidents with 44 percent of the fatalities per million miles (.04 fatalities per million miles). This shows how both sides can argue from the same set of statistics. And there's more to it than that. Federal authorities also define the terms differently.

The Labor Department wanted accidents to be reported against the number of drivers who were 16 or 17 *at the end of the school year*. The DPE said that would give a distorted picture of the accident rate

The Statistics Don't Lie—But They May Mislead

Confused as to whether to believe the figures of the N.C. Department of Public Education or the U.S. Department of Labor on the safety records of under-18-year-old drivers? No wonder—you've got good reason. Just look at Table 3, and you can see how the two sides could disagree on whether 16- and 17-year-old drivers have good safety records.

For instance, the five-year trend from 1982-83 to 1986-87 seems to show that 16- and 17-year-old drivers are getting safer, because the number of school bus accidents per million miles (see Row 6, bottom line) dropped steadily—from 10.3 accidents per million miles to just 6.6 accidents per million miles in 1986-87. And in 1986-87, the younger drivers' accident rate per million miles is better than drivers aged 18 and over—6.6 compared to 6.8 (Row 7, bottom line) for the older drivers.

But wait—compare the trends. During the same period, the 18-and-older drivers had a consistently low accident rate, hovering between 6.3 and 6.8 accidents per million miles, except in 1985-86, when it dropped to 5.5 per million miles (see Row 7). So over the long haul, the older drivers have a better record.

Or consider non-bus fatalities—that is, fatalities to passengers in other vehicles, or to pedestrians, caused in accidents with school buses. Based on non-bus fatalities per million miles, the younger drivers seem to have a better record for the last three years than do the 18-and-older drivers, whose accident record appears to rise steadily (see Rows 11 and 12). But the numbers are so low here that even the addition of one fatality might shift the findings in the opposite direction. So which drivers are safer? And which drivers would you prefer your children to ride with?

—Jack Betts

because so many student drivers would age out of the category by June. There would be a smaller pool of 16- and 17-year-old drivers, but the number of accidents would remain high, thus creating a worse driver-to-accident ratio for under-18-year-olds than really existed. A fairer picture would be presented by the ratio of accidents to miles driven by the different age groups, the state contended. The N.C. Department of Transportation's Alvin M. Fountain has urged that the state take a regular census of bus drivers at the end of each pay period, so accidents can be counted by the age of the driver at the time they occur, but DPE has not conducted such regular surveys.

In November 1987, seeking an extension of the exemption through the end of the current school year, Education Controller James Barber wrote the U.S. Labor Department that, based on miles driven, in 1986-87 student drivers were marginally *safer* than adults, according to the state Education Department's statistics. But an accompanying chart (developed from N.C. Department of Transportation statistics) in Barber's letter offered evidence to dispute his claim. That chart (*not* reprinted here) showed that 41 of the 80 passengers injured in 1986-

87 had been injured in buses driven by a 16- or 17-year-old.⁷ Thus, each side's own evidence contained what appear to be arguments for and arguments against the continued use of under-18 bus drivers.

"We said they couldn't prove the student drivers were unsafe, and they said we couldn't prove [they were safe]," Gardner says. "We were phasing out the young drivers by 4 to 5 percent a year, and that's what they had been asking us to do—show progress. But apparently we weren't moving fast enough. We may not have had a clear policy [about the phase-out goal], but they didn't either." In December 1987, the U.S. Labor Department extended North Carolina's exemption from January to August 1988 on three conditions:

- that no dropouts or minors who had moving violations or who had been responsible for accidents during the year be hired;

- that no new 17-year-olds be trained to drive buses; and

- that all drivers be enrolled as students or be high school graduates. (A later requirement, imposed in February, mandated that all drivers have health certificates attesting to their physical health).

In early January, a school bus in West Columbia, S.C., struck and killed a 4-year-old kindergarten student. The driver, investigators found later, was a 17-year-old who had two infractions in the previous school year. Prompted by the accident, U.S. Labor's Wage and Hour Division investigated a random sample of school systems in North and South Carolina and found 80 violations of the agreement in North Carolina, and 200 in South Carolina. Most were instances of student drivers who had been charged and, in some cases, convicted of moving violations, but who had never been removed from their duties.

Once again, the state DPE objected to the department's conclusions. For instance, 14 of the 80 "violations" cited by the U.S. Labor Department were missing driver certificates that schools must keep on file. Those 14 had burned in a Christmas Eve 1987 fire at the Four Oaks School and had not yet been replaced, Gardner points out.

In a dramatic gesture, the department on Feb. 25, 1988 moved up the cutoff of its exemption from August to April 1, throwing North Carolina school systems into a near panic. Negotiations between Governor Martin and the Labor Department—together with legislation introduced by U.S. Rep. Charles Rose to force an extension of the deadline (the bill passed the House, then stalled in the Senate)—yielded a compromise. The cutoff date was moved back to June 15, the last day of school for the regular academic year. But the Labor Department had made its point, securing a public promise from Martin that he would not seek any further exemptions, and turning the news spotlight on the budget-fix in the General Assembly.

Other Safety Concerns Abound

Even if the 1988 General Assembly provides the full \$18.8 million funding, safety concerns are not going to disappear with the exit of 17-year-old drivers. In some respects, they will be heightened. Adults create problems, too, as news stories that vied for February and March headlines with the Labor Department's orders indicated. The year's first school passenger fatality came on Feb. 26, 1988, in Charlotte-Mecklenburg—with its corps of adult drivers. A bus struck and killed a kindergartener who had bent over in front of it to tie her shoe. The driver was 27. Other incidents were reported involving drivers who were 18 or older.

The problems with young bus drivers, both in North Carolina and nationally, are the main reasons why state officials for several years have said they eventually would prefer to employ 21-year-old or older drivers. With adult, full-time drivers, the state would be able to use fewer buses—which cost more than \$30,000 each—because full-time drivers would be able to drive more than one route. "With an adult driver, we could park one or two or three buses and have adult drivers handle an elementary route, a middle school route, and a high school route," says Gardner. "It requires some rescheduling of school opening times, but it would allow us to use fewer buses," he adds.

Against this backdrop, adult-driver advocates are seeking an even higher minimum driver's age and tougher screening and reporting procedures for driving violations. An alliance of groups, led by an organization called the North Carolina School Bus Safety Committee, is asking legislators to consider

raising the minimum driver's age in phases over several years to 21 (see sidebar, page 29, for a summary of the group's other concerns). Ten other states, including Tennessee, Maryland, and Louisiana in the South, require 21-year-old school bus drivers (see Table 1 for more). One state requires 20-year-old drivers at a minimum; two states require them to be at least 19.

A look at the N.C. Department of Public Education's figures suggests, moreover, that even 18-year-olds are responsible for a disproportionate number of accidents. In 1986-87, 18-year-old drivers alone—



Thomas Built Buses

not including older drivers—were responsible for bus accidents involving 21 percent of passenger injuries, and 28 percent of the injuries in other vehicles. But those drivers constituted only 11 percent of the state's cadre of bus drivers.

That's clear evidence in favor of older drivers, says Gardner. "I've been arguing for two years that if we get out of the student driving program, let's go to 21," he says. "The most unsafe drivers we have are 18-year-olds. Many of them are dropouts or just graduated and are in a holding pattern until they get something better. We began to realize we'll have a real problem if we have to turn to them. Once you get to 21-year-olds, however, you're getting people who want the job as a profession."

M. Reid Overcash, a Raleigh advertising executive who is president of the N.C. School Bus Safety Committee, explains that there's more to driving than being old enough. "Driving *experience* is more the issue than age," says Overcash. "Teenagers haven't had a chance to be in many varied [driving] situations. We'd prefer 25, but that's probably unrealistic."

State Rep. Bobby Etheridge, D-Harnett, House Base Budget Committee Chairman and the Democratic nominee for state Superintendent of Public Instruction, is unpersuaded. "A capable, competent 18-year-old is a lot better than an incompetent 21-year-old. I don't know that you can use age as the criterion. What you have to use is the person you hire and how well they're screened," says Etheridge.

Etheridge's opponent has also spoken on the subject. Tom Rogers, a teacher at Stonewall Jackson Training School in Cabarrus County, and the GOP nominee for Superintendent of Public Instruction, says most under-18 drivers have been good ones, but adds, "I would love to see adults as drivers, and if we can't do that, the closer we can get to it, the better."

Already, school systems are finding that an all-adult force requires close screening. Charlotte-Mecklenburg required a drug test this year, and 11 percent of the applicants failed it, according to local schools Transportation Director Baucom. The system also reviews drivers' criminal records before they are hired.

"I'm more worried about criminal records than



driving violations," says Charlotte-Mecklenburg's Baucom. "About all we're checking here is criminal convictions in the 26th Judicial District [Mecklenburg County]. We don't have a statewide data base, and certainly not a national one. Some weirdos can slip through."

The N.C. Division of Motor Vehicles (DMV) automatically suspends a driver's bus certificate if he is convicted of two moving violations within one year, or one moving violation in connection with an accident, reckless driving, or speeding greater than 15 miles per hour over the posted limit.

But the court decisions take time, citations often are dismissed, and there is no process for DMV to notify school systems that their drivers have cases pending, says Worth McDonald, director of school bus and traffic safety in DMV. It may take six months between the issuing of a ticket and notification to a school system of a conviction, he says. And some school systems take a permissive view of bus driver violations. Nevertheless, Wake County, which has several drivers with convictions on their records, has made three changes in its procedures. It is hiring temporary employees to review 10 percent of its bus drivers' DMV and court records monthly—including tickets. And a new administrative panel, instead of the driver's immediate supervisor, will determine whether a driver should be suspended, says William R. McNeal, assistant superintendent of administration.

Wake also is drafting an affidavit that all bus drivers will have to sign, pledging that they will notify the school system of any driving violations or accidents in which they are involved. Failure to comply would result in dismissal. Other school sys-

There's More to the Issue Than Driver Age and Experience

Bus driver age and experience are the hottest topics when it comes to school bus safety issues these days, but there are other concerns the state should address as well, say a coalition of groups pressing for a series of changes in the North Carolina school bus system. M. Reid Overcash, a Raleigh advertising executive and president of the North Carolina School Bus Safety Committee, says his group was founded in 1981 when a group of concerned citizens became "outraged at the safety problems found in transporting school children from home to school and back."

The safety organization, which works with the North Carolina Parent Teacher Association, the Wake County Junior League, and the N.C. Pediatric Association, has lobbied the legislature for several years seeking improvements, but has come up short each time. Overcash describes the problems this way: "Through lack of funding and complacency by some, North Carolina's record of school bus safety has been below average. We have unqualified, under-trained, and underpaid drivers. We still have a large number of pre-1977 buses that do not meet federal safety standards. We have continued to have standees on overcrowded school buses. And the public has developed an apathetic attitude towards school bus safety in general by ignoring traffic laws when driving around school buses and by not demanding better, safer conditions."

In terms of priorities, the safety group ranks driver age and driving experience as the top problem. But running closely behind are these concerns:

- bus driver training programs;
- replacement of aging and unsafe buses; and
- promoting public awareness of the laws about school buses and understanding of appropriate driving when school buses are on the road.

Safety advocates are pushing for a longer training period for bus drivers—something that

state officials concede an all-adult force will require. Many adult drivers need to learn how to use a standard transmission, used in a number of school buses, while others have to unlearn bad habits acquired from years of driving. Still others must learn how to help handicapped children get on board and off.

The N.C. Department of Transportation's Division of Motor Vehicles currently trains school bus drivers in a four-day minimum program—two days of classroom instruction and two days on the road. The average driver gets a total of 30 hours of instruction. To Overcash, that's not nearly enough, especially in light of the fact that the state requires at least 160 hours of training for commercial truck driver training schools (attendance at such schools is not mandatory for a trucker's license, but those who attend such schools must receive at least 160 hours' training).

"I'm wondering how you can learn to drive a school bus, with the precious cargo it carries, in 30 hours, when we're requiring a lot more training to haul some fruit," says Overcash. What's more, the state does not pay its bus drivers during their training period—a practice that amounts to a disincentive for some potential applicants, he says.

Norfleet Gardner, director of transportation for the DPE, says these drivers should be paid for their training period, and says his department is seeking approval to use staff development funds to provide pre- and in-service classes in first aid, discipline, and transporting exceptional children. In the past, Gardner adds, "We were spoiled by having kids who were only too eager to leave class or study hall to do in-service [training]."

The aging of the state's school bus fleet is another problem, both Overcash and Gardner agree. While school buses do meet the minimum federal safety standards, Overcash says, a 10-year-old bus probably is too worn out to continue using for school children's transportation. The

—continued on page 30

tems may decide to get tough with their drivers, too, as public support grows for greater care in transporting children to school. In 1988, a major election year for both statewide candidates and members of the General Assembly, the big question remains whether politicians will support a better safety program for transporting school-age children—children whose parents may remember the legislature's actions in June when they go to the ballot box in November.

