



North
Carolina

Insight

\$6 Vol. 13 No. 2

June 1991

Voting in North Carolina:
Can We Make It Easier?



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NORTH CAROLINA INSIGHT is a quarterly magazine published by the North Carolina Center for Public Policy Research, Inc. (a nonprofit, tax-exempt corporation), Suite 701, 5 W. Hargett St., P.O. Box 430, Raleigh, N.C. 27602. Telephone (919) 832-2839. Annual membership rates: Individual, \$36; Organizational, \$50; Supporting, \$100; Corporate, \$200; Full-Service, \$250; Supporting Corporate, \$500; Patron, \$1000; Benefactor, \$2000. Third class postage paid at Raleigh, N.C. Copyright 1991 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 Theo. Davis Sons, Inc., Zebulon, 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 120 corporate contributors and 600 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 1991. Printed on recycled paper with soy ink.

Cover: Voters wait in line to vote in Guilford County during 1988 presidential election. Photo by James Parker/Greensboro News & Record.



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June 1991

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North Carolina's Biennial Budget: Oil Change or Overhaul?

by Mike McLaughlin

The North Carolina General Assembly convened in Raleigh for its 1991 session under the cloud of a \$1.3 billion gap between estimated income and outgo if the full complement of expansion items in its \$8.8 billion General Fund budget were to be funded. By April the gap had grown to more than \$1.6 billion. But with the public singing a state version of the George Bush chorus—no new taxes—lawmakers found themselves on the horns of a dilemma. Even the cost of continuing prior commitments alone exceeded estimates of available revenue. Yet the state is beset with problems that cost money to fix—low SAT scores, a high infant mortality rate, scores of citizens who have no health insurance, and a substantial number of people living in poverty. And no lawmaker wants to see pink slips delivered to state workers in the home district. The tension between the desire to hold down taxes and the desire to continue old programs and add new ones has set off a round of hand-wringing in Raleigh that may be unmatched since the Great Depression. This article attempts to lay out the choices facing the General Assembly as it wrestles with where to add programs, where to cut programs, and whether to raise taxes.

Gov. Jim Martin likens the task of dealing with the state's budget woes to trying to bring a sailboat through a roiling inlet in a storm. Sen. George Daniel (D-Caswell) uses a more plebeian analogy. To Daniel, who represents a rural district near the Virginia border, the budget is like a sputtering old

jalopy "with smoke pouring out of both ends." Daniel doesn't think the legislature can get the budget vehicle home without pulling it over and looking under the hood.

Mike McLaughlin is associate editor of North Carolina Insight.

The two politicians are using different analogies, but they are pointing to the same problem—a \$1.6 billion difference between needs and projected revenue for the 1991–92 fiscal year. Martin scrimped and scraped and put together an austere \$7.75 billion General Fund budget with only \$242 million in new money—a fraction of the original estimate of the need.

But the Democratic leadership of the General Assembly was skeptical of Martin's budget plan from the start. Daniel is among those legislators who believed Martin's budget amounted to adding a bottle of STP and a can of Radiator Stop Leak. The machinery, they say, might run for a couple more years, but eventually it's going to break down.

The legislature has never been shy about tinkering with the Republican governor's budget proposal—a source of frustration for the Martin administration. Although the governor proposes a budget, the legislature must enact it and takes great pains to shape the document toward its own ends.

This year the fiscal mechanics seemed intent on an overhaul instead of a tune-up. And with all the paint and bodywork, what rolled out of the

Appropriations Committee at the end of the process did not even resemble what rolled in from governor's Office of State Budget and Management. "All the tactics he uses are simply digging us a deeper hole," says Rep. David Diamont (D-Surry), co-chairman of the House Appropriations Committee. "We have to face the problem head-on."

Where Did the Shortfall Come From?

The threat of red ink has brought about all kinds of finger-pointing about who is to blame for the state's fiscal woes. Sen. Ken Royall (D-Durham), long a budget titan in the General Assembly, traces the shortfall directly to the Martin-inspired tax cuts the General Assembly enacted in 1985. The cuts reduced state revenues from inventory and intangibles taxes by more than \$220 million annually.

Administration officials counter that surplus funds typically are spent by the legislature for programs, so the tax cuts are not to blame for the shortfall. They say the recession is the main culprit and note that the legislature has rejected subsequent tax increase proposals that would have helped.

Rep. Johnathan Rhyne (left), House minority leader (R-Lincoln), and Rep. David Diamont (D-Surry), House Appropriations Committee co-chairman, talk shop on the House floor. Both spent much of the session wrestling with how to balance the 1991–92 budget.



Karen Tam

Steps to a Biennial State Budget

1. About a year before the General Assembly convenes for a new session, Office of State Budget and Management sends forms to state agencies asking for budget requests for the next biennium. Agencies must return their requests by September before the new session but may be required to return them much sooner. OSBM will work with the governor and the Advisory Budget Commission in developing a biennial budget to present to the General Assembly.
2. OSBM analysts review requests and confer with departments.
3. Advisory Budget Commission tours state facilities to assess capital improvement needs in the fall before the new session.
4. State agencies appear before ABC in October, November, or other specified times in the fall to explain budget requests.
5. Governor and ABC collaborate on budget proposal for presentation to the General Assembly. Typically, they do not agree on what the budget should contain, and the governor submits a separate proposal to the legislature. Governor unveils his proposed budget in conjunction with his State of the State Address to the General Assembly in January.
6. Separate bills are filed encompassing the governor's expenditure and revenue proposals. Throughout the spring, appropriations committees of the House and Senate review spending requests and finance committees review revenue proposals, often making major revisions.
7. Ideally, before June 30 and the beginning of a new fiscal year, budget bills are reported out of committee to the floors of the Senate and the House, with separate bills for continuation, expansion, capital outlay, the judiciary, aid to local governments, and a bill to cover items left out of the other bills.
8. Conference committee irones out differences between Senate and House versions of the budget bills. Legislature typically adjourns soon after the budget is passed, and reconvenes the following year to make adjustments to the continuation budget.

Source: Joseph S. Ferrell, *Handbook for Legislators*, Institute of Government, 1990, pp. 93–101.

Martin's budget chief, Marvin Dorman, says consumer confidence plunged off the charts in the fall of 1990, cutting deeply into retail sales and hammering the state's tax coffers. Martin says states across the nation are facing severe revenue shortfalls because of the recession, and North Carolina is in far better shape than many of these states. According to the National Association of State Budget Officers, 22 of the 26 states east of

the Mississippi anticipated a revenue shortfall of some magnitude for the 1990–91 fiscal year.¹

Nancy Temple, Martin's chief of staff, believes the legislature was guilty of bumping up revenue estimates for the 1989–90 fiscal year so it would have more money to spend without adopting a 1-cent sales tax increase proposed by Martin—and then got caught by the recession. "From their perspective, they probably could have gotten

away with that in the past with some minor adjustment," says Temple.

The legislature's Democratic leadership, however, says Martin administration assertions of inflated revenue estimates are themselves inflated. Royall, Senate Appropriations chairman for the 1989 and 1990 sessions, says the legislature budgeted only \$50 million more in revenue than did the governor's budget officer and held nearly half of that in reserve in case revenues did not meet the estimate. The legislature was more conservative from the start about available revenues for the 1991-92 fiscal year, counting on \$200 million *less* revenue for 1991-92 than did the governor in preparing his budget. April receipts made even these revenue estimates seem too optimistic, and the revenue figures were adjusted downward once again.

No one is questioning the severity of the recession, but growth in state revenues actually was already on the decline when the downturn came. David Crotts, the legislature's chief revenue analyst, says actual General Fund revenue growth averaged 8.8 percent for four years beginning in 1984-85, then tailed off sharply in 1989-90 and 1990-91. He says by the end of the 1991-92 budget year, the cumulative impact of three years of below-average revenue growth will have reached nearly \$1 billion.

And there are other factors. The legislature has enacted long-range programs like the 10-year, \$800 million Basic Education Plan without passing tax hikes or cutting other programs to pay for them. Revenue growth, combined with a healthy budget surplus, has in the past paid for these kind of commitments, but the income tax and sales tax make up the bulk of state revenues, and collections drop sharply in a recession.² Now the surplus is gone, and revenues are lagging. An aggravating factor is that the legislature in 1990 adopted the federal structure for its state income tax. The action removed 700,000 low-income citizens from the tax rolls, but also caused an unanticipated dip of up to \$85 million in state revenues because of a change in the way certain corporations are taxed.³ (For more on tax fairness, see *North Carolina Insight*, Vol. 11, Nos. 2-3, April 1989, pp. 138-152.)

The state also embarked on a "pay-as-you-go" capital construction financing binge in the mid-1980s that used up a reservoir of public support for tax increases while doing little to improve the financial health of the General Fund. Among the increases were: a half-cent local option sales tax

hike in 1986 to help cities and counties with water and sewer and school projects; an increase in the corporate income tax from 6 percent to 7 percent to pay for critical school construction needs in 1987; and an \$8 billion tax hike for highway improvements in 1989. Fiscal analysts and the agencies rating North Carolina's bonds say financing capital projects with bonds—the "pay-as-you-use" philosophy—would improve the state's cash flow and help it better meet operating expenses.⁴

And while the state has embarked on some expensive new programs—road-building and the Basic Education Plan being the primary examples—much of the growth in the state budget has come in areas that really are not discretionary, such as health care and corrections. Meanwhile, the federal share of the state budget has continued its decade-long decline. Nationally, federal aid fell from 26.5 percent of state and local outlays in 1978 to 18.2 percent in 1988.⁵

At the state level in North Carolina, the drop has been less dramatic, but still significant. Federal funds made up about 23.8 percent of the total state budget in 1980, and had dropped to about 20.2 percent by 1990-91, according to the Office of State Budget and Management.⁶

But if federal revenue has been declining as a percentage of the total state budget, mandates to provide additional services have been increasing. The state's share of Medicaid costs alone has been rising at a rate of 17 percent a year since 1985-86, and is projected to reach \$689 million in 1992-93—a three-fold increase in only seven years.⁷ Court decisions also have forced increased spending in areas such as corrections and the "Willie M" program for potentially violent adolescents, and the threat of a court mandate has encouraged increased spending in others.

State officials have often cited a fear that the federal government would take over operation of the state's prison system as a driving factor behind increased spending for corrections. In April 1989, the state agreed to spend \$800 million to bring its 89-unit prison system up to the 50-square-foot-per-inmate standard recommended by the American Correctional Association. Each new prison cell adds to operating costs, and voter approval of \$200 million in prison bonds in November 1990 means still more prison construction.

Exacerbating the problem, says Royall, is that the legislature has been slipping into using windfalls for recurring expenses. The state also has increasingly relied on one-time gimmicks requested by Governor Martin, such as delaying



Sen. Marc Basnight (D-Dare) (left) and Rep. David Diamont (D-Surry), House and Senate Appropriations Committee co-chairmen, discuss fiscal policy in the House chamber.

the last payroll of the fiscal year so it falls in the next fiscal year, and speeding up tax payments for business to make the budget balance. Crotts refers to these sorts of budget maneuvers as "one-time plugs." The latest of these is Martin's decision to use \$106 million budgeted for August teacher salaries to help close this year's budget gap. The decision means the money will have to come out of the 1991-92 fiscal year budget. The bottom line is that the state now faces a river of red ink that has been rising behind a dam of accounting maneuvers.

Hard times have also prompted serious discussions about reforming the process of adopting a state budget. Among the suggestions are: adopting more conservative revenue forecasting methods, establishing a permanent rainy day fund, and prohibiting the use of one-time revenues to fund the operating budget. Other ideas include requiring long-term fiscal notes that estimate the cost of new programs, using bonds to finance long-term capital projects, and requiring that a final budget be adopted before July 1 and the start of a new fiscal year.

But for the short term, legislators faced three basic choices as they wrestled with adopting a 1991-93 budget. They could: (1) cut expenditures; (2) raise taxes; or (3) cut expenditures and raise taxes. How much money must be saved by cuts or added through tax increases depended to a large degree on whether the legislature decided to add new programs.

Proposed Spending for New and Existing Programs

Martin's expansion budget included at least five major new items plus \$97 million to restore most of the state's \$141 million rainy day fund, which he spent to help close the current fiscal year's (1990-91) revenue gap (See Table 1, page 7 for a list of selected new spending needs that have been identified for the 1991-92 fiscal year). Among Martin's expansion requests were:

- \$40 million for the Department of Community Colleges to improve work force preparedness;
- \$18.9 million to allow teachers to move up one step on a 30-step salary schedule (a raise of

approximately 2 percent);

- \$27 million for 2 percent performance-based pay raises for state workers;

- \$22 million to implement the provisions of Senate Bill 2, a 1989 measure enhancing local accountability of public schools in exchange for more local flexibility;

- and \$12.8 million for a preschool program for 3- and 4-year-old handicapped children.

Martin proposed bond financing to pay for some \$395 million in capital improvements. He

also wanted the state to issue some \$200 million in bonds for prison construction. The prison bonds were authorized by the voters in November 1990. Martin wanted them issued late in fiscal year 1991-92 so that the only cost for the year would be \$1.5 million for planning and debt service.

But Martin's expansion budget also left out some big-ticket items with strong constituencies. Chief among them was the Basic Education Plan, which would cost \$84 million for the sixth of 10 planned installments. And he left unresolved how

Table 1: Selected New Spending Proposals and Cost, in Millions

Superintendent's 20-point plan to improve schools	\$366.0
School finance (Public School Forum proposal)	150.0
Legal settlement with state and local retirees	144.0*
Federal Medicaid mandates	139.0
House Democrats' public education plan	118.7
Health insurance premiums for state employees	100.0
Partially restore rainy day fund	95.0
Basic Education Plan	84.0**
Prison construction	75.0
1% pay raise for state employees	55.0
Martin's work force preparedness program	40.0
School finance (N.C.Center for Public Policy Research proposal)	30.0
1% performance pay raise for state employees	27.0***
Local accountability for schools initiative (Senate Bill 2)	22.0
One-step pay raise for teachers (approximately 2%)	18.9
Preschool program for 3- and 4-year-old handicapped children	12.8

* The state is appealing a Wake Superior Court ruling in favor of the retirees.

** Sixth of 10 annual installments of a plan designed to set minimum standards for class size, curriculum, and support personnel for the North Carolina public schools.

*** Martin's budget proposes a performance raise averaging 2 percent for state workers effective Jan. 1, 1992, or halfway through the fiscal year.

Source: Office of State Budget and Management, General Assembly's Fiscal Research Division, N.C. Center for Public Policy Research.

**Table 2. Figuring the Budget Shortfall
For Fiscal Year 1991-92, in Millions**

Normal revenue	\$8,351
Less: slower economy	1,005*
Less: loss of Highway Trust Fund transfer	186
Revenue forecast	\$7,160
Continuation budget from 1990-91	\$7,836
Plus: Medicaid increase mandated by federal government	139
Plus: corrections increase for new prisons	39
Plus: state employees health plan	100
Plus: caseload, enrollment, inflation adjustments	167
Adjusted continuation budget	\$8,281
Continuation budget shortfall	\$1,121
Planned expansion items:	
Basic Education Plan	84
Senate Bill 2 (local accountability and flexibility for schools)	22
Salary increases	318
Miscellaneous expansion	122
Total operating budget shortfall	\$1,667

* Cumulative impact of slower growth for 1989-90, 1990-91, and 1991-92 fiscal years.

Source: Legislature's Fiscal Research Division, May 1991

to pay for more than \$100 million in anticipated premium increases for the state employees' health plan.

A less expensive but arguably more important omission was the second \$10 million installment of a \$20 million package legislators pledged in 1990 to battle infant mortality. A cadre of ranking legislators pledged the additional resources when the state lodged a last place ranking in provisional 1988 data released by the National Center for Health Statistics. North Carolina tied with Missouri for 46th in provisional rankings for 1989, moving out of the cellar and away from the heat. Martin's 1991-92 budget included only \$3 million in continuation spending increases and \$393,000 in expansion funds for the fight against infant mortality. He called for additional increases of \$4.2 million in 1992-93, but the result would be less total money stretched out over a longer period of time than the amount initially pledged.

The Martin budget also omitted a number of proposals to improve the public schools. State Superintendent of Public Instruction Bob Etheridge's 20-point plan, which carried a \$366 million price tag for the biennium, was largely ignored in the governor's budget package. Proposals to equalize state funding between the state's poorer and more affluent school districts—a \$30 million plan proposed by the North Carolina Center for Public Policy Research and a \$150 million plan put forth by the Public School Forum of North Carolina—also got short shrift.⁸ Martin did include \$6 million in fiscal year 1992-93 for school systems with less than 3,000 students. His plan would earmark the money for small school systems instead of targeting systems with low tax wealth but high tax effort as the Center had proposed.

But Martin had to address a \$500 million shortfall in the *continuation* budget before he could even think about *expansion*. That shortfall has since grown to more than \$1 billion and may get even larger. Combined with prior education initiatives, salary increases, and other normal expansion, the shortfall has produced a 1991-92 fiscal year budget gap exceeding \$1.6 billion (See Table 2, page 8 for a breakdown of the budget gap as the legislature's Fiscal Research Division figured it in May 1991).

Many of these policy options and promises got thrown out the window with first reports of a major dip in state revenues. Still, the early estimates of the shortfall illustrate the magnitude of the problem facing legislators as they attempt to

adopt a 1991-92 fiscal year budget.

As an analysis of the state's General Fund quickly shows, lawmakers would have to cut deeply into public education if they were to close the gap without raising taxes. That's because spending for the public schools makes up 45.9 percent of the General Fund operating budget. And *total* spending for education—including state universities and community colleges as well as public schools—eats up 67 percent of the General Fund budget. The remainder of the budget is consumed by human resources, 15.2 percent; general government, 11.9 percent; and corrections, 5.9 percent.

Legislators wrestled with the question of whether cuts alone could close the gap, but Martin insisted early the answer was no. "There are several legislators who think that programs can be eliminated or who generally think bureaucracy can be eliminated," says Martin, "[but] the tightening of the bureaucracy has already taken place. What we have to think about now is eliminating services." That, says Martin, would mean eliminating programs for a child who is mentally retarded or a family with elderly parents suffering from senility or Alzheimer's disease. "State government can easily be depicted as just a bunch of bureaucrats, but that's inaccurate and highly inflammatory," says Martin. "They [state workers] deliver services to people who need them."

Martin's budget took a back-door approach to raising taxes by asking the legislature to authorize local governments to levy a half-cent sales tax increase. This would have freed \$242 million in state money that now goes to local governments for a modest expansion program and for re-establishing the state's short-lived rainy day fund.⁹ Local governments would use the sales tax revenue to replace lost state funds.

But the sales tax idea got a tepid response in the General Assembly, despite the support of local government officials who would prefer raising taxes to depending upon the General Assembly for an appropriation each year. An added incentive for local officials was that sales tax revenues increase with inflation and economic growth.

Legislators who opposed the idea generally fell into three camps: (1) those who do not like to cede state taxing authority to local governments; (2) those who would prefer more progressive tax options such as closing loopholes or raising income tax rates for higher-income citizens; and (3) those who believe the gaps can be closed with cuts alone. Heading the third camp was Republican Lt. Gov. Jim Gardner, who had proposed a budget of

his own, balanced with deep cuts to selected agencies. (See Table 3, page 11 for a rundown of various cuts discussed.) Gardner circulated a resolution calling for a budget with no new taxes, and 42 of the 53 Republicans in the legislature endorsed it.

Will The Cuts Go Deep Enough?

A cross-the-board budget cuts were another possibility. Each 1 percent cut would yield \$72.3 million in budget savings. But Martin argued there was no more room for these kinds of cuts. The legislature imposed across-the-board budget cuts of 3 percent for the 1990–91 fiscal year.

On top of these reductions, agencies also were

asked to spend 1.4 percent less than their actual budget. This, in the jargon of the governor's budget office, is known as budgeting negative reserves. Martin administration officials like this approach because it gives managers the flexibility to find budget savings over the course of the year. The Democratic leadership of the General Assembly, however, has taken the position that negative reserves are a minus rather than a plus because they do not provide permanent budget cuts. In any event, the negative reserves required for 1990–91 were not enough. When revenues still fell short, agencies were asked for additional reversions of \$132.9 million, or 1.8 percent. Martin had to go to the well yet another time when April revenues fell short of expectations, increasing reversions to

A Glossary of Selected Budget Terms

Continuation Budget—Budget for ongoing state programs. Also referred to as the base budget.

Expansion Budget—Budget for new state programs and salary increases.

Capital Budget—Budget for capital projects such as new buildings and land purchases. Traditionally funded with reversions, or money unspent at the end of a budget year.

General Fund—Covers operating costs of general government programs. Education expenditures make up 67 percent of General Fund expenditures, while spending for human resources totals 15.2 percent of the fund. Primary sources of revenue are income and sales taxes.

Highway Fund—Pays for highway maintenance and construction. Primary source of revenue is the gasoline tax.

Progressive Tax—A tax is progressive when the ratio of tax to income rises as income rises.

Regressive Tax—A tax is regressive when the ratio of tax to income falls as income rises.

Recurring—An expenditure that will recur each year and thus must be figured into the continuation budget for the next fiscal year. An example would be an ongoing program that requires the hiring of additional personnel.

Non-recurring—A one-time expenditure that does not become a continuation expense in the next budget year. An example would be an appropriation for a new piece of equipment or a repair.

Reversions—Money budgeted but unspent because of vacant positions and other agency savings. These funds revert to the General Fund, or are carried over to the next budget year. Reversions typically have been used for one-time expenses such as capital projects because they cannot be depended upon as a steady, or recurring, revenue source.

Negative Reserves—This practice amounts to building reversions into the budget in advance. An agency head might be allotted \$100 in the budget but allowed to spend only \$97. It would be up to the agency head to find the \$3 savings over the course of the year. The Martin administration says this practice provides management flexibility and thus is preferable to across-the-board cuts.

Table 3: Major Targets for Potential Cuts, in Millions

Programmatic cuts prescribed by the legislature	\$375.0
Additional cuts proposed by Martin in May 1991	313.3
Increased negative reserves proposed by Martin	113.0
Delete non-mandatory inflationary increases	100.0
Negative reserves kept at current level	98.0
Across-the-board budget cuts (1 percent) to all departments	72.3
Cut contributions to employee retirement and disability programs	57.0
Delay public schools construction	45.0
Cut support for higher education, requiring 20% tuition increases in UNC system to cover the difference	28.0
Cut administrative support for Local Educational Agencies	18.9
Cut funding for Department of Public Instruction staff (Gardner plan)	10.1
Privatization of driver's education	10.0
Cut Microelectronics Center funding (Gardner plan)	6.2
Cut state support for certain administrative staff in counties with dual school systems	4.7
Cut Biotechnology Center funding (Gardner plan)	3.9
Cut Microelectronics Center funding (Martin plan)	3.2
Cut all state funds appropriated to Rural Economic Development Center (Gardner plan)	1.7
Cut funding for Department of Public Instruction staff (Martin plan)	1.5
Cut administrative funds for Rural Economic Development Center, transfer grant programs (Martin plan)	0.5

Source: Office of State Budget and Management, Lieutenant Governor's Office, General Assembly's Fiscal Research Division.

\$173.4 million. Using reversions, a delay of capital projects, the shifting of some teacher salaries into the next fiscal year, and other measures, Martin identified \$729.3 million in savings to close the 1990-91 budget gap.

Martin tightened the screws still further in his 1991-92 budget, increasing negative reserves and cutting out most inflationary increases. The actual proposed decrease for the 1991-92 fiscal year approaches 9 percent of what spending would have been in 1990-91 without all these forced economy measures.¹⁰ That's why Martin insists the fat has already been wrung out of the budget and why he proposed the local option sales tax increase to free money for a modest expansion program.

Martin's budget drew criticism on the editorial pages of the state's major newspapers. *The Charlotte Observer*, picking up on Martin's sailing imagery, described his budget as "like trying to sail a leaky boat without fixing the leaks."¹¹ The *Winston-Salem Journal* questioned whether the governor had set "too cautious a course," adding, "Any sailor knows that without wind, his ship can go nowhere."¹²

The governor whipped up gale-force rhetoric with several of his economy measures in education. Omission of the Basic Education Plan was one instant issue. Democratic Superintendent of Public Instruction Bob Etheridge refused to take the program off the table. Etheridge told members of the legislature's joint Appropriations Committee the performance enhancements promised in Senate Bill 2 could not be accomplished without the resources provided through the BEP. Another volatile issue was Martin's proposal to provide administrative funds for only one school unit in each of the state's 100 counties. In effect, this could force merger in up to 34 school systems. The proposal saved Martin \$4.7 million in his budget. It could cost him support among legislators who represent counties that do not wish to consolidate their schools.

Martin also proposed cutting administrative funding to the private, nonprofit Rural Economic Development Center and shifting its grants programs to the Department of Economic and Community Development. That would save \$500,000—a relatively modest sum—but could prove unpopular with rural constituents who support the Center. Martin administration officials say rural economic development programs could be operated with lower administrative costs within the Department of Economic and Community Development. And he cut \$7 million out of the budget of

the Microelectronics Center of North Carolina for the biennium.

Both centers are the initiative of a prominent Democrat. Martin's 1988 gubernatorial opponent, former Lt. Gov. Bob Jordan, backed the Rural Economic Development Center, while former Gov. Jim Hunt shepherded the Microelectronics Center of North Carolina initiative through the General Assembly.

Martin set a Jan. 31, 1992, effective date for salary increases for state workers. That pushed half of the cost of the increase into the next fiscal year.

