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Year-Round Schools in North Carolina

 NORTH CAROLINA CENTER FOR PUBLIC POLICY RESEARCH



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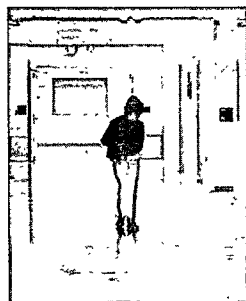
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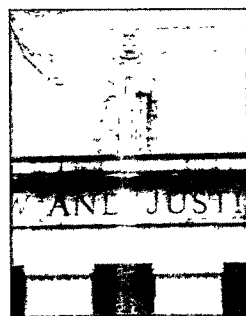
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Year-Round Schools: North Carolina School Systems Test the Waters

by Todd Silberman and John Charles Bradbury



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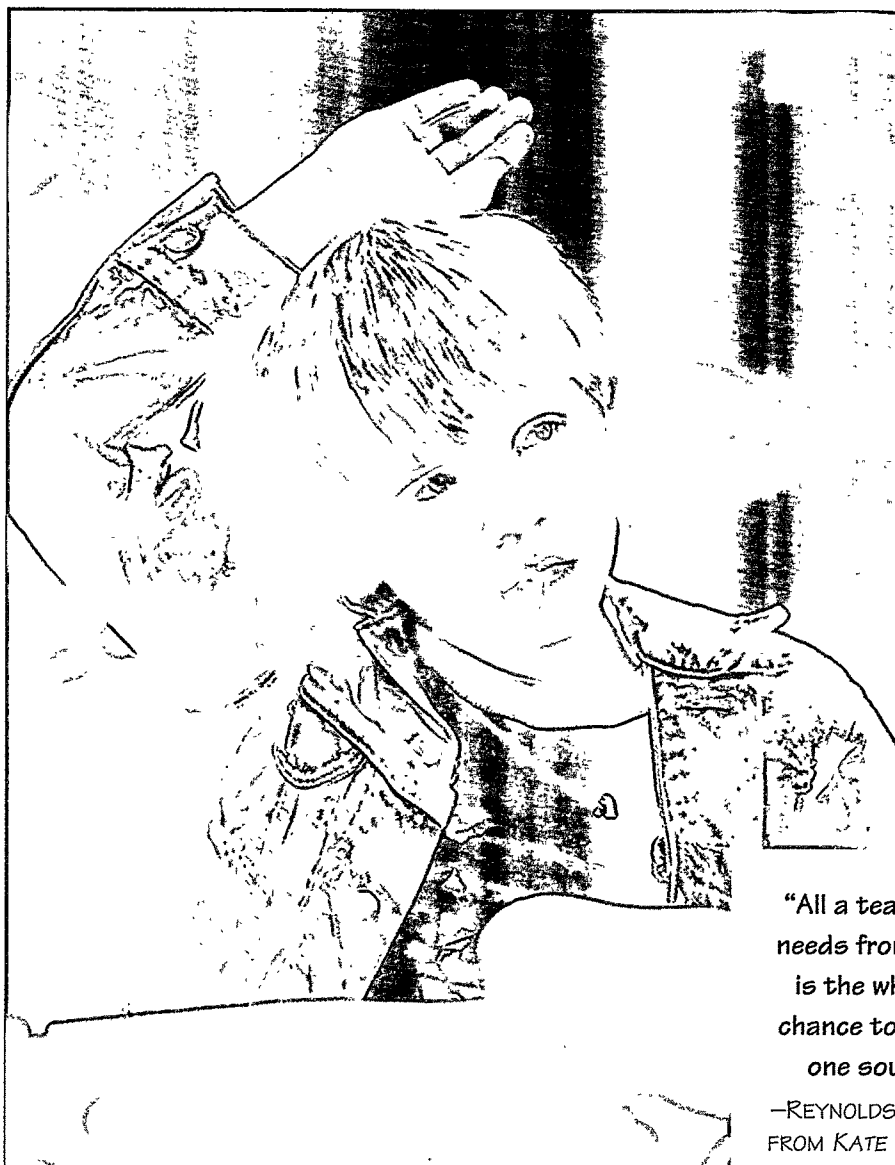
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Summary

North Carolina is near the head of the class in the year-round schools movement. With 111 schools in 35 different school systems, the state has the third highest number of year-round schools in the nation. Year-round school advocates say this different way of dividing the school calendar has an impact on everything from reducing the amount of time needed to review after the long summer break to improving morale among teachers and students. Year-round schools also have been used in other states to relieve school overcrowding, although that has rarely been the primary purpose in North Carolina. But year-round schools also have their critics—chiefly those who think the calendar interferes with the way families traditionally have spent their summers and those who believe this particular education reform magic bullet is really a blank. These latter critics believe reform efforts are being wasted on a model that really doesn't deliver results in the classroom.