But in the meantime, state officials have one more nagging worry. The state is being forced to quit hiring 16- and 17-year-old drivers, and will spend at least \$18.8 million—and up to \$50 million in the next few years—just to hire 18-year-old drivers. But, they say, there's no hard evidence, based on anyone's statistics, that more 18-year-old drivers will mean any improvement in the state's record for school bus safety. As Nancy Team, a top aide to Gov. Jim Martin, puts it, "We're going to be spending \$18.8 million for older drivers, which sounds like a desirable goal, but the real question is whether,

five years from now, there will be any improvement." □◡□

FOOTNOTES

¹"Age & Sex Distribution of Bus Drivers, 1986-87 School Year," printout of data from N.C. Department of Public Education, July 1, 1987.

² 29 U.S.C., 201 et. seq. Violations of the Fair Labor Standards Act carry a penalty of up to \$10,000.

³Hazardous Occupations Order No. 2, U.S. Department of Labor, 29 CFR 570.52(b)(3)(i).

⁴National Transportation Safety Board Highway Accident Report, School Bus Rollover, State Route 88, Jefferson, N.C., March 13, 1985, Report No. NTSB/HAR-85/05; and National Transportation Safety Board Highway Accident Report, Multiple Vehicle Collision and Fire, U.S. 13, Snow Hill, N.C., May 31, 1985, Report No. NTSB/HAR-86-02. Available from the National Transportation Safety Board, Washington, D.C. 20594.

⁵Letter from Norfleet Gardner, Director of Transportation, N.C. Department of Public Education, to National Transportation Safety Board, April 6, 1985, p. 1-2.

⁶G.S. 115C-245(a), enacted as Chapter 276 of the 1987 Session Laws.

⁷Letter from James Barber, Controller, N.C. State Board of Education, to Dennis Whitfield, Acting U.S. Secretary of Labor, Nov. 24, 1987, Attachment 2.

More than Age and Experience

—continued from page 29

General Assembly has allocated large amounts of money to phase out the pre-1977 buses, beginning with \$32 million per year for the 1985-1987 biennium. That has eliminated about 1,200 buses that were more than 12 years old. And the 1987 General Assembly sweetened the pot to provide \$34 million for bus replacement in the 1987-1989 biennium. By the time the 1989 General Assembly convenes next January, the legislature will still need to appropriate funds to replace the last 900 pre-1977 buses.

"They are moving on it," says Overcash, "but they need to go ahead and wipe that thing out." Besides, he says, the state waits until a bus is about 12 years old to replace it with a new bus. "That's not often enough," says Overcash. "We used to replace them every 10 years, and we need to get back to that."

Overcash's group also would like the General Assembly to fund one or more experiments with passenger restraints to

determine if they would reduce bus injuries. In previous sessions of the N.C. General Assembly, legislation has been introduced to require seat belts on N.C. school buses, but the proposals have gone nowhere.¹ Overcash said his group wants the state to evaluate research on such restraints before backing legislative proposals to extend restraint devices statewide. The problem of standees—children who must stand on buses because the seats are filled—is difficult to quantify, says Overcash. Federal and state laws prohibit standees, but motorists can often spot school buses with students standing in the aisles. "The schools say they can't accurately predict how many students will be on a bus, because some students stay after school for ball practice or meetings, but I just don't buy that. They know how many students might ride a bus, and they should provide adequate bus space for them," he says.

FOOTNOTE

¹ S489, 1985 General Assembly, incorporated a proposal by Rep. Bertha Holt (D-Alamance) to require seat belts on school buses. S 489 provided for a pilot project experiment to test seat belt use on buses.

Center's First Joint Production With Public Television Examines Two-Party System in North Carolina

by Jack Betts and Vanessa Goodman

The N.C. Center for Public Policy Research has long sought to present its research findings through the broadcast media as well as in print. The Center realized that goal on Dec. 2, 1987 when the N.C. Center and the University of North Carolina Center for Public Television presented "North Carolina: The State of Two Parties" on prime-time statewide television. The program, based on an N.C. Center special report on the development of a two-party political system, was taped live at Raleigh's Theatre in the Park on December 1 and was aired the next night at 8 p.m. The television production was supervised by UNC Producer Ted Harrison, anchor of the network's "North Carolina This Week" program.

Thad Beyle, a UNC-CH professor of political science and Chairman of the Board of Directors for the N.C. Center, led a discussion by a panel of six prominent North Carolinians about the findings of the special report. The panelists were state Rep. Margaret Keesee-Forrester (R-Guilford); former N.C. Secretary of Natural Resources and Community Development Howard N. Lee of Chapel Hill; former Republican state Sen. Hamilton Horton of Winston-Salem; former Democratic legislator and former N.C. Secretary of Crime Control and Public Safety Herbert Hyde of Asheville; Greensboro

News & Record Editorial Page Editor John Alexander; and UNC-CH Political Science Professor Merle Black. The panelists discussed how North Carolina has developed into a two-party state and argued about what the changes in North Carolina politics will mean.

In the past 20 years, North Carolina politics has undergone a revolution—sometimes quiet, sometimes noisy. A state dominated by Democrats since the turn of the century, North Carolina since 1966 has been transformed into a state with a new political balance. Democrats still dominate politics at the state and at the local level, but Republicans regularly are winning the big elections—and lately, more of the little ones, too. North Carolina has become a two-party state in theory and in fact. The evidence of the shifting political winds abounds. What is this evidence? And if North Carolina does have a two-party state, what difference does that make in terms of state policy?

The N.C. Center for Public Policy Research has examined both these questions. In answering the first, it has found startling documentation of the rise of the Republican Party. Much of that is well known.

Jack Betts is editor of North Carolina Insight. Vanessa Goodman is a former Center intern.



Jack Belts

Panelists preparing for taping of two-party symposium on Dec. 1, 1987. From left, seated, John Alexander, Merle Black, Hamilton Horton, Herbert Hyde, Margaret Keese-Forrester, and Howard Lee.

The GOP's candidate for President has carried the state in every contest but one since 1968, as well as winning two races for governor and four races for U.S. Senator. In all, the Republican Party has won nine of the 14 major statewide races since 1968—a winning percentage of 64 percent.

But the evidence goes deeper. Republicans hold three of the state's 11 congressional seats, held both U. S. Senate seats from 1980 to 1986, hold about 30 percent of the seats in the General Assembly, and have a majority on nearly 30 percent of the county Boards of Commissioners. How could this come about in a state that long was the province of Democrats? The answer lies in voter registration and demographics. Consider:

■ While Democratic registration grew by 37 percent from 1966-86, Republican registration was growing nearly four times as fast—by 143 percent. When the period began, Democrats had nearly a 4-1 edge in registration; by the last election in 1986, it was about 2.5:1. The number of unaffiliated voters also grew rapidly in this period. About half the new registrants are Democrats, while the other half are Republicans or unaffiliated. Twenty years ago, 80 percent of new voters were Democrats. See Table 1 for more.

■ The evidence shows that while Republican

strength is growing across the board, it is soaring in the state's most populous areas. In Wake County, Democratic registration grew by 81 percent, but Republican registration grew by 707 percent; in Guilford, Democrats grew by nearly 42 percent, Republicans by 150 percent; in Forsyth, Democrats grew by 27 percent, Republicans by 134 percent.

■ On the local level, Republican strength is beginning to grow rapidly, too. In 1974, for instance, only 80 of the state's 477 commissioners were Republican. By 1986, the number had grown by 76 percent, to 141. What's more, in 1987, Republicans held a majority on 29 county Boards of Commissioners—more than double the number they controlled in 1974. See Table 2 and Map 1 for more. And the party is making modest gains in other offices. The GOP now counts 13 of the state's Registers of Deeds, 14 of the Clerks of Court, and 19 of the Sheriffs among its members.

■ And in terms of county voting, what once was a solidly Democratic state has become a solidly Republican state in presidential elections. In the period 1968-1980, only 10 North Carolina counties voted consistently (at least 75 percent of the time) Democratic in *presidential* elections; 40 counties voted consistently Republican, and the rest had mixed voting records. See Table 3 and Map 2 for

more.

What does it all mean? Some skeptics say it makes little difference who's in office, particularly in a state that has a Republican governor without veto power and facing a heavily Democratic legislature. But the Center's research shows there is a difference. Consider what happens during Republican administrations:

■ There's more of an emphasis on "workfare" programs designed to give welfare recipients job skills to reduce the number of citizens on welfare.

During Democratic Gov. Jim Hunt's eight-year term, the state had workfare programs in only eight counties. But during the first three years of Gov. Jim Martin's term, the state added workfare programs in 20 more counties, with 15 additional county programs to be added in fiscal year 1987-88. See Table 4 for more.

■ Fewer state-paid abortions are performed. During Hunt's terms, the number of state-paid abortions averaged 5,371 per year; under Martin, the number has dropped to 3,662 state-paid abortions.

Table 1. Statewide Voter Registration by Party (1966-1986)

Year	Total registration	Democrats	% of voters	Republicans	% of voters	Unaffiliated	% of voters
1966	1,933,763	1,540,499	79.7	344,700	17.8	48,564 *	2.5
1968	**2,077,538	1,568,859	75.5	448,637	21.6	52,234	2.5
1970	**1,945,187	1,464,055	75.3	426,159	21.9	48,524	2.5
1972	**2,357,645	1,729,436	73.4	541,916	22.9	79,129	3.4
1974	2,279,646	1,654,304	72.6	537,568	23.6	87,744	3.8
1976	**2,513,664	1,804,827	71.8	601,897	23.9	106,940	4.3
1978	2,430,210	1,764,126	72.6	567,039	23.3	99,045	4.1
1980	**2,774,844	1,974,889	71.2	677,077	24.4	120,905	4.4
1982	2,674,787	1,924,394	72.0	640,675	24.0	109,293	4.1
1984	**3,270,933	2,289,061	70.0	838,631	25.6	142,436	4.4
1986	3,080,990	2,114,536	68.6	836,726	27.2	129,728	4.2
NEW:	1,147,227	574,037		492,026		81,164	

* Estimated

** Total registration does not include American party in 1970 or other minor parties. (percentages rounded to nearest tenth)

Material compiled from State Board of Elections

Other sources consulted: U.S. Census Bureau

Department of Cultural Resources, Division of Archives

Secretary of State's Office

N.C. Democratic Headquarters

N.C. Republican Headquarters

NOTE: 1966 was the first year statistics were compiled by the state Board of Elections.

NOTE: Table indicates: 1,147,227 new voters in 1986 compared to 1966

Of those: 574,037, or 50.2 percent, have been Democrats

492,026, or 43.0 percent, have been Republicans

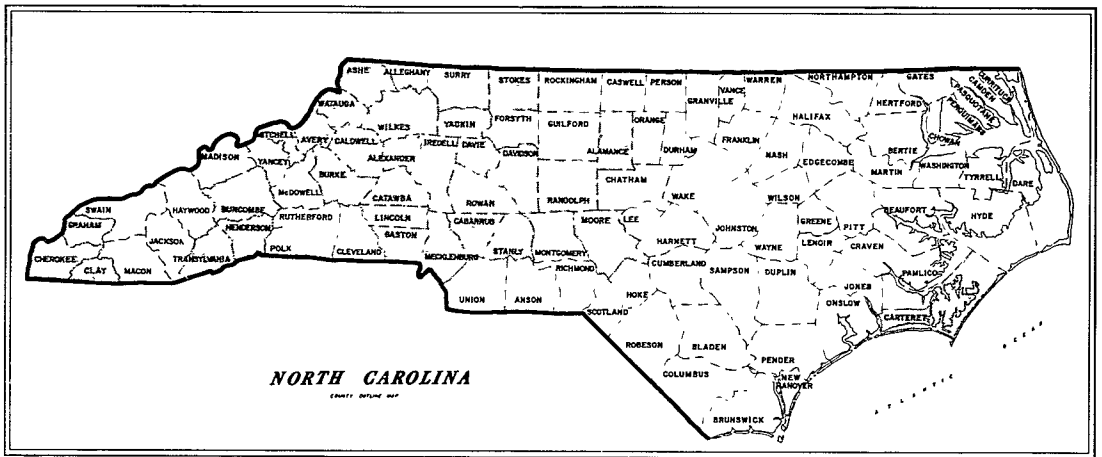
81,164, or 6.8 percent, have been Unaffiliated

Thus: 569,520, or 49.8 percent of the new registrants since 1966,

have chosen not to register Democratic in North Carolina.