But Lieutenant Governor Gardner upped the ante on Martin with his own budget plan. Gardner's budget closely tracked that of the governor, and he credited Martin with taking a shortfall that was "really a wish list of niceties and presenting a budget that focuses on necessities."

Gardner, however, proposed avoiding a tax increase through even deeper cuts—mostly in public education—and through a slight increase in negative reserves.¹³ He also would restore only a third of the \$95 million Martin wanted returned to the state's rainy day fund, would phase in a fraction of what Martin budgeted for work force preparedness, and would transfer from the General Fund to the Highway Fund the \$28 million cost of operating the state's driver education program. "State government is not Santie Claus," Gardner told a standing-room-only crowd in the Administration Building press conference room, one month after Martin released his budget. "Its only source of revenue is the pockets of taxpayers."

But the deepest cuts occurred in the legislature's appropriations committees, for at least two reasons—the Democratic leadership rejected Martin's negative reserves concept and decided his revenue assumptions were too optimistic. If projected revenues did fall short, there would be too little money coming in to pay for Martin's taut budget. And with negative reserves eating up any budgeted but unspent money, a revenue shortfall could require layoffs or furloughs—measures that thus far had been avoided. That's why appropriations committee leaders declared an end to negative reserves early in the 1991-92 session, instructing subcommittees instead to find \$400 million in cuts to specific state programs. This meant cutting out real jobs held by real people—not just eliminating vacant positions.

State education officials warned that they could cut all administrators and their staff at the state and local level and still come up with only \$80 million



Bill Sanders

Teachers tried to give legislators a lesson in priorities with a mid-April march on the Legislative Building.

in savings, far short of the \$170 million they'd been asked to supply.¹⁴ The cuts, they warned, would reach into the classroom.

Republican lawmakers questioned the motives behind such deep cuts in education, arguing that the budget could be balanced without them. "The public school cuts are unnecessary and wrong," argued Rep. Johnathan Rhyne (R-Lincoln), House minority leader, at a mid-April news conference called by Gardner to register Republican opposition to raising taxes. "It's being used to panic parents into accepting new and massive tax increases."

That same week the House and Senate appropriations committees approved about \$375 million in permanent cuts. Martin later proposed still more cuts of \$313.3 million. But even if the legislature were to accept all of Martin's recommendations, the problem would be far from solved. It would take as much as an additional \$433 million to balance the continuation budget and more money still if the legislature wanted to adopt an expansion budget.

What About a Tax Increase?

With the magnitude of the budget crunch, the Democratic leadership of the General Assembly began to talk about a tax increase. Perhaps the most tempting item on the menu of potential tax hikes is the *sales tax*. An increase of just a penny on the dollar would produce nearly \$480 million in revenue—enough in a single swoop to make the money crunch manageable. Only an across-the-board 1 percent increase in the personal income tax, which produces about \$550 million, would raise that kind of revenue. And a sales tax increase likely would be an easier pill for the public to swallow than an increase in the personal income tax.

That's not to say a sales tax hike would be welcomed. Rep. Paul Luebke (D-Durham) believes the sales tax hike has the strongest support among well-heeled corporate lobbyists. Luebke points to a July 1989 statewide poll that showed the public—given a choice between a tax hike on alcohol, cigarettes, corporate income, sales, or per-

Table 4: Potential Tax Hikes and Resulting Revenue, in Millions

1% increase in personal income tax (across-the-board)	\$550
1 cent increase in sales tax.	480
Reinstate inventory tax.	190
1 cent per pack tax on cigarette manufacturers	180
Lottery, first full year of operation	200
Eliminate cap on sales tax on machinery and farm equipment, and raise tax to 3%	120
1% increase in corporate income tax	80
1% increase in personal income tax (joint return, taxable income above \$50,000)	105
Initiate pollution taxes	54*
1% tax on all services	60
1 cent increase in gas tax	40
Apply utilities tax to interstate telecommunications	39
1% surtax on personal income tax liability	36
1 cent increase in soft drink tax	29
Eliminate tax break for manufacturers with heavy-out-of-state sales (double-weighted sales)	20
1 cent increase in beer tax	13
Eliminate sales tax cap on boats, aircrafts	10
Eliminate tax credit for dividends from N.C. corporations	10
1 cent increase in cigarette tax	7

* Based on 1989 bills by former Sen. William Barker (D-Pamlico) that would have taxed industry for discharging pollutants into the air (S.B. 1251) and water (S.B. 1252).

Source: N.C. General Assembly's Fiscal Research Division

sonal income—strongly preferred a corporate income tax increase over a sales tax hike.

But whatever the public sentiment, there are other strong arguments against a sales tax increase. A 1 percent increase would push the combined state and local sales tax to 6 cents on the dollar. While 33 states charge more than North Carolina's current combined rate of 5 cents, most of these states do not tax food, says Don Liner, a tax expert at the University of North Carolina at Chapel Hill's Institute of Government.

And even though food stamp purchases are exempt, the sales tax remains regressive; that is, lower-income citizens pay a higher proportion of their paychecks in sales taxes than do higher-income citizens. "The budget crisis is real," says Luebke. "The needs in education, health care, and substance abuse are very real, and we need to raise revenues to help those programs. But the tax increase must be progressive." Luebke would favor closing tax loopholes or raising the corporate income tax to raising the regressive sales tax. Other lawmakers worry that applying a sales tax hike during a recession will only make it worse by discouraging spending.

Still, a look at other potential tax hikes and the revenue they produce shows why a sales tax hike is so tempting (See Table 4, page 14). North Carolina's *tax on cigarette sales*, for example, is the lowest in the nation at 2 cents per pack.¹⁵ A 1-cent-per-pack increase in this so-called sin tax would move the state out of the cellar, but would produce only \$7 million in revenue, hardly enough to send the typical legislator charging into battle against the state's strong tobacco lobby.

A 1-cent-per-pack tax on all cigarettes produced in the state would yield revenue in the \$180 million range, but no other state charges a significant tax on items manufactured in the state. Besides the reluctance to tax tobacco among many legislators, the worry is that the industry could shift production elsewhere. Advocates say if North Carolina were to adopt a *producer tax on cigarettes*, Kentucky and Virginia—the other two states with substantial cigarette production capacity—would quickly follow suit. That might block any production shift, but foes point to a fairness issue—no other goods are taxed at the producer level in North Carolina. Why, they ask, should tobacco be singled out? And so the debate goes back and forth.

A 1 cent increase in the state's *gas tax* would produce \$40 million. But the legislature increased the gas tax by a nickel a gallon in 1989, and the

federal government followed suit with a nickel increase of its own in 1990. The gas tax goose, then, has recently been plucked.

The state could turn to the other sin taxes by increasing its *levy on beer and wine*. A 20 percent increase in the burden on these potables would produce \$28 million in tax revenue. But again, the federal government beat the state to the punch with its 1990 tax package, which doubled the tax on beer from 16 cents to 32 cents per six-pack and increased the wine tax from 3 cents to 21 cents per 750 milliliters.

A 1 percent hike in the *personal income tax* for households with gross income above \$70,000 would produce about \$100 million. But many of the state's higher-income citizens wound up paying more when the state adopted the federal income tax structure in 1989, and North Carolina taxes personal income at a higher rate than all but seven other states. The 1990 federal deficit reduction package placed limits on itemized deductions and personal exemptions for high-income taxpayers. The legislature is expected to adopt similar changes to keep the state income tax structure consistent with the federal government. The result would be a \$10 million tax hike for citizens earning more than \$100,000 a year.

The *corporate income tax* was increased from 6 percent to 7 percent in 1987 to pay for school construction (business got a tax break during the same session—repeal of the inventory tax—that helped sell the corporate tax hike). An additional 1 percent increase would raise \$80 million, but the tax is now higher than surrounding states. State industrial recruiters worry that they already are at a competitive disadvantage in attracting new firms to North Carolina. Although economists and tax experts often argue that tax considerations are not that important when firms make decisions to relocate, states are cautious about getting too far in front of their neighbors.

So despite the array of choices for increasing state taxes, there are no easy choices that will produce large amounts of revenue. That's why the legislature may be tempted to look in the near future at new revenue sources like a *state lottery*, which could net \$150 million to \$200 million annually.¹⁶ How much revenue a lottery would produce depends in part upon how heavily the state is willing to promote it and how much prize money is returned to participants. It would take at least a year to put the question of a lottery before the voters and get it up and running, so the impact on the current crisis would be nil.

Expanding the sales tax to services such as legal fees, landscaping, and auto repairs would also produce a surge in state revenues and help modernize the state tax code. As consumer spending on services increased, so would state revenues. But bitter battles and the ultimate repeal of new services taxes in Florida and Massachusetts do not bode well for states that otherwise might consider this option.

Increasing fees and charges to recoup more of the cost of services provided by the state is another option for enhancing state revenues. Environmentalists have joined the budget debate with a proposal called the *Budget for a Green Assembly*, which calls for greater fees and charges to pay for inspection and permitting programs and for pollution taxes that would require industry to pay for environmental damages.¹⁷ "The budget is the most important environmental issue of the session," says Bill Holman, a lobbyist for the Sierra Club, the Conservation Council of North Carolina, and the N.C. Chapter of the American

Planning Association.

Holman says taxes and fees can be used to promote sound environmental policy. And he says well-intentioned legislation can be thwarted by underfunding for state personnel. "Take the solid waste law," says Holman. "It's a good example of a pretty good law that's not going to be implemented because there's nobody to do the work."

The Economic Future Study Commission also advocates greater use of fees and charges in its report to the 1991 General Assembly.¹⁸ And the commission advocates restructuring the tax system to promote economic growth and assure that tax revenues keep pace with a changing economy. One of its more ambitious proposals would place a tax on personal services. Malcolm Gillis, a Duke University economist and the commission chairman, says such a tax would provide more equity and revenue growth because higher-income citizens tend to spend a greater percentage of their income on services. The commission also would like to close all corporate income tax loopholes

Rep. Theresa Esposito (R-Forsyth) during a pensive moment in an Appropriations Committee meeting. The foot-thick stack of documents at her elbow is Governor Martin's proposed budget, but Esposito is among those Republican legislators following the no-tax lead of Lt. Gov. Jim Gardner.



Karen Tam

To Tax or Not to Tax

Whether to raise taxes may not be the most important policy question lawmakers face as they consider the 1991-93 biennial budget, but it is politically the most dangerous. Anti-tax rhetoric has always struck a popular chord, and lately the no-tax chorus seems to have intensified. A January 1991 *Money* magazine article referring to North Carolina as one of 10 "tax hells" among the 50 states added yet another voice.¹

The magazine ranked North Carolina 10th in the nation for its annual state tax bite on the typical household, and lumped the state among 13 others it categorized as sure bets to raise taxes in the coming year. But is North Carolina really a tax hell? Not according to Charles D. Liner, a tax expert at the University of North Carolina at Chapel Hill's Institute of Government.

Liner called the state's ranking a "farce" in an appearance before the Senate Finance Committee. "The fallacy of that was it only looked at state taxes," Liner said.² North Carolina has a more central form of government than many states where local government plays a larger role.

An example is public education. Public education is almost totally the financial responsibility of local governments in many states. In North Carolina, however, state government contributes a substantial share. The same is true of highways, the court system, prisons, and the community college system; they are financed largely by the state.

Most analysts would place North Carolina closer to the middle when combined state and local tax burdens are considered. David Crotts, the legislature's revenue analyst, says the U.S. Census Bureau ranked North Carolina 26th in the nation for the 1988-89 fiscal year in combined state and local taxes as a percentage of personal income.³ He says when severance taxes are included, North Carolina ranks even lower. North Carolina ranks 8th in income taxes and 25th in state and local sales and excise taxes, but 37th in property taxes, according

to the Census Bureau.

Liner says North Carolina is still a low-tax state for business, though "fairly high" for individuals. "We're pretty low on businesses," says Liner. "Businesses get the benefits of lower property taxes."⁴

Not everyone agrees with this analysis. John Hood of the John Locke Foundation in Raleigh says high state taxes make up for low property taxes in North Carolina. The combined state and local tax burden per person, when adjusted for per capita income, is second highest in the South, he says.⁵

North Carolina indeed ranked second highest in state and local taxes among 12 Southeastern states using 1987-88 fiscal year data, but fell to fourth for the 1988-89 fiscal year.⁶ When states are ranked according to total revenues collected—which includes taxes and user fees—North Carolina falls to seventh in the Southeast.

Still, the *Money* article created a stir in the legislature. House members got a copy of it on their desks, and conservative lawmakers added it to their arsenal of anti-tax arguments. The resulting rhetoric added to anti-tax sentiments that appear to be building in North Carolina. Opponents of a tax hike point to neighboring Virginia as an example of how a budget gap can be closed by cutting spending instead of raising taxes.

FOOTNOTES

¹John Sims, "Is Your State a Haven or Hell?" *Money*, January 1991, pp. 87-90.

²Joe Dew, "'Tax Hell' Status Debunked," *The News and Observer* of Raleigh, Feb. 21, 1991, p. 1C.

³*Government Finances: 1988-89 (Preliminary Report)*, U.S. Department of Commerce, Bureau of the Census, September 1990, pp. 1-52.

⁴Bill Krueger and Stephen Hoar, "Tax Issue Dogs Legislators in Efforts to Adopt Budget," *The News and Observer* of Raleigh, June 24, 1990, p. 1C.

⁵John Hood, "Talking Points on N.C. Budget," *Executive Memo*, Jan. 14, 1990, p. 1.

⁶*State Government Finances in 1989*, U.S. Department of Commerce, Bureau of the Census, August 1990, p. 54.

and incentives, believing that a lower overall tax rate is better for the economy than tax breaks for selected industries.

But if the atmosphere is ripe for exploring new revenue sources, the budget bind also has improved the prospects for long-range reforms that might prevent such a pinch in the future. On the opening day of the session, Sen. William Goldston (D-Rockingham) filed his bill to base the 1991-92 budget on revenue produced in the 1990 calendar year.¹⁹ Goldston's original bill would also: restrict revenue estimates for new taxes to 75 percent of estimated collections; require that reversions be used for capital projects or other one-time expenditures; and limit the legislative session to about three months each year.

The Goldston plan would remove the uncertainty of revenue estimates from the budget equation. It also would exacerbate the current shortfall because the state could count on virtually no revenue growth in putting together its budget package—unless it raised taxes. The legislature's fiscal research staff estimates the impact at \$482.1 million for the 1991-92 fiscal year and more than \$800 million for 1992-93.

A variation on the Goldston theme is a bill by Rep. Art Pope (R-Wake) that would phase in over five years the use of previous calendar year revenues in budgeting.²⁰ Pope's plan, endorsed by Gardner, would shift the state gradually to prior-calendar-year budgeting so that the full impact would not be felt until 1996-97. The plan also includes a formula for building a rainy day fund that equals 5 percent of the General Fund budget, a widely recommended standard for the states.

A third bill by Sen. Roy Cooper (D-Nash) and Sen. Alexander Sands (D-Rockingham) would—among other things—link revenue estimates to actual growth in state and personal income.²¹

Also among reforms that may be considered are revisions to the 1925 Executive Budget Act²² and a move toward a more program-oriented budget. State Treasurer Harlan Boyles says the Executive Budget Act lodges too much power in the governor to make mid-course adjustments in the budget enacted by the General Assembly. The Martin administration believes the Executive Budget Act has served the state well and that no major changes are needed.

But the Martin administration is not at loggerheads with the treasurer on every budget-reform issue. For instance, Boyles believes that if budget requests were presented in the form of programs rather than by line item, they could be more

easily evaluated and prioritized by legislators. Boyles says this would discourage duplication and put a premium on performance. The governor's budget office says it agrees with this program-oriented approach. Again, the goal is to avoid meat-axe across-the-board cuts such as the 3 percent cuts the legislature enacted in 1990. Across-the-board cuts, Boyles argues, treat every state agency as though each of its programs were of equal value, and they are not.

But whether the 1991 General Assembly produces lasting budget reforms is at this point table talk at a poker game. The immediate task is producing a balanced budget, and the state constitution mandates that the legislature do exactly that.²³

The options are clear—budget cuts, tax increases, or some combination of the two—but the choices are not easy. No legislator wants to risk sinking the sailboat of state. But blowing a political career through a tax increase without public support is equally unenticing.

A Las Vegas bookie would lay odds on a tax hike, despite all the rhetoric about making deep cuts. Even before the November election, many incumbents and hopefuls were owing up to the need for increased revenues. A case in point is a Nov. 4, 1990, *Charlotte Observer* poll of 74 candidates seeking 40 seats in the newspaper's primary circulation area. The poll found 65 percent of the candidates would support a tax hike to close the budget gap. One incumbent, Sen. Austin Allran (R-Catawba), went so far as to opine that anyone who thinks the budget can be balanced without a tax increase is "naively ignorant or just dishonest."²⁴

The legislature has increased taxes 14 times since 1979, with the governor often playing a role by proposing or supporting the increase.²⁵ While many of these tax hikes have been relatively small change, some have been significant. The gas tax has gone up three times, the corporate income tax has been increased, and a 2 cent local-option sales tax has been authorized. A 15th tax increase would raise few eyebrows among those who observe the legislative process.

Still, some legislators feel strongly that the public is fed up with tax increases, and the political situation has strengthened the hand of the budget cutters. Martin—by removing himself from consideration for the 1992 U.S. Senate race—exacerbated his lame-duck status. Republican legislators are following the "no-new-taxes" lead of Gardner, who is expected to be the GOP nominee for governor in 1992.

Democrats, on the other hand, are not enthusiastic about raising taxes without the votes of Republicans. They have the 1992 election to think about and the prospect of running against a ticket that includes a popular president and a gubernatorial candidate who eschews any tax increase. So the political factors make the decisions facing legislators all the more difficult. "I don't think a lot of members realize how difficult it's going to be to go into the home district and tell people, 'You're doing well, but we're going to have to cut your position out,'" says Diamont.

Still, the silver lining to the dark budget cloud that hangs over state government may be that circumstances have forced the legislature to review its spending and to set priorities. "This process is something that is cyclical and it's something that we need to go through," says Diamont. "We must question programs and see if they're effective. If you give us \$2 billion we'll find a way to spend it, and we're never going to have the money to meet the needs of what this legislative body feels needs to be done. I tell you something else we're going to get out of this—leadership."



FOOTNOTES

¹Marcia Howard, *The Fiscal Condition of the States*, National Association of State Budget Officers, December 1990, p. 3.

²Janet G. Stotsky, "Coping with State Budget Deficits," *Business Review*, January–February 1991, pp. 15–7.

³G.S. 105–131. David Crotts, the legislature's chief fiscal analyst, says federal tax reform allowed tax liabilities of Subchapter S corporations—those with less than 35 shareholders—to be assessed against individuals rather than the corporation as a whole. The state picked up this change when it adopted the federal tax structure in 1990, Crotts says, but the legislature did not anticipate the number of corporations that would seek the new tax status and did not adjust individual rates sufficiently to adjust for losses on the corporate side.

⁴Standard and Poor's, a New York bond-rating firm that controls the state's prized AAA bond rating, is among those advising the state to rely more on bond financing to pay for capital projects.

⁵*Significant Features of Fiscal Federalism*, Advisory Commission on Intergovernmental Relations, Vol. II, August 1990, p. 42.

⁶"Overview of The North Carolina State Budget," Office of State Budget and Management, October 1990, p. 8.

⁷General Fund Fiscal Update for legislators from Senior Revenue Analyst David Crotts, Feb. 7, 1991, p. 6.

⁸Martin's biennial budget appropriates \$6 million in 1992–93 in supplemental funding for small school systems—those with less than 3,000 students. The Center's proposal is not based on size but on wealth and tax effort. In testimony before an interim legislative study subcommittee on educational equity on March 11, 1990, Center Director Ran Coble recommended that financial assistance go to 10 counties with low tax wealth but high tax effort.

⁹The legislature agreed to reimburse local government

for revenue lost through the repeal of the inventory tax in 1985 and partial appeal of the intangibles tax in 1987.

¹⁰Martin said \$700 million had been cut from the \$7.6 billion 1990–91 General Fund budget, based on 1989 appropriation levels—a decrease of about 9 percent.

¹¹"Sailing Through the Storm," *The Charlotte Observer*, Feb. 1, 1991, p. 8A.

¹²"Setting Sail Without Wind," the *Winston-Salem Journal*, Feb. 3, 1991, p. 12A.

¹³Gardner would chop more than \$29 million for administrative staff from the Department of Public Instruction's budget, compared to about \$6.2 million in cuts in the Martin budget. The Martin budget also allows DPI to forego \$15 million in negative reserves in the first year of the biennium, while the Gardner budget exempts DPI from only \$1.1 million, but an additional \$15.2 million in the 1992–93 fiscal year. Thus, Gardner's net reductions for public education exceed Martin's by some \$36.7 million for the 1991–92 fiscal year.

¹⁴Tim Simmons, "Panel Told Funding Cuts Could Reach Into the Classrooms," *The News and Observer* of Raleigh, March 27, 1991, p. 1A.

¹⁵"State Excise Rates," *The Book of the States 1990–91*, The Council of State Governments, Lexington, Ky., p. 316.

¹⁶Discussion of implementing a state lottery raises a host of issues, many of which are not fiscal. Opponents such as Rep. Coy Privette (R-Cabarrus) argue that the state should not be promoting gambling and that some low-income people would spend a higher percentage of their incomes playing the lottery. Sen. Ken Royall (D-Durham), perhaps the leading proponent of a lottery referendum, argues that a lottery is essentially a volunteer tax and points to consistent support for a lottery found in public opinion polls. As of this writing, three separate bills have been filed in the 1991 session calling for a referendum on a state lottery: S.B. 2; H.B. 15; and H.B. 21. A fourth bill, H.B. 1113, would establish a state lottery and dedicate the proceeds to capital projects, with the public voting after five years on whether to keep it operational. For more on the lottery issue, see Steve Adams, "The Numbers Game—The Lottery for North Carolina?" *North Carolina Insight*, Vol. 7, No. 4 (April 1985), pp. 24–33.

¹⁷*Budget for a Green Assembly: Environmental Budget and Policy Recommendations, 1991*, produced jointly by the North Carolina Chapter of the Sierra Club, the Conservation Council of North Carolina, the North Carolina Alliance for Conservation Action/North Carolina Wildlife Federation, the North Carolina Environmental Defense Fund, and the North Carolina State University Chapter of the Student Environmental Action Coalition.

¹⁸*Fiscal Realities for the Nineties: Report of the Economic Future Study Commission*, Feb. 27, 1991, p. 26.

¹⁹S.B. 5 of the 1991 Session.

²⁰H.B. 198 of the 1991 Session.

²¹S.B. 833 of the 1991 Session.

²²Chapter 143, Article 1, N.C. General Statutes.

²³Article III, Sec. 5(3) of the N.C. Constitution reads in part, "The budget as enacted by the General Assembly shall be administered by the Governor. The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period."

²⁴Greg Trevor, "N.C. Candidates Willing to Hike Taxes for Budget," *The Charlotte Observer*, Nov. 4, 1990, p. 1A.

²⁵Inventory prepared by the legislature's Fiscal Research Division. The legislature also has reduced taxes a number of times over the course of the decade, but the net result is \$954 million in new taxes, according to the Fiscal Research Division's calculations.

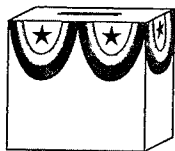


Voters in Guilford County pass the time while waiting to vote in a slow-moving polling place.

Voting in North Carolina: Can We Make It Easier?

by Jack Betts

North Carolina has thousands of elected officials and one of the longest ballots of any state in the nation, but its electoral process is hampered by two key problems: Relatively low voter registration, and relatively low voter turnout. Only two-thirds of the state's eligible citizens are registered to vote, and barely two-fifths of them turn out for elections. What can the state do to improve its voter registration programs and get more citizens on voter rolls? And what improvements in the voting process can the state make to boost voter turnout and increase participation in the electoral process? The research in this article leads to 10 specific recommendations for North Carolina to consider in improving its elections process.



On Election Day in 1990, more than 60 percent of the state's registered voters turned out to cast votes in an election headed by the contest for the U.S. Senate between incumbent Repub-

lican Jesse Helms and Democratic challenger Harvey Gantt. The racial overtones of the campaign attracted world-wide attention and helped make the race one of the hottest in years.

But that election—which culminated in Helm's re-election—also focused attention on the way we vote in North Carolina. For instance:

■ Voter turnout is mediocre at best and has been declining for years. Election officials say turnout in North Carolina was a respectable 62 percent of those *registered to vote*, but in fact, the turnout of the *voting-age population* was barely 41 percent. In 1988, turnout was about 43 percent—fourth worst in the nation.

■ North Carolina turnout in 1990, highest for an off-year election in years, still was lower than in every presidential election year going back 30 years. In the 1960s, more than half the state's voting age population voted; in the 1980s, it fell well below 50 percent in every election. On the bright side, the North Carolina turnout in 1990 was "probably the highest mid-year turnout since 1920," says Curtis Gans of the Committee for the Study of the American Electorate in Washington, D.C.

■ The voting experience varied widely from precinct to precinct, but there were horror stories in many polling places. The wait to vote in North Raleigh was 45 minutes; in Durham and Guilford counties, Democrats obtained controversial court orders forcing polls to stay open later than normal after reports of abnormal voting delays and machines breaking down. Voting machines in Durham County were incorrectly programmed and overloaded. Voters accidentally damaged some machines—causing an unknown number of votes to be lost. Polling places in Orange County ran short of ballots.