In this article, the N.C. Center for Public Policy Research discusses the pros and cons of the year-round calendar and considers whether the calendar has had any demonstrable impact on student achievement. The Center reviews several national studies, most of which have produced inconclusive results. The Center also examines studies in three North Carolina school districts: the Wake County Public School System; the Rockingham County Public School System; and the Mooresville Graded School District. In none of these studies does the Center find conclusive evidence that year-round schools produced dramatic gains in student achievement. Yet some career educators point to intangibles such as student and teacher attitudes and an intuitive notion that year-round schools represent a superior way to educate children. Where a choice system is maintained, year-round schools seem popular with parents as well.

We conclude that while year-round schools cannot be definitively proven to be superior to traditional-calendar schools, there is enough evidence to continue with the experiment. It is suggested that school systems considering converting to a year-round calendar keep in mind that maintaining choice seems key to a successful conversion. The Center makes two recommendations: (1) That local school boards keep the year-round calendar optional for parents, teachers, and students where possible when implementing a new school calendar; and (2) That the Superintendent of Public Instruction and the State Board of Education publish comparative data on student achievement in year-round schools versus similar traditional schools that would allow parents to make an informed choice regarding how students perform on these two types of calendars.



Karen Tam

"All a teacher
needs from life
is the whole
chance to lead
one soul."

—REYNOLDS PRICE,
FROM KATE VAIDEN

Last year, more than 30,000 students in North Carolina public schools traded their summer vacations for a choice that would send many other children running: school. In a trend that continues to gain favor with educators and families alike, more and more schools in the state are breaking stride with the traditional long summer holiday and offering students shorter, more frequent vacations throughout the year.

That alternative—known as year-round school—has been embraced by its proponents as a more effective model for education. Proponents say year-round education helps students better retain what they learn, is more in step with the rhythm of contemporary family life, and uses school buildings more efficiently.

By the numbers, year-round schools in North Carolina have gained steadily in popularity since the first one opened in Wake County in 1989 with 275 students. During the 1996–97 school year, year-round programs were being offered at 111 schools in 35 different school systems—nearly one-third of the 118 systems in the state.¹ (See Table 1, p. 6 and Table 3, p. 12) That's an increase of 17 over the 94 schools offering year-round education in 1995–96, and continues the surge of calendar conversions that began in the early 1990s.

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Instead of a summer vacation lasting 10 to 12 weeks, year-round students typically attend school in nine-week blocks that alternate with three-week vacations. Students attend school for the same number of days as those in traditional schools—180 days in North Carolina; it's simply that those days are arranged differently.

There are many different variations on the year-round theme, but two distinguishing characteristics are the multi-track calendar and the single-track calendar. A school on a *multi-track calendar* operates with different groups of students attending on separate calendars. The groups attend on a staggered schedule, so there is always one group of students on vacation. In this way, the capacity of a school can be increased by about 25 percent. Under the *single-track calendar*, all students in the year-round program attend on the same schedule, so there is no increase in capacity. Both types of year-round schools feature the characteristic nine-week session, followed by a short break.

Educators who champion the year-round model believe students benefit because they're never away from school long enough to forget what they've learned. As a result, teachers need less time for review at the beginning of the year.

Also, the year-round model is thought to be especially beneficial to those students who have a hard time keeping up. Instead of falling further behind all year and then trying to catch up in summer school, such students can get remedial help during the break between each nine-week session.

But perhaps few other recent changes in American education made in the name of reform have produced so much conflicting evidence about their effect on student performance. Research has been spotty, and the studies that have been completed often show mixed results. And, for all the apparent popularity of year-round schools in North Carolina, their growth has come at a time when debate elsewhere—particularly in Florida and California—has been intense. School systems there have chosen to abandon the alternative altogether or to scale back because of high costs or objections from parents who rebel against often conflicting vacation schedules of two or more children.²

Year-round schools long have drawn fire, particularly when parents and families are given no choice, and often when a year-round calendar is mandated as a stopgap space-saving measure to forestall costly construction of new schools. For example, a parent rebellion in Blowing Rock ended a pilot program at an elementary school in 1995, and parents in Davidson County fought off a pro-

Educators cannot justify 10 to 12 weeks away from formal instruction.