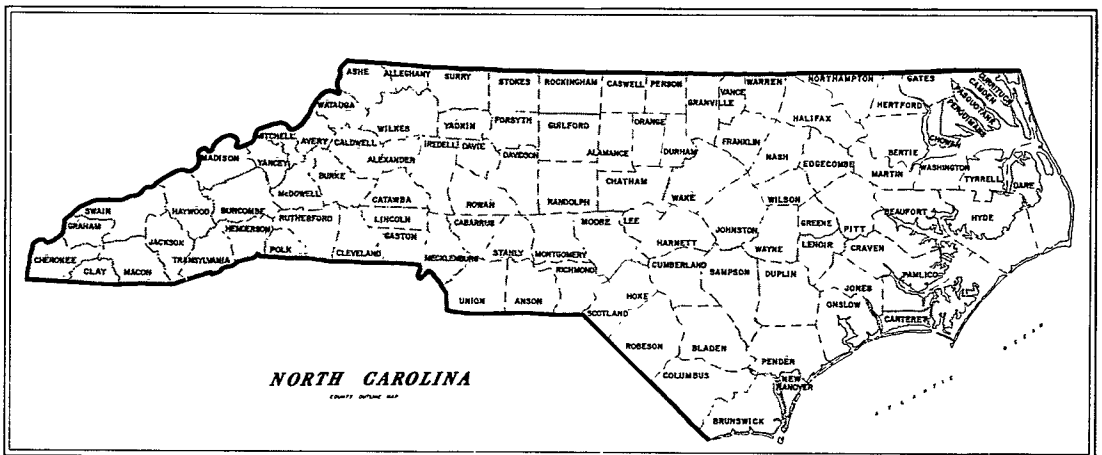
Chart prepared by Vanessa Goodman, N.C. Center Intern

Map 1. County Boards of Commissioners Controlled by Republicans and by Democrats, 1987-88



- ☐ Republican
- ☐ Democrat

Map 2. Counties Voting Consistently By Party, 1968-80



- ☐ Republican
- ☐ Democrat
- ☐ Mixed

See Table 5 for more.

■ State parks appear to get more funding. Under Gov. Jim Hunt, state parks spending—including land acquisition, capital improvements, and field operations—averaged about \$3.2 million a year. During the administrations of Gov. Jim Holshouser and Gov. Jim Martin, the state has averaged \$10.6 million a year in spending on parks. TV panel members heatedly debated this finding, with Republican members taking credit for getting far more money for parks than Democrats, and Democrats insisting that the GOP had little to do with the increased funding. Such spending decisions, these panel members said, are made by the legislature—where Democrats predominate—and were not due to the action of Republican governors. See Table 6 for more.

■ And both Republicans and Democrats tinker with the state's road building program in various ways. While Democrat Hunt was in office, for instance, roadwork was speeded up on U.S. 264 from Raleigh to Wilson, Hunt's hometown. While Holshouser was in office, work was advanced on U.S. 321 and U.S. 421 near Boone, Holshouser's hometown. However, the record shows that because of the time-consuming nature of highway building projects, it's not often that a governor can begin and finish a new project during his own term in office. At

most, governors are able to move road projects up on the priority list. There appears to be less manipulation of road budgets than in the years prior to 1973, before the state Board of Transportation was created to oversee highway and other transportation programs. And there are differences in approaches to such issues as economic development. An article in the June 1987 issue of *North Carolina Insight*, titled "When It Comes to Economic Development, Jim Martin and Bob Jordan Have Big Plans," examines these differences.

These are just some indications of the policy differences that occur when Democrats or Republicans are in office. But as the state continues its political evolution, there seems to be little doubt that North Carolina has developed into a two-party state.

Not everyone agrees with these conclusions, of course. Ken Eudy, executive director of the N.C. Democratic Party, agrees that Republicans have made major advances. "But I strongly object to the comparisons on workfare, abortion, and state parks. They are unfair."

Eudy notes that workfare "was a new concept under Democratic Gov. Jim Hunt. It didn't exist under Republican Gov. Jim Holshouser. And it would have been increased under any governor.... And on state parks, the legislature [dominated by Democrats] approved the money.... Martin simply

Table 2. Party Affiliation of N.C. County Commissioners (1974-1986)

Year	Total # of Commissioners	Democrat	Republican	Majority Democratic Boards	Majority Republican Boards	% Republican
1974	477	396	80	86	14	17%
1976	484	437	46	89	11	10%
1978	493	428	65	85	15	13%
1980	492	398	94	80	20	19%
1982	494	431	63	89	11	13%
1984	492	392	100	77	23	20%
1986	502	361	141	71	29	28%

Material taken from *County Lines*, published by N.C. Association of County Commissioners. 1974 was the first year in which a comprehensive breakdown of county commissioners in N.C. was recorded by the Association.

Chart prepared by Vanessa Goodman.

**Table 3. Counties Voting Consistently* Democratic, Republican, or Mixed
in Recent U.S. Presidential Elections, 1968-1980**

County	Democrat	Republican	Mixed	County	Democrat	Republican	Mixed
Alamance			X	Johnston			X
Alexander		X		Jones			X
Alleghany			X	Lee			X
Anson			X	Lenoir		X	
Ashe		X		Lincoln		X	
Avery		X		Macon		X	
Beaufort			X	Madison			X
Bertie	X			Martin			X
Bladen			X	McDowell		X	
Brunswick			X	Mecklenburg		X	
Buncombe		X		Mitchell		X	
Burke		X		Montgomery			X
Cabarrus		X		Moore		X	
Caldwell		X		Nash			X
Camden			X	New Hanover		X	
Carteret		X		Northampton	X		
Caswell			X	Onslow			X
Catawba		X		Orange	X		
Chatham			X	Pamlico			X
Cherokee		X		Pasquotank			X
Chowan			X	Pender			X
Clay		X		Perquimans			X
Cleveland			X	Person			X
Columbus			X	Pitt			X
Craven			X	Polk		X	
Cumberland			X	Randolph		X	
Currituck			X	Richmond			X
Dare		X		Robeson	X		
Davidson		X		Rockingham			X
Davie		X		Rowan		X	
Duplin			X	Rutherford		X	
Durham	X			Sampson		X	
Edgecombe			X	Scotland	X		
Forsyth		X		Stanly		X	
Franklin			X	Stokes		X	
Gaston		X		Surry			X
Gates			X	Swain			X
Graham		X		Transylvania		X	
Granville			X	Tyrrell	X		
Greene	X			Union			X
Guilford		X		Vance			X
Halifax	X			Wake		X	
Harnett			X	Warren			X
Haywood			X	Washington	X		
Henderson		X		Watauga		X	
Hertford	X			Wayne			X
Hoke	X			Wilkes		X	
Hyde			X	Wilson			X
Iredell		X		Yadkin		X	
Jackson			X	Yancey			X

Source: Earl Black and Merle Black, unpublished research base for *Politics and Society in the South*

* In at least 75% of the elections

**Table 4. County Workfare*
Programs, by Date of
Implementation**

Counties prior to 1985, Democratic Administration	Implementation date
Ashe	January 1, 1983
Buncombe	September 1, 1984
Caldwell	July 1, 1982
Davidson	July 1, 1982
Moore	July 1, 1982
Nash	July 1, 1982
Pitt	July 1, 1982
Rowan	July 1, 1982
 Counties after 1985, Republican Administration	 Implementation date
Beaufort	January 1, 1986
Carteret	January 1, 1986
Catawba	August 1, 1986
Craven	August 1, 1986
Cumberland	July 1, 1986
Durham	August 1, 1986
Guilford	February 1, 1987
Iredell	September 1, 1986
Lee	August 1, 1986
Mitchell	September 1, 1986
New Hanover	January 1, 1987
Orange	November 1, 1986
Polk	September 1, 1986
Rutherford	September 1, 1985
Sampson	July 1, 1986
Scotland	August 1, 1985
Vance	May 1, 1987
Wake	August 1, 1986
Wilson	March 1, 1986
Yancey	October 1, 1986

**Total: 28 counties
15 additional counties
expected in 1987-1988.**

*Formally known as Community Work
Experience Project

Source: N.C. Department of Human Resources,
Division of Social Services

Chart prepared by Vanessa Goodman.

isn't much of a factor on the state budget."

The workfare programs grew much faster under Martin during his first three years in office than they did during Hunt's last three years in office—the same length of time. And abortions, after all, did go up in Democratic years and drop during Martin's years. The reasons for that are that Democrat Hunt was willing to seek extra contingency funds to pay for more abortions—and got the money—while Martin's administration has actively sought to reduce state funding on abortions—and succeeded. As for parks spending, the fact remains that the Republican governors tend to *ask* the legislature for *more* money for parks—and they get the money—while Democrats ask for less money. In both cases, the legislature has generally acceded to the governor's lead on parks questions.

The report did strike a responsive chord with some officials. Phillip J. Kirk Jr., Martin's chief of staff, says the report "gave substantial credence to my belief that North Carolina is almost a true two-party state. When Governor Martin is re-elected, I believe that historic event—the first re-election of a Republican governor this century or maybe ever—will mean we have arrived. A large number of our statewide victories in state races have occurred when the Republican Presidential candidate was carrying the state in landslide proportions, so the coattail effect was present."

Kirk believes the consistent number of local Republican victories, "the tremendous *percentage* increase in Republican registration, and the growing number of unopposed Republican legislators point to the validity of the theory that North Carolina is a two-party state.

"What does this mean? It means we have true competition for a growing number of offices. It means Republicans will be elected to the Council of State and to judgeships. This will encourage the movement toward a different method of selection for these positions. The veto issue will ultimately be resolved by the voters, rather than a handful of powerful legislators. It means the General Assembly will become more open as the Governor has opened the meetings of the Council of State. The only question is 'When,' not 'If,'" says Kirk.

The report generated extensive news coverage in towns from Gastonia to Garner to Greenville. A total of 62 articles ran in 50 newspapers, with radio and TV coverage as well. *The Fayetteville Observer* said the report was "unpleasant news for 'yellow-dog' Democrats, but it should warm the hearts of all who want North Carolina to be a two-party state in reality, not just in theory. As in a free-enterprise

system, competition in politics produces better, if sometimes messier, results over the long run.... [T]he most important benefits of a two-party system are the improved quality of candidates, the greater probability of fruitful change, and the higher standards of rectitude inspired by the opposition's scrutiny." The *Greensboro News & Record* said the report "dramatizes the emergence of North Carolina as a full-blown two-party state," while the *Winston-*

Salem Journal concluded, "The Center's study confirms that the era of one-party dominance is over in North Carolina." ▢ ▢

Copies of the report on "The Growth of the Two-Party System in North Carolina" are available for \$9.45 plus \$1 postage from the N.C. Center for Public Policy Research, P.O. Box 430, Raleigh, N.C. 27602, or call (919) 832-2839. Videotape available from WUNC Television. Call (919) 737-2853 for ordering information.

Table 5. Number of Abortions and Amount of State Funds Spent in North Carolina

Fiscal Year	# of Abortions	Party***	%Increase/Decrease	# of State-Funded Abortions	% Increase/Decrease	Amount of \$ Spent
76/77	*	R/D	*	4,144	*	1,832,977
77/78	25,777	D	—	1,123	-369	223,276
78/79	27,799	D	+7.3	6,125	+445	1,302,801
79/80	30,155	D	+7.8	6,343	+3.6	1,366,921
80/81	30,000	D	-0.5	5,730	-9.6	1,233,301
81/82	29,890	D	-0.4	4,295	-25.0	984,446
82/83	31,392	D	+4.8	6,149	+43.2	1,253,697
83/84	34,138	D	+8.0	6,645	+8.1	1,357,371
84/85	32,478	D/R	-5.1	6,564	-1.2	1,316,770
85/86	32,849	R	+1.1	2,662	-247.0	557,129
86/87	**	R	**	4,181	+57.0	900,750

Average Number of Abortions During Years When Republicans Are in Power: 3,662

Average State Spending on Abortions During Years Republicans Are in Power: \$1,096,252

Average Number of Abortions During Years When Democrats Are in Power: 5,371

Average State Spending on Abortions During Years Democrats Are in Power: \$1,129,822

* Figures were not kept for years prior to 1978 by state Department of Human Resources.

** Total number of abortions for 1986-1987 not reported yet.

*** Fiscal year marked R/D was year in which Republican Gov. Jim Holshouser completed his term and Democratic Gov. Jim Hunt began his first term. Year marked D/R denotes year Hunt finished his second term and Gov. James G. Martin began his term. For budget purposes, 1976-77 was considered a Republican year, because the Holshouser Administration had set the budget priorities. Similarly, 1984-85 was considered a Democratic year, because the Hunt Administration had set the priorities.

Chart by Vanessa Goodman.