In fact, what the 1990 elections did, in a way that no politician alone could have done, is point out a startling lack of uniformity in the way the 100 counties of North Carolina go about recording the votes of their citizens, and even some variations in the way voters are registered.

For instance, in registering to vote, a college student from another county—or even another

state—can register without difficulty in some counties—Wake, Guilford, and Watauga, just to name a few—as long as that student attends school in those counties. But a college student in Charlotte cannot register in Mecklenburg County unless he or she is a legal resident of Mecklenburg County. Why? Because the State Board of Elections leaves it up to local boards of elections to interpret the law and the existing court decisions about whether a student can register—and the law and the court decision do not give a definitive answer.¹ "The problem is we don't get any guidance from the State Board of Elections," says Mecklenburg County Supervisor of Elections William B.A. Culp Jr. "The state board just says consult with your local attorney."

Retorts Robert S. Spearman, former chairman of the State Board of Elections, "I thought that was an issue that had been resolved." In 1984, Spearman and Brock signed an administrative directive to all county boards of elections informing them that students "may not be denied permission to register where they attend school solely on the grounds that they are living in a dormitory or are students."²

And for another problem, North Carolina law allows a variety of voting systems—paper ballots

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

When North Carolina took over supervision of county and municipal elections in 1963, "It was like a newlywed couple adopting an orphanage."

—ALEX K. BROCK
STATE ELECTIONS DIRECTOR

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

stuffed into wooden boxes, lever-operated mechanical voting machines, computer punch cards in spiral notebooks, electronic voting machines that resemble pinball machines, and optical scanner devices. Some counties use more than one method (Stokes County, for example, uses two different types of optical scanners, plus paper ballots as a back-up system) to record votes (see Table 5, page 42, for more on what types of voting system each county uses). "The last time we had a uniform system of voting in North Carolina was

Jack Betts is editor of North Carolina Insight magazine. David Tomberlin assisted in the research for this article.



★ ★ ★ ★ ★ ★ ★

"There are 100 different elections systems in North Carolina."

—WILLIAM B.A. CULP JR.,
SUPERVISOR OF ELECTIONS,
MECKLENBURG COUNTY

★ ★ ★ ★ ★ ★ ★

when we had only paper ballots," says Alex K. Brock, director of elections and executive secretary to the State Board of Elections since 1965. Brock says the state has a uniform system for registering voters, "but we don't have all the counties applying it uniformly. Where it is not uniform, we correct them."

These two types of problems—troubles with the state's relatively low rate of participation in elections, and difficulties in the voting process that exacerbate the modest turnout rate for elections in North Carolina—bear examination by state policymakers. What barriers exist to greater participation in democratic elections? What steps can the state take to eliminate the barriers, stimulate interest in voting, and make the voting process easier for the state's five million voting-age citizens? How can voting and registering be simplified in the state's 100 counties, 502 municipalities, and 1,200 special voting districts (such as fire, sanitary, and hospital districts)? In the following pages, *North Carolina Insight* examines those problems and makes recommendations for steps the state could take to strengthen the elections process and renew public confidence in the ability of the voter to make a difference in a free election.

Barriers to Election Participation

Until a century ago, barriers to voting were not so much bureaucratic as they were legal and physical. If you were white and male and if you could get yourself to the polling place, you could vote. There was no registration process and voting

was still regarded as a privilege. Civil rights laws granted black men the right to vote following the Civil War, but southern states—North Carolina included—adopted laws and practices at various times between 1870 and 1900 to prevent blacks from voting and strip them of political power. Northern states adopted some of the same tactics to achieve what they called a "quality" electorate: poll taxes, literacy tests, and obstructive voter registration policies designed to make it harder for some people to vote.³ Voting by blacks in North Carolina from 1888 to 1898 was often heavy, but after the "Red Shirt" campaign of 1900 and adoption of a literacy test, black voting dropped drastically.

In some ways, the low turnout problems of today can be traced to those practices: "[O]ur unrepresentative electorate and the resulting low voting rates have their historical roots in the exclusionary voter registration systems established at the end of the 19th century," note Frances Fox Piven and Richard Cloward in their book, *Why Americans Don't Vote*. These practices had a staggering effect on voter participation. From 1888 to 1924, voting rates plummeted from 81 percent to 49 percent nationally, and from 64 percent to 19 percent in the South, Piven and Cloward say. National voting patterns never again would reach the 1888 high of 81 percent, though it would rise to a 20th century high of 63 percent in 1960.

In fact, the statistics show a steady decline in voting for the last 30 years nationally as well as in North Carolina. As Table 1 on page 24 and Figure 1 on page 23 show, national turnout of the voting-

age population since 1963 has declined in every presidential election—except 1984 when it rose marginally—to barely 50 percent in the last presidential election year, 1988.

North Carolina has trailed the national average in every single presidential election since 1960. In 1952, 1956, and 1960, North Carolina trailed the national average on voter turnout, but was well ahead of the average for the South. In 1960, nearly 53 percent of North Carolina's voting-age population voted; participation peaked at 54.4 percent in 1968's presidential election, but has stayed well below 50 percent throughout the 1970s and 1980s in presidential elections. Figure 1 compares North Carolina's performance with that of the principal regions of the United States. North Carolina since 1972 has voted consistently below the voting rate of the South as a region, which itself votes at a lower rate than the rest of the country.

The statistics also show that the United States has little to brag about internationally. Studies show that the United States consistently votes at a lower rate than other countries, normally topping only Switzerland. A Harvard/ABC News Symposium in 1984 examined the most recent national elections and found that America ranked 23rd out of 24 democracies in its voting rate of 53 percent,

while other countries—Belgium, Australia, Austria, Sweden, and Italy all had voting rates above 90 percent.⁴

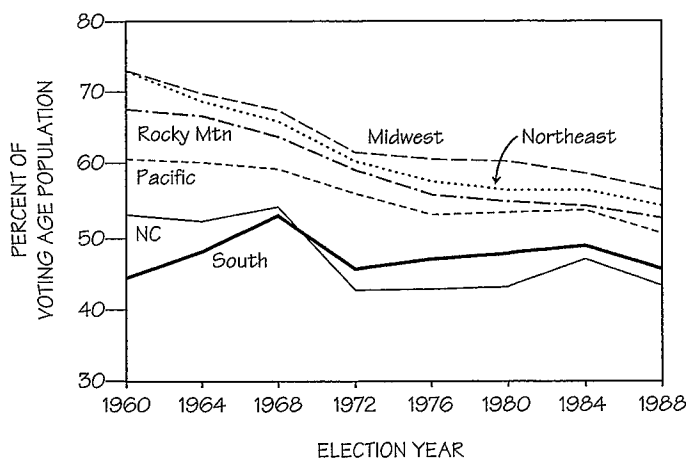
Another study, by political scientist Bingham Powell in 1986, computed voter turnout of the voting-age-population in 20 Democratic nations during the 1970s and found that the United States ranked 19th out of the 20 countries in voting-age population turnout, but considerably higher (seventh out of 20) if you used a different standard—turnout of the population registered to vote (see Table 2, page 26).⁵ However, that standard may not be the correct one, because in most other countries, citizens either are required to register to vote, or the government automatically registers citizens to vote, or there is no registration requirement. Only France, which consistently votes in the 80-percent range, and the United Kingdom, which votes in the 75-percent range, emulate the United States in having no automatic or mandatory voter registration.

Should it be the duty of government to register its voters and see that they cast ballots? In the United States version of democracy, the right to vote is held in high esteem by many people who rarely or never exercise it. Proposals to limit voting or elections, or shorten the ballot, are met with howls of outrage by a public that wants to be able

to vote if it wishes to do so. But no one wants to be told to register, let alone required to vote, as citizens are required to do in Italy, Belgium, and Australia. "In our government, you are free to vote or free not to vote," points out former State Board of Elections Chairman Robert Hunter of Greensboro. "If someone does not want to vote, they don't have to vote," he adds.

America is unusual in this regard. "Interestingly, the United States is the only democracy, among those with which it is most commonly compared, in which registration is the responsibility of the citizen and not the obligation of the government," notes *State Legislatures* magazine.⁶

Figure 1. Turnout of the Voting Age Population (VAP) by Percentage, Comparing U.S. Regions to North Carolina, in Presidential Elections



—Prepared by David Tomberlin, N.C. Center for Public Policy Research

**Table 1. Total Turnout for Presidential Elections, 1960–1988,
by State, of the Voting Age Population (VAP)**

State	Percent of Voting Age Population That Voted								Number Voting	Total VAP
	1960	1964	1968	1972	1976	1980	1984	1988	1988	1988*
Alabama.....	30.8	36.0	52.7	43.3	46.3	48.7	49.9	45.8	1,378,476	3,010,000
Alaska.....	43.7	44.0	50.0	46.9	48.1	57.2	59.2	52.0	200,116	385,000
Arizona.....	52.4	54.8	49.9	47.4	46.1	44.4	45.2	45.0	1,171,873	2,605,000
Arkansas.....	40.9	50.6	54.2	48.1	51.1	51.5	51.8	47.0	827,738	1,761,000
California.....	65.8	65.4	61.6	59.5	50.4	48.9	49.6	47.4	9,887,065	20,875,000
Colorado.....	69.7	68.0	64.8	59.5	58.8	55.8	55.1	55.1	1,372,394	2,489,000
Connecticut.....	76.1	70.7	68.8	66.2	62.8	61.0	61.1	57.9	1,443,394	2,492,000
Delaware.....	72.3	69.0	68.3	62.1	57.2	54.6	55.5	51.0	249,891	490,000
Florida.....	48.6	51.2	53.1	48.6	49.2	48.7	48.2	44.8	4,302,313	9,614,000
Georgia.....	29.3	43.3	43.9	37.3	42.0	41.3	42.0	38.8	1,809,672	4,665,000
Hawaii.....	49.8	51.3	53.8	49.4	46.7	43.5	44.3	43.0	354,461	824,000
Idaho.....	79.7	77.2	73.4	63.3	60.7	67.7	59.9	58.3	408,968	701,000
Illinois.....	75.5	73.2	69.3	62.3	59.4	57.7	57.1	53.3	4,559,120	8,550,000
Indiana.....	76.3	73.5	73.0	60.8	60.1	57.6	55.9	53.3	2,168,621	4,068,000
Iowa.....	76.5	72.9	69.8	64.0	63.1	62.8	62.3	59.3	1,225,614	2,068,000
Kansas.....	69.6	65.1	64.8	59.5	58.8	56.6	56.8	54.3	993,044	1,829,000
Kentucky.....	57.7	53.3	51.2	48.0	48.0	49.9	50.8	48.2	1,322,517	2,746,000
Louisiana.....	44.6	47.3	54.8	44.0	48.7	53.1	54.6	51.3	1,628,202	3,175,000
Maine.....	71.7	65.1	66.4	60.3	63.7	64.5	64.8	62.2	555,035	893,000
Maryland.....	56.5	54.1	54.4	49.8	49.3	50.0	51.4	49.1	1,714,358	3,491,000
Massachusetts.....	75.6	70.0	67.4	62.0	61.7	59.0	57.6	58.1	2,632,801	4,535,000
Michigan.....	72.2	67.9	65.7	59.4	58.8	60.0	57.9	54.0	3,669,163	6,791,000
Minnesota.....	76.4	75.8	73.8	68.7	71.5	70.0	68.2	66.3	2,096,790	3,161,000
Mississippi.....	25.3	33.9	53.3	44.2	48.0	51.8	52.2	49.9	931,527	1,867,000
Missouri.....	71.5	67.1	64.3	57.3	57.3	58.7	57.3	54.8	2,093,713	3,821,000
Montana.....	70.3	69.3	68.1	67.6	63.3	65.0	65.0	62.4	365,674	586,000
Nebraska.....	70.6	66.5	60.9	56.4	56.2	56.6	55.6	56.7	661,465	1,167,000
Nevada.....	58.3	52.1	54.3	49.5	44.2	41.2	41.5	44.9	350,067	780,000
New Hampshire.....	78.7	72.4	69.6	63.6	57.3	57.1	53.0	54.8	451,074	823,000
New Jersey.....	70.8	68.8	66.0	59.8	57.8	54.9	56.6	52.2	3,099,553	5,943,000
New Mexico.....	61.7	62.0	60.7	57.7	53.4	50.1	51.3	47.4	521,287	1,101,000
New York.....	66.5	63.3	59.3	56.4	50.7	48.0	51.2	48.1	6,485,683	13,480,000
North Carolina.....	52.9	52.3	54.4	42.8	43.0	43.4	47.4	43.4	2,134,370	4,913,000
North Dakota.....	78.0	71.4	70.0	68.3	67.2	64.6	62.7	61.5	297,261	483,000
Ohio.....	70.7	66.6	63.3	57.3	55.1	55.3	58.2	55.1	4,393,699	7,970,000
Oklahoma.....	63.1	63.4	61.2	56.7	54.9	52.1	52.2	48.7	1,171,036	2,404,000
Oregon.....	72.0	68.9	66.6	62.1	61.3	61.3	61.8	58.6	1,201,694	2,051,000
Pennsylvania.....	70.3	67.9	65.3	56.0	54.2	51.9	54.0	50.1	4,536,251	9,060,000
Rhode Island.....	75.1	71.6	67.2	61.0	59.7	58.6	55.9	53.0	404,620	764,000
South Carolina.....	30.4	39.4	46.7	38.3	40.3	40.4	40.7	38.9	986,009	2,534,000
South Dakota.....	77.6	74.2	73.3	69.4	64.1	67.2	62.6	61.5	312,991	509,000
Tennessee.....	49.9	51.7	53.7	43.5	48.7	48.7	49.1	44.7	1,636,250	3,661,000
Texas.....	41.2	44.6	48.7	45.0	46.3	44.8	47.2	44.2	5,427,410	12,270,000
Utah.....	78.2	78.4	76.7	69.4	68.4	64.6	61.6	60.0	647,008	1,078,000
Vermont.....	72.4	70.3	64.1	60.7	55.7	57.7	59.8	59.1	243,328	412,000
Virginia.....	32.8	41.1	50.1	44.7	47.0	47.5	50.7	48.2	2,191,609	4,544,000
Washington.....	71.9	71.8	66.0	63.1	59.8	57.3	58.1	54.6	1,865,253	3,417,000
West Virginia.....	77.9	75.5	71.1	62.5	57.2	52.7	51.7	46.7	653,311	1,398,000
Wisconsin.....	72.9	69.5	66.5	62.5	66.5	67.4	63.5	62.0	2,191,608	3,536,000
Wyoming.....	73.3	74.3	67.0	64.4	58.6	53.2	53.4	50.3	176,551	351,000
NATION	62.8	61.9	61.0	55.2	53.6	52.6	53.1	50.2	91,594,805	182,628,000

Yet no other organization could tackle the job of registering all those not registered to vote in America, says Columbia University sociologist Richard Cloward. "It's just nonsense to think we can register this many people (some 60 million unregistered) through voluntary efforts," says Cloward. "Government is the only system that can reach that number."⁷

Which Registration Figures Should Be Used?

Political scientists and elections officials often debate the use of registration statistics to make their cases about voting. State officials much prefer to use registration figures when they report election turnouts, because turnout figures are higher than if they use voting-age population figures. For instance, in the 1988 election, North Carolina had a turnout of either 62.2 percent or of 43.4 percent, and in 1990, had a turnout of either 61.8 percent or of 41.2 percent. The higher figures, which the state Board of Elections prefers, represent that percentage of registered voters who voted. The smaller figure, which those who study election participation problems prefer, represents the percentage of actual voters compared to the estimated pool of citizens who are 18 years of age or older on election day. There are problems with

each number.

Using the number of *registered voters* can be a useful guide, because it represents the number of voters who do participate regularly in elections and is a firm number. But it has flaws. For one thing, the registration figures usually are higher than the actual number of voters who legally are eligible to vote. "There is some fudge factor," concedes Mecklenburg County's William B.A. Culp, "because at any given time there is some deadwood in there." Some voters die, or move out of North Carolina, or move to another precinct or county and never inform local boards of elections. Or they may be registered—erroneously—in two different counties.

If there were any doubt that voter registration figures can harbor deadwood, the 1990 U.S. Census did much to eliminate that doubt. As Table 3 clearly shows, Graham County in 1990 had a voting-age population of 5,499, but the county and State Board of Elections report that 5,593 persons were registered to vote. That may mean that at least 94 voters were missed by the U.S. Census takers. But more likely, voter experts say, it means that a good many voters are on the rolls who should have been purged. Brock points out that it takes time to compile the list of voters to be purged, and that there is always a built-in time lag before names can be purged.

State Board of Elections at sparsely attended hearing on 1990 election, held at Wake County Courthouse.



Jack Betts

Table 2. Voter Turnout in 20 Democracies in the 1970s

Country	Avg. Turnout As Percent of Eligible Pop.	Avg. Turnout As Percent of Registered Pop.	Compulsory Voting	Mandatory Requirement to Register
1. Italy	94	94	Yes	Automatic
2. Austria	88	92	No	Automatic
3. Belgium	88	93	Yes	Automatic
4. Sweden	88	91	No	Automatic
5. Australia	86	95	Yes	Yes
6. West Germany	85	90	No	Automatic
7. Denmark	85	87	No	Automatic
8. New Zealand	83	87	No	Yes
9. Finland	82	82	No	Automatic
10. Netherlands	82	84	No	Automatic
11. Norway	82	82	No	Automatic
12. Israel	80	80	No	Automatic
13. France	78	86	No	No
14. Spain	78	78	No	Automatic
15. Ireland	77	77	No	Automatic
16. United Kingdom	75	75	No	No
17. Japan	72	72	No	Automatic
18. Canada	68	73	No	Automatic
19. United States	54	89	No	No
20. Switzerland	44	52	No	Automatic

Source: G. Bingham Powell, Jr., "American Voter Turnout in Comparative Perspective," *American Political Science Review*, Vol. 80 (1986), pp. 17-43.

Registration figures, say Piven and Cloward, "are seriously biased and misleading because of incomplete purging. As a result, they convey two false impressions. *One is that far more people are registered to vote than actually are. The other is that many registrants do not vote.*"⁸

Using *voting-age-population* figures may be a better guide to citizen participation in a state's elections. For one thing, the pool of 18-year-olds and older is the potential number of citizens that could vote in an election, and using only actual registration figures can ignore nearly one-third of the electorate. North Carolina's population of 6.6 million has 3.3 million citizens registered to vote, but a voting-age population of nearly 5

million people. That means that nearly 1.7 million North Carolinians are not registered to vote. Only two-thirds—66.7 percent—of the eligible population are signed up, leaving 33.3 percent unregistered.

How does this translate? Using registration figures, election officials can say that 61.8 percent of the state's registered population voted in 1990; but using voting-age population figures, critics can point out that only 41.1 percent of the eligible population actually voted. In other words, barely 4 in every 10 persons who were old enough bothered to vote in one of the more hotly contested elections in North Carolina history.

State officials, however, point out that there

are problems using voting-age population, too. For one thing, the voting-age population does not mean that every person over 18 is legally eligible to register. Some of that population is legally domiciled elsewhere—including many thousands of military personnel and their spouses who may be registered to vote in their home states. College students from out-of-state who are registered elsewhere may also inflate the figures, and so does the number of convicted felons either in prison or out on parole and who cannot vote unless and until they have their citizenship restored. And it may include illegal aliens who are counted by the census but who are not eligible to vote. Still, those who study the electoral process and citizen participation believe the voting-age population figure is a far better standard because it gives a more accurate reflection of the percentage of the population active in voting.

What's the Registration Ruckus All About?

What's all the fuss about registration, anyway? Because it is clear, from every academic study ever performed to the figures that state officials themselves use, that those who register to vote do vote. Those who don't can't. The U.S.



Jack Betts

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

"An elected official is one who gets 51 percent of the vote cast by 40 percent of the 60 percent of voters who registered."

—DAN BENNETT, NOVELIST WHOSE
NOM DE PLUME WAS JOSEPH LEE GILMORE

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

Census Bureau, which conducts the ongoing Current Population Survey and thus keeps up with those who vote, says that "one clear-cut finding of the data is that once people register, they overwhelmingly go to the polls" in presidential elections.⁹

Who votes? They are older, white, well-educated, and affluent citizens. Those who do not vote are the young, minorities (including African Americans, Latin Americans, Asians and other groups, the poor and those without college degrees—which means that older, white, educated and well-off citizens have more direct control of who gets elected and how governments are run.¹⁰

While it is clear from the evidence that those who are registered do vote in large numbers, it is somewhat less clear why people do not participate in elections. Or rather, experts disagree on why people do not register and vote. Books have been written on the subject, but all the reasons can be fitted into one or more of these 10 categories:

1. We make it too hard to vote. Physical and time barriers make it nearly impos-

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"The last time we had a uniform system of voting in North Carolina was when we had paper ballots."

—ALEX K. BROCK
STATE ELECTIONS DIRECTOR

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

"At the bottom of all tributes paid to democracy is the little man, walking into the little booth, with a little pencil, making a little cross on a little bit of paper. No amount of rhetoric or voluminous discussion can possibly diminish the overwhelming importance of the point."

—WINSTON CHURCHILL

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

sible for some voters. It is not easy for many voters—sick, disabled, single parents, or citizens otherwise burdened by work and family duties—to register, get an application for an absentee bal-

lot, get to the polls during voting hours, and take the time to stand in line for hours while wondering whether the children are all right, and cast a ballot.

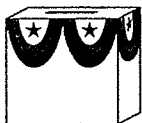
2. The decline of political parties as a major force in campaigns has also led to a decline in turnout. Parties once could turn out large numbers of their voters through party loyalty. Now many campaigns work apart from a political party, and rarely can one campaign stimulate high voter turnout.

3. The public is generally satisfied with the way its government is run, and those who don't vote don't see a need to change things. So, they don't bother voting.

4. The public doesn't believe that one individual vote can make a difference (see sidebar, below, for elections where one vote made a difference) and thus doesn't bother going to the polls.

5. Apathy, ignorance, and cynicism. "Who cares?" "What difference does it make?" And, "If voting could change the system, wouldn't they have made it illegal?"

What Difference Can a Few Votes Make?



Ask Lonnie Revels what difference a few votes can make. Ask, and sit down while Revels, a Greensboro businessman, Native American, and Republican

Party activist tells you about the heartbreaking elections of 1972. And 1974. And 1983.

In 1972, Revels ran for the state House of Representatives. He lost by a handful of votes in the primary, but when the Guilford County Board of Elections members sat down to certify the results, they found an error—and certified Revels as a primary winner. In the fall general elections, Revels won his race by a handful of votes, but when the local board certified the results, it found another error, and Revels had lost—by 27 votes.

For months after that loss, Revels replayed the election again and again. "I'd walk into a room of people and I'd count them until I'd reach 27 and I'd say to myself, those could have

been the 27 votes you didn't get. Maybe those 27 could have put you in," Revels recalls nearly 20 years later.

Two years after that first defeat, Revels tried again for one of the seven at-large House seats from Guilford County. This time he lost narrowly again—by 107 votes. That loss—by less than a tenth of 1 percent of the votes cast—was so devastating that Revels quit running for nearly a decade.

But he was well-known in the community, served on a lot of boards, knew a lot of the voters, and felt he had something to offer. So in 1983, Revels ran for the Greensboro City Council. Revels lost again, this time by 100 votes. And it stung worse than ever.

"You relive it over and over again. If it was a wipeout, you can say, 'Well, I gave it a good shot but it wasn't meant to be,'" Revels says. "But you come that close, you replay it over and over in your mind—'If I had only attended one

6. There are too many names on the ballot to make an informed choice, and the voting public is so overwhelmed with frequent elections and the long ballot that it doesn't enjoy the voting process.

7. Potential voters do not regard the electoral process as a civic duty anymore, and thus do not exercise the right to vote. Potential new voters (those in middle- and high school) are not often taught how important voting can be.

8. Political campaigns have become so negative that the key message potential voters receive is: Don't vote. They don't.

9. Watergate in the 1970s, the Keating Five savings and loan scandals of the late 1980s and early 1990s, and other scandals involving publicly elected officials have persuaded some potential voters that politicians are crooks, and voters don't want to elect more of those. The news media have done a thorough job of uncovering these scandals, but one message the media may give to voters is that politics and government are dirty businesses.

10. All of the above.

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"America is a land where a citizen will cross the ocean to fight for democracy and won't cross the street to vote in a national election."

—BILL VAUGHAN,
AMERICAN NEWSPAPER COLUMNIST

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

What Can Be Done?

The decline in voter participation is matched only by the increase in the number of prescriptions to cure the ailment, and governments increasingly are trying a number of programs to reverse the trend. In fact, North Carolina has un-

—continued on page 32

more meeting, if only I had made another one of those phone calls, maybe if my supporters had worked just a little bit harder.' You just say, 'What if? What if?'"

Two years later, Revels tried again. And he won. By 10 votes. The headlines in the paper called him "Landslide Lonnie," but in Revels' mind, those 10 votes that put him on the city council were "just as good as 10,000 votes."

Revels doesn't think he's ever missed voting in an election, and he loves to tell people his story. "I can attest that every vote does count," Revels says. He especially likes to tell young voters who may be apathetic how much a vote can count. He tells them about the 27 votes he lost his first general election by, and the 10 votes he won his first city council election by, and he tells them, "Close isn't enough. Close only counts in horseshoes and hand grenades."

Revels is hardly the only case where elections have been tight in North Carolina. They happen every year. State Sen. Bob Shaw (R-Guilford) lost out to former state Sen. Walt Cockerham (R-Guilford) by only two dozen votes in an election in the 1980s. And on North Carolina's coast, the mayoral election at Top-

sail Beach was tied three times in 30 years. But the contestants usually settle the race amicably—they flip a coin, and the winner becomes mayor.