There is summer learning loss.

—CHARLES BALLINGER,
NATIONAL ASSOCIATION FOR
YEAR-ROUND EDUCATION

posed elementary school program. The Asheboro City Schools reverted a middle school to a traditional calendar in 1996, and the Henderson County Board of Education returned two schools to a traditional calendar in 1997. Even in Wake County, which has the largest year-round enrollment in the state, bitter resistance among some parents derailed a proposal in 1992 that many feared could have put all the county's schools on a year-round calendar.³

Still, such unrest has remained muted in North Carolina. By and large, the year-round option has been gaining ground here without significant opposition.

Few school systems have made their programs an all-or-nothing proposition, and most year-round programs are offered as a "school-within-a-school" or a magnet school so that families may still choose a traditional calendar. At a time when parents and politicians are clamoring for "school choice," the advent of the year-round school has done just that—provided more choice. And that, many educators say, is a critical first step for making a successful school. If parents feel that they have chosen their child's school—instead of having it chosen for them—they are more likely to become involved and supportive.⁴

National Evidence on the Effectiveness of Year-Round Education

For every study that year-round advocates can show as evidence that their calendar is more effective in helping students learn better, year-round detractors can point to another that produces inconclusive results. Put simply, when it comes to unsailable proof that year-round schools are superior to traditional, the jury is still out.

Even year-round's tireless champion, Charles Ballinger, who heads the National Association for Year-Round Education, concedes that no such guarantee exists. But he is quick to add that there is ample evidence showing that students are no

**Table 1. Counties with Year-Round Schools in North Carolina and
Number of Year-Round Schools in Each County, 1996-97**

County	Number of year-round schools	School districts in county with year-round schools
Alamance	1	1
Buncombe	3	2
Cabarrus	1	1
Caldwell	3	1
Carteret	2	1
Catawba	16	2
Craven	1	1
Cumberland	2	2
Chowan	3	1
Davidson	2	1
Durham	4	1
Edgecombe	1	1
Forsyth	7	1
Guilford	3	1
Henderson	3*	1
Hoke	3	1
Iredell	7	1
Lincoln	1	1
McDowell	1	1
Mecklenburg	3	1
Nash	6	1
New Hanover	5	1
Northampton	2	1
Orange	1	1
Pender	1	1
Randolph	3	1
Robeson	1	1
Rockingham	7	1
Rowan	2	1
Scotland	4	1
Union	3	1
Wake	9	1
Total=32 of 100 counties	111 schools (43,329 students)	35 school districts

* The Henderson County Board of Education has voted to return to a traditional calendar format for two of its three year-round schools for the 1997-98 school year.

Source: N.C. Department of Public Instruction

worse off on a year-round calendar than the conventional one.

"Kids are not going to be harmed by the calendar," Ballinger says. Logic and common sense, he says, practically dictate that year-round should net positive results. "Educators cannot justify 10 to 12 weeks away from formal instruction," he says. "There is summer learning loss. Our objective is to help kids learn more. The public is demanding better results."

For Ballinger and other proponents of year-round education, the summers-off calendar is an archaic vestige of a long-past agrarian culture in which children were needed for work on the family farm in the summer. "The traditional calendar has no educational validity," he says. In fact, he says, research into the way children learn and retain what they've learned would tend to support the "validity" of the year-round structure.

"Those who deal with brain research tell us that intersession (the typical three-week break) is a wonderful time for students to apply what they've learned. It's reinforcement, and that's the way we remember, according to those who know about memory."

The National Association for Year-Round Education produces reams of information that educators around the country use to bolster their proposals to add year-round programs. And for that reason, skeptics say any research commissioned or cited by the group is necessarily biased. But some of the group's latest research, say Ballinger and his associates, is some of the strongest proof yet that year-round is living up to its promise of improved student performance.