Source: Department of Human Resources

Table 6. Funding for State Parks (1973-1986)

Year	Advisory Budget Commission Proposal	Capital Improvements	Land Acquisition	Total Operations	Legislature Authorized**	Political Party In Power*****
1973-74	\$2,325,599	\$2,500,000	\$11,500,000 ***	\$1,191,618	\$15,191,618	Republican
1974-75	10,323,141	3,000,000	5,500,000 ***	1,394,111	9,894,111	Republican
1975-76	6,076,874	1,000,000	500,000	1,473,325	2,973,325	Republican
1976-77	10,474,874	1,000,000	1,000,000	1,507,318	3,507,318	R/D
1977-78	13,796,418	1,200,000 ***	500,000 ***	1,756,104	3,456,104	Democratic
1978-79	6,297,391	1,200,000 ***	500,000 ***	2,048,310	3,748,310	Democratic
1979-80	2,466,873	500,000	250,000	2,255,560	3,005,560	Democratic
1980-81	2,416,617	500,000	250,000	2,514,515	3,264,515	Democratic
1981-82	2,713,225	100,000	-0-	2,598,724	2,698,724	Democratic
1982-83	3,749,558	-0-	-0-	2,728,514	2,728,514	Democratic
1983-84	2,951,444	50,000 *	215,000 *	2,867,359	3,132,359	Democratic
1984-85	2,963,577	140,000 *	-0-	3,123,542	3,263,542	D/R
1985-86	4,157,433	850,000	11,185,000	3,491,517	15,526,517	Republican
1986-87	4,370,012	3,950,000 ****	8,800,000	3,999,180	16,749,180	Republican

Average authorized during Republican Years: \$ 10,640,344

Average authorized during Democratic Years: \$ 3,162,203

* Special bills

** Money authorized by General Assembly includes figures on state park administration, field operations, capital improvements, and land acquisition.

*** Source of funds was the federal Revenue-Sharing Program, in which federal funds were appropriated through the state budget by the General Assembly.

**** Includes \$1.2 million for the Community Service Workers Program.

***** Fiscal year marked R/D was year in which Republican Gov. Jim Holshouser completed his term and Democratic Gov. Jim Hunt began his first term. Year marked D/R denotes year Hunt finished his second term and Gov. James G. Martin began his term. For budget purposes, 1976-77 was considered a Republican year, because the Holshouser Administration had set the budget priorities. Similarly, 1984-85 was considered a Democratic year, because the Hunt Administration had set the priorities.

Note: The amount of money proposed comes from money in the General Fund. The authorization from the General Assembly comes from the General Fund except as noted. The chart illustrates large appropriations from the legislature in 1973-74, 1985-86, and 1986-87. These anomalies are due to sporadic funding of the state park system over the years. In some years, the General Assembly had more money to work with than in other years because of greater economic growth and larger tax revenues.

Chart prepared by Vanessa Goodman, N.C. Center Intern

Source: Office of State Budget and Management

IN THE EXECUTIVE BRANCH

The Council of State and North Carolina's Long Ballot: A Tradition Hard to Change

by Ferrel Guillory

This regular Insight feature focuses on how the executive branch of state government goes about making public policy. In this article, Insight examines the impact of North Carolina's "long ballot" on the executive branch, and the prospects for change.

As Commissioner of Agriculture, James A. Graham runs a department of state government with a \$52.2 million budget and nearly 1,400 employees. Graham was *elected* by the people.

As Secretary of Natural Resources and Community Development, S. Thomas Rhodes runs a department with a \$198.7 million budget and 2,122 employees. Rhodes was *appointed* by Gov. James G. Martin.

As Commissioner of Labor, John C. Brooks controls one of the smallest departments of state government. The Labor Department has a \$10.8 million budget and 298 employees. Brooks was *elected* by the people.

As the Secretary of Human Resources, David T. Flaherty sits atop a huge governmental structure, largest in the state, not counting the Department of Education and its statewide network of teachers. The Department of Human Resources has a \$2.5 billion budget and 17,800 employees. Flaherty is an *appointee* of Governor Martin.

Why, in this remainder of the 20th Century, do we still elect some state cabinet-level officials, yet appoint others? Tradition, more than anything else. An observation made in 1968 by the North Carolina State Constitution Study Commission remains true two decades later: "Thus whether one of the state executive offices is filled today by vote of the people or by appointment appears to have more to do with the age of the office than with the nature and weight of its responsibilities."¹

More than most states, and certainly far more than the federal government, North Carolina has a fractionalized executive branch. Although the power of the Governor has been steadily broadened over time, the state's laws and its programs are carried out not only by the chief executive and his Cabinet but also by several independently elected officials.

The Governor has the power to appoint the overseers of the state's prisons; its transportation system; its economic development efforts; its highway patrol; its health, welfare, and social services; its environmental protection units; its cultural assets; and its tax collectors. But the state Constitution gives the people the power to elect, in addition to the Governor and the Lieutenant Governor, the Auditor, the Attorney General, the Treasurer, the Secretary of State, the Commissioner of Agriculture, the Commissioner of Labor, the Commissioner of Insurance, and the Superintendent of Public Instruction.

This long list of public offices, combined with a complete slate of Superior Court judges elected statewide, gives North Carolina its traditional long ballot. And together, the 10 statewide elected officials serve on an unusual and long-lasting unit of state government. It's called the Council of State.

Over the past two years, a series of unrelated developments has focused attention on the Council of State—on how its members are chosen and how its members relate to the Governor. In 1987, the General Assembly debated and then turned down legislation to convert the Superintendent of Public Instruction from an elective to an appointive position.² Moreover, two members of the Council of

Ferrel Guillory is Associate Editor of *The News and Observer* of Raleigh.

State have decided not to seek re-election: Thad Eure, after 52 years as Secretary of State, and A. Craig Phillips, after 20 years as Superintendent of Public Instruction. Thus, with Lt. Gov. Robert B. Jordan III running for Governor instead of re-election, voters will fill three vacancies on the council in the 1988 election. And an important lawsuit (see box on p. 38) has been part of the debate.

The Council of State has its origins in the Proprietary and Colonial periods, as John Sanders, director of the Institute of Government at the University of North Carolina at Chapel Hill, explains in a history of this unusual institution. The Governor's Council, appointed by the Crown from among residents of the colony, not only advised the Royal Governor but also served as the upper house of the General Assembly.

When North Carolina declared its independence in 1776 and set up its own government, the Governor was given little power and a seven-member Council of State was created. Members of the council were elected by the legislature for a term of one year. "The council had no authority to act except in conjunction with the Governor," Sanders writes. "Its members had no governmental authority as individuals and could hold no other state office."³

The Convention of 1868 provided for a popularly elected Governor and Lieutenant Governor, as well as six other executive offices. Under this 1868

"The complexities of the job are such that you don't want what you have in other states—a rapid turnover of commissioners."

— Jim Long
Commissioner of Insurance

Constitution, the Council of State consisted of the Auditor, Secretary of State, Treasurer, Superintendent of Public Works, and Superintendent of Public Instruction. The Governor called and presided over its meetings and the Attorney General was its legal adviser, though neither was a Council member. The office of Superintendent of Public Works was abolished in 1873. And the Commissioners of Agriculture, Labor, and Insurance, as elected officials, were added to the state Constitution in 1944, although these offices already existed as elective positions by statute.⁴ The Council must approve the Governor's actions in convening extra sessions of the General

Assembly, acquiring and disposing of land for the state, and borrowing money.

The 1968 Constitution study commission report, which set the stage for the constitutional revisions of 1971, proposed a much shorter ballot of statewide elected officials. The commission wanted to retain the Governor, Lieutenant Governor, Auditor, Treasurer, and Attorney General as statewide elected officials. It proposed having the Secretary of State and the Commissioners of Labor, Insurance, and Agriculture appointed by the Governor, and the Superintendent of Public Instruction appointed by the State Board of Education.

The commission offered this critique of the consequences of having 10 statewide elected officials:

"Relatively few of the State's two million voters have more than a faint idea of the duties of most of these offices; still fewer are in a position to know the qualities of the occupants of and candidates for most of those posts. Thus the vast majority of voters are poorly prepared to make an understanding selection of the men who are to fill those posts. The fact is that for many decades, nearly all of these officers (other than the Governor and Lieutenant Governor) have reached their places by appointment by the Governor to fill a vacancy, have won nomination in the party primary without significant opposition, and have shared the success of the Democratic state ticket in the general election.

"From the constitutional standpoint, these officers nevertheless hold their offices by gift of the voters, and so are only indirectly subject to supervision by the Governor. Thus the Governor's ability to coordinate the activities of state government and to mount a comprehensive response to the problems of the day are handicapped if the elected department heads choose not to cooperate with him."⁵

North Carolina now has more than three million voters, and no commission today would write only of "men" who hold government jobs. Still, the arguments for a shorter ballot made by the study commission have echoed across the state for the last 20 years.

Neither the 1968 commission nor its echoes swayed the General Assembly to reduce the number of statewide elected officials. In 1987, both Governor Martin and Lieutenant Governor Jordan backed legislation to make the Superintendent of Public Instruction appointive. That office was singled out for two reasons: First, a change seemed feasible with Phillips retiring. And second, the structure of

education governance—an elected superintendent reporting to an appointed board, with the Governor having a key role as agenda-setter and budget maker—strikes many people as leaving the lines of accountability blurred.

The Senate approved a proposed constitutional amendment to make the superintendent an appointee of the education board, but the measure was rejected in a House committee. Other members of the Council of State opposed it.

“You take one off the ballot and then the question is which one’s next,” says Commissioner of Insurance Jim Long, explaining in part why the Council of State opposed the constitutional amendment.

In separate interviews, Long and Commissioner of Labor John C. Brooks discussed why they favor retaining their jobs as elected positions. The principal issues, both said, are continuity and independence.

“The complexities of the job are such that you don’t want what you have in other states—a rapid turnover of commissioners,” Long says. While

some appointed commissioners stay in office no more than 18 months, he says, North Carolina’s elected insurance commissioner is assured of a four-year term.

Brooks notes that the federal government has had three Secretaries of Labor during the last eight years. “The continuity that our system offers is very valuable,” he says. “But it also has a safety valve—that if someone is doing a bad job, the voters can do something about it.” An appointed commissioner, adds Long, “is beholden to the appointive authority, usually the Governor. I have independence.”

Candidates for Council of State offices regularly receive much of their campaign financing from persons and groups with a special interest in the affairs of their particular post. Long, for instance, acknowledges accepting campaign contributions from insurance agents, representatives of insurance companies, engineers, architects, and others with an interest in the insurance-regulation and fire-code duties of his office. “I take it from anybody who will give it to me, and I report it,” says Long.

But, Long says, if the Governor appointed the commissioner, special-interest groups would shower gubernatorial candidates with campaign contributions in hopes of influencing the winner’s choice of the insurance regulator. In terms of special-interest groups trying to influence government policy through campaign contributions, says Long, “You’ve got the same risk if the Governor appoints me.”

Unless some major event changes official attitudes, it is not likely that another attempt at shortening the ballot with regard to the Council of State will be made soon. What might spark such a change?

“I suppose if you have a scandal or two or three in those offices,” Sanders muses in an interview. “Otherwise, a Governor is not likely to tear his shirt over it.”

Perhaps not, but the stimulus might come from outside candidates for office. A few years ago, a Colorado politician campaigned—albeit unsuccessfully—for abolition of the office of Secretary of State. And in this year’s election, Republican Richard Levy of Greensboro is running for Commissioner of Labor on a platform of promising to abolish the office, though Levy’s bid may be a long shot. But one candidate who succeeded was William F. Winter of Mississippi, who managed to get the statewide elected office of State Tax Commissioner abolished while he held the post. Voters evidently didn’t hold it against him, because Winter later was elected Governor.

Opponents of the long ballot might argue that

Table 1
N.C. Council of State Officers and
Number of States Which Elect
the Same Officials

Governor	50
Attorney General	43 *
Lieutenant Governor	42 *
Treasurer	38 *
Secretary of State	36 *
Auditor**	22 *
Superintendent of Public Instruction	16 *
Commissioner of Agriculture	12 *
Commissioner of Insurance***	11 *
Commissioner of Labor	4 *

* Includes states in which the office is established by statute as well as by the constitution.

** Includes some comptrollers, pre-auditors, and post-auditors.

*** As counted by the National Association of Insurance Commissioners.

Source: Book of the States, 1986-1987 Edition

Table 2. Number of Offices Headed by Elected Officials, by State, and Rank Among All States (*Exclusive of Office of Governor*)

State	Number of Offices	Rank	State	Number of Offices	Rank
Alaska	0	1	Illinois	6	22
Maine	0	1	Indiana	6	22
New Jersey	0	1	Iowa	6	22
New Hampshire	1	4	Kansas	6	22
Tennessee	1	4	Massachusetts	6	22
Hawaii	2	6	Montana	6	22
Virginia	2	6	Ohio	6	22
Maryland	3	8	California	7	33
New York	3	8	Florida	7	33
Pennsylvania	4	10	Michigan	7	33
Rhode Island	4	10	Nevada	7	33
Utah	4	10	Oklahoma	7	33
Wyoming	4	10	South Dakota	7	33
Connecticut	5	14	Alabama	8	39
Delaware	5	14	Georgia	8	39
Minnesota	5	14	Kentucky	8	39
Missouri	5	14	Nebraska	8	39
Oregon	5	14	New Mexico	8	39
Vermont	5	14	South Carolina	8	39
West Virginia	5	14	Texas	8	39
Wisconsin	5	14	Washington	8	39
Arizona	6	22	Mississippi	9	47
Arkansas	6	22	North Carolina	9	47
Colorado	6	22	Louisiana	10	49
Idaho	6	22	North Dakota	11	50

Source: Council of State Governments

the state is not well served by electing so many officials. They would contend that "accountability in principle is not matched by accountability in fact," notes *State Policy Reports*, a national state policy newsletter, because "it is so difficult for the public to measure performance in some of these jobs that, as a practical matter, elections are decided by such factors as name recognition . . . rather than judgment of competence or issue orientation. They would contend that the governor makes a better judge of competence and performance than the public at large."⁶

The trend in recent years is toward fewer statewide elected officials, according to the 1986-87 *Book of the States*. In 1956, states had 709 elected statewide officials in offices other than the Gover-

nor, but 30 years later, in 1986, that number had dropped to 509.