Close votes occasionally decide questions of much more moment. For instance, there was the close U.S. Senate vote in 1868 when Andrew Johnson—the North Carolina native who was Abraham Lincoln's vice president and successor—was impeached. One vote—delivered by a senator who was brought in from his sickbed—saved Johnson from conviction by the Senate and ouster from the presidency.

And a few other notable votes:

In 1645, Oliver Cromwell gained control of England by a single vote.

In 1875, one vote was enough to refashion France from a monarchy into a republic.

In 1923, Adolf Hitler took over leadership of the National Socialist Party—the Nazis—by one vote.

In 1960, an average of one vote per precinct gave the presidency to John F. Kennedy and ended—temporarily—the political career of Richard Nixon.

—Jack Betts

Table 3. Population and Voting Statistics by N.C. County for 1990 General Election

County	Total Population	Voting Age Population	Number of Voting Age as % of Total	Number of Registered Voters	Registered Voters as % of Eligible	Votes Cast	Voters as % of those Registered	Voters as % of those Eligible
Alamance	108,213	84,538	78.1%	55,675	65.9%	36,252	65.1%	42.9%
Alexander	27,544	20,771	75.4%	18,059	86.9%	12,599	69.8%	60.7%
Alleghany	9,590	7,535	78.6%	5,912	78.5%	4,072	68.9%	54.0%
Anson	23,474	17,130	73.0%	11,352	66.3%	7,241	63.8%	42.3%
Ashe	22,209	17,406	78.4%	14,724	84.6%	9,566	65.0%	55.0%
Avery	14,867	11,529	77.5%	8,812	76.4%	5,611	63.7%	48.7%
Beaufort	42,283	31,328	74.1%	20,120	64.2%	12,451	61.9%	39.7%
Bertie	20,388	14,547	71.4%	10,831	74.5%	5,814	53.7%	40.0%
Bladen	28,663	21,057	73.5%	15,058	71.5%	8,168	54.2%	38.8%
Brunswick	50,985	38,960	76.4%	27,743	71.2%	16,850	60.7%	43.2%
Buncombe	174,821	135,886	77.7%	97,107	71.5%	59,011	60.8%	43.4%
Burke	75,744	57,937	76.5%	37,904	65.4%	24,506	64.7%	42.3%
Cabarrus	98,935	75,038	75.8%	50,822	67.7%	32,344	63.6%	43.1%
Caldwell	70,709	54,022	76.4%	34,143	63.2%	20,756	60.8%	38.4%
Camden	5,904	4,469	75.7%	3,349	74.9%	2,027	60.5%	45.4%
Carteret	52,556	40,749	77.5%	26,289	64.5%	16,461	62.6%	40.4%
Caswell	20,693	15,774	76.2%	10,902	69.1%	6,842	62.8%	43.4%
Catawba	118,412	90,127	76.1%	59,000	65.5%	38,796	65.8%	43.0%
Chatham	38,759	30,073	77.6%	22,292	74.1%	14,988	67.2%	49.8%
Cherokee	20,170	15,599	77.3%	12,844	82.3%	6,675	52.0%	42.8%
Chowan	13,506	9,970	73.8%	6,729	67.5%	3,851	57.2%	38.6%
Clay	7,155	5,540	77.4%	5,434	98.1%	3,787	69.7%	68.4%
Cleveland	84,714	63,940	75.5%	38,984	61.0%	24,181	62.0%	37.8%
Columbus	49,587	35,986	72.6%	28,584	79.4%	16,330	57.1%	45.4%
Craven	81,613	59,570	73.0%	33,687	56.6%	20,071	59.6%	33.7%
Cumberland	274,566	197,792	72.0%	87,376	44.2%	50,399	57.7%	25.5%
Currituck	13,736	10,242	74.6%	6,374	62.2%	3,709	58.2%	36.2%
Dare	22,746	17,657	77.6%	12,304	69.7%	7,888	64.1%	44.7%
Davidson	126,677	96,357	76.1%	60,866	63.2%	37,946	62.3%	39.4%
Davie	27,859	21,333	76.6%	14,983	70.2%	10,263	68.5%	48.1%
Duplin	39,995	29,441	73.6%	19,619	66.6%	11,898	60.6%	40.4%
Durham	181,835	140,425	77.2%	103,502	73.7%	64,984	62.8%	46.3%
Edgecombe	56,558	40,539	71.7%	29,406	72.5%	18,619	63.3%	45.9%
Forsyth	265,878	205,470	77.3%	143,015	69.6%	89,580	62.6%	43.6%
Franklin	36,414	27,577	75.7%	17,681	64.1%	11,811	66.8%	42.8%
Gaston	175,093	130,910	74.8%	76,748	58.6%	46,797	61.0%	35.7%
Gates	9,305	6,932	74.5%	5,066	73.1%	2,790	55.1%	40.2%
Graham	7,196	5,499	76.4%	5,593	101.7%	3,610	64.5%	65.6%
Granville	38,345	29,108	75.9%	16,335	56.1%	10,709	65.6%	36.8%
Greene	15,384	11,391	74.0%	7,572	66.5%	4,965	65.6%	43.6%
Guilford	347,420	269,703	77.6%	199,856	74.1%	118,169	59.1%	43.8%
Halifax	55,516	40,191	72.4%	25,959	64.6%	15,152	58.4%	37.7%
Harnett	67,822	50,536	74.5%	25,550	50.6%	16,616	65.0%	32.9%
Haywood	46,942	37,196	79.2%	27,153	73.0%	15,555	57.3%	41.8%
Henderson	69,285	54,708	79.0%	39,914	73.0%	24,016	60.2%	43.9%
Hertford	22,523	16,416	72.9%	13,462	82.0%	7,007	52.1%	42.7%
Hoke	22,856	15,878	69.5%	8,554	53.9%	5,329	62.3%	33.6%
Hyde	5,411	4,052	74.9%	3,226	79.6%	1,795	55.6%	44.3%
Iredell	92,931	70,496	75.9%	47,320	67.1%	29,671	62.7%	42.1%
Jackson	26,846	21,434	79.8%	15,495	72.3%	8,822	56.9%	41.2%
Johnston	81,306	61,203	75.3%	37,820	61.8%	24,040	63.6%	39.3%

County	Total Population	Voting Age Population	Number of Voting Age as % of Total	Number of Registered Voters	Registered Voters as % of Eligible	Votes Cast	Voters as % of those Registered	Voters as % of those Eligible
Jones	9,414	6,911	73.4%	5,172	74.8%	3,377	65.3%	48.9%
Lee	41,374	30,618	74.0%	18,588	60.7%	10,908	58.7%	35.6%
Lenoir	57,274	42,389	74.0%	26,428	62.3%	16,167	61.2%	38.1%
Lincoln	50,319	37,809	75.1%	27,361	72.4%	18,222	66.6%	48.2%
Macon	23,499	18,834	80.1%	14,481	76.9%	8,712	60.2%	46.3%
Madison	16,953	13,256	78.2%	10,912	82.3%	7,464	68.4%	56.3%
Martin	25,078	18,384	73.3%	11,774	64.0%	7,095	60.3%	38.6%
McDowell	35,681	27,153	76.1%	17,804	65.6%	10,255	57.6%	37.8%
Mecklenburg	511,433	387,980	75.9%	281,392	72.5%	179,086	63.6%	46.2%
Mitchell	14,433	11,324	78.5%	10,284	90.8%	5,482	53.3%	48.4%
Montgomery	23,346	17,325	74.2%	12,375	71.4%	7,543	61.0%	43.5%
Moore	59,013	45,677	77.4%	32,377	70.9%	22,151	68.4%	48.5%
Nash	76,677	57,107	74.5%	36,646	64.2%	23,192	63.3%	40.6%
New Hanover	120,284	92,923	77.3%	60,644	65.3%	35,814	59.1%	38.5%
Northampton	20,798	15,595	75.0%	12,624	80.9%	7,547	59.8%	48.4%
Onslow	149,838	113,534	75.8%	31,734	28.0%	19,256	60.7%	17.0%
Orange	93,851	76,104	81.1%	57,458	75.5%	37,772	65.7%	49.6%
Pamlico	11,372	8,662	76.2%	6,521	75.3%	4,468	68.5%	51.6%
Pasquotank	31,298	22,829	72.9%	13,526	59.2%	7,602	56.2%	33.3%
Pender	28,855	21,742	75.3%	14,752	67.9%	9,355	63.4%	43.0%
Perquimans	10,447	7,875	75.4%	5,365	68.1%	3,066	57.1%	38.9%
Person	30,180	22,761	75.4%	13,323	58.5%	8,571	64.3%	37.7%
Pitt	107,924	81,820	75.8%	52,188	63.8%	31,592	60.5%	38.6%
Polk	14,416	11,623	80.6%	9,737	83.8%	5,466	56.1%	47.0%
Randolph	106,546	80,829	75.9%	50,585	62.6%	30,576	60.4%	37.8%
Richmond	44,518	32,745	73.6%	21,349	65.2%	12,726	59.6%	38.9%
Robeson	105,179	72,903	69.3%	53,874	73.9%	26,543	49.3%	36.4%
Rockingham	86,064	65,632	76.3%	40,138	61.2%	23,652	58.9%	36.0%
Rowan	110,605	84,409	76.3%	52,647	62.4%	32,470	61.7%	38.5%
Rutherford	56,918	43,037	75.6%	27,029	62.8%	16,603	61.4%	38.6%
Sampson	47,297	34,852	73.7%	26,156	75.0%	17,493	66.9%	50.2%
Scotland	33,754	23,823	70.6%	15,288	64.2%	6,654	43.5%	27.9%
Stanly	51,765	39,064	75.5%	26,752	68.5%	18,199	68.0%	46.6%
Stokes	37,223	28,146	75.6%	21,468	76.3%	14,044	65.4%	49.9%
Surry	61,704	47,583	77.1%	30,083	63.2%	17,662	58.7%	37.1%
Swain	11,268	8,413	74.7%	8,010	95.2%	3,722	46.5%	44.2%
Transylvania	25,520	19,948	78.2%	16,293	81.7%	10,476	64.3%	52.5%
Tyrrell	3,856	2,792	72.4%	2,140	76.6%	1,321	61.7%	47.3%
Union	84,211	61,201	72.7%	39,926	65.2%	24,925	62.4%	40.7%
Vance	38,892	28,497	73.3%	18,588	65.2%	11,322	60.9%	39.7%
Wake	423,380	325,565	76.9%	231,053	71.0%	152,018	65.8%	46.7%
Warren	17,265	12,916	74.8%	10,385	80.4%	6,642	64.0%	51.4%
Washington	13,997	10,116	72.3%	7,514	74.3%	4,242	56.5%	41.9%
Watauga	36,952	30,630	82.9%	24,818	81.0%	14,871	59.9%	48.6%
Wayne	104,666	77,296	73.9%	38,592	49.9%	24,757	64.2%	32.0%
Wilkes	59,393	45,423	76.5%	35,371	77.9%	20,201	57.1%	44.5%
Wilson	66,061	48,833	73.9%	31,722	65.0%	18,895	59.6%	38.7%
Yadkin	30,488	23,648	77.6%	15,679	66.3%	9,855	62.9%	41.7%
Yancey	15,419	11,985	77.7%	11,604	96.8%	8,163	70.4%	68.1%
TOTAL	6,628,637	5,022,488	75.8%	3,347,635	66.7%	2,069,585	61.8%	41.2%

Sources: Population figures from 1990 census; registration and voting figures from certification by the State Board of Elections.

Prepared by David Tomberlin, North Carolina Center intern

—SECTION 1, 15TH AMENDMENT, U.S. CONSTITUTION,
RATIFIED 1870, AND APPROVED BY NORTH CAROLINA IN 1869

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Observer.¹³ Considering that until well into the 1960s many eligible blacks felt discouraged from registering to vote, the 1990 registration figure was a significant gain. *The Observer* analysis found that the black registration figure of 63 percent is nearing the 68.6 percent rate for white voters and the statewide registration figure of 66.5 percent. Interestingly, *The Observer* attributed the increase to "the coming of age of a new generation of black Americans who don't know firsthand of the barriers against black registration that existed before the mid-1960s."

Voter education efforts included allowing public libraries to register voters and extending voter registration to local drivers' license bureaus. When the state first experimented with using library employees as special voter registrars, Adams was a member of the Wake County Public Library board of directors. He recalls that the project began slowly and remained optional statewide until 1983, when it was made mandatory for all public libraries in the state.¹⁴ "That was the most significant thing we ever did [in voter registration improvements]," Adams says. "At one time, two-thirds of the new Wake County voters were registered in the libraries." Libraries now account for a healthy number of new registrations each year, but not as many as might be possible. For instance,

it's possible to register at many libraries at any time, but libraries in some counties require new registrants to make an appointment to register first, thus erecting a barrier to registration in a program that is meant to reduce barriers.

Another big boost to voter registration came in 1983 with the system allowing persons to register to vote at driver's license bureaus and at the Division of Motor Vehicles (DMV) in the Department of Transportation.¹⁵ While there were just 100 local Boards of Elections (one for each county), there are far more drivers' license bureaus that essentially collect the same information as needed for registration—name, address, age, and the like. But when the license bureau program was first adopted, motor vehicle workers weren't enthusiastic about it, and the resulting new registration didn't make much of a dent.

"We were getting anywhere from 60 to 100 new registrations per month," recalls Brock. But after a number of complaints were filed with the State Board of Elections and with the Office of the Governor, the General Assembly provided more funds to help with the paperwork burden. Since then, new "motor-voter" registrations have ballooned. "The greatest single producer of new registrations now is DMV," notes Brock. In the second and third quarters of 1990, when voter

George Gilbert, elections director in Guilford County, uses computer terminal to look up voting of college students in Guilford. The county's system can recall which dormitory room residents at A&T State University were registered and which ones voted in the 1990 election.



Jack Betts

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ELECTION:

*From the Latin e for
"out" and lectus for
"picked," producing the
term translated as
"picked out."*

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interest was just beginning to warm up for the Helms-Gantt race, motor-voter registration shot up dramatically—10,162 in March; 5,593 in April; 6,043 in May; 3,161 in June; 7,713 in July; and 5,281 in August.

These huge motor-voter gains came despite the fact that registration at the DMV offices isn't for everyone—literally. In fact, you have to have other business with DMV—a driver's license exam, or renewal, or change of address, or auto registration—or you cannot register to vote at DMV. Such requirements draw snorts of derision from elections officials who think DMV makes it too hard to register. "That'd be like the library registrar saying that you've gotta take out a book first before you can register to vote," says William B.A. Culp, Jr., the Mecklenburg elections supervisor. Does that say the state is ambivalent about voter registration—that it wants to make voter registration easier, but not that much easier? "It says the right hand doesn't know what the left hand is doing," says Culp.

Had the U.S. Senate approved legislation that the House had passed in 1990, things would be different in North Carolina and every other state. That bill would have created a national voter registration procedure for federal elections—presidential, congressional, and U.S. Senate races—and would have brought a high degree of uniformity to state election procedures.¹⁶ If successful, that bill would have:

- required each state to offer voter registration services as part of any motor vehicle driver's license application used by that state;

- required states to permit voter registration by mail—often called postcard registration—if the state requires voters to register (only one state, North Dakota, has no registration requirement);

- required states to designate certain public

agencies, including libraries, schools, city and local offices, social services and unemployment agencies, fishing and hunting permit offices, and other locations as voter-registration sites;

- allowed citizens whose registration status was in doubt to cast a vote anyway, and that vote would be kept separate and counted only if the citizen could prove within 10 days that he or she had a valid registration; and

- prohibited the purging of voters' names from registration lists just because they had not voted in recent elections.

These features would have meant some changes in North Carolina: refined the state's motor-voter process, extended it to other public agencies, and altered the practice of purging voters from the rolls when they don't vote for four years. Under current state law, those who do not vote in any election during a four-year period may be eliminated from registration rolls.¹⁷ The theory for this purging is that voters who don't participate in two consecutive presidential elections, or in elections between presidential contests, may well have died, moved away, or otherwise become ineligible to vote.

And because there always is pressure from interest groups to keep voter registration rolls up-to-date by removing the names of those who are dead or have moved elsewhere, purging for not voting probably removes the names of many voters who are no longer eligible to vote in that county. But critics also say that purging for not voting is punitive and discourages from voting a number of citizens who may not have been motivated to go to the polls for some time but who still retain interest in voting. Thus, an effort to keep rolls current can also be an obstacle to voting. "Many people want to stay registered, but they don't vote," notes state elections director Brock, "and I think people have an equal right not to vote."

The proposed federal legislation was a recognition that instead of making it difficult for citizens to register and vote, government should be working to make it easier to register and to vote. Yet, too many obstacles to voting persist, such as having only one registration site in small, rural counties, or holding office hours only during the week, or the like. "They all underscore what I see as an unmistakable flaw in our voting system: they all tend to discourage people from voting," says state Rep. Joe Mavretic (D-Edgecombe), former speaker of the House. "That's not what we need in a time of declining voter turnout and slack voter

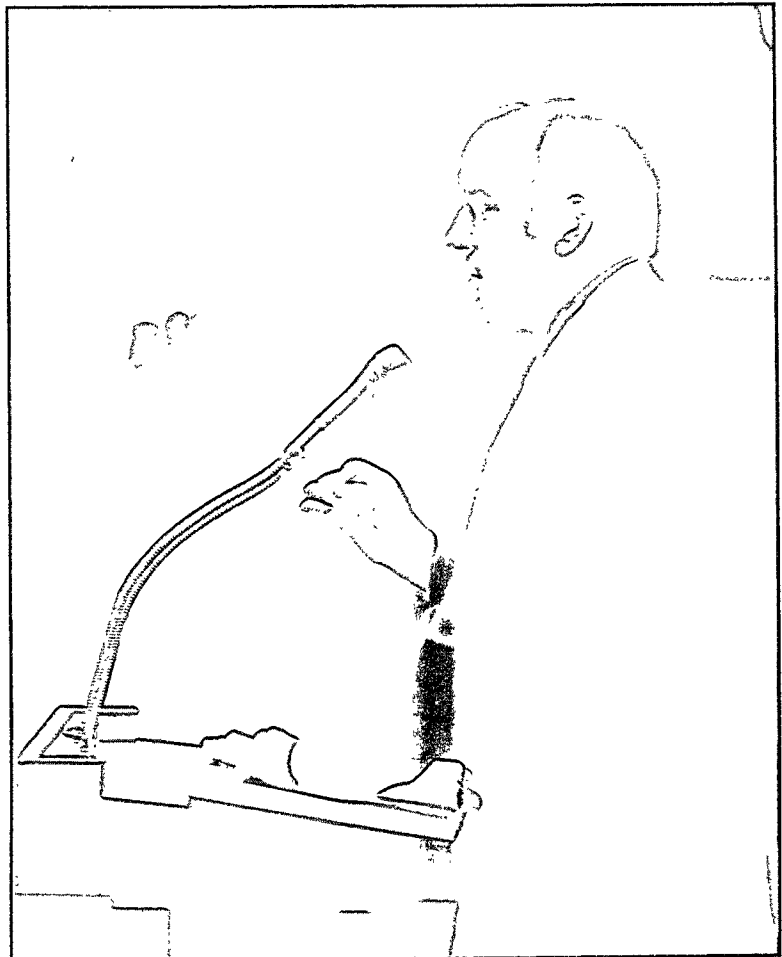
registration.”¹⁸ Many of those barriers originally were erected not only to keep blacks from voting, but also to cut down on voter fraud. But that’s not a statewide problem, points out Al Adams. “I don’t think in the computer age that we’re going to have much fraud,” says Adams. “There are some mountain counties with some fraud in their past, but the rest of the state has been relatively free of election fraud.”

Not everyone believes that the state is solely responsible for increasing election participation. What’s needed, they say, is more motivation to prompt citizens to register and to vote. The list of these motivators generally includes better candidates, better issues, better press coverage¹⁹ of substantial issues rather than the horse-race aspects of the campaign, and more of a sense of civic duty and responsibility. Hot local issues can help with turnout, too. “The greatest motivator [of voter turnout] in North Carolina is liquor elections and bond issues, particularly school bond issues,” says Brock.

Improving the Registration Process

But beyond such notions as outside motivating factors, there are several key areas in which political activists and elections officials say the registration process could be improved to help build voter interest and stimulate voter turnout. These include:

1. *Mail Registration.* Twenty-six states allow for postcard registration by voters, and if state Rep. H.M. “Mickey” Michaux (D-Durham) has his way, North Carolina will join the list.²⁰ For years, the state has avoided postcard registration because of the possibility of voter fraud—that those attempting to illegally influence elections would try to register in more than one precinct or county. But state officials increasingly are taking the view that the problem is not people trying to defraud the state, but too few people participating. “Over the years, we’ve had very few problems [with voter fraud],” says Brock, “and where it’s been, it’s been in the mountains.” Adds Guilford



Former State Board of Elections Chairman Robert Hunter of Greensboro makes point at state board hearing.

Jack Betts

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On postcard registration: "If Alex Brock says it'll work, it'll work."

—FORMER STATE REP. AL ADAMS
(D-WAKE)

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County's George Gilbert, "I have yet to see anything that is a direct attempt at voter fraud."

While Brock once opposed postcard registration, he now believes it is likely to come to North Carolina and calls its purpose—to increase registration and voter participation—"noble." It is, he says, "an idea whose time has come." Still, he worries about the potential for abuse. "There is an area for potential fraud, in that you could register in six or seven counties, unless you had a central registry."

A central statewide registry would in fact help state and local officials not only cut out any attempts at fraud, but also facilitate the updating of voting lists. Such a list was approved by the 1987 General Assembly,²¹ but problems developed in the data collection process because of the "lack of a centralized and uniform [computer] system for registering voters in North Carolina," says John L. Cheney Jr., former director of publications for the Department of the Secretary of State, which was given the job of creating the list. Cheney thought the project was a success because he anticipated cooperation from only about 75 percent of the counties, but 88 of the state's 100 counties joined the master file and their data represented about 84 percent of registered voters.²² Brock, meanwhile, objects to the characterization of the state's voter registration process as not being uniform. "That's the one damned uniform system we've got," he argues.

Cheney made recommendations for changes and improvements that would make the file more complete and thus indispensable to county election boards, but the General Assembly did not provide the needed funding for the file to be continued, although its authorization remains on the books. In any case, a number of election officials expect postcard registration to become a reality before long. "It's working well in other states, and there's no reason why North Carolina can't have a mail-in registration system," adds Culp.

Some advocates would take registration by

mail one step further, and provide for regular voting by mail. In a number of states, mail voting has been tried as an experiment, and the results have been encouraging because it allows for improved participation rates, lower election costs, and increased integrity of the electoral process. At least seven states have experimented with all-mail balloting in local elections.²³

2. *Expanded Motor-Voter Registration and Agency Registration.* Twenty-three states have laws that provide for some form of motor-voter registration (see Table 3) and a 24th (Washington) will offer it in 1992. Also, 13 states provide voter registration services in other public agencies to citizens who apply for public assistance or have other business with the state. North Carolina's motor-voter system has become a major source of new registrations and has worked much better in the last two years than in its initial stages, but supporters of the motor-voter system say it can be improved further. Michaux, who chairs the House Committee on Courts, Justice, Constitutional Amendments and Referenda, the committee that handles election legislation in the House, is sponsoring legislation to expand the program by requiring that the application for a driver's license or vehicle license renewal include an application for voter registration.²⁴

Local election officials say the program needs to be strengthened by providing for better training of Division of Motor Vehicle workers who must register the voters. "They do a pretty good job of getting voters' phone numbers," quips Guilford County's Gilbert, but sometimes fail to get the correct information needed for voter registration. "The biggest problem we have is that we don't have any direct interaction with the DMV people." But better coordination with DMV, combined with the benefits of a statewide computerized voter registration file, could make motor-voter registration work much better in North Carolina. Other

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*On same-day registration and voting:
"I plead guilty to being a mossback."*

—ALEX K. BROCK,
STATE ELECTIONS DIRECTOR

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Department of Cultural Resources

Rural voting in North Carolina, May 27, 1950.

problems with motor-voter registration, says Culp, are that an applicant can't register at a DMV office unless he or she is seeking a driver's license or vehicle registration, and the fact that DMV sometimes imposes an earlier registration deadline than does the state. "That's not so good for the voter who goes in to DMV on the deadline and he's told, 'No, you can't,'" says Culp.

3. *Same Day Registration and Voting.* Three states—Maine, Minnesota, and Wisconsin—allow for same-day voter registration and voting, and North Dakota has no registration requirements at all. In the 46 other states, a voter must be on the registration list well in advance—at least 10 days in most cases, 21 days (excluding Saturdays and Sundays) prior to the election in North Carolina, and longer in some states. But there is an increasing push for same-day registration and voting to accommodate those who want to vote but who don't know the registration law, or who didn't get interested in an election until the last week, or who just moved into the state or community. Michaux

has sponsored legislation to provide this service, and notes that the states which allow same-day registration and voting have encountered little if any fraud.²⁵ Under the same-day system, voters could apply on election day to register and vote immediately. They would provide identification by a driver's license, or bring a registered voter to vouch for them.

Same-day registration and voting is possible with current technology, but elections officials are wary of the administrative problems the same-day system would pose. "We'd probably have 4 percent of the population come in on election day to register and vote in 1992," surmises Culp. That wouldn't be so bad. But word would get around that voters didn't have to register in advance, and by 1994, it would be 10 percent of the voting population, he guessed. The next time it might be 15 percent, and 25 percent the time after. "Probably in a decade, half of your registrations would occur on election day. Lines would be a lot longer

—continued on page 40

Table 4. Registration, Absentee Voting, and Voting Procedures by State

State	(1) May All Voters Register By Mail?	(2) How Many Days Before Election Must Voter Register?	(3) Who May Register Absentee?	(4) Who May Vote Absentee?	(5) When Is a Voter's Registration Canceled for Failure to Vote?	(6) Motor- Voter Registration Law?	(7) Public Agency Registration? (at Other Public Offices)
Alabama	N	10	m/o	b,d,s,t	no automatic cancellation	Y	Y
Alaska	Y	30	all	registered voters	after 2 years	N	N
Arizona	N	29	anyone outside state, d	b,d,e,r,s,t, more than 15 miles from polls, age 65 or over	after 1 general election	Y	N
Arkansas	N	20	b,d,s,t	b,d,s,t	after 4 years	N	N
California	Y	29	all	all registered voters	no automatic cancellation, but address confirmation for general election nonvoters	N	N
Colorado	N	25	d,t	b,d,e,r,s,t, elderly	after 2 general elections	Y	N
Connecticut	Y	1 for primary; 21 for general	all	d,r,t	no automatic cancellation	Y	Y
Delaware	Y	21 for primary; 3rd Sat. in Oct. for general	all	b,d,e,r,s,t, absent on vacation	after four years	N	N
Florida	N	30	b,d,e,r,s,t	b,d,e,r,s,t	after 2 years	N	N
Georgia	N	30	anyone outside precinct	b,d,e,r,s,t	after 3 years	N	N
Hawaii	Y	30	anyone unable to register in person	b,d,r,s,t, more than 10 miles from polls	after one primary and one general election	N	N
Idaho	N	10 with county clerk; 17 with precinct registrar	anyone out of country	b,d,e,s,t	after 4 years	N	N
Illinois	N	28	m/o	b,d,e,r,s,t	after 4 years	Y	N
Indiana	N	29	b,d,s,t	b,d,e,s,t	after 4 years	N	N
Iowa	Y	10	all	anyone absent	after 4 years	Y	Y
Kansas	Y	15	all	all registered voters	after 2 general elections	N	N
Kentucky	Y	30	all	b,d,e,s,t	after 4 years	N	N
Louisiana	N	24	d	d,e,s,t	after 4 years	Y	N
Maine	Y	on election day	all	b,d,e,r,s,t	no automatic cancellation	Y	N
Maryland	Y	29	all	anyone absent, d	after 5 years	N	Y
Massachusetts	N	28	d	b,d,e,r,s,t	after 1 year if voter changes address	N	N
Michigan	N	30	d,t	b,d,t	after 5 years	Y	N
Minnesota	Y	21 days or on election day	all	b,d,e,r,s,t	after 4 years	Y	Y

	KEY
The following abbreviations are used for columns 3 and 4:	
b = absent on business	
d = disabled or ill, temporarily or permanently	
e = not absent, but prevented by employment from voting at polling place	
m/o = no absentee registration except for military and overseas citizens as required by federal law	
r = absent for religious reasons	
s = students	
t = temporarily out of jurisdiction for any reason	

Source: League of Women Voters; Committee for the Study of the American Electorate; Human Service

—19TH AMENDMENT, U.S. CONSTITUTION
RATIFIED 1920, AND APPROVED BY NORTH CAROLINA IN 1971

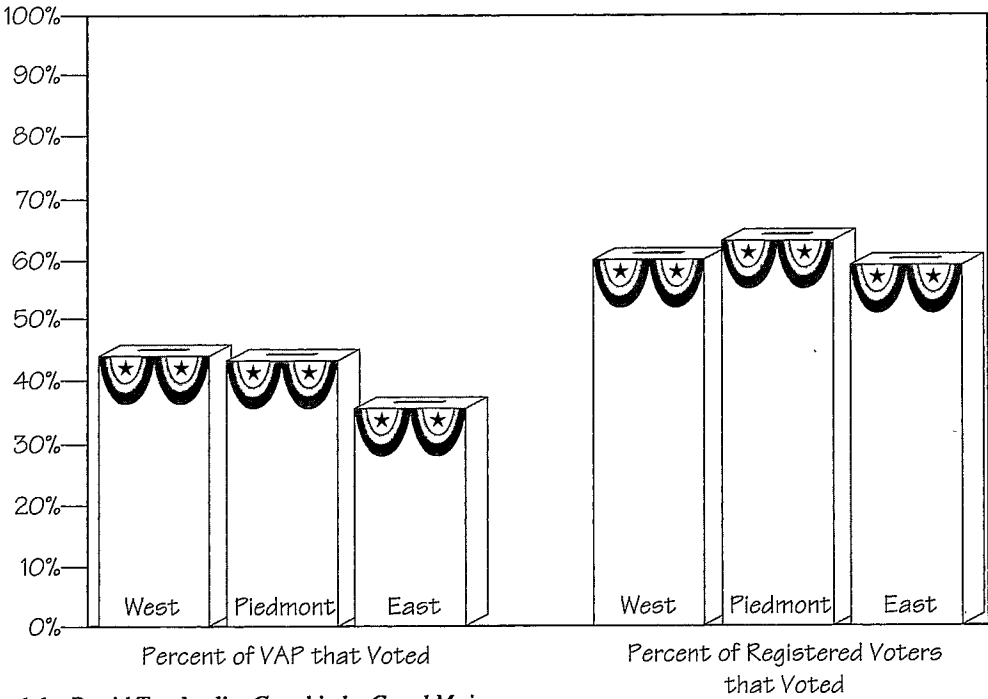
ranging from as short a period as two years without voting to as long as 10 years. The practice of purging voters for not voting is part of an effort to keep voter lists updated and free of deadwood—and those who do not vote, it is assumed, may no longer be eligible for a variety of reasons, and thus should be off the registration lists. But voting advocates say that is a punitive policy that tends to hold down turnout. The National Association of Secretaries of State has recommended that not voting should not be a cause for purging without notification to the voter involved so that the voter can reaffirm registration and remain eligible to vote.²⁷ That's essentially the system that North Carolina uses, but the National Association of Secretaries of State suggests that a better method is to maintain in a separate file the names of voters who do not respond to purge notices, and allow those voters to vote if on election day they can show they are still otherwise eligible. The association noted that "the purge has evolved into a method of removing names from the registration lists instead of keeping the lists up to date. The model system would *not* purge for nonvoting, as

there should be no penalty for people who are registered but who *choose* not to vote [emphasis in the original]."

6. *Move Registration Deadlines Closer to Elections.* Under current North Carolina law, new voters must register for a general election at least 21 working days before the election. Former legislator Al Adams and Secretary of State Rufus Edmisten—who between them have run for public office a dozen times or more and won most of them—agree on at least one thing: that deadline is too far in advance of the election. "It's almost a month now," says Adams. "Changing it to up to a week before the election would help [increase voter registration and turnout] because people get interested [in voting] only in the last week or so." Adds Edmisten, "I believe very strongly we should be removing some of these barriers to registration," including changing the registration deadline to seven days prior to the election. "We make it a hassle for them to vote."

However, election officials say that a seven-day deadline would make it nearly impossible during presidential elections to prepare the voter

Figure 2. North Carolina Voting Patterns by Region, 1990



Research by David Tomberlin, Graphic by Carol Majors

Table 5. Voting Methods by County in North Carolina

Optical Scanner (36)	Mechanical Device (21)	Punch Card (18)	Paper Ballot (17)	Electronic Device (8)
Alleghany	Alamance	Buncombe	Alexander	Bladen
Ashe	Bertie	Cabarrus	Anson	Franklin
Avery	Buncombe	Carteret	Caswell	Guilford
Beaufort	Cherokee	Columbus	Clay	Lenoir
Brunswick	Chowan	Dare	Davie	Macon
Burke	Craven	Davidson	Gates	Moore
Caldwell	Durham	Duplin	Graham	Pitt
Camden	Hertford	Forsyth	Greene	Wilson
Catawba	Jackson	McDowell	Hoke	
Chatham	Lee	Mitchell	Hyde	
Cleveland	Madison	Onslow	Jones	
Cumberland	Martin	Rowan	Montgomery	
Currituck	Mecklenburg	Rutherford	Perquimans	
Edgecombe	Northampton	Sampson	Tyrrell	
Franklin	Pasquotank	Stanly	Washington	
Gaston	Randolph	Vance	Yadkin	
Granville	Scotland	Watauga	Yancey	
Halifax	Surry	Wilkes		
Harnett	Swain			
Haywood	Wake			
Henderson	Wayne			
Iredell				
Johnston				
Lincoln				
Nash				
New Hanover				
Orange				
Pamlico				
Pender				
Richmond				
Robeson				
Rockingham				
Stokes				
Transylvania				
Union				
Warren				

Note: Every county uses paper ballots for curbside voting of the disabled and as a back-up system.

Source: State Board of Elections.

registration books that are used to check voters in as they arrive at the polls. In presidential years, local boards would need more staff and more resources to meet the seven-day deadline. Ten working days, says Culp, would be a workable deadline for presidential years, and a seven-working-day deadline for off-year elections would be possible.

Improving the Voting Process

North Carolina not only could make improvements in its registration process, but also could consider ways to avoid problems that cropped up during the 1990 elections that made it more difficult to vote, cast doubt on the validity of some elections, and generally discouraged the public from voting.

Consider what happened in the 1990 election:

■ In 1990, Jack Brickey of Chapel Hill got his license renewed at a DMV office, and while there, the clerk asked him if he'd like to register to vote. Brickey did, and went to the polls on Nov. 6, 1990, expecting to cast his vote. Bad news. The polling place had no record of his registration, because somewhere between the DMV, the State Board of Elections, and the Orange County Board of Elections, Brickey's voter registration papers got lost. "There is absolutely no way to avoid some slip-ups," Brock told *The News and Observer*. "We are trying to reduce them to a minimum."²⁸

■ Thousands of North Carolina voters received postcards from the state Republican Party telling them it was illegal to vote if they had moved in the last 30 days and warning them they could go to jail for up to five years if they gave incorrect information to precinct officials. The state GOP mailed 150,000 of these postcards, and most of them went to heavily-black, heavily Democratic areas. In fact, the cards seemed targeted directly at black voters, because in some biracial households, the black person received one of the cards, while the white person did not.

In addition, the Republican Party, professing to be motivated solely by concerns about fraud and ballot security, also sent a warning letter to

precinct officials with the warning about voters giving incorrect information, and said the party would have observers at precincts "to relay any reports of fraudulent activities to the proper authorities."²⁹

The only trouble was, the information was incorrect and misleading. State law provides that a voter who moved from his or her precinct less than 30 days previously can still vote in that precinct³⁰—and those who moved more than 30 days prior to an election can go back to that precinct, get a transfer certificate, and still vote.³¹ The GOP postcard plan outraged Democrats, who thought Republicans were trying to intimidate black voters and discourage them from voting, thus costing

Harvey Gantt votes in the race against Sen. Jesse Helms.

The U.S. Justice Department, which keeps tabs on election practices in North Carolina because 40 counties in the state are subject to the Voting Rights Act, was not amused. It sent civil rights division staff members and directed FBI agents to investigate. The State Board of Elections issued a rare

press release that advised voters what the law actually requires in hopes of clearing up the confusion, and the GOP agreed not to use any of the postcards returned as undeliverable to challenge voters at the polls.

Former State Democratic Chairman Lawrence Davis says the Republican actions were "not proper, not ethical, and in our estimation illegal under federal law" because the national Republican Party already was under court order not to use similar practices. Jack Hawke, the chairman of the N.C. Republican Party, says the GOP will not use the same tactic in the future, but says Republicans still are concerned about ballot security because they received so many postcards back that were undeliverable to voters who were on the registration books. "We got returned just buckets of cards," Hawke says, and adds that he hoped both parties would closely watch each other in future elections. "Where you've got 'em watching each other, you get a better election," says Hawke.

Sen. Herbert Hyde (D-Buncombe), who succeeded Davis as chairman of the N.C. Democratic

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

How does a county get a new elections system? "The same way Durham and Wake County are going to get them. You have your election fall apart one time and you get a new system."

—GEORGE GILBERT, SUPERVISOR OF ELECTIONS, GUILFORD COUNTY

★ ★ ★ ★ ★ ★ ★ ★ ★ ★



Jack Betts

Guilford County Elections Supervisor George Gilbert, with one of the county's electronic voting machines. The new machines cost about \$3,000 each, but record and count votes instantly.

Party, is sponsoring legislation that would make it a felony to use a similar postcard warning procedure in the future. The bill also would allow polls to stay open until 9:30 when there are long lines or breakdowns in future elections, and reduce the deadline for registering to 15 calendar days before an election rather than the 21-day deadline that now exists.³²

■ Long lines at many precincts throughout the state made voting difficult. In Guilford County, election officials provided only one book of registered names for some precincts, a practice that created long check-in lines, while other precincts got two books—making check-in lines shorter and the voting process quicker. The same thing happened in Boone in Watauga County, despite advance warning that voting could be heavier-than-normal when there was a wave of new registrations from Appalachian State University students. The wait to vote was 90 minutes in some polling places. Voters grumbled constantly, but election officials say it wasn't that bad. "The average line

was 30 minutes," says Gilbert—a much shorter wait than in 1988. Still, many voters thought a 30-minute wait was too long.

In North Raleigh, elections officials had wisely provided at least two registration books at most precincts, so the check-in line was short. But there still weren't enough voting machines, and the wait to vote was an hour in several precincts, such as the Hudson Memorial Presbyterian Church polling place. In Orange County, election officials failed to get enough paper ballots, which are used in the county's optical-scanner system, to about one-fourth of the precincts in time for many voters to vote. Some gave up and went home without voting.

In Durham County, the problems were worst of all. Durham uses lever-operated machines—similar to ones used in Wake County—but unbeknownst to election officials, they were not programmed properly. Because of the unusually lengthy N.C. ballot, the machines were overloaded and equipped with auxiliary bands to add to the

machines' regular capacity. On the 1990 ballot were 39 statewide contests—including U.S. Senate, Congress, and N.C. Superior Court contests, plus N.C. House and Senate elections, District Court races, and local elections including county commissioners and soil and water conservation supervisors. The overtaxed machines began breaking down almost as quickly as election day began, and before it was over, machines in at least 27 precincts had malfunctioned. Votes went unrecorded when machines jammed, levers could not be operated for certain candidates, some machines wouldn't permit straight-party voting, and others automatically set voting levers for some candidates when the voting booth curtains were closed.

The results were devastating to voter confidence in the election, and local officials felt it most of all. Speaking about the troubles in Guilford County, Gilbert was not happy with the reports of long lines and was even less happy with the intervention of the judge. "It raised questions about the legitimacy of the election," Gilbert said. Jo Overman, chair of the Durham County Board of Elections, told *The Independent*, "The counts are not right. The counts are questionable."³³

The long lines and slow voting focus attention on whether there should be a statewide standard for a minimum number of voting booths per precinct, or a requirement for more than one registration book at each polling place. Under current law, only one book is required, and there is no minimum number of machines per precinct. In Guilford County, the practice is to provide an electronic machine for every 400 voters registered, with a minimum of two per precinct. Mecklenburg County uses the same minimum standard with its voting machines, but in a long-ballot election, such as 1988 and 1990, more machines

are needed. "We either get more machines, or people are going to stand in line," says Culp. Durham County used a standard of one machine for every 500 voters, and it wasn't enough. The county owns 228 machines, but it needed 669 machines if each voter in the 1990 election used the legal maximum of five minutes to record his or her vote. "We do not have enough equipment to adequately handle a major election such as the pending presidential election in 1992," the Durham County Board of Elections says.

The fact is that if there were a truly heavy turnout in a North Carolina election—say, 75 percent or more of registered voters, let alone the voting-age population—most counties couldn't handle the crush. Mecklenburg County has 640 voting machines. If every voter uses the legal maximum of five minutes, then Mecklenburg can vote only 99,840 voters on its machines—a little more than one-third of its registered voters of 281,392, a bit more than a fourth of its voting-age population of 387,980. Most voters don't use the legal maximum, though. If a voter can cycle through a machine in two minutes, and if election officials can reset the machine and get a new voter in the booth within another 30 seconds—a tough job for most voters—then the county can vote about 200,000 people in a 13-hour voting day. But that would push the machines and election personnel to the limit, and still would accommodate barely 71 percent of the registered voters—or about 52 percent of the voting age population. *Clearly, North Carolina is not prepared for heavy voter turnout.*

■ As if the long lines and malfunctioning machines weren't enough, there was even more controversy when Democrats in Guilford and Durham Counties went to court late on the afternoon of election day and got court orders requiring

★	<i>The right of citizens of the United States to vote in any primary or</i>	★
★	<i>other election for President or Vice President, for electors for</i>	★
★	<i>President or Vice President, or for Senator or Representative in</i>	★
★	<i>Congress, shall not be denied or abridged by the United States or any</i>	★
★	<i>State by reason of failure to pay any poll tax or other tax.</i>	★
★		★
★	—SECTION 1, 24TH AMENDMENT, U.S. CONSTITUTION,	★
★	RATIFIED 1964, BUT NEVER APPROVED BY NORTH CAROLINA	★

the polls in those counties to stay open later than normal to accommodate voters who could not get in earlier. Under existing state law, any voter standing in line at the polling place at the normal closing hour of 7:30 p.m. will get to vote, even if the line is a mile long. But no one else may join the line after 7:30 p.m.³⁴ The same law allows precincts that use voting machines to stay open until 8:30 p.m.

In Guilford County, Superior Court Judge Joe John signed an order—after 7 p.m.—to keep polls open an extra hour, and in Durham County, Judge Orlando Hudson—like John, a Democrat—ordered the polls to stay open until 10 p.m. As it turned

out, some voters in Durham did not vote until after midnight, and Republicans were irate at what they saw as an unusual attempt to use the courts to influence election results. They were especially concerned about the effect of the extra voting hours on Republican Judge I. Beverly Lake Jr.'s challenge to Democratic Supreme Court Judge John Webb. Webb, who won big margins in Guilford and Orange County, took the election but Lake argued that he would have won if the votes cast in Guilford and Durham counties were thrown out.

State Elections Director Alex K. Brock was upset with the court orders, too, though from another perspective. "I've been here 25 years, and

Table 6. Ranking of States Based on Voting Age Population (VAP) Turnout, 1988 Presidential Election

Rank	State	% VAP Voted 1988	Rank	State	% VAP Voted 1988
1	Minnesota	66.3	26	Alaska	52.0
2	Montana	62.4	27	Louisiana	51.3
3	Maine	62.2	28	Delaware	51.0
4	Wisconsin	62.0	29	Wyoming	50.3
5	North Dakota	61.5	30	Pennsylvania	50.1
tie	South Dakota	61.5	31	Mississippi	49.9
7	Utah	60.0	32	Maryland	49.1
8	Iowa	59.3	33	Oklahoma	48.7
9	Vermont	59.1	34	Virginia	48.2
10	Oregon	58.6	tie	Kentucky	48.2
11	Idaho	58.3	36	New York	48.1
12	Massachusetts	58.1	37	New Mexico	47.4
13	Connecticut	57.9	tie	California	47.4
14	Nebraska	56.7	39	Arkansas	47.0
15	Colorado	55.1	40	West Virginia	46.7
tie	Ohio	55.1	41	Alabama	45.8
17	Missouri	54.8	42	Arizona	45.0
tie	New Hampshire	54.8	43	Nevada	44.9
19	Washington	54.6	44	Florida	44.8
20	Kansas	54.3	45	Tennessee	44.7
21	Michigan	54.0	46	Texas	44.2
22	Illinois	53.3	47	North Carolina	43.4
tie	Indiana	53.3	48	Hawaii	43.0
24	Rhode Island	53.0	49	South Carolina	38.9
25	New Jersey	52.2	50	Georgia	38.8

Source: Committee for the Study of the American Electorate

we've never [before] had such orders," Brock told *The High Point Enterprise*. "That is a dangerous precedent. It has nothing to do with the two judges personally. It has to do with the principle. . . . If that became contagious, we'd have a time in every election."

What Could Be Done?

What steps could North Carolina take to improve the voting process? Election officials outline a number of steps that could be taken to improve the voting process and make it easier for North Carolina citizens to participate in elections. Among them are:

1. *Creating a Uniform Elections Process.* North Carolina, says Mecklenburg County Elections Supervisor William B.A. Culp, has "100 different elections systems"—one for each county. There are at least five different methods of voting (machines, paper ballots, electronic devices, punch cards, and optical scanners), and some counties have a mix of methods or two or more different brands of the same method. Stokes and Warren counties use two different kinds of optical scanner ballots, plus paper as a backup, and Durham uses mechanical devices and is experimenting with electronic devices in some precincts. And 17 counties, from Hyde in the east to Graham in the west, still rely solely on paper ballots. "When I came here, all but about 20 counties used paper ballots," says Brock. "Now less than 20 use them."

Like most states, North Carolina has a decentralized elections system. Only Hawaii and Alaska have state-run systems, though South Carolina is moving in that direction. And like most states, North Carolina uses a variety of voting methods. The counties control the election process, operating under guidance from Brock's small staff and from the five-person State Board of Elections, all of whom are appointed by the governor. The county board can choose what vote-casting system the county will use (though in truth, county commissioners control that decision through their purse strings, and the final choice must be approved by the state board); how many voting booths and registration books will be put in each precinct on election day, what size staff the election board will have and how much each will be paid. "There are election directors in this state who make less than my lowest-paid employee," notes Culp. "There are a lot of counties in this state operating on a shoestring."

What's needed, he says, "is a centralized sys-



*Mecklenburg County
Elections Supervisor
William B.A. Culp with
one of the county's 640
automatic voting
machines.*

Jack Betts



VOTE:

*From the Latin votum,
literally a "vow" or
a "wish."*



tem for operating elections in North Carolina. We need more advice from Raleigh. We need more directions from Raleigh on [policy] questions. We need more resources. We need a clear system for what to do about college students."

Says Edmisten, "There must be some standardization. This is the only state I know of with this kind of situation, and it's like the Baptist church—each county can do it its own way."

It's not that Brock hasn't tried to bring more uniformity to the state's election system. In fact, Brock says, he has proposed on four separate occasions that the state mandate a more uniform system of voting—in 1969, 1973, 1981 and 1987. He also has recommended that the state provide a sizable portion of the funding counties would need to switch to a common system—perhaps an electronic system, in which results can be totaled almost instantly and fed simultaneously to local boards and to Raleigh.

And in fact, the legislature likes the idea—but not providing the money for it, Brock says. "There's rather strong philosophical support for it [a uniform system] in the General Assembly, but the General Assembly has not been forthcoming in the funding area." Brock has proposed that the state finance half the cost of switching to a uniform system, and speculates that the state's share would be "in excess of \$30 million. We're talking about a helluva lot of money. And when you're talking about that kind of money, you've got to have a constituency demanding it," he adds. But North Carolina doesn't have a group consistently pressing for more money for elections.

Another consideration for switching to a uniform system is that even if the state were to use the same system in all 2,416 precincts, that still would not guarantee there would be no problems in voting, whether optical scanners, lever machines, or electronic devices were used. "All of them are going to give you trouble," notes Brock. The lever

machines particularly were criticized during the 1990 elections, but many election officials say that these machines will give years of reliable service if properly maintained. The problems in Durham were due to improper programming and overvoting, not the age of the machines.³⁵ And spare parts are still made for all types of machines, despite press reports that old machines must be cannibalized for parts, Brock said.

2. *Streamlining the Ballot.* North Carolina has an unusually long statewide ballot, and in certain elections the list of choices may seem endless: president and vice president, U.S. Senate, U.S. House; governor, lieutenant governor, and the other eight members of the N.C. Council of State; N.C. Supreme Court, Court of Appeals, Superior Court, and District Court judges; N.C. Senate; N.C. House; county commissioner, sheriff, clerk of court, register of deeds, bond issues, and even soil and water conservation district supervisors. Off-year elections also can feature U.S. Senate, U.S. House, the long, long list of judicial races, N.C. legislative races, and local government and school board races. Each county's ballot will be at least slightly different, but in 1990 there were 39 statewide contests on the ballot, plus the local offices in each county. While all this democracy does fulfill North Carolina's tradition of frequent elections, it may also discourage voting.

"North Carolina over-votes its voters," says Brock. "It calls too many elections," and voters have had so many choices that they don't always know which ones to choose. Brock's prescription would be to streamline the ballot—perhaps separating the gubernatorial election from the presidential because, he says, "The frivolous nature of presidential elections is having a fallout on state elections" and distracting voters from state issues.³⁶ And Brock would separate judicial elections from other elections. "If we could get all the judges off the [presidential year] ballot, that would do more to simplify voting than any one other thing," says Brock. Those judges could run during off-year elections, when the public could better judge the judges, though political experts worry that turnout for judicial races might be even slimmer. Says Mecklenburg's Culp, "Shortening the ballot would make it easier for voters to cope with elections," and the state should also consider removing Council of State races from the ballot.³⁷ "Our problem is not counting the election returns, it's the length of the ballot," adds Culp.

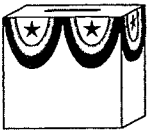
Part of the problem may be alleviated by action of the 1991 General Assembly. The legisla-

ture is considering proposals to create an appointive system for judges, and the legislature may be inclined to propose a constitutional amendment—subject to voter approval—to make appellate judgeships appointive rather than elective.³⁸ That would help streamline the ballot.