Despite this national trend, state legislators, who would have to pass a constitutional amendment before sending it to the voters for their approval, have little political incentive to alter the system. After all, they themselves are elected officials, and many find themselves unwilling to risk asking their constituents to give up the right to vote on who would fill a position that long had been subject to election. Many of them may reason that North Carolina's long ballot is a symbol of Jacksonian democracy, and that a long ballot is indeed the best way to select the state's leaders.

And some of them, as UNC-CH Political Scientist Thad Beyle points out, may wish to keep these

"The continuity that our system offers is very valuable. But it also has a safety valve — that if someone is doing a bad job, the voters can do something about it."

— John Brooks
Commissioner of Labor

offices intact "so they can move up politically." For instance, state Rep. Bobby Etheridge (D-Harnett) is running for Phillips' soon-to-be-vacant seat as Superintendent of Public Instruction.

North Carolina could have a shorter ballot, Human Resources Secretary David Flaherty points out, "if the merit selection of judges would be implemented. Eliminating the judges on the ballot would reduce the number of slots and heighten public awareness of the Council of State offices." (See "Selecting Judges," *North Carolina Insight*, June 1987, for more on this subject.)

Not everyone agrees that's a good idea. As State Treasurer Harlan Boyles puts it, "Shortening the ballot would make it easier to vote, but would it give the people better government?" Boyles believes North Carolina's system of government has worked well, and he says a proper balance of powers exists among the three branches of government. "To curtail the Council of State and give the Governor more appointive power would certainly alter this balance in favor of the executive branch. Would this be desirable? North Carolina's Governor already has appointive power exceeding that in most states."

Another Council of State member, Auditor Edward Renfrow, suggests departments headed by appointees of the Governor may be inappropriate places for many new duties—and that the Council of State departments might be better agencies for these responsibilities. "I believe that, over the years, many programs or functions were placed in various offices appointed by the Governor rather than a more appropriate organizational setting under an elected Council of State office," says Renfrow. Examples he mentioned are the Employment Security Commission under Commerce

rather than the Labor Department, and the Public Staff of the Utilities Commission rather than the Attorney General's office. "Such 'misplacements,' in my opinion, often result in duplication of services and inefficient operations," says Renfrow.

Shortly after the House committee quashed the Senate-passed legislation on the Superintendent of Public Instruction, Lt. Gov. Jordan declared, "I feel this was our best opportunity in the last half of the 20th century to cause this reform to come about. I think it is, for all practical purposes, a moot issue until you have major constitutional reforms of North Carolina state government sometime in the future, as you did in the early 70s."

If Jordan is right—and there's no evidence to the contrary—this long-ballot tradition will continue to give North Carolinians an extensive list of decisions to make at the ballot box every fourth November. □□

FOOTNOTES

¹ *Report of the North Carolina State Constitution Study Commission* to the North Carolina State Bar and the North Carolina Bar Association, Dec. 16, 1968, pp. 118.

² Senate Bill 149 ("State Schools Superintendent Appointed"), sponsored by Sen. Robert D. Warren (D-Johnston), passed the Senate but received an unfavorable report on June 3, 1987, in the House Committee on Constitutional Amendments.

³ John Sanders, "The Governor and Council of State: Constitutional Relationships, 1663-1985," unpublished paper dated Jan. 29, 1986.

⁴ Article III, Section 1, Constitution of North Carolina.

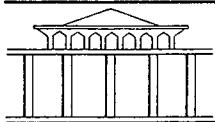
⁵ *Report of the North Carolina State Constitution Study Commission*, p. 118.

⁶ *State Policy Reports*, Vol. II, Issue 15, Aug. 14, 1984, p. 17.

Court Rules in Martin v. Thornburg

In a case called *Martin et al. v. Thornburg et al.*, the Republican Governor and the other members of the Council of State, all Democrats, vied over whether a majority of the council could take certain actions regardless of the Governor's position. The case dealt with who would be landlord for an Employment Security Commission office in Lumberton. The Martin administration had asked the council to approve one bidder, but the council voted to order renegotiation with the original landlord. The Supreme Court ruled that the Council of State could approve or disapprove real estate transactions, although it appears that only the Governor could initiate an action.* That decision has sparked further debate on relations between the Governor and the Council of State.

**Martin et al. v. Thornburg et al.*, 320 N.C. 533, SE2d (1987).



IN THE LEGISLATURE

So You Think It's Easy To Find Out How Legislators Vote, Eh?

by Paul T. O'Connor

This regular Insight feature focuses on the makeup and process of the N.C. General Assembly and how they affect public policy. This column focuses on the difficulty of finding out how legislators voted on an issue, and the movement to use the legislature's new computer system for storage and retrieval of such votes.

Stan Williams' boss gave him a research project last year that should have been fairly simple for the veteran lobbyist. Williams was told to find out how several potential candidates for lieutenant governor had voted on the series of environmental measures known as the Hardison amendments.¹

Williams started with a number of research advantages that ordinary citizens wouldn't have: His boss, state Sen. Harold Hardison (D-Lenoir), then a Democratic candidate for lieutenant governor, was the sponsor of the amendments and could provide him with some details to get started. Also, in his years of lobbying, Williams had become familiar with the legislative library's filing system. Nonetheless, it took him nearly six hours to finish this seemingly simple project—and the process points up the need for better access to legislative votes.

"It was excruciatingly difficult," says Williams. "The legislative library did not have a complete system for collecting that information."

The simple truth is that the General Assembly does not make it easy to learn how its members voted on bills. In this day of advanced computers, increasing public acceptance of and familiarity with computer terminals, and the expenditure of hundreds of thousands of dollars by the legislature to equip itself

with state-of-the-art computer equipment in 1986, you still have to look up a vote in a dusty notebook. The information is public, most of the time at least, but it is woven throughout a complicated system of notebooks and journals.

Experienced researchers, on someone's payroll, are merely delayed and inconvenienced by the system. But the public would be baffled and frustrated if they wished to find out, for instance, how then-state Sen. R. Gregg Cherry (D-Gaston) voted on the "Horn Tootin' Bill" establishing the North Carolina Symphony in 1943, two years before Cherry would become Governor.²

The simplest research project, says Vivian Halperen, legislative librarian, is one that involves a specific bill. For example, take the phosphate ban of 1987. A novice researcher looking for how legislators voted on that bill would have to go through this process:

First step: Go to a legislative bill status computer terminal, available in the two legislative libraries or in the printed bills office, and type "phosphate ban" on the screen. Note the bill number when it appears on the screen.

Second step: Look for that bill number in the "vote book," which reposes in the stacks of the library. That loose-leaf binder holds the computer printout sheets of House and Senate votes, if they were recorded votes. Most are, but not all. Some are voice votes, which means there won't be a printout of individual votes. If it was a recorded vote, and if there was only one key vote on the bill, your job is

Paul T. O'Connor is the columnist for the N.C. Association of Afternoon Newspapers.

finished. Just note how your legislator voted on the bill, and the job is done. Of course, what you've found so far won't explain what the vote was all about. It's not unusual to have a dozen or more recorded votes involving a bill, with motions to table or to reconsider or to amend. And each of *those* parliamentary maneuvers may require an explanation that won't be found even in the vote records. Understanding that requires knowledge of parliamentary procedure and legislative strategy. And there may be separate recorded votes on second and third readings for each bill.

Thus, there's usually much more to the job. For instance, for important amendments or motions, you'll need to do more research.

Third step: Go to the "bill book," another loose-leaf book in the stacks, turn to the phosphate ban bill, read all the offered amendments (listed separately, of course, but all affecting different parts of the original bill), and select those which are pertinent to the research project. Jot down the amendment number, because you'll need it for each vote.

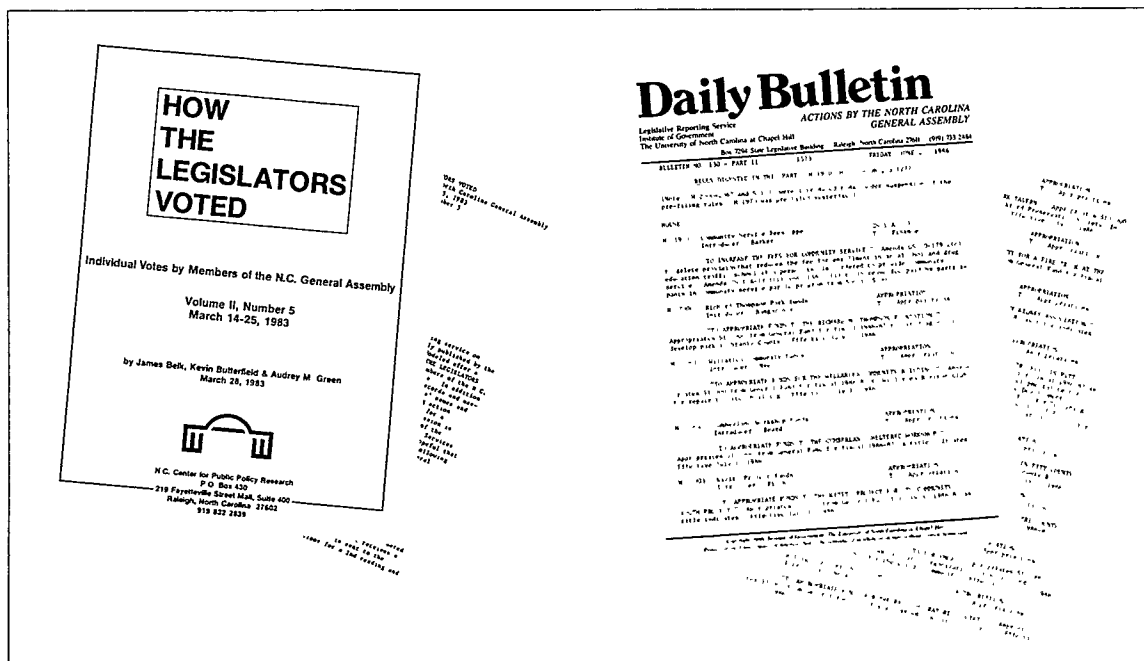
Fourth step: For each amendment, return to the "vote book" and note how the legislator voted on each. You might also check to see if the votes on amendments remain consistent with the vote on final passage. And for each motion, there is a key letter and number atop each voting sheet in the "vote

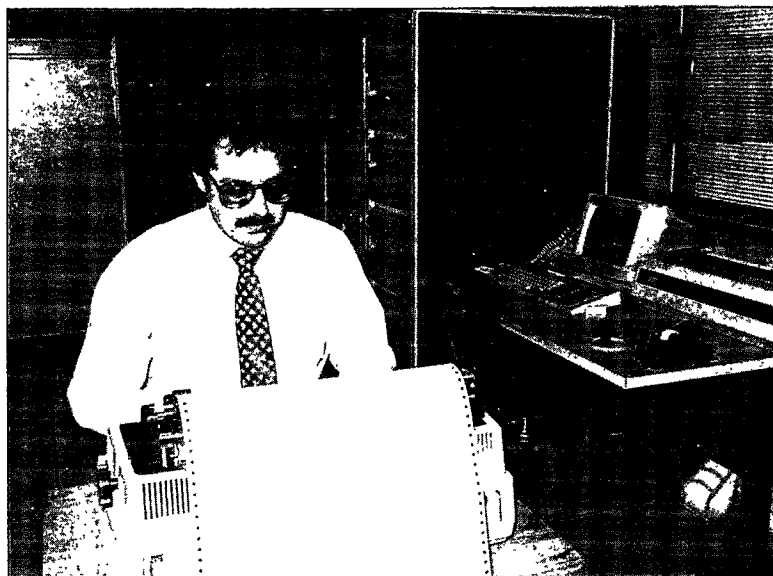
book." Take that number to the rule book of the appropriate chamber (House and Senate rules differ) for an explanation of the kind of motion and what impact it would have.

That's what Mrs. Halperen calls an easy research project. "If you came in with that request, it would be so straightforward that we would be stunned," she says. The legislative librarians are not often stunned.