3. *Weekend or Holiday Voting.* Some election reformers have proposed that North Carolina consider voting on a weekend day, such as a Saturday or Sunday, or on a holiday, in an effort to boost turnout. The theory is that if the public did not have to work, voters would be more likely to take the time to vote. In fact, some elections have been held on weekend days—including the 1964 guber-

natorial primary and the runoff primary. But holiday voting doesn't always work as expected. With a mobile population and many outlets for leisure activities, voters may well opt for a trip to the beach or mountains rather than staying home to vote. Thus, weekend or holiday voting is rarely regarded as a practical solution—particularly since it would require a federal constitutional amendment to change the federal voting day of the second Tuesday in November for general elections. The 1973 Commission on Election and Voting Abuse in North Carolina recommended against Saturday elections, and the subject has not come up for serious debate in years.³⁹

What Can the Kids of Arizona and Costa Rica Teach Us About Voting ?



Nearly every state in the union is wrestling with how to improve voter registration and voter turnout, and many have adopted innovative programs aimed at increasing citizen participation in the electoral process. But none may be more innovative than the program some public-spirited Arizonans saw at work in the Central American country of Costa Rica, a tiny democracy without a military force, without good transportation or communications programs, but with a traditionally high voter turnout rate.

Arizona's experiment began in 1987 when three Phoenix businessmen heard about the 90-percent voter participation rate in Costa Rica. There they learned that Costa Rican children are allowed—in fact, encouraged—to go into voting booths with their parents so they can learn more about the election process. Concerned about Arizona's turnout of only 45.2 percent in the 1984 presidential election year, the trio came home to launch a pilot project in 1988 with 30,000 school pupils in

Phoenix schools. They organized a mock election, taught the children about politics and candidates and issues and the voting process, and registered them to vote in the mock election. That fall, in the 65 precincts where the Kids Voting program was in effect, nearly 7,000 children accompanied their parents to the polls, and turnout was 3 percent greater than in the rest of the county and the state.

That may not sound like a huge increase, but it is. "A 3 percent increase in voter turnout is significant," says Bruck Merrill, a professor at Arizona State University and director of the media research program at ASU's Walter Cronkite School of Journalism and Telecommunications. Translated statewide, 32,000 more voters would have participated, more than enough to make the difference in many elections. Merrill pointed out that John F. Kennedy in 1960, Richard M. Nixon in 1968, and Jimmy Carter in 1976 won the presidency by a margin of less than 3 percent. Now a group of Arizona businesses have adopted the project, with hopes of increasing statewide voter turnout by 5 percent. —Jack Betts

4. *Education and Staff Training.* What the 1990 election did more than anything else was focus attention on the way elections are run and point to problems in local board preparation for those elections. North Carolina has a decentralized elections system with a state board and 100 county boards, and the leadership of all 101 agencies changes every time there's a change of party in the governor's office. Education programs designed not only to stimulate voting, but to make voters more familiar with what's on the ballot as well, might help boost turnout and make elections run smoother. So might such innovative programs as Kids Voting, an Arizona program, modeled on one in Costa Rica, that allows children to accompany their parents into voting booths to get them used to voting and encourage more thought about elections (see page 49 for more).⁴⁰

Better staff training, and better methods of preparing for potentially high-turnout elections, could improve the elections process substantially. "The general rule of thumb is that nobody's prepared for a heavy turnout," Curtis Gans of the Committee for the Study of the American Electorate told *The News and Observer*. But the confounding thing is that the 1990 election was not all that high a turnout—about 62 percent of the registered voters, but only 41 percent of the voting-age population in North Carolina. If there were so many problems when only four of every 10 age-eligible voters went to the polls, what would happen if there really were a heavy turnout in North Carolina?

Recommendations

Based on the practices of other states and on the experience of state and local officials in operating North Carolina's elections—and in view of the current budget problems facing the N.C. General Assembly—the N.C. Center for Public Policy

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

"American youth attributes much more importance to arriving at driver's-license age than at voting age."

—MARSHALL McLUHAN

★ ★ ★ ★ ★ ★ ★ ★ ★ ★

Research outlines the following goals and mix of immediate actions and long-range actions that North Carolina should take to stimulate voter registration, increase citizen participation in regular elections, and improve the elections process:

Goal A.

The N.C. General Assembly should enact legislation to stimulate voter registration.

1. **The General Assembly should enact legislation allowing mail or postcard registration for new voters.** Twenty-six states register voters by mail, and the results in those states have been good. In the 1988 election, the top 10 states in terms of voter turnout were those with mail registration programs, and 13 of the top 15 states had such programs. North Carolina, which ranked 47th in voter turnout in 1988, could benefit from higher voter registration. The General Assembly's Fiscal Research Division estimates adding postcard registration would cost \$116,000 in the 1991-93 biennium.

2. **The N.C. General Assembly should approve appropriations to revive the Computerized Voter Registration File begun in 1987 in the Office of the Secretary of State and transfer it to the State Board of Elections.** The General Assembly should consider whether the file would work better as a part of the independent State Board of Elections, because it would assist state election officials in clearing up any questions about mail registration. State Elections Director Alex K. Brock has said a central registry would be needed to simplify administration and prevent fraud in mail registration, and the Computerized Voter Registration File would be vital to a successful program of mail registration. The computer file remains authorized in state law, but would require new appropriations to breathe life into it. The Department of Secretary of State said two years ago that it would need \$35,000 in new state funds to determine how to improve the file, and \$60,000 to provide assistance to the counties to set up the file properly.

3. **The legislature should improve the state's existing motor-voter program by making voter registration applications a part of the license and vehicle permit process (as proposed in House Bill 105).** States with motor-voter registration programs have shown good results in recent elections. In the 1988 election, two of the top three voting states in terms of voter turnout had motor-voter registration, and North Carolina's existing

—SECTION 1, 26TH AMENDMENT, U.S. CONSTITUTION
RATIFIED 1971, AND APPROVED BY NORTH CAROLINA IN 1971

of voting, and has called on the state to provide half the funding. Brock has estimated such a system would cost the state at least \$30 million and the counties an equal sum. Because of limited funds in 1991, the legislature should consider ways the state can assist counties, in financial and other ways, to switch to a uniform system over an eight-year period, so that by the general election of 2000, the state will have its first uniform system of voting since the 1940s when all 100 counties used paper ballots.

7. The state should establish voter-registration education programs, either in the Department of the Secretary of State or the State Board of Elections, to stimulate interest in registering and voting in North Carolina. Those programs should be conducted through schools, public agencies, service clubs, the media, and other avenues. The education program should include a goal of registering 90 percent of voting-age North Carolinians by the year 2000 and of increasing presidential election-year turnout to 65 percent of the voting age population. North Carolina currently has roughly 67 percent of its voting-age population registered, and about 41 percent of its voting-age population voted in 1990. The state ranked 47th in the turnout of its voting-age population in 1988, and has consistently trailed the performance of all states and of southern states in presidential election voter turnout.

8. The General Assembly should enact legislation making it easier for North Carolina citizens to vote by absentee ballot. While many states have adopted changes allowing absentee voting for nearly any reason, North Carolina should begin by making it easier to vote absentee for its elderly—those 65 and older—and for its ill or disabled citizens.

9. The General Assembly should enact legislation requiring the Legislative Research Commission to study how North Carolina's long ballot affects voting practices and consider whether taking certain state offices off the ballot, or moving them to off-year elections, would improve voter participation. This research commission should report its conclusions and recommendations to the 1993 session of the General Assembly.

10. The General Assembly should create a study commission, comprising members of the legislative, executive, and judicial branches, local elections officials, local government officials, and the general public, to study what sort of election system would be best for North

Carolina in the 21st century, and how high-technology applications might improve the voter registration and voting process. This study commission should report to the 1995 General Assembly. ☐☐

FOOTNOTES

¹For more on N.C. court decisions involving students and the right to vote, see *Hall v. Wake County Board of Elections*, 280 N.C. 600, 187 SL 2d 52 (1972); and *Lloyd v. Babb*, 296 N.C. 416, 251 SE 2d 843 (1979).

²See "Administrative Directive—Registration," issued Sept. 18, 1984, and signed by Robert W. Spearman, chairman, Alex K. Brock, executive secretary/director, James M. Wallace, counsel, and James F. Bullock, special counsel, State Board of Elections.

³Frances Fox Piven and Richard A. Cloward, *Why Americans Don't Vote*, Pantheon Books, New York, 1989 (paperback), page viii. For more information on voter registration and voting improvement, consult Cloward's organization, 100% Vote/Human SERVE, 622 W. 113th St., Rm. 410, New York, N.Y. 10025, phone (212) 854-4053.

⁴As reported in Piven and Cloward, page 5.

⁵G. Bingham Powell Jr., "American Voter Turnout in Comparative Perspective," *American Political Science Review*, Vol. 80 (1986), pp. 17-43.

⁶Cindy Simon Rosenthal, "Where Is Everybody? (Not at the Polls)," *State Legislatures* magazine, November/December 1990, page 24.

⁷*Ibid.*

⁸Piven and Cloward, page 264.

⁹U.S. Bureau of the Census, February 1984.

¹⁰For more on which groups vote and what it means, see Richard Zeiger, "Few citizens make decisions for everyone," *The California Journal*, November 1990, page 515-520.

¹¹North Carolina has had a long love affair with poll taxes and literacy tests, both of which have been used to keep blacks and poor whites from voting. The state has never ratified the 24th Amendment to the U.S. Constitution, which banned the use of poll taxes as a bar to voting, and in a separate proposal to rid the North Carolina Constitution of its literacy test requirement, the people voted overwhelmingly in 1969 to retain the test 355,347 to 279,132, a margin of 56 percent to 44 percent. However, the provision is unconstitutional and cannot be enforced.

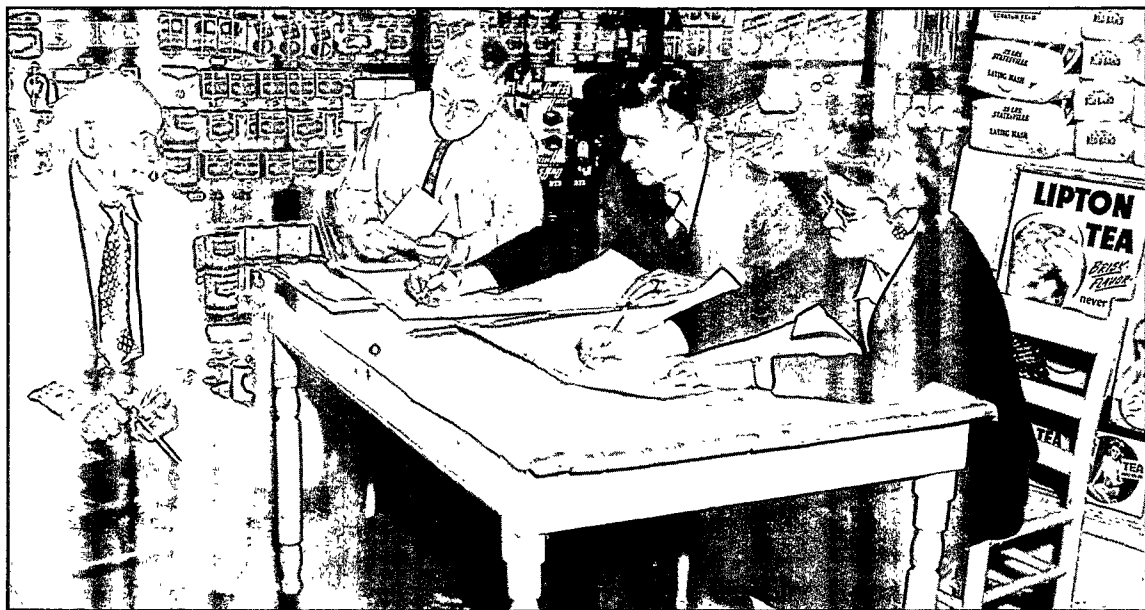
¹²Article XXVI (also called the 26th Amendment) of the U.S. Constitution, proposed by Congress on March 23, 1971 and ratified by the states on June 30, 1971. North Carolina ratified this amendment a day later, July 1, 1971.

¹³Ted Mellnik, "N.C. Black Voter Registration Soars," *The Charlotte Observer*, February 25, 1991, page 1A.

¹⁴Chapter 588 of the 1983 Session Laws, now codified in G.S. 153A-272.

¹⁵Chapter 854 of the 1983 Session Laws, now codified in G.S. 163-81.

¹⁶H.R. 2190, "To establish national voter registration procedures for elections for Federal office, and for other purposes," was approved by the U.S. House of Representatives on Jan. 31, 1990 on a 254-166 vote, but failed to reach the Senate floor for a vote. Similar legislation, S. 250, is pending before the 102nd Congress in 1991. For more information on development of H.R. 2190 and on voter registration generally, see the bound volume entitled "Hearing Held Before The Subcommittee on Elections, Committee on House Administration," March 21, 1989, numbered 98-052.



Department of Cultural Resources

¹⁷ G.S. 163-69.

¹⁸ Josephus L. Mavretic, "State Needs to Change Voter Registration System," published in Second Opinion, the guest column on the editorial pages of the *Winston-Salem Journal*, Nov. 1, 1989.

¹⁹ For more on press coverage of election campaigns, see Paul Luebke, "Newspaper Coverage of the 1986 Senate Race—Reporting the Issues or the Horse Race?," *North Carolina Insight*, Vol. 9, No. 3, March 1987, pages 92-95.

²⁰ H.B. 106, providing for voter registration by mail, was introduced on Feb. 20, 1991 by Rep. H.M. Michaux (D-Durham).

²¹ Chapter 833 of the 1987 session laws, codified in G.S. 163-66.1 set up the Computerized Voter Registration File.

²² For more on how the Computerized Voter Registration file worked, see the report of the Legislative Research Commission on Campaign and Election Procedures to the 1989 General Assembly, Dec. 14, 1988.

²³ For more on voting by mail, see Randy H. Hamilton, "American All-Mail Balloting: A Decade's Experience," *Public Administration Review*, September/October 1988, pp. 860-866. The seven states are Cal., Kan., Mo., Mont., Neb., Ore., and Wash.

²⁴ H.B. 105 was introduced by Michaux on Feb. 20, 1991.

²⁵ H.B. 104 was introduced by Michaux on Feb. 20, 1991.

²⁶ Gale Cook, "Mail order voters tip the balance in close elections," *California Journal*, February 1991, page 101.

²⁷ *Barriers To Voting*, a report of the National Association of Secretaries of State, 1987, page 15.

²⁸ See "Under The Dome: DMV aims to halt registration errors," *The News and Observer*, Jan. 18, 1991, page 13.

²⁹ Adam Seessel and Barry Yeoman, "Election Day from Hell," *The Independent*, Nov. 14, 1990, page 13.

³⁰ G.S. 163-55.

³¹ G.S. 163-72.3.

³² S.B. 485, An Act to Reform the Election Laws, was introduced in the N.C. Senate on April 3, 1991, by Sen. Herbert Hyde (D-Buncombe).

³³ Seessel and Yeoman, page 13.

³⁴ G.S. 163-2 governs the hours polls must be open. In Guilford County, the court order requiring extra voting hours, signed by Judge Joe John, was 90 CVS 10279; in Durham

County, the order signed by Judge Orlando Hudson was 90 CVS 4354, both dated Nov. 6, 1990.

³⁵ For more on Durham County's problems, see "Durham County Board of Elections, Report on General Election of Nov. 6, 1990," prepared by Jo M. Overman, chairman, Roland A. Gregory, secretary, and Edward H. Pope, member, issued Feb. 6, 1991. The report blames, on page 3, "overvoting and improper programming" for the county's long lines and voting problems, but notes other problems as well, including the lack of a sufficient number of voting machines.

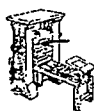
³⁶ Sen. Beverly Perdue (D-Craven) has introduced S.B. 232, to move elections of the governor, lieutenant governor, and Council of State to even numbered years between presidential election years, with one six year term for each of those offices to bridge the gap. For more on off-presidential-year elections, see Thad Beyle, "The Presidential Primary—Sweeping Away Local Stakes," *N.C. Insight*, Vol. 3, No. 2, page 18.

³⁷ For more on this subject, see Ferrel Guillory, "The Council of State and North Carolina's Long Ballot—A Tradition Hard to Change," *North Carolina Insight*, Vol. 10, No. 4, June 1988, pages 40-44. See also the package of pro and con arguments on the election or the appointment of the superintendent of public instruction in *North Carolina Insight*, Vol. 12, No. 4, September 1990, pages 2-22.

³⁸ Both Gov. Jim Martin and Chief Justice Jim Exum have called for the appointment of judges to take them out of the elective process. The General Assembly has considered but declined to adopt such a system for years, but in the 1991 legislature, sentiment has grown for appointing appellate judges while leaving trial court judges elective. Recent judicial elections have taken on a sharply partisan tone, and legislators seem more amenable to the idea of appointing appellate judges. Senate Bills 71 and 72 passed the N.C. Senate on March 19, 1991, and similar legislation is before the House.

³⁹ The recommendations of the Commission on Election and Voting Abuses in North Carolina, dated Feb. 16, 1973, and adopted by the State Board of Elections the same day, can be found in *Popular Government* magazine, May 1973, pages 26-27.

⁴⁰ For more on this project, see Don Harris, "One Kid, One Vote," *State Legislatures* magazine, November/December 1990, pp 29-30.



State Government Media Lines Pose Dilemma for N.C. Broadcasters

by Adam Hochberg

This regular Insight feature examines how the news media—newspaper, television, and radio—cover public affairs topics in North Carolina. This installment discusses the use of media lines—answering machines carrying a prerecorded message as a news source.

A practice by several state government agencies has North Carolina journalists facing a dilemma—whether to use prerecorded statements in news stories and, if used, how to present them to the public. The agencies have begun operating special telephone lines carrying tidbits for the press. Reporters who call one of these so-called *media lines* reach an answering machine and hear a prerecorded message from an agency official—either an excerpt from a public speech or news conference, or a statement recorded especially for the media line about an issue in the news.

The media lines—also known as news lines or actuality lines—mainly are targeted at radio news reporters, who are encouraged to broadcast the prerecorded statements in the form of *sound bites* on their newscasts. Newspaper reporters also occasionally call the lines and quote the prerecorded statements in their stories. State officials insist the lines help reporters cover news from state government, but some journalists refuse to use them, fearful that government officials who use media lines might present a biased account of news events.

Are these new-tech news sources a boon or a bane? North Carolina journalists increasingly are having to confront this question. At least five state

agencies—the departments of Transportation, Correction, and Crime Control and Public Safety, the Lieutenant Governor's Office, and the General Assembly—have used media lines in the past two years. The University of North Carolina at Chapel Hill news bureau also operates a special line for the media.

Politicians around the nation, however, have been using the devices for more than a decade. A White House spokesman says the Carter Administration began the first presidential media line, and Presidents Ronald Reagan and George Bush have continued the practice. The private sector also increasingly relies on media lines to get its message to the public. For instance, the American Medical Association uses one to distribute sound bites on health issues, and Burlington Industries put a media line in place to distribute sound bites during its 1987 effort to stave off a hostile takeover.

Among North Carolina government agencies, the Department of Transportation operated the first media line in the early 1980s, then discontinued it for several years before resurrecting it in 1989. Bill Jones, a DOT spokesman, says his agency's media line saves reporters the trouble of trying to track down officials for interviews, and also saves officials the trouble of having to submit to several interviews on the same subject for different news organizations. "The old fashioned way would be to send out a press release," Jones said. "That

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would require the radio stations to call in and then get an interview with somebody here. That would cost them more time and cause them another phone call."

However, while telephone media lines can save time, exclusive reliance on prerecorded messages denies reporters the chance to ask questions of government officials, follow up on provocative points, or acquire background material that can help them understand and report the story thoroughly. In contrast to a spontaneous interview or news conference, comments on a telephone media line usually are carefully drafted and sanitized to reflect favorably on public officials and make them sound their best.

DOT officials place on their media line audio excerpts from Board of Transportation meetings and department news conferences. The line also is used to provide sound bites on breaking news stories from the department, such as the October 1990 collapse of part of the Herbert C. Bonner Bridge, which spans Oregon Inlet in Dare County.

The Department of Correction uses its media line to provide daily updates on the state prison population. Correction

Secretary Aaron Johnson also used the line extensively before the Nov. 6, 1990, election to distribute sound bites voicing his support for the prison construction bond issue, which was approved by the voters by only 582 votes.¹

Lt. Gov. Jim Gardner, who heads Gov. Jim Martin's Drug Cabinet, often uses his media line to issue sound bites on the state's anti-drug campaign. The Department of Crime Control and Public Safety sometimes puts its line into operation to distribute sound bites of Secretary Joe Dean, but the department also uses the line to issue logistics information to reporters covering breaking news stories. For example, television reporters covering the fall 1990 repatriation of Kuwaiti evacuees at Raleigh-Durham International Airport could call the line for recorded information on where to park their satellite trucks.

The General Assembly information office has operated a media line with legislative news while the legislature is in session, and the news bureau at the University of North Carolina at Chapel Hill

covers stories on its line ranging from board of trustees meetings to research projects underway on campus.

State officials say the cost of operating a media line is low. The technology amounts to nothing more than a telephone answering machine, and the expense is limited to a dedicated phone line and the personnel cost of putting the message on each day. At the Department of Transportation, for example, the annual expense is less than \$1,000, according to Paul Worley, a former DOT information officer who helped resurrect the media line in 1989. "If we returned phone calls to every small station, our expenses would be more in phone calls and time," Worley said.

The state agencies do not maintain records on who calls their media lines, but Graham Wilson, the director of public affairs for the Department of

Crime Control and Public Safety, says small radio stations outside Raleigh seem to be the most frequent users. "A lot of the smaller stations don't have enough reporters to send them out into the field," Wilson says. "They have to get their news over the phone."

Indeed, the growth of media lines in North Carolina follows a period

when many radio stations cut back their news staffs. It's not uncommon for radio stations now to employ just one or two people in their news departments, especially in smaller cities.²

Bruce Naegelen, the one-person news department at WBTB Radio in Beaufort, says he often relies on media lines. Because he anchors newscasts and hosts a daily talk show, Naegelen rarely can come to Raleigh to cover state government news in person, and he says he sometimes can't get state officials to return his phone calls. "Initially, when I'm following a story, I'll put a call in to Raleigh to try to get the top dog," Naegelen says. "If I can't get him, I'll work my way down, and if I can't get anyone, I might rely on the machine."

Naegelen says overall, the media lines "do a fairly decent job" covering the news. Still, he's sometimes cynical about whether the state agencies that operate the lines go out of their way to make themselves look good. "It's sort of like news releases," says Naegelen. "You can't really take it at face value."

■ *"A lot of the smaller stations don't have enough reporters to send them out into the field. They have to get their news over the phone."* ■

—GRAHAM WILSON
DEPARTMENT OF CRIME CONTROL AND
PUBLIC SAFETY

"It's up to us to determine what we think would reflect best on the Department of Transportation, and that would be what we put on the [media] line."

—BILL JONES

DEPARTMENT OF TRANSPORTATION

While small radio stations seem to be the most frequent users of media lines, larger news organizations also use them. Both *The Charlotte Observer* and the *Greensboro News & Record* occasionally rely on the University of North Carolina media line for quotes on university board of trustees and faculty council meetings.

Greensboro News & Record higher education reporter Don Patterson says the meetings rarely generate enough news to justify a trip to Chapel Hill to cover them in person. "We just can't go running off to Chapel Hill every time they have a faculty council meeting or a trustees meeting," says Patterson. He says the media line provides a "fall back" system, so he can still cover a newsworthy meeting he does not attend.

Pam Kelley, the higher education reporter at *The Charlotte Observer*, says she calls the University of North Carolina news bureau media line for quotes from university trustees meetings when she can't attend them in person. She adds, though, that she only uses the media line for stories on non-controversial issues and never relies on it as the sole source for a story. "Frankly, I've dealt with those [news bureau] people long enough that I can trust them to tell me the truth," Kelley says. "I don't think they would try to obfuscate something."

In some cases, though, media line accounts of news events do differ from those of reporters who witness the events themselves. When Gov. Jim Martin appeared at a Raleigh ceremony to inaugurate the new Carolinian passenger train line in May 1990, he was heckled by protesters who opposed his policies on hazardous waste disposal. "The Carolinian, en route from Rocky Mount to Charlotte, chugged into Raleigh greeted not only by well-wishers, but by hazardous waste protesters," began Allison Taylor's on-the-scene story for WPTF Radio in Raleigh.³

Taylor included in her report a sound bite of Martin trying to shout over the protesters' chants. "It would be ungracious of me if I didn't acknowledge you," Martin yelled to them, "but since you're not going to listen to what I'm saying anyway,

Media Line Sampler: A Sound Bite Cornucopia

Journalists who want to sample from the state's media lines face a broad array of choices, but the lines are generally limited to a single perspective. Lt. Gov. Jim Gardner's media line ran these remarks from the state's second-ranking Republican when the Democrat-dominated Council of State blocked the selection of state-owned property in Butner for a hazardous waste disposal facility:

"The responsible thing that we should have done today was to act on it. This problem of hazardous waste is a growing problem. We didn't do that. I think they took an irrespon-

sible, easy way out and dumped it—'they' being Democrats on the Council of State—dumped it on the Democratic legislature. That's going to now take months. Every single hour, hazardous waste is building up. All we need is for South Carolina and Alabama to cut us off, and we're going to have a major problem."¹

Correction Secretary Aaron Johnson, urging the legislature to float bonds for prison construction, had this to say on his media line in December 1990, about a month after voters approved the bonds: "The people of North Carolina have given the General Assembly a

who cares?"

The Department of Transportation media line also covered the debut of the train, but said nothing about the protesters. "The main story was the [train] line, not the protesters," Jones says. "It's up to us to determine what we think would reflect best on the Department of Transportation, and that would be what we put on the [media] line."

That attitude has led some news executives in North Carolina to ban the use of media lines in their newsrooms. "It turns into cheerleading," says Bob Costner, the director of the four-person news staff at WSJS/WTQR Radio in Winston-Salem. "When you use a tape line like that, the agencies give you what they want you to hear. You relinquish your editorial control, and the First Amendment is thrown out the window." Rather than use media lines, WSJS/WTQR tries to reach state officials for interviews via telephone or obtains reports of Raleigh news events from radio stations which have covered them in person.

Some public information officers at state agencies question the value of media lines as well. "We'd rather have a real human being talk to a reporter who calls up," says Elliott Warnock, director of communications for Secretary of State Rufus Edmisten. "I don't ever remember his [Edmisten's] turning down a request for an interview."

mandate to act. The failure to act would undermine the state's legal defense against a federal takeover of our prison system. A failure to act would ignore the express will of a majority of those who voted on November 6."²

A reporter who called one of these media lines could edit these remarks, add some context to set the scene, and quickly have a story ready for broadcast. The reporter could also make a few extra phone calls to get the other side of the story, but that would take a lot longer.

Of course not every item that gets placed on a media line by a government official is worthy of a follow-up phone call. Take this tidbit from Jake Alexander, deputy secretary of Transportation, offered in December 1990 when awards were announced for outstanding roadside wildflower projects: "The Department of Transportation is pleased to honor the people

"The use of handout tape, except in very rare instances, is journalistic prostitution."

—F. GIFFORD

IN TAPE: A RADIO NEWS HANDBOOK

Don Folmer, public affairs director at the Department of Environment, Health, and Natural Resources, says his boss, EHNR Secretary Bill Cobey, also prefers to handle questions from the media in one-on-one interviews, rather than issuing prerecorded statements. "If the media want to talk to him, he will return phone calls or make himself available," Follmer says.

Governor Martin's office does not operate a conventional media line, but instead uses a system of distributing a broad choice of sound bites from the governor's weekly news conference. Each news conference is recorded in its entirety, says Martin press assistant Jeff Merritt. Afterwards, a reporter can learn from the wire service which topics the governor discussed and can call Martin's press office to receive sound bites on any topic the reporter chooses.⁴

who have worked so hard to make the wildflower program a success," says Alexander. "They've done an outstanding job in maintaining flower beds along the highways of our state. The wildflower program is an excellent example of how the department is working for a healthy and more beautiful environment. This program has received many letters in support and thanks for our beautification efforts."³

Thorny issue it's not, but then sometimes things are just rosy, even in state government.

—Mike McLaughlin

FOOTNOTES

¹Excerpted from Lt. Gov. Jim Gardner's media line, Dec. 13, 1990.

²Excerpted from the Department of Correction media line, Dec. 14, 1990.

³Excerpted from the Department of Transportation media line, Dec. 11, 1990.

For instance, after a November 1990 news conference, the press office received several calls from reporters requesting sound bites of Martin's comments on the state budget shortfall, according to Merritt. But some reporters from areas being considered for the state's proposed hazardous waste facility asked for sound bites on that subject instead.

Merritt says because the governor's system is more flexible than a conventional media line, reporters perceive it as more objective. "If they ask for something, we'll feed out anything, whether it's good, bad, or whatever," Merritt says. On some occasions, Merritt says he has played the tape of the entire news conference to reporters who hadn't attended in person.

A respected radio news textbook warns journalists against using media lines or other sources of handout sound bites, such as tapes that are mailed to radio stations from government officials, corporations, or organizations. "Though this stuff may be an excerpt from a public speech, it's still the product of PR judgment, rather than news judgment, on what's important," writes F. Gifford, in *Tape: A Radio News Handbook*.⁵ "And you can bet you won't be fed the part of the speech where the politician is booed or where he makes a fool of himself," adds Gifford. "The use of handout tape, except in very rare instances, is journalistic prostitution."

Gifford concedes, though, that for some radio stations, a sound bite on a worthwhile story is difficult to decline. At stations with only one or two people in the news department, reporters often have little time to do long interviews with newsmakers. It takes only a few minutes to turn a sound bite from a media line into a finished news story that's ready for broadcast. In comparison, it may take hours for a reporter to research a subject, call a state official, wait for the call to be returned, conduct an interview, edit the tape, and write the story.

Use of a media line by a small radio station is in some ways the equivalent of a small newspaper printing a state government news release verbatim. It's a time saver for news organizations with small staffs and limited budgets. Even at large news organizations like *The Charlotte Observer*, the demands of covering the day's events sometimes exceed the number of reporters available, and writers are forced to try to cover events by telephone. "That's unfortunately sometimes the limits of the business," says Kelley. "You just can't be everywhere at once."

Still, journalists may do a disservice to their audience if they rely on a government-run media line as their sole source for a news story. Important information may be omitted, and there is great potential for abuse by unscrupulous government officials. The result could be a misleading or wildly inaccurate account of a news event, relayed by perhaps dozens of radio stations and newspapers statewide. Follow-up phone calls are a minimal requirement to ensure accuracy, thoroughness, and fairness.

North Carolina journalists also would be well advised to follow Gifford's suggestion that quotes obtained from a media line be identified on the air or in print as originating "from a prepared statement." That may signal to the audience that the reporter did not interview the official. Reporters also should carefully analyze media line quotes to detect attempts to distort the news and should advise the public if a state official uses a media line as a way to avoid interviews on a controversial subject.

Finally, news organization executives have a responsibility to assure that their reporters use media lines only as a last resort and don't rely on them as a short-cut to good journalism. Indeed, some of those executives might find their reporters are forced to use media lines because their news departments are too small to cover stories in the traditional manner. In those cases, executives may want to ask themselves whether the money saved by understaffing their news departments is worth the consequences of allowing the government some editorial control of a supposedly free press. ■

FOOTNOTES

¹Senate Bill 1 of the General Assembly's 1990 session authorized the Nov. 6, 1990, prison bond referendum, which passed by a vote of 690,110 (50.02 percent) to 689,528 (49.98 percent).

²For more on cutbacks in radio newsrooms, see Jack Betts, "Radio Journalism in North Carolina: Listening for Less News," *North Carolina Insight*, Vol. 9, No. 4 (June 1987), pp. 44-46.

³WPTF Radio News, May 11, 1990.

⁴According to Merritt, the governor's press assistants sometimes place calls to reporters after a news conference, rather than waiting for them to call. He says this is more frequently done in the summer months, when interns are employed to help with the workload. Reporters are still given a choice of topics for their sound bites, Merritt says, even if the governor's office places the call. The press office also plans to distribute for weekly broadcast a taped, two- to three-minute radio address by the governor.

⁵F. Gifford, *Tape: A Radio News Handbook*, Third Edition (Englewood, Col.: Morton Publishing Company, 1987), pp. 140-142.



Rulemaking by the Rules

by Katherine White

This regular Insight department examines policymaking and the decision-making process in the judicial branch of state government. This installment examines a recent N.C. Court of Appeals decision—Whittington v. Flaherty—restricting the rulemaking authority of state agencies to powers expressly granted by the N.C. General Assembly.

Few of North Carolina's taxpayers have ever heard of the Administrative Rules Review Commission—the ARRC, as it's known to capital insiders. Indeed, even veteran state government workers would be hard-pressed to say where the agency is located, or what it does. But the agency has more potential clout in it than a Louisville Slugger, and it sometimes finds itself embroiled in a *cause célèbre*. Now a state Court of Appeals decision—in *Whittington v. N.C. Department of Human Resources*—highlights concerns about the agency's ability to question the legality of an administrative rule.

For the most part, the small state agency with a staff of four quietly goes about its business of reviewing the thousands of administrative rules cranked out by other state agencies. These rules run the gamut from acquisition of state property to operations of the state zoo, but they deal with carrying out the programs and policies formally adopted by the N.C. General Assembly and interpreted by the executive branch of state government. And the tedious job of sorting through the tens of thousands of these rules means that the

ARRC sometimes finds itself at the epicenter of storms swirling over policy questions that are not the purview of the commission—whether, for example, it is appropriate to spank children in day care centers, or how to provide counseling to pregnant mothers applying for state-funded abortions.

The ARRC was intended to perform an important function, acting as a sort of strainer to filter proposed rules that pose problems and earmark them for further study by the agency that proposed the rules. Specifically, the ARRC reviews rules on three criteria: (1) Does the rule have adequate statutory authority? (2) Is the rule clearly and unambiguously drawn? And (3) is the rule reasonably necessary, either to enable the agency to perform a statutorily-assigned function, or to carry out a program or policy?¹

But the ARRC has come under enfilading fire—from some critics who say the agency doesn't have enough authority, and from others who say the agency gums up the work of government. Recently, its authority to review rules was challenged by the State Board of Education in conjunction with emergency, temporary rules the education board enacted to block local school contracts with Channel One, a commercial television venture for public schools. The state Supreme Court side stepped the issue, resolving the dispute on other grounds.²

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And Gov. James G. Martin considered recommending cutting the ARRC's funding—an estimated savings of about \$250,000 a year—to help remedy the budget crunch facing the state, but decided to keep it in his budget proposal to the 1991 General Assembly. Such a cut was unlikely to be accepted by the General Assembly because the legislature insisted on setting up the ARRC in the first place. The cut would have eliminated the agency and put a halt to its review process.

The Administrative Rules Review Commission and its predecessors have been around North Carolina state government for about 15 years. They represent an attempt by the General Assembly to exercise oversight of the executive branch and to keep the executive branch from invading the legislators' exclusive right to legislate.³ The ARRC mission is not to set public policy but to ensure that the public policy set by the General Assembly is carried out by the governor and other executive branch officials within the rules they adopt.

When rules are ambiguous or exceed an agency's authority, the ARRC tells the agency to correct them—but the ARRC cannot veto rules or even stop them from being put into effect. It can only advise the executive branch agency that there is a problem with a rule and that it should be revised or eliminated. In the more-than-18,000 rules reviewed since the present ARRC started work in 1986, state agencies have refused to follow the changes proposed by the ARRC only 52 times. The ARRC has delayed rules on 118 occasions, objected to 570 rules, and recommended technical changes in 1,566 cases.

The North Carolina Bar Association supports the uniformity the ARRC has brought to the state rule-making process. Now, most agencies (except for the departments of Correction, Revenue, and Transportation, and for certain commissions including the Employment Security Commission, the N.C. Utilities Commission, and the Industrial Commission) must submit their rules to the ARRC for review.⁴ Because the rules are reviewed by a central agency, the rules now have a uniform style and format. In addition, the Office of Administrative Hearings publishes rules in organized binders, updates them regularly, and publishes a monthly register of all proposed rule changes as well. All these rules appear in the *North Carolina Register*, which also includes executive orders of the governor and other information about executive, legislative, or judicial branch actions related to the Administrative Procedure Act.⁵

"I think that it's helpful for rules to be re-

viewed, and when ARRC flags a rule as having a problem, it's corrected [by the agency] more times than not," says Ann Reed, senior deputy attorney general and chair of the N.C. Bar Association's Administrative Law Section.

Still, the ARRC is a thorn in the side to some state officials who have to write rules and who must submit their work to a reviewing agency. To others, it's an additional layer of bureaucracy. Yet others question whether the ARRC has sufficient power to do its job. If the ARRC had more powers, for instance, it might have saved N.C. taxpayers a lot of time and money in some recent litigation—nearly \$200,000.

Consider what happened in *Whittington v. The North Carolina Department of Human Resources*.⁶ In that case, the state's Social Services Commission adopted rules that expanded the responsibilities of local social service agencies when counseling pregnant women who applied for state-paid abortions—and, critics contended, went well beyond the Social Services Commission's statutory authority. The Social Services Commission's rules were engineered in 1986 by former commission Chairman Barry McCarty, a religion professor and a prominent figure in the anti-abortion movement. The proposed rules would have required local social service agencies to (1) offer each woman who applied for public abortion funds an opportunity to see fetal models showing growth and development of the fetus, and (2) notify a district attorney when a woman applying for a state-funded abortion mentioned allegations of rape or incest.⁷

The Social Services Commission had already purchased 100 fetal model sets—each containing nine enlarged fetal models showing the development of the human fetus at monthly stages of pregnancy—at a cost of more than \$35,000. The theory was that if pregnant women were shown the models of developing fetuses, they would be far less likely to want to go through with the abortions.

But opponents said there was a problem with what the Social Services Commission wanted to do: it didn't really have the authority to make those rules, or to require the county social workers to show the fetal models to a pregnant woman. The General Assembly had added language to the bill appropriating funds for abortions declaring that "designation of services to be provided or the designation of providers shall be done only by enactment of law by the General Assembly."⁸

That "only by enactment of law" seemed clear to opponents of the rules—that only the General

Assembly could designate services to be provided, and that the Social Services Commission could not. The ARRC dutifully objected to their enactment. The rules originally had been proposed by the Social Services Commission in March 1986 and almost immediately drew fire from the Attorney General's Office. Assistant Attorney General Henry T. Rosser advised the Department of Human Resources on March 20, 1986, that the Social Services Commission lacked the authority to adopt the rules it proposed. In a follow-up letter on May 20, 1986, Attorney General Lacy Thornburg, a Democrat, told McCarty, a Republican, that he agreed with Rosser's informal opinion and added, "... it is the opinion of this office."

But despite this advice from the Social Services Commission's own lawyers, then-Rep. Paul Stam (R-Wake), a leading legislative opponent of abortion, was pushing hard for the rules' enactment. The commission in October agreed to go ahead with the rules. For one thing, the commission believed it was authorized to adopt rules because the General Assembly had created the Administrative Procedure Act, which sets forth how state agencies can adopt rules—and the Social Services Commission is subject to the APA.⁹ And the commission reasoned that it had authority to adopt rules because it is a tenet of North Carolina law that administrative authority generally should be broadly construed.

The rules were adopted on Oct. 30, 1986, after the Martin administration got clearance to hire outside attorneys to represent the commission in litigation or other legal matters that were sure to materialize.¹⁰ The Social Services Commission adopted its two rules and sent them to the ARRC for review.

Ten weeks later, on Jan. 15, 1987, the ARRC met to examine the proposed rules, and its conclusion was clear: the Social Services Commission didn't have the power to adopt such rules. On Feb. 26, 1987, the Social Services Commission said it would proceed with the rules anyway, since the ARRC didn't have the power to veto the rules, and on March 2, 1987, the Administrative Rules Review Commission advised the General Assembly that the ARRC objected to the rules. That delayed the matter for three months, but on June 1, 1987, the rules took effect anyway.¹¹

Planned Parenthood of Charlotte, among others, challenged the rules in Wake County Superior Court on June 11, 1987, on the ground that the General Assembly had limited the authority of the commission, precluding the challenged rules. That

court issued a preliminary injunction on July 1, 1987, and heard arguments on Nov. 9, 1988. A month later, on Dec. 8, 1988, the trial court found that the two rules were *ultra vires* [a legal term meaning, literally, "beyond the powers"] and exceeded the scope of the administrative authority of the Social Services Commission.¹² The Social Services Commission appealed to the N.C. Court of Appeals in hopes of finding support for its argument that it had the authority to adopt rules to administer the abortion program despite the legislature's restriction that services would be provided "only by enactment of law by the General Assembly." But on Nov. 20, 1990, the three-judge panel of the Court of Appeals backed up the ARRC's original advice.

"Had the legislature desired to carve an exception under any of the subsections to permit the Social Services Commission to promulgate rules, it could have done so," concluded Appeals Judge Robert F. Orr, a Republican, for the unanimous panel. "The legislature did this for certain other rules. . . . Had the legislature intended to leave room for additional future rules, such as the rules in the present case, it could have done so," Orr added.¹³

Judge Orr noted that despite all the controversy, the case was not a question about the morality of abortions, or about the propriety of taxpayers funding abortions. Rather, Orr wrote, "it is a case solely about administrative rule-making authority and whether the trial court erred" when it found the Social Services Commission had no authority to adopt the fetal model rules.

The Appeals Court also noted that the Social Services Commission does have general rule-making authority for social services programs—just not the authority to adopt rules on which services may be offered in connection with the state abortion fund. But the court also gently admonished the legislature to be more specific in the future if it wished to permit—or limit—rule-making authority. The court put it this way: "... we note that it is the legislature's obligation to clarify its intent should it deem such clarification to be necessary."

The Department of Human Resources did not appeal the court's decision. Secretary of Human Resources David Flaherty, a defendant in the case, accepts the correctness of the court's decision in the *Whittington* case, but he raises questions about the ARRC's power to delay a rule. When the ARRC objects to a rule, that automatically delays implementation of the rule for 90 days. "I don't think the ARRC has been good for the state. It's

tremendously increased the cost of doing business. It's another layer of bureaucracy and all they do is recommend," Flaherty says. "It delays [challenged rules] from getting to the courts" where the rules ultimately receive a binding determination.

The *Whittington* litigation cost the state \$190,620.33 in legal fees and other expenses, revealing a down-side to the ARRC's work. But defenders say that's not the commission's fault. "The authority is very limited," says Jack Stevens, an Asheville lawyer and former ARRC chairman. "You can't stop a rule. All you can do is slow it up." The ultimate decision, of course, is made by

the courts.

Stevens doubts that the General Assembly wanted to render the ARRC powerless to stop a rule, and he cites a provision in the law that allows the ARRC to hold public hearings on challenged rules—something the ARRC has never done. Stevens surmises that those who drafted the ARRC provision envisioned "that you'd call a public hearing and put it [the contested rule] off for three months so that the legislature could come in and act," Stevens said. But that doesn't explain why the legislature didn't act in early 1987, while it was in session and while the fetal model rule and

Reviewing Rules from Another Perspective

by Charles D. Case

A tremendous avalanche of rules is being promulgated by the agencies. I keep up primarily with the environmental rules, and there are thousands of pages of them promulgated at the state and federal level every year. Without an adequate procedure for reviewing those rules effectively, there is no check on the power of the unelected bureaucracy. The legislature cannot keep up with all of the rules that are being passed. In a sense, the *Whittington* case is a bad example of the need and appropriateness of ARRC's review of a rule: *Whittington* looked at a simple, short, well-publicized rule that was extensively debated and monitored in the press. The more typical rule—at least in the environmental area—is long, complicated, technical, and costly to implement. The environmental rules share with the pregnancy-related rules in *Whittington* the fact that both are controversial, which, again, may make them less instructive as examples.

The primary threat to liberty, due process and fair play comes from rules that are promulgated quietly, with little review and less controversy, but that have adverse impacts that fall disproportionately on the particular group that has the misfortune of being in the wrong regu-

latory place at the wrong regulatory time. The threat most frequently comes not in huge leaps involving fetal models or similar concrete situations, but through small nibbles, nips, bits and slices that gradually carve up the regulated community. The ball-point pen example [see footnote 3, page 63] is actually a better example for that. In and of itself, it meant little. It probably cost little in terms of costs or time to use a pen. There were even good reasons, the agency claimed, for requiring that pens be used. Fortunately, Representative Watkins and others realized that it was an instructive paradigm for a deeper problem: a bureaucracy that chipped away at liberty and fairness without any contravening oversight.

Frogs get cooked without ever realizing it, because they get placed in tepid water that is then gradually warmed so slowly that they never know what happens to them. In much the same way, regulatory agencies make small incursions with rules that rarely—if ever—provide the regulatory community with sufficient cause to act to avoid the problem.

The writer is a Raleigh attorney who represents the Chemical Industry Council.

the rape and incest reporting rule were in abeyance.

The legislature has an opportunity to address the limits placed on the ARRC in the 1991 session. A legislative study commission met in 1990 to discuss, among other things, the problems stemming from the ARRC's lack of power to stop a rule. Constitutional experts have frequently insisted that giving the ARRC outright veto would violate the N.C. Constitution's separation of powers ban on delegating legislative authority to another branch of government. To avoid such a problem, the Legislative Research Commission Study Committee on the Administrative Procedure Act has recommended that the 1991 General Assembly adopt a bill requiring an agency to go to court for specific permission to adopt a rule if the ARRC first flagged that rule as being beyond the agency's statutory authority or unnecessary.¹⁴

The power to stop rules—in effect giving the ARRC a veto—could be construed as a violation of the separation of powers clause or as an unconstitutional delegation of authority by the General Assembly, said Dan McLawhorn, a special deputy attorney general in charge of the Environmental Law Division of the Attorney General's Office. The General Assembly would be giving its power to determine policy to an executive branch agency if such a path were followed, he said.¹⁵

A cheaper alternative would provide that a challenged rule automatically would expire if the General Assembly did not act to authorize it within a given legislative session. But concerns about separation of powers would also make this alternative unconstitutional, McLawhorn says.¹⁶ Both proposals, McLawhorn says, "give the ARRC the power to delay indefinitely the effective date of duly adopted rules which it deems in excess of statutory authority"—the first delay becoming permanent if the legislature did not act to reaffirm the rule, and the second delay lasting indefinitely unless and until the adopting agency got a court order declaring the rule valid.

McLawhorn said, "The proposed bills, if enacted, would likely be held to violate the constitution by vesting the ARRC with judicial powers reserved to the courts and with supreme legislative powers reserved to the General Assembly." Thus, the two bills likely would be unconstitutional delegations of powers and violate the separation of powers doctrine, McLawhorn said, and "neither may survive a challenge."

The ARRC and its predecessors have been the source of perennial controversies in the General

Assembly—over the balance of power among the three branches of government and the power of individual agencies to run their own affairs. It appears that 1991 will be no different. □

FOOTNOTES

¹G.S. 143B-30.1-2. The larger Administrative Procedure Act, which governs how administrative rules must be drawn, has six primary purposes—(1) to allow groups affected by rules to know of them before they take effect; (2) to allow citizen input into rule-making; (3) to allow public access to rules once they are adopted; (4) to ensure that all significant agency policies are put into writing; (5) to establish a uniform system of administrative procedures for state agencies to follow; and (6) to establish a uniform system of appeals from those rules. For more on the APA, see Bill Finger et al., "Assessing the Administrative Procedure Act," a special report by the N.C. Center for Public Policy Research, May 1985.

²See *North Carolina v. Whittle Communications*, No. 164 PA 90, North Carolina Supreme Court, filed April 3, 1991. The state petitioned for reconsideration, but the Supreme Court denied that petition April 22, 1991. In *Whittle*, the State Board of Education argued that it was not subject to the ARRC when it wrote rules pursuant to its constitutional power, as opposed to its statutory authority. The rule in this case is 16 N.C. Administrative Code 6D .0105.

³Initially, the General Assembly for a few months had a committee which reviewed rules made by the executive branch and whose powers included the right, never used, to veto the rules. After *State ex rel. Wallace v. Bone*, 304 N.C. 591, 286 S.E.2d 79 (1982), in which the North Carolina Supreme Court required strict separation of powers among the three branches of government, the General Assembly—fearing a challenge based upon the principles outlined in that case—established a review commission that operated under the executive branch.

The Office of Administrative Hearings was created in part because a law partner of the late Rep. Billy Watkins (D-Granville) received in 1984 a morass of rules from the state's Medical Assistance Division. He received one set of rules, followed by a second set of amendments and had a difficult time figuring out what they meant. At that time there was no register of rules and no system for maintaining them in one place. Another popular reason given at the time for creating the agency was a Wildlife Resources Commission rule that required forms to be filled out only with a ballpoint pen. The forms used pressure sensitive paper for copies which meant a felt tip pen wouldn't do. But the peculiar specificity of the ball-point pen rule heightened the General Assembly's interest in getting a handle on the rule-making process. Others attribute Watkins' keen interest in the APA to yet another administrative rule that in effect outlawed beer drinking on Kerr Lake, the popular reservoir on the Virginia-North Carolina border which lay partly in Watkins' district.

The ARRC and the accompanying Office of Administrative Hearings represent a trend in state governments nationally as well. In 1988, the ARRC was separated from the Office of Administrative Hearings and now operates as an independent agency. See G.S. 143B-30.1(c).

Since its inception in 1986 and through Dec. 31, 1990, the ARRC has reviewed 18,007 rule filings, delayed 118 rules, filed 570 objections to rules and recommended 1,566 technical changes. In 52 instances, the rule-making agency has refused to accept the recommended changes from the ARRC.

⁴Under G.S. 150B-1(d), the following agencies are exempted from the ARRC rule review: Department of Transportation, Department of Revenue, Department of Correction, Utilities Commission, Industrial Commission, Occupational Safety and Health Review Board, Employment Security Commission, and the Administrative Rules Review Commission itself.

The Bar Association supports including these agencies under the ARRC umbrella and plans to lobby the General Assembly for the change. A legislative study commission considered inclusion of the agencies but decided against recommending that change to the 1991 session. However, S.B. 12, moving through the 1991 General Assembly, would put the departments of Correction, Transportation, and Revenue back under the auspices of the Administrative Procedure Act and subject to rules review by the ARRC.

⁵G.S. 150B-63.

⁶*Whittington v. N.C. Department of Human Resources*, 100 NC App 603, 398 SE2d 40, decided Nov. 20, 1990.

⁷The rule involving fetal models was proposed as 10 N.C. Administrative Code 42W .0003(c), while the rule on reporting cases of rape or incest was proposed as 10 N.C. Administrative Code 42W .0005.

⁸Chapter 479 of the 1985 N.C. Session Laws, s. 93.

⁹G.S. 150B-1(d).