The Hardison amendments research was only slightly more complicated. A researcher would first have to know when they were adopted and when they were amended. To find out, a researcher would turn to the N.C. General Statutes involved. This assumes that the researcher already knows the specific statutory citations of the Hardison amendments, since they were adopted and amended in several sessions during the period from 1973 to 1979. At the end of each statute, dates and numbers of ratified chapters in the Session Laws are listed in parentheses for each legislative session in which the statute was changed. The researcher then would go to other volumes, called the Session Laws, printed following each long and short session of the General Assembly. An index will lead the researcher to the chapter(s) of the Session Laws on the Hardison amendment from that session. That chapter would contain the appropriate bill, and its original bill

From 1981 to 1984, the N.C. Center for Public Policy Research published How the Legislators Voted, pictured at left. The Daily Bulletin, from the UNC-CH Institute of Government, does not report individual votes.





Peter Capriglione, Systems Network Manager at the General Assembly, works in computer room where mainframes operate.

number. The researcher would note that bill number and—BINGO—return to the first step, noted above, to begin researching the vote.

Confused? If you're not, you've done this before. If you are, you're like almost everyone else, and that's the point. It's extremely difficult to find out how legislators voted, even though all votes are on public record.

And it would get even worse if you were trying to research a category of votes, such as environmental or business issues, for example, or if you were trying to research votes on a bill that was defeated. Those, of course, don't show up in the General Statutes or in the Session Laws, since they weren't passed.

Some people, like Speaker of the House Liston Ramsey (D-Madison), contend that it's not all that difficult. "All the votes are in the library," he maintains.

That's another problem. Records of legislative votes are in the library and in the principal clerk's office of both the House and the Senate. But that's it. They're nowhere else. Those who want to research legislative voting in North Carolina either must come to Raleigh, or call the library on the telephone and ask the librarians to do some of the research. The library has a small but extremely helpful research staff that tries to help all callers with a research question, but during legislative sessions, other business comes first.

There is one much easier way to research *some* votes—by referring to the journals of the House and

Senate. For *some* bills, these journals report how each legislator voted, but not for all bills. For bills to be recorded in the House or Senate journal, a call for the "ayes and the noes" must be sustained by one-fifth of the members of that chamber. Sen. Laurence Cobb (R-Mecklenburg), the Senate minority leader, has for years led efforts to get more votes printed in the Senate Journal. But with fewer than 10 Republican senators to back him, he's had only limited success.

Why does the General Assembly make it so difficult for the public to learn how it votes? Says Cobb, "I guess a lot of people don't want their votes recorded." Adds Democratic

Rep. Dennis Wicker of Lee County, "I'm sure there are a lot of members who don't want the public to know how they voted."

If the General Assembly wanted its votes to be readily accessible, it would be a relatively easy task to accomplish. It might take some money, however. The Legislative Services Commission is looking into possible replacements for the 13-year-old electronic voting systems used in the House and Senate—which themselves were a great improvement in making votes public and available. Glenn Newkirk, director of the assembly's computer operations, says the computer hardware exists to tie a new electronic voting system into the assembly's computers. With such a system, it would be possible not only to quickly look up an individual legislator's votes, but also to make sophisticated computer analyses of voting trends.

That's where Newkirk speaks cautiously. The legislature has six computers—two which can handle up to 32 million bytes each (a byte is a unit of computer information) and four which can handle up to 5 million bytes each (see box, p. 49, for more). That's ample memory capacity for current demands, Newkirk says. But considering the retrieval demands that would be put on a system that also stores individual legislative votes, Newkirk hedges.

"It's probably true" that the system is large enough, Newkirk says in an interview. "The reason I wouldn't say yes is because that's a lot of information and I can't answer the question until someone tells me how they are going to retrieve it. If all I had

to do was store it, I'd say yes." The software to drive such a system would be expensive, he says. "We're talking multi-hundreds of thousands. It has to be really good software; it can't be simple," says Newkirk. But he adds, "It could be done. It would be purely a matter of cost."

Some other states already have begun making legislative votes available via computers. According to the National Conference of State Legislatures, Alabama provides legislative votes in a data base that is open to the public. And Iowa has the journals of its House and Senate on line. The public in Iowa thus can gain computer access to many of the state's legislative votes.

In 1984, the Kansas legislature opened up public access to its computerized information system to keep tabs on bills. Anyone with a personal computer and a \$100 access fee could hook up with the information system, which offered data mostly on the status of pending legislation. But the N.C. General Assembly has been reluctant to allow such access at any price. For instance, the Capital Press Corps has asked that a bill status information terminal be added to the Press Room on the first floor of the Legislative Building, but so far the Legislative Services Commission has not acted on that request. On Feb. 19, 1988, however, the commission's Subcommittee on Legislative Information Systems authorized another bill status terminal to be located on the first floor of the Legislative Office Building for the use of members, the public, and the press.

Such bill status information is helpful. And reporters, legislators, lobbyists and others have relied upon the *Daily Bulletin*, published each legislative day by the UNC-Chapel Hill Institute of Government, as a way to help keep track of the status of bills. But the *Daily Bulletin* does not offer any information on voting records.

Cost is the factor Speaker Ramsey mentions when the subject of legislative vote records comes up. "What's it going to cost?" he asks when questioned whether he'd support such a system. "I'm told it would cost a considerable amount of money." Besides, says the Speaker, it's not the legislature's job to report votes. That responsibility belongs to the press. "It would be worth it for you people in the press to get in there [the library] and do your jobs," says Ramsey. "All they have to do is go into the library and publish."

But it is much more involved than that. A mere listing of votes, such as Ramsey suggested, is virtually meaningless. Those votes must be accompanied by an explanation of what the votes on motions and amendments mean. That kind of information can

only be gathered by someone covering every moment of every legislative session—at least one reporter in each chamber, and even that may not be enough to keep track of the intent and meaning of each motion, amendment, or parliamentary maneuver with a vote.

Ramsey notes that the N.C. Center for Public Policy Research once reported all legislative votes. For part of 1981 and all of 1982, 1983, and 1984, the Center recorded and published the votes of all 170 legislators, but the project was halted after the 1984 session because of its expense and the lack of paying subscribers to the service.³

Center Executive Director Ran Coble says the cost of staffing the Center's vote project in 1983 alone ran to \$45,932, far more than the non-profit Center was able to raise in subscription fees. The service, which published the results of more than 4,000 recorded votes from 1981-1984, met with widespread editorial praise around the state. Since the service was discontinued after the 1984 session, many newspapers have joined the Center in encouraging the assembly to pick up the program as a legislative service. "The N.C. Center venture in publishing voting records proved to the state that such a record is feasible to compile and to issue in understandable form," said *The Raleigh Times*. "The records were usable enough that news media, lobbyists, corporations, associations, parties, candidates, and individual citizens all made substantial use of them."⁴

Said *The Durham Sun*, "The Legislature can, and should, rectify the situation. With a minimum of additional effort, details of votes can be included in the legislative computer tallies already available."⁵ And *The Fayetteville Observer* said, "If the [legislative] leadership is interested in the free flow of

Bill books in legislative library hold data on ratified legislation. Another set of books holds recorded vote data.



Jack Beits

Legislative Computers—Tracking Takeoffs and Landings

The North Carolina General Assembly is a latecomer to the age of computers. Only recently did it take a quantum leap forward in the ability to store, process, and analyze information when a state-of-the-art system was installed in the legislative buildings in November 1984. That system comprises two Digital Equipment Corp. mainframe computers with 32 million characters of main memory each, as well as four smaller units packing five million characters of memory apiece.

Computer central is a 16-foot-by-40-foot, climate-controlled room—which houses the two mainframes—in the Legislative Office Building. The four auxiliary units are situated in strategic spots throughout the legislative complex.

"It's a whole lot bigger and a whole lot more complicated than a personal computer sitting on somebody's desk," says Glenn Newkirk, director of Legislative Automated Systems, an eight-employee division that operates the legislature's \$4.5 million computer system. "We're like an airline system. Bills are taking off and landing and we're tracking them as they go."

Newkirk said the system offers lawmakers and staff a host of capabilities, including: bill typing and printing; legal document storage and retrieval; bill status reporting; office automation; fiscal analysis and data base management; and general ledger accounting.

The computer system is particularly helpful to the legislature's Fiscal Research analysts, who in previous years were forced to ferret out data from an unrelated series of sources and often had to paste the results together. But with the new system, analysts have nearly instant access to spread-

sheets, allowing them to extract data and print it in memo form electronically without hours of cutting and pasting. The system makes it far easier to extract data such as cost trends, or how much an executive department is spending on utilities, or what rental costs are. And the system means that the legislature has become much more expert in developing a state budget.

"It's actually a network of computers with several computers located in several areas throughout the two buildings," says Newkirk. "They all have specific functions that they perform. Some have a dedicated use. The large ones are more general purpose. Some others serve as back-up computers in the event one of the other computers is lost."

For example, Newkirk says, if the computer handling bill status goes down, the system automatically switches to a second computer. Should the second computer fail, the bill-status function can be manually switched to a third computer. "The computer system was available last session about 99.9 percent of the time," says Newkirk.

The system contrasts sharply with what was available less than four years ago. Until then, there were 10 terminals tied in to the massive computer at the State Computer Center, with 10 part-time employees hired during the legislative sessions to type bills. Now, Newkirk says, there are more than 100 terminals available to staff and some legislators.

"There was no full legislative computer system," says Newkirk. "There is much, much more of the system now, and there is much wider access to and use of the system in the legislature itself."

—Mike McLaughlin

information that permits North Carolina citizens to make informed judgments at the voting booth, it should seriously consider providing this information [on voting records] from now on."⁶

The Center and its Board of Directors asked state Sen. Robert B. Jordan, then a candidate for lieutenant governor, in 1984 to consider pushing for a recorded vote service beginning in the 1985 session. "Without the Center's vote reporting service, there is no way the average citizen can find out how a legislator voted on a particular bill," pointed out N.C. Center Chairman Thad L. Beyle and Coble.⁷ Jordan responded that his staff would discuss the subject with legislative staff members and added, "I intend to give the proposal my full consideration."⁸


Following another exchange of letters urging adoption of a vote reporting service, Jordan in 1985 said a decision on the legislature's publishing its own votes "needs to be deferred until computer capabilities in the General Assembly are fully operational. Once our computer system is in place, I will talk further with Speaker Ramsey."⁹

Now that the computer system is in place, Jordan says the legislature should begin publishing the votes. "I would support every vote being published," Jordan says. "I think it would be worth the \$45,000." Other legislative leaders are warming up to the idea as well. Sen. Henson Barnes (D-Wayne), the leading candidate for President Pro Tempore in the Senate in 1989, puts it blithely. "[I] Don't mind a bit in the world," he says when asked if the legislature should upgrade its computer system to record and publish all votes.

But not all legislative leaders are willing to go with the service. Some have been concerned in the past that the legislature's computer system's security might be breached, despite the existence of devices that protect computers. And there are real concerns about cost.

"If someone wants to do it [record and publish the votes], they can do it. The Department of Administration, or whoever is in the publishing business, can do it if they're interested," Ramsey says—but only if that agency "took the money out of their own budget."







Sometimes the legislature is willing to spend money in the name of getting more information to the public, and sometimes it's not. For instance, in 1987, the legislative leadership decided to create a legislative press office to promote the legislature's actions. The office has an annual payroll of \$52,986 and is responsible primarily for releasing statements about the assembly's accomplishments. Margaret Webb, the legislative press officer, says she has no



How they voted:

(June 20-July 22, 1983)

HOW THEY VOTED is a compilation of the public bills before the legislature, a description of the bills, and a report on how the Senators and Representatives from eastern North Carolina voted. Senators and Representatives from western North Carolina are omitted. The purpose of HOW THEY VOTED is to create better communication between public officials and their constituency in eastern North Carolina.

KEY TO SYMBOLS

<ul style="list-style-type: none"> Y = voted for (aye) N = voted for (nay) N = voted against (no) P = present A = absent X = excused absence E = excused from voting 	<ul style="list-style-type: none"> 82 = second reading 83 = third reading 84 = House bill 85 = Senate bill 86 = deceased 87 = key voter permitted to be recorded as voting instead of absent 88 = legislator permitted to change vote
---	--

1. H 212: Solid Waste Management. To create responsibility for solid waste and to provide for the collection, transportation, and disposal of solid waste by local governments to be paid for by the State. House passed 82-18.

2. Same as H 212. House passed 82-17.

3. Same as H 212. Senate passed 82-18.

4. Same as H 212. Senate passed 82-18.

5. H 412: Executive Order. To create responsibility for solid waste and to provide for the collection, transportation, and disposal of solid waste by local governments to be paid for by the State. House passed 82-18.

6. Same as H 412. Senate passed 82-18.

7. H 412: Executive Order. To create responsibility for solid waste and to provide for the collection, transportation, and disposal of solid waste by local governments to be paid for by the State. House passed 82-18.

8. Same as H 412. Senate passed 82-18.

9. Same as H 412. Senate passed 82-18.

10. Same as H 412. Senate passed 82-18.

11. Same as H 412. Senate passed 82-18.

12. Same as H 412. Senate passed 82-18.

13. Same as H 412. Senate passed 82-18.

14. Same as H 412. Senate passed 82-18.

15. Same as H 412. Senate passed 82-18.

16. Same as H 412. Senate passed 82-18.

17. Same as H 412. Senate passed 82-18.

The Washington Daily News regularly reprinted portions of How The Legislators Voted on local legislators' votes.

plans to publish legislative votes.

Traditionally, North Carolina has been a model for other states in its commitment to open records and open meetings. Yet now that the N.C. General Assembly has entered the Computer Age, it has not taken full advantage of using these sophisticated electronic devices to make the state's legislative branch even more accessible to its citizens—and making its recorded votes available for the asking.

FOOTNOTES

¹ "The Hardison Amendments: Time for a Reappraisal?" by Jack Betts, *North Carolina Insight*, Vol. 10, No. 2-3, March 1988, p. 107.

² G.S. 140-6 (Chapter 755 of the 1943 Session Laws). Senator Cherry's vote is unknown because the Senate vote on final passage of the bill was not recorded.

³ *How the Legislators Voted*, N.C. Center for Public Policy Research, (three volumes, 1981-1984).

⁴ "Keep tabs on votes," *The Raleigh Times*, May 11, 1985, Editorial Page.

⁵ "Voting records helpful," *The Durham Sun*, May 3, 1985, Editorial Page.

⁶ "How Did They Vote?," *The Fayetteville Observer*, May 3, 1985, Editorial Page.

⁷ Letter from Thad Beyle and Ran Coble to Sen. Robert B. Jordan III, Oct. 29, 1984, p. 2.

⁸ Letter from Robert B. Jordan III, Lieutenant Governor-Elect, to the N.C. Center for Public Policy Research Board of Directors, Dec. 18, 1984.

⁹ Letter from Robert B. Jordan III, Lieutenant Governor, to Ran Coble, Executive Director, N.C. Center for Public Policy Research, Feb. 22, 1985.



FROM THE CENTER OUT

Center Releases Sixth Biennial Legislative Effectiveness Rankings

by Lori Ann Harris and Marianne Kersey

For the fourth consecutive session, both Senate Majority Leader Kenneth C. Royall Jr. and House Speaker Liston B. Ramsey were rated the most effective legislators in the latest evaluation compiled by the N.C. Center for Public Policy Research. The effectiveness rankings were released April 12, 1988, for all 50 members of the N.C. Senate and 120 members of the House of Representatives for the current 1987-88 N.C. General Assembly.

"Since the Center's first effectiveness rankings in 1978, the survey has been a consistently fair measure of the effectiveness of legislators," says Ran Coble, executive director of the Center. "Those who assess effectiveness and who make the rankings are the best qualified people to make these judgments — the legislators themselves, registered lobbyists who work with the General Assembly regularly, and capital news correspondents, who cover the legislature daily."

The 10 Senators rated most effective were: (1) Kenneth C. Royall Jr. (D-Durham); (2) Marshall A. Rauch (D-Gaston); (3) Anthony E. Rand (D-Cumberland); (4) Aaron W. Plyler (D-Union); (5) Henson P. Barnes (D-Wayne); (6) Harold W. Hardison (D-Lenoir); (7) Charles W. Hipps (D-Haywood); (8) Russell G. Walker (D-Randolph); (9) Joseph J. Harrington (D-Bertie); and (10) R. C. Soles Jr. (D-Columbus).

The 10 members of the House of Representatives rated most effective were: (1) Liston B. Ramsey (D-Madison); (2) William T. Watkins (D-Granville); (3) Bobby R. Etheridge (D-Harnett); (4) George W. Miller Jr. (D-Durham); (5) Martin L. Nesbitt Jr. (D-Buncombe); (6) Daniel T. Blue Jr. (D-Wake); (7) Joe Hackney (D-Orange); (8) John J.

Hunt (D-Cleveland); (9) Dennis A. Wicker (D-Lee); and (10) Richard Wright (D-Columbus).

Senator Royall has been ranked first in effectiveness in the Senate six times since the Center began the project in 1978. Royall serves as Deputy President Pro Tempore. This is also the fourth consecutive session in which Rep. Liston Ramsey has been rated most effective in the House. In each year of the Center's effectiveness rankings, the Speaker of the House has topped the list in the House — first Carl Stewart (1977-80), and then Ramsey (1981-87).

The effectiveness rankings are published as a supplement to a larger publication called *Article II: A Guide to the 1987-88 N.C. Legislature*, which is released every other year. This book contains biographical and voting information on each legislator. Also included are the following:

- business and home addresses;
- party affiliation, district number, counties represented, and number of terms;
- occupation and education;
- committee appointments;
- number of bills sponsored and number of these which were enacted into law;
- individual votes on important bills in the past session; and
- past effectiveness rankings.

The legislators, lobbyists, and capital correspondents were asked to rate each legislator's effectiveness on the basis of participation in committee work, skill at guiding bills through floor debate, and

—continued on page 53

Lori Ann Harris and Marianne Kersey are Center Researchers/Writers.

**Effectiveness Rankings of the Top 35 Members
1987 N.C. House of Representatives**

Name of Representative	Effectiveness Ranking in 1987	Previous Effectiveness Rankings (Where Applicable)				
		1985	1983	1981	1979	1977
RAMSEY, LISTON B. (D-Madison)	1	1	1	1	3	2
WATKINS, WILLIAM T. (D-Granville)	2	2	3	2	20	12 (tie)
ETHERIDGE, BOBBY R. (D-Harnett)	3	3	16	32 (tie)	64 (tie)	NA
MILLER, GEORGE W., JR. (D-Durham)	4	4	4	4	9	5 (tie)
NESBITT, MARTIN L., JR. (D-Buncombe)	5	13	21 (tie)	65	NA	NA
BLUE, DANIEL T., JR. (D-Wake)	6	7	8	30	NA	NA
HACKNEY, JOE (D-Orange)	7	10	15	60	NA	NA
HUNT, JOHN J. (D-Cleveland)	8	12	12 (tie)	12	57 (tie)	NA
WICKER, DENNIS A. (D-Lee)	9	15	24	48	NA	NA
WRIGHT, RICHARD (D-Columbus)	10	8	11	15	23 (tie)	37 (tie)
HUNTER, ROBERT C. (D-McDowell)	11	20	25	56	NA	NA
PAYNE, HARRY E., JR. (D-New Hanover)	12	14	28	69 (tie)	NA	NA
MAVRETIC, JOSEPHUS L. (D-Edgecombe)	13	18	18 (tie)	64	NA	NA
LILLEY, DANIEL T. (D-Lenoir)	14	11	9	8	12 (tie)	24 (tie)
MICHAUX, H. M., JR. (D-Durham)	15	24	NA	NA	NA	NA
COCHRANE, BETSY L. (R-Davie)	16 (tie)	22	103	95	NA	NA
JAMES, VERNON G. (D-Pasquotank)	16 (tie)	19	17	23	32 (tie)	37 (tie)
DIAMONT, DAVID H. (D-Surry)	18	16 (tie)	18 (tie)	39	23 (tie)	50 (tie)
BUMGARDNER, DAVID W., JR. (D-Gaston)	19	21	29	20 (tie)	21 (tie)	27 (tie)
BARNES, ANNE C. (D-Orange)	20	28 (tie)	49	NA	NA	NA

Effectiveness Rankings of the Top 35 Members 1987 N.C. House of Representatives

Name of Representative	Effectiveness Ranking in 1987	Previous Effectiveness Rankings (Where Applicable)				
		1985	1983	1981	1979	1977
HALL, ALEXANDER M. (D-New Hanover)	21	75	NA	NA	NA	NA
WARREN, EDWARD N. (D-Pitt)	22	23	52	90 (tie)	NA	NA
CHURCH, JOHN T. (D-Vance)	23	25	31	25	36 (tie)	22 (tie)
ETHRIDGE, W. BRUCE (D-Carteret)	24	26 (tie)	33	67	78 (tie)	NA
LOCKS, SIDNEY A. (D-Robeson)	25	47	68 (tie)	NA	NA	NA
COLTON, MARIE WATTERS (D-Buncombe)	26	31 (tie)	64	66	94 (tie)	NA
DeVANE, DANIEL H. (D-Hoke)	27	50	100	NA	NA	NA
REDWINE, E. DAVID (D-Brunswick)	28	44	NA	NA	NA	NA
LINEBERRY, ALBERT S., SR. (D-Guilford)	29	71	NA	NA	NA	NA
ANDERSON, GERALD L. (D-Craven)	30	31 (tie)	59	97 (tie)	NA	NA
BEALL, CHARLES M. (D-Haywood)	31	37	58	NA	NA	NA
NYE, EDD (D-Bladen)	32	56	NA	26 (tie)	41 (tie)	59 (tie)
MURPHY, WENDELL H. (D-Duplin)	33	55	75 (tie)	NA	NA	NA
PRIVETTE, COY C. (R-Cabarrus)	34	63	NA	NA	NA	NA
ENLOE, JEFF H., JR. (D-Macon)	35	45	45	61	100 (tie)	85 (tie)

general knowledge or expertise in special fields. The respondents were also asked to consider the respect the legislators command from their peers, the political power they hold, and their ability to sway the opinions of fellow legislators. "Effectiveness is a neutral concept," says Coble. "You can be an effective conservative or an effective liberal."

The 1987-88 ratings mark the sixth time the Center has undertaken such an effort. The first edition in 1978 evaluated the performance of the 1977-78 General Assembly. The response rate to

this most recent survey was the highest ever. Eighty-two of the 120 House members responded, as did 40 of the 50 Senators, 126 of 258 registered lobbyists based in North Carolina, and 23 of 46 capital news correspondents. Thus, the overall rate of response was 57 percent, which is far above normal standards of statistical reliability.

There's a high correlation between chairing a major money committee and being rated among the most effective legislators, the survey shows. "The

—continued on page 55

**Effectiveness Rankings of the Top 35 Members
1987 N.C. Senate**

Name of Senator	Effectiveness Ranking in	Previous Effectiveness Rankings (Where Applicable)				
	1987	1985	1983	1981	1979	1977
ROYALL, KENNETH C., JR. (D-Durham)	1	1	1	1	1	1
RAUCH, MARSHALL A. (D-Gaston)	2	2	3	4	3	6 (tie)
RAND, ANTHONY E. (D-Cumberland)	3	3 (tie)	13	NA	NA	NA
PLYLER, AARON W. (D-Union)	4	3 (tie)	25	(18) *	(28 tie)*	(30 tie)*
BARNES, HENSON P. (D-Wayne)	5	6	5	7	7 (tie)	27
HARDISON, HAROLD W. (D-Lenoir)	6	5	2	2	2	2
HIPPS, CHARLES W. (D-Haywood)	7	9	19	NA	NA	NA
WALKER, RUSSELL G. (D-Randolph)	8	11	9	9	13	17 (tie)
HARRINGTON, J. J. (D-Bertie)	9	7	7 (tie)	6	7 (tie)	3 (tie)
SOLES, R. C., JR. (D-Columbus)	10	10	17	14	25 (tie)	24 (tie)
HARRIS, OLLIE (D-Cleveland)	11	8	11	10	16 (tie)	29 (tie)
WINNER, DENNIS J. (D-Buncombe)	12	16	30	NA	NA	NA
SWAIN, ROBERT S. (D-Buncombe)	13	12	10	12	16 (tie)	33 (tie)
WARD, MARVIN (D-Forsyth)	14	17	27	32	39 (tie)	NA
GOLDSTON, WILLIAM D., JR. (D-Rockingham)	15	38	NA	NA	NA	NA
BASNIGHT, MARC (D-Dare)	16	34	NA	NA	NA	NA
EZZELL, JAMES E., JR. (D-Nash)	17	27	NA	NA	(12 tie)*	(24 tie)*
WARREN, ROBERT D. (D-Johnston)	18	14	29	43	NA	NA
KAPLAN, TED (D-Forsyth)	19	29	NA	(57 tie)*	(32 tie)*	(43 tie)*
JOHNSON, JOSEPH E. (D-Wake)	20	23	24	22	(28 tie)*	(29)*

Effectiveness Rankings of the Top 35 Members 1987 N.C. Senate

Name of Senator	Effectiveness Ranking in 1987	Previous Effectiveness Rankings (Where Applicable)				
		1985	1983	1981	1979	1977
CONDER, J. RICHARD (D-Richmond)	21	35 (tie)	NA	NA	NA	NA
TAFT, THOMAS F. (D-Pitt)	22	33	NA	NA	NA	NA
THOMAS, R. P. (D-Henderson)	23	13	36	42	NA	NA
PARNELL, DAVID RUSSELL (D-Robeson)	24	28	40	(59) *	(73 tie)*	(71 tie)*
STATON, WILLIAM W. (D-Lee)	25	18	20 (tie)	NA	NA	NA
MARVIN, HELEN RHYNE (D-Gaston)	26	22	31	21	43	35 (tie)
MARTIN, WILLIAM N. (D-Guilford)	27	25	43	NA	NA	NA
GUY, A. D. (D-Onslow)	28	32	42	(76) *	(100 tie)*	NA
TALLY, LURA S. (D-Cumberland)	29	31	41	(41) *	(43 tie)*	(30 tie)*
JOHNSON, JAMES C., JR. (R-Cabarrus)	30	37	NA	NA	NA	NA
COBB, LAURENCE A. (R-Mecklenburg)	31	35 (tie)	NA	NA	NA	NA
DANIEL, GEORGE B. (D-Caswell)	32	NA	NA	NA	NA	NA
BLOCK, FRANKLIN LEE (D-New Hanover)	33	NA	NA	NA	NA	NA
SMITH, PAUL S. (R-Rowan)	34	40	NA	44	NA	NA
HUNT, RALPH A. (D-Durham)	35	41	NA	NA	NA	NA

* Parentheses around ranking and accompanying asterisk indicates Effectiveness Ranking while in the N.C. House of Representatives.

two seem to march together in lock-step," notes Coble. "But it's more than a matter of the spoils belonging to the victor. The legislators who chair appropriations and finance committees usually get high effectiveness rankings — but they get appointed to chair those committees because they already are effective members of the House or Sen-

ate."