¹⁰G.S. 114-2.3 authorizes the state to employ private counsel when the Attorney General's Office decides it cannot provide that counsel to a state agency. The governor must formally request private counsel, and the attorney general must formally approve it. In this case, formal approval came by letter on Oct. 21, 1986, from Attorney General Lacy Thornburg (signed by Senior Deputy Attorney General William P. O'Connell) to Gov. James G. Martin.

¹¹G.S. 143B-30.2(c) provides that when the ARRC objects to a rule, its implementation will be delayed "for a period

not to exceed 90 days."

¹²No. 87 CVS 4867 (Wake County), Dec. 8, 1988.

¹³*Whittington*, supra, at 613. Judges Sidney S. Eagles, Jr. and Jack Cozart concurred in the decision. The defendants did not appeal.

¹⁴Report To The 1991 General Assembly of North Carolina, 1991 Session, the Legislative Research Commission's Committee on the Administrative Procedure Act, Dec. 14, 1990.

¹⁵For the opinion on the constitutionality of this proposal, see memorandum dated Feb. 22, 1991, "Separation of Powers, Powers of Judicial Department; Administrative Agencies," N.C. Department of Justice.

¹⁶For more on the separation of powers doctrine in North Carolina, see *Boards, Commissions, and Councils in the Executive Branch of North Carolina State Government*, N.C. Center for Public Policy Research, 1984, pp. 41-63. That report also noted that too many boards or commissions with rulemaking power can weaken legislative authority. "The number of rulemaking boards in state agencies inherently affects the strength of executive officials. Heads of departments which have advisory groups instead of rulemaking groups have more authority over internal management. An abundance of policymaking boards in a department leads to executive officials having limited control over programs they must manage. Having too many boards also disperses power and accountability to the people," the report said on p. 91. For more on legislative vetoes and constitutional questions, see *Immigration and Naturalization Service v. Jagdish Rai Chadha*, 462 U.S. 919, 77 L.Ed. 2d 317, 103 S.Ct. 2764 (1983). See also a 1974 North Carolina case, *Revco v. Board of Pharmacy*, 21 NC App 156 (1974), for more on the courts' willingness to throw out rules if agencies do not have the statutory authority to adopt them.

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FROM THE CENTER OUT

In the Legislature, White Male Democrats Become a Minority

by Jack Betts

This regular Insight feature examines policy-making in the legislative branch and the impact of other factors, including demographic changes, on the legislative process. This installment examines recent trends in the makeup of the General Assembly and what difference changes in demographics can make.

In just 20 years' time, the N.C. General Assembly has undergone sweeping demographic changes—so much so that white male Democrats no longer have a majority. In a comparison of the 1991 membership with that of the 1971 session, the N.C. Center for Public Policy Research found that the ranks of white male Democrats have steadily declined, and so has the number of lawyers, Democrats, and male legislators. Meanwhile, the number of blacks, women, Republicans, and legislators who are retired or who describe their occupations as real estate or education have risen sharply.

The most dramatic trend—the decline in white male Democrats—began years ago, but white male Democrats still held a majority until two years ago. For roughly three-quarters of a century—following the Reconstruction-era legislatures where many blacks and Republicans held power—white male Democrats held a majority of seats in the General Assembly. Their numbers began declining in the 1970s, but the majority held onto its edge until 1989, when only 80 of the 170 members, or 47 percent, were white male Democrats. Similar numbers prevail in the 1991 assembly, with 82 white male Democrats, or 48 percent. The remaining 52 percent of the members are black

male Democrats, black female Democrats, white female Democrats, or white male and female Republicans. There have been no black male Republicans in the General Assembly since the turn of the century, and never a black female Republican.

But though white male Democrats are in a plurality overall (the largest single demographic group), they still retain a slight majority in the state Senate, where 27 of the 50 members (54 percent) are white male Democrats. In the House, their ranks are down to 55 of 120 members, or 46 percent. What these figures mean is that efforts in the 1970s and 1980s succeeded in opening up the legislative process to a broader segment of the population and converting North Carolina to more of a two-party state. The gains, of course, have come at the expense of the traditional power-wielders in the General Assembly, whose hegemony went unchallenged from the turn of the century until relatively recently.

"It gives a broader perspective to the legislature," is the way Rep. H.M. "Mickey" Michaux (D-Durham), dean of the legislature's black members, now in his seventh term, puts it. "It means that legislation is being thought out much more than in the past, from a broader perspective" of the more diverse legislative membership.

Yet despite all these changes, the makeup of the N.C. General Assembly still only distantly mirrors the demographic makeup of the state—except in political breakdown. North Carolina's statewide voter registration is 64 percent Democratic and 31 percent Republican (with the rest in other categories), and the 1991 General Assembly

Jack Betts is editor of North Carolina Insight.

**Table 1. Demographics of North Carolina
and of the General Assembly, 1991**

Demographic	North Carolina	General Assembly
Democratic	64%	69%
Republican	31%	31%
White	76%	88%
Black	22%	11%
Native American	1%	1%
Hispanic or Asian	1%	0%
Male	48%	85%
Female	52%	15%
Average Age	33 years	57 years

Source: 1990 Census; State Board of Elections;
N.C. Center for Public Policy Research

is 69 percent Democratic and 31 percent Republican. In 1971, by contrast, the state was about 75 percent Democratic and 22 percent Republican.

In other categories, disparities persist. For instance, the state's population is 76 percent white, 22 percent black, 1 percent Native American, and 1 percent Hispanic or Asian. In the legislature, however, the membership is 88 percent white, 11 percent black, and 1 percent Native American. Twenty years ago, however, the makeup of the legislature was 99 percent white and 1 percent black.

In terms of gender, the story is much the same. The statewide gender ratio is 48 percent male and 52 percent female, but the majority is in the minority in the legislature, where 85 percent of the membership is male and 15 percent is female. In 1971, by contrast, the makeup was 99 percent male and 1 percent female. Statewide, the median age is 33 years; the average legislator is 57 years old. The Senate averages 58, the House, 57.

What difference does it make? That depends upon who's doing the analyzing, but legislators say they think the General Assembly reflects the will of the population, if not the precise demographic makeup. "The overall makeup reflects the

population well," says House Speaker Daniel T. Blue (D-Wake), who made history in early 1991 by becoming the first African American to become speaker of the House. "On some issues," Blue adds, "the populace may be a step ahead of us in some of its approaches, but overall I think the General Assembly reflects the sentiments of the population if not the makeup."

Republican Rep. Joanne W. Bowie (R-Guilford) says the public may think a broad demographic makeup in the legislature is more important than it really is. "I think the perception of the general public—those not involved in the General Assembly—is that it makes a great deal of difference. But I try to be sex blind and color blind in my dealings here. I couldn't care less if I were the only lady here, or if there were only three men legislators in the whole legislature.

Don't get me wrong—I'd like to see more women down here, and more minorities, but I'd like them to be here because they're darned good, not for some other reason."

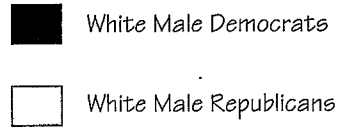
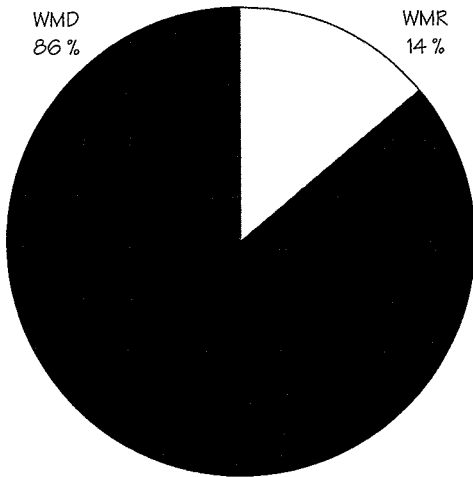
Some analysts say there's far more involved than just the appearance of a balanced legislature. "Our whole system is based on representation of all citizens," says former Rep. Sharon Thompson of Durham, a spokesperson for Women Elect, a group dedicated to electing more women legislators. When legislative bodies fail to represent all segments of the population, the system doesn't

*"... but overall I think the
General Assembly reflects the
sentiments of the population if
not the makeup."*

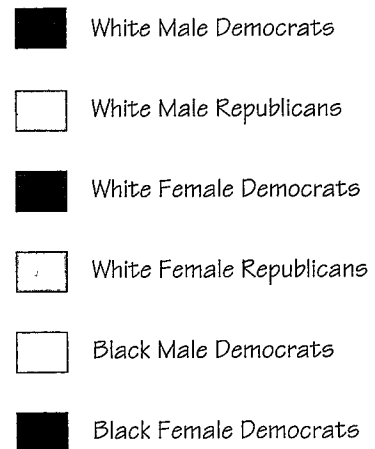
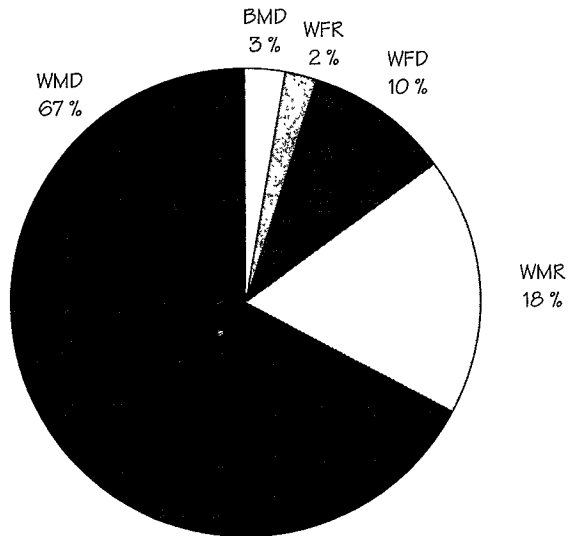
—DANIEL T. BLUE
SPEAKER OF THE HOUSE

Senate Membership 1971 – 1991

1971



1981



1991

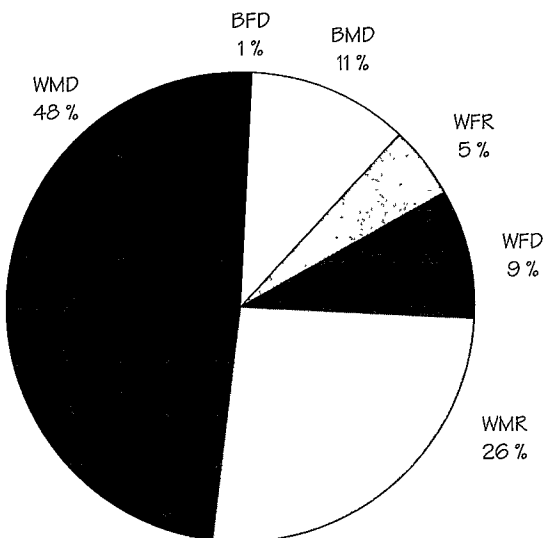


Table prepared by Kim Kebschull, N.C. Center for Public Policy Research

■
"Our whole system is based on
representation of all citizens."
■

—SHARON THOMPSON
FORMER REPRESENTATIVE, D-DURHAM

function well, she says, and that affects not only debate but also production of legislation. A case in point, she says, occurred in the 1987–88 General Assembly. The 24 women legislators, which included liberals and conservatives, Democrats and Republicans, agreed unanimously to support a marital rape bill that had run into trouble with conservative male legislators and was headed for the scrap heap. The bill, which changed North Carolina law on spousal rape, was approved after a concerted effort by females in the General Assembly.¹ "The marital rape bill would not have passed without women legislators," Thompson notes.

These demographic findings are part of the research data to be found in the latest edition of the Center's *Article II: A Guide to the 1991–1992 N.C. Legislature*, published in May 1991. The book, available for \$22.50 from the Center, is the most comprehensive guide to the legislature. It includes biographical data, a synopsis of each legislator's voting record on 16 key votes in the 1989–90 session, and a record of all previous rankings of legislators dating to the 1979–80 session. The book also includes a session-by-session demographic breakdown that clearly shows how the makeup of the legislature has changed since 1973.

While the demographics of the 170-member General Assembly do not match that of the state, they do show that blacks, women, and Republicans have made steady progress over the years. For instance, the number of black legislators grew from two in 1971, to 12 in 1983, to 17 in 1989, and to 19 this session—the highest number in this century. The number of women grew from two in 1971 to 15 in 1975, to 24 in 1983, and to 25 in 1989 and again in 1991—the highest number ever. Meanwhile, Republican ranks grew from 31 in 1971, to 50 in 1973 before a plunge to 10 in 1975 following the Watergate election wipeout of 1974. But GOP numbers have risen fairly steadily since then, to an all-time high of 59 in 1989 (following GOP Gov. Jim Martin's second election) and down

slightly to 53 in the 1991 session—still the second highest number of Republican legislators in this century. The GOP changes, by the way, reflect what often happens—big gains in presidential election years and then partial losses in each of the off-year elections.

Meanwhile, the Democratic Party, which was on a four-term decline in the legislature, made a modest comeback in the 1991 session. In 1971, Democrats held 139 seats, won 160 seats in the the 1975 and 1977 sessions, and began a four-election decline in 1983, going from 146 legislators then to 111 in the 1989 session. In 1991, however, the Democrats hold 117 of 170 seats.

The Center also found that the number of lawmakers who are bankers, businessmen, and manufacturers has declined, while other occupations—farming and insurance, for example—have had only modest fluctuations. As the table on page 70 shows, the number of legislators describing their occupations as retired has increased markedly since 1971. Twenty years ago, only 11 legislators called themselves retired, but now 34 of them say they are retired.

Michaux, for one, thinks this is part of a trend showing that only those who are retired or who are independently wealthy can afford to be in the legislature. "It's always been somewhat that way," Michaux said. "It's not that you have to be rich, but that you almost have to be well-fixed to afford the time off to be in the legislature. It requires more time, more effort than in the past, and we're going to have to do something about that someday."

Blue, a lawyer in private practice when the legislature is not in session, also bemoans the general decline in the ranks of lawyers. In 1971, there were 68 lawyers in the legislature, and 45 in the 1989 session. But in 1991, their ranks dwindled to 35—lowest in the 20-year period.

■
"It's not that you have to be rich,
but that you almost have to be
well-fixed to afford the time off to
be in the legislature."
■

—REP. H.M. "MICKEY" MICHAUX
(D-DURHAM)

Table 2. Trends in Legislative Demographics

Category	Year and Number of Members per Category										
	1971	1973	1975	1977	1979	1981	1983	1985	1987	1989	1991
Blacks											
Senate	0	0	2	2	1	1	1	3	3	4	5
House	2	3	4	4	3	3	11	13	13	13	14
Total number	2	3	6	6	4	4	12	16	16	17	19
Total percent	1%	2%	4%	4%	3%	3%	7%	9%	9%	10%	11%
Women											
Senate	0	1	2	4	5	3	5	4	4	4	5
House	2	8	13	19	17	19	19	16	20	21	20
Total number	2	9	15	23	22	22	24	20	24	25	25
Total percent	1%	5%	9%	14%	13%	13%	14%	12%	14%	15%	15%
Indians											
Senate	0	0	0	0	0	0	0	0	0	0	0
House	0	1	1	1	1	1	0	0	0	0	1
Total number	0	1	1	1	1	1	0	0	0	0	1
Total percent	0%	1%	1%	1%	1%	1%	0%	0%	0%	0%	1%
Democrats											
Senate	43	35	49	46	45	40	44	38	40	37	36
House	96	85	111	114	105	96	102	82	84	74	81
Total number	139	120	160	160	150	136	146	120	124	111	117
Total percent	82%	71%	94%	94%	88%	80%	86%	71%	73%	65%	69%
Republicans											
Senate	7	15	1	4	5	10	6	12	10	13	14
House	24	35	9	6	15	24	18	38	36	46	39
Total number	31	50	10	10	20	34	24	50	46	59	53
Total percent	18%	29%	6%	6%	12%	20%	14%	29%	27%	35%	31%
Turnover Ratios											
Senate (New Members Elected)											
Number	18	15	21	11	7	8	9	18	6	5	8
Percent	36%	30%	42%	22%	14%	16%	18%	36%	12%	10%	16%
House (New Members Elected)											
Number	43	50	49	24	30	33	31	39	25	25	21
Percent	36%	42%	41%	20%	25%	28%	26%	33%	21%	21%	18%

(Note: If a senator had served in the House during the immediate past session, he or she is not considered a new member. If a member had served in either chamber during sessions prior to the immediate past session, however, he or she is considered a new member.)

**This research was drawn largely from editions of the North Carolina Manual, and does not reflect members who first reached the General Assembly by appointment to legislative vacancies caused by death or resignations.*

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Table 3. Trends in Legislators' Occupations

Occupation	Year and Number of Members per Category										
Senate	1971	1973	1975	1977	1979	1981	1983	1985	1987	1989	1991
Banking	1	1	2	2	2	3	1	2	1	1	1
Business and sales	17	13	14	18	13	20	19	21	19	15	16
Construction and contracting	1	0	0	0	2	3	3	2	1	4	3
Education	1	1	3	5	4	4	4	3	3	3	4
Farming	4	3	2	4	3	5	6	6	6	5	6
Health care	1	1	1	1	1	0	0	0	0	0	2
Homemaker	0	1	1	0	2	0	4	2	0	1	0
Insurance	2	5	5	5	6	7	6	4	4	2	1
Law	22	19	15	14	13	10	14	17	21	20	17
Manufacturing	2	3	4	2	3	3	3	2	0	0	0
Minister	1	1	1	1	1	0	0	0	0	0	0
Real estate	1	2	5	5	7	12	8	8	6	6	6
Retired	4	2	2	0	3	4	6	6	4	6	6
House of Representatives											
Banking	3	2	3	3	2	3	3	3	0	0	0
Business and sales	49	28	35	41	37	43	45	45	43	37	33
Construction and contracting	2	0	2	2	2	3	1	2	2	3	2
Education	6	11	16	16	10	11	10	15	12	7	15
Farming	17	14	20	22	22	18	24	16	12	8	11
Health care	0	2	3	3	6	3	5	4	4	4	7
Homemaker	1	2	3	4	4	4	4	3	4	4	3
Insurance	7	7	12	11	13	10	6	10	10	8	12
Law	46	37	36	26	25	26	26	24	23	25	18
Manufacturing	3	3	1	0	4	2	2	2	0	0	0
Minister	3	3	1	1	0	1	3	7	4	4	2
Real estate	6	5	9	7	10	15	19	20	15	17	20
Retired	7	4	5	8	6	15	12	13	17	22	28

(Note: Some legislators list more than one occupation; thus, the total number of occupations may be higher than the actual number of members.)

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"The number of lawyers is down tremendously," notes Blue. "What that does is force the members to rely on the [legislative] staff more. The problem [with not having more lawyer-legislators] is that you don't bring broad, day-to-day legal experience to these [public policy] questions. Law experience is so diverse, and when you temper legal expertise with legislative expertise and years of practice, you get a lot of free legal advice that cannot be replaced."

Another dramatic trend in the occupation of legislators is the decline in the number of members in business. In 1971, 66 of the legislators said they were in business, and five said they were in manufacturing. Today, only 49 say they are in business or sales, and none is a manufacturer. "The reason for the decline is obviously the length of sessions and the increasing amount of time that legislators have to devote to their jobs," says Phil Kirk, executive director of N.C. Citizens for Business and Industry. "I know of examples where business people have been asked to consider running, but the lack of time is the first excuse that they give. There have been a number of people, including lawyers, who have had to drop out of the legislature because of time constraints." Kirk said his organization has supported a constitutional amendment to limit the length of sessions so that more business people could take time away from their occupations. "The impact [of the current decline in the number of business people in the legislature] is that there are fewer and fewer legislators who understand the business community from first-hand experience. This could have an effect on tax matters, on employer-employee relations issues, and also on environmental issues."

At the same time, the number of educators has risen, from seven in 1971 to a total of 19 today—though the ranks of educators in the legislature peaked in 1977 at 21. There are college instructors—Reps. Howard Barnhill (D-Mecklenburg), Paul Luebke (D-Durham), and Sen. Howard Lee (D-Orange), to name a few; education administrators like Rep. William Lewis (R-Wilson) and Pete Oldham (D-Forsyth); former school superintendents like Rep. Aaron Fussell (D-Wake), Rep. Eugene Rogers (D-Martin), and Sen. Marvin Ward (D-Forsyth); a school nurse in Rep. Peggy Wilson (R-Rockingham); a Christian school teacher, Rep. Michael Decker (R-Forsyth); current public school teachers like Rep. David Diamont (D-Surry) and Rep. Maggie Jeffus (D-Guilford), and former teachers like Sen. Betsy Cochrane (R-Davie) and Rep. Mary Jarrell (D-Guilford).

"At a time of heightened public interest in education, the General Assembly has among its members a deep pool of education experience to draw upon," notes Center Policy Analyst Kim Kebschull, who edited *Article II*. "Most of these educators are serving on committees where their expertise and judgment can be especially useful." However, Kebschull adds, educators also face possible conflicts of interest on such issues as local school mergers or raising teacher salaries. "These kinds of potential conflicts are characteristic of a citizen legislature," says Kebschull.

The *Article II* findings also show that the power of incumbency remains strong in the legislature. In fact, the 20-year trend shows that legislators tend to stay in office if they wish to, and that the legislature's turnover rate has declined. In 1971, the Senate turnover rate was 36 percent, but it generally has declined, except for a couple of years, to 16 percent in 1991. The House had a similar general decline in turnover, from 36 percent in 1971 to just 18 percent in 1991. ☐☐

FOOTNOTES

¹Chapter 742 of the 1987 Session Laws, now codified as G.S. 14-27.8.

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ARTICLE II

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Letters to the Editor

Vol. 13, No. 1 Leadership Development Programs December 1990

Having served as board chairman for three of the leadership enterprises identified in your very interesting article on leadership in the current [December 1990] *Insight*, I thank you for providing your readership with such a thoughtful statement.

The next time you consider such a commentary, I would hope you could develop further the differentiation between leadership and management. They are not the same, of course, and the terms often get too confused.

Keep up the good work.

—William Friday
Chapel Hill

Vol. 13, No. 1 Relations Between the Executive and Legislative Branches December 1990

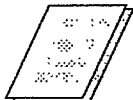
I enjoyed reading your article in the most recent issue of the *Wake Forest Law Review* [also appearing in *North Carolina Insight*]. It's a very balanced piece, and you taught me some things I didn't know. What I tend to shrug off as "Raleigh politics" may actually involve some more fundamental issues. Maybe there is a theme to the squabbling, after all.

Your article is gracefully written and nicely seasoned with well-chosen quotations. I guess my favorite is [Gov. Zebulon] Vance's remark about [editor and Gov. W.W.] Holden. Is Holden Road in Greensboro named after him?

—Ralph Peebles
Winston-Salem

Note: Vance said of Holden, the first American governor to be impeached and removed from office, "It was the longest hunt after the poorest hide I ever saw." Holden Road in Greensboro is named for W.W. Holden.

—The Editors



MEMORABLE MEMO



State of North Carolina
Department of the Secretary of State

RUFUS L. EDMISTEN
SECRETARY OF STATE
RICHARD H. CARLTON
CHIEF DEPUTY SECRETARY OF STATE

March 5, 1991

Dear Friend:

This spring will mark the beginning of a new sports tradition for North Carolina. The Raleigh-Durham Skyhawks, will kick off their charter season in the World League of American Football, a new and exciting league sanctioned by the National Football League. The Skyhawks are owned by my very close friend and associate George Shinn and are coached by the former All-American and NFL All-Pro Roman Gabriel.

The Skyhawks open their home season on Saturday April 6, 1991 at 8:00 o'clock p.m. against Barcelona, Spain in Carter Finley Stadium. The games promise to be very fast paced and should prove enjoyable to all sports fans. These games should also be a real social event for the area, and I know that you and your associates do not want to miss the excitement.

You may call the Skyhawks office to reserve your season tickets at (919) 872-9311 or 1-800-4HAWKS4. All games will be on National Television, but I know that you will want to be there in person.

Looking forward to seeing you in the stadium this spring with your friends and clients.

Sincerely,


Rufus L. Edmisten

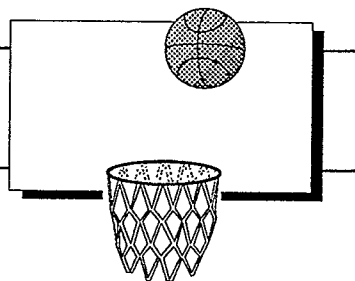
What It Was, Was Football. Sort Of.

Say you're the owner of a new football team. Say you need help moving tickets. Say the Secretary of State is a friendly sort of full-service Secretary of State. Wouldn't you get him to hawk tickets to the Skyhawks? Why, sure you would. And here you have it, an official State of North Carolina Department of the Secretary of State tender offer for football tickets.

Of course, Secretary of State Rufus Edmisten told reporters that the offer wasn't made on real, official stationery, but on a facsimile. That's appropriate, considering the Skyhawks' record. They're pretty much a facsimile of a team. Now, we don't know if Edmisten is just a facsimile of a Secretary of State, but we do know this: this memo is just a facsimile of a real Memorable Memo. If it had really been printed on Secretary of State stationery, then it would have been a real memo.

Speaking of which, if you've intercepted any real Memorable Memos lately, just fade back, double pump, and let 'em fly—downfield on a post pattern right to Insight. Anonymity guaranteed, and no flags on the play.

PARTING SHOT



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March 21, 1991

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An Anthology on State Government, Politics, and Policy

Marianne M. Kersey and Ran Coble, editors

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