The Center noted that first-term legislators and members of the minority party — in this case Republicans — usually have lower effectiveness rankings. First-termers usually are less experienced and move up in the rankings over time. For example, House members who had served one full previous term

moved up an average of 13 notches this year, while second-term Senators moved up an average of nine places in the rankings. Republicans are in a minority in both houses and thus receive no appointments to committee chairmanships. However, most Republicans with legislative service prior to the 1987 session moved up in this year's rankings.

Longevity of service was a key factor in obtaining a high ranking, whether Democrat or Republican. 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.

The legislators moving up the most in the rankings in the House were Reps. Alexander M. Hall (D-New Hanover), Albert S. Lineberry Sr. (D-Guilford), Ray C. Fletcher (D-Burke), and Coy C. Privette (R-Cabarrus). The Senators moving up the most in the rankings were William D. Goldston Jr. (D-Rockingham) and Marc Basnight (D-Dare).

The highest-ranked freshmen legislators in the House were Roy A. Cooper III (D-Nash) and Sharon Thompson (D-Durham). The highest-ranked freshmen in the Senate were George Daniel (D-Caswell) and Franklin Block (D-New Hanover).

Rep. Betsy L. Cochrane (R-Davie) was both the

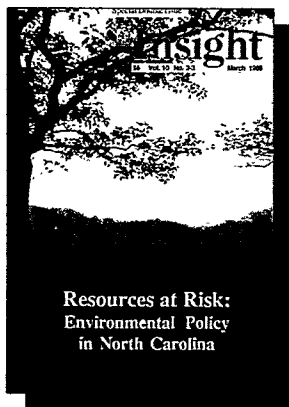
highest-ranked woman (a tie for 16th) and top Republican in the House. She serves as House Minority Leader. Rep. Daniel T. Blue (D-Wake) was the highest-ranked black (6th). In the Senate, the highest-ranking woman was Sen. Helen R. Marvin (D-Gaston) at 26th, while Sen. James C. Johnson Jr. (R-Cabarrus) was the top Republican at 30th. The highest-ranking black Senator was William N. Martin (D-Guilford) at 27th.

The Center noted that at least four Senators and 11 House members have chosen not to run for reelection to their seats in the legislature this year. The list included several with high effectiveness rankings, and the changes could lead to a shift in power bases in both the House and Senate. For example, in the Senate, Senators Rand and Hardison both ran for Lieutenant Governor and Sen. J. J. Harrington is retiring. All were in the top 10 in effectiveness. In the House, Rep. Bobby R. Etheridge is running for state Superintendent of Public Instruction, while Rep. Richard Wright is retiring. Both were in the top 10.

Copies of Article II: A Guide to the 1987-88 N.C. Legislature and the supplement containing the new effectiveness rankings are available from the Center for \$16.80 a set, plus \$1.50 postage and handling if mailed. Write the Center at P.O. Box 430, Raleigh, N.C. 27602 or call (919) 832-2839. ☐☐

Indispensable.

That's what readers are saying about the latest issue of *North Carolina Insight*.



If you want to know the inside story of how North Carolina protects — or fails to protect — its environment, read “Resources at Risk: Environmental Policy in North Carolina.”

\$6.30 plus \$1.00 postage and handling. To order, call Sharon Moore at (919) 832-2839

Coming Soon ...

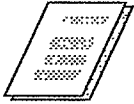
Comparing the Performance of Investor-Owned and Not-for-Profit Hospitals in North Carolina

The Center's latest book-length research report, this study examines these questions:

- Do for-profit hospitals charge more or less than non-profits?
- Do for-profits offer a broader or narrower range of services than not-for-profits?
- Do for-profits provide more or less health care for indigent patients?
- And do taxes paid by for-profits offset any deficiencies in indigent care?

Available in Summer 1988.

For information on ordering and price, call Sharon Moore at the Center (919) 832-2839.



MEMORABLE MEMO

James G. Martin
Governor



Karen Hayes Rotterman
Director of Communications

State of North Carolina Office of the Governor

Release: IMMEDIATE

Contact: Karen Rotterman, Tim Pittman

Release No:

Date: December 29, 1987
Distribution:

GOVERNOR MARTIN AND LT. GOVERNOR JORDAN TO SERVE HONORARY CO-CHAIRMAN OF NORTH CAROLINA HOT-AIR BALLOON PROJECT

RALEIGH -- Governor James G. Martin and Lt. Governor Robert B. Jordan, III, announced today that they have agreed to serve as honorary co-chairmen of a private initiative to build and fly a special hot-air balloon that will represent the state of North Carolina. To be constructed and operated at no cost to the state, the balloon will bear the state's name and will fly nationally and internationally at balloon rallies, large festivals and special events such as the Rose Bowl and the World Series.

"North Carolina is proud of its heritage as the state of first flight," Martin said, "and this beautiful balloon will continue in that great tradition that began in Kitty Hawk 84 years ago. It is especially gratifying to me that we will be able to launch the balloon at absolutely no cost to taxpayers."

"The balloon, which will feature beautiful scenes from across the state, will be built in Statesville at the world's largest balloon manufacturing facility. This new North Carolina balloon will be used worldwide to draw balloon pilots and enthusiasts to Statesville and other North Carolina cities that stage balloon festivals. It will be a great tool for our tourism industry," continued Martin.

"I am particularly impressed by the loyalty and love for North Carolina that is being displayed by the organizers of the balloon project," Jordan said. "Their efforts remind me of the U.S.S. North Carolina project in 1960. It would have been easy for the battleship committee to seek funding from the General Assembly, but, instead, they raised the necessary funds through donations of nickels, dimes and quarters from school children and others. Once constructed next year, this beautiful balloon will belong to all of the people of the state. It will represent the great craftsmanship and spirit of the people of North Carolina."

- more -

Governor's Office, Communications
116 W. Jones St., Raleigh, N C 27611
(919) 733-5612

Toll free 1-800-662-7005
An Equal Opportunity / Affirmative Action Employer

Tim Pittman
Press Secretary

Page 2

Edward "Chip" Parks of Fayetteville, a commercial balloon pilot and one of the founders of the North Carolina Balloon Corporation, a not-for-profit organization, said, "Our hope is that we will be able to launch this beautiful craft in May or June of 1988. We will be appealing to members of the General Assembly to designate it as the state's official hot-air balloon, a title that would add a great deal of prestige to this balloon."

- 30 -

Well, why not?

Who would you pick to be honorary co-chairmen of the North Carolina Hot-Air Balloon Project? You wouldn't pick someone who was short of hot air, would you? Of course not. You'd want professional elocutionists who can keep the oral jet stream in full blow, with gusts of up to 180 words a minute, and who have the ability to sustain excess verbiage for hours on end without gulping or wheezing for air. Who better, then, than the chief rivals for the governorship in 1988? We don't know if this is a trial balloon or not, but we do know that Jim Martin and Bob Jordan ought to be able to get it off the ground without any untoward huffing and puffing.

Meanwhile, if you've spotted a hot memo wafting by on the gentle zephyrs of state government, float it our way. Anonymity guaranteed, even to blow-hards, windbags, and airheads.

Current Contributors to the N.C. Center for Public Policy Research

Major funding for the North Carolina Center is provided by:

THE MARY REYNOLDS BABCOCK FOUNDATION
THE Z. SMITH REYNOLDS FOUNDATION
THE A. J. FLETCHER FOUNDATION
and
THE JOHN WILLIAM POPE FOUNDATION

Corporate and Individual support for the Center is provided by:

BENEFACTORS

Alcoa Foundation	General Electric
Burlington Industries	Golden Corral Corporation
The Charlotte Observer	IBM Corporation
Josephus Daniels Charitable Foundation	Jefferson-Pilot Corporation
Glaxo, Inc.	Lorillard Inc.
Philip Morris, USA	Lowe's Charitable and Educational Foundation
R.J. Reynolds Tobacco Company	Macfield, Inc.
HKB Associates	Nationwide Insurance
AEtna Life and Casualty Foundation	North Carolina Power Company
Angell Care Inc.	Public Service Company of North Carolina
AT&T	Royal Insurance
Branch Banking and Trust Company	Southern Bell
Carolina Power & Light Company	Stedman Foundation
Carolina Telephone & Telegraph Company	Texfi Industries, Inc.
Consolidated Diesel Company	Unifi, Inc.
Ecusta	Universal Leaf Tobacco Co.
Federal Paper Board Company, Inc.	Winston-Salem Journal
First Union National Bank	

PATRONS

Arthur Andersen & Company	Olson Management Group, Inc.
Bank of Granite	Parkdale Mills, Inc.
Brendle's, Inc.	Peoples Bank Foundation
Burroughs Wellcome Company	Piedmont Aviation Foundation
Ciba-Geigy Corporation	Piedmont Natural Gas Company
Cooper Group	Planters National Bank
Greensboro News & Record	Raleigh Federal Savings Bank
GTE Corporation	Grace Jones Richardson Trust
Hardee's Food Systems	Southern National Bank
Kaiser Foundation Health Plan of North Carolina	Spanco Industries, Inc.
The Kroger Co.	The Telemedia Group
N.C. Farm Bureau Mutual Insurance Company	Wachovia Bank and Trust Company
NCNB Corporation	West Point Pepperell
N.C. Retail Merchants Association	Weyerhaeuser Company
Northern Telecom	Wilmington Star-News, Inc.
Nucor Corporation	Alphanumeric Systems, Inc.
Occidental Chemical Corporation	Ernst & Whinney

SUPPORTING CORPORATIONS

American Television & Communications Corporation
Champion International Corporation
Coastal Lumber Company
The Durham Herald Co. Inc.
Epley Associates, Inc.
Fayetteville Publishing Company
Georgia-Pacific Corporation

Glen Raven Mills
Hoechst-Celanese Corporation
N.C. Health Care Facilities Association
N.C. Mutual Life Insurance Company
N.C. Natural Gas Corporation
TRW, Inc.
United Guaranty Corporation

CORPORATE MEMBERS

Adams Outdoor Advertising
ARA Services
Astro, Inc.
Atlantic States Bankcard Association
Barclays American Corporation
Brady Trane Service, Inc.
Bristol-Myers Products
Cape Industries
Carocon Corporation
The Chapel Hill Newspaper
Cone Mills Corporation
The Daily Reflector of Greenville

E.I. duPont de Nemours & Company
First National Bank of Randolph County
Florida Atlantic University Foundation
Harper Companies International
Integon Foundation
McDaniel Lewis & Co.
Pines of Carolina Girl Scout Council
Sara Lee Corporation
Spectator Publications
Texasgulf, Inc.
Village Companies

SPECIAL DONORS

Wade Barber
Maureen Clark
Ran Coble
Joel Fleishman
Karen Gottovi
William M. Hodges
V. B. "Hawk" Johnson
Robert Lane
Helen Laughery
Thelma Lennon
Tom Massengale
Mr. and Mrs. Kenneth F. Mountcastle

N.C. School Boards Association
Virginia Oliver
Edward H. O'Neil
Smith Richardson, Jr.
Lanty L. Smith
McNeill Smith
Zachary Smith
Geraldine Sumter
Margaret Tennille
James M. Van Hecke, Jr.
G. Smedes York

North Carolina Center for Public Policy Research
P.O. Box 430
Raleigh, North Carolina 27602

Nonprofit Org.
U.S. Postage
PAID
Raleigh, N.C.
Permit No. 1121