For example, a 1994 review of 19 studies in six states (North Carolina was not among them) found that in many cases, year-round students outperformed their traditional peers on standardized tests.⁵ The review produced 58 opportunities for comparisons of performance among students in year-round and traditional-calendar schools. Of those 58 comparisons, 48 (83 percent) were rated a plus for year-round schools, while three of the 58 were rated a minus, and seven of 58 got a mixed result.

One of those studies, which focused on students at 10 schools in a metropolitan Texas district, found students scored higher in reading and math if they were in a year-round program. The researchers, from Texas A&M University, concluded that all-year schooling gave the biggest boost to at-risk students, particularly at schools where enrollments reflected lower socio-economic levels.⁶

YEAR-ROUND SCHOOLS

An Opportunity to Lengthen the School Year?

At a year-round elementary school in Greensboro, the Brooks Global Studies Magnet, students are expected to attend 210 days of class—an additional six weeks of schooling compared to the traditional calendar. But Brooks Elementary is the exception rather than the rule. While the term "year-round school" suggests that students attend more days of school than under the traditional calendar, most students don't.

For the typical student performing at or above expected grade level in the typical North Carolina year-round school, classroom time totals the same 180 days as the traditional calendar. It's just arranged differently. That's why some educational researchers say it's no surprise that the year-round calendar doesn't produce dramatic leaps in learning over the traditional calendar.

Still, school officials who advocate for the year-round calendar note that it *does* provide the opportunity for more classroom time for some students—those who are behind on their studies after the typical 45-day session under the year-round calendar. These students are given the opportunity to attend a remediation program during the break between sessions—a three- to five-week period known as the intersession. Typically, these remediation programs last about five days. With the school year divided into four 45-day sessions, that means four opportunities for remediation—or up to 20 additional days in the classroom for some students.

For administrators like Newton-Conover City Schools Superintendent Everette Simmons, the opportunity to increase the length of the school year is what made the year-round calendar worth trying. "Intersession is the key," says Simmons, who heads the only school district in the state

—continues

"In spite of the fact that students come to school disadvantaged, it appears that the year-round education program can increase the academic performance of at-risk learners as well as that of the whole student population," the study concluded.⁷ Here are highlights from some of that research:

- For all students, regardless of income level or school, those in the year-round program scored 5 points higher on a test in both reading and math than those in traditional programs.
- At-risk students in year-round programs scored 10 points higher on a test in reading than did their peers in nine-month schools. Differences in math scores were found to be insignificant.
- The most dramatic results, in both reading and

math, were found among at-risk students at schools serving poorer populations.⁸

Yet, despite the widespread existence of year-round schools in several forms, there does not appear to be any conclusive research one way or the other on academic achievement. The North Carolina Educational Policy Research Center, formerly part of the School of Education at the University of North Carolina at Chapel Hill but now defunct, examined 20 years of research from around the country in trying to arbitrate the often conflicting views about year-round education held by its proponents and foes. Here's what the center had to say, after reviewing 32 different studies completed between 1977 and 1992:

An Opportunity To Lengthen the School Year? *—continued from page 7*

where year-round schools are mandated for all students. "If you don't do anything with it, there's not any reason to continue with the year-round calendar."

Why is more time in school important? At 180 days, the school year in the United States is shorter than that of almost all its economic rivals on the world stage. Japanese schoolchildren, for example, spend an average of 243 days a year in school (See Table 2, p. 9). Groups such as the Public School Forum of North Carolina have advocated for gradual implementation of a longer school year, noting the positive correlation between time spent in school and performance in such areas as science and math.¹ A longer calendar also is viewed as a way to increase teacher pay and enhance the status of the teaching profession.² Public School Forum Executive Director John Dornan says if the intersession periods are used aggressively, the year-round calendar can provide "a *de facto* extended school year."

Carol Carroll, curriculum specialist for grades kindergarten through eight for the Mooresville Graded School District, says she got a taste of the importance of a longer school year when school officials were asked to participate in an effort to lure a Japanese manufacturer to the town. Town leaders took a three-day crash course in Japanese culture, in which they learned of the longer Japanese school year and of the

value the Japanese place on education in general. The experience played into Carroll's thinking when the school district began to design its own year-round program—a program which offers up to 220 days of instruction.

Aside from remediation, year-round schools typically offer enrichment—short courses outside the classroom setting designed to broaden a child's experience. One popular course in Mooresville, Carroll says, is a Native American encampment in which students learn about foods, dance, and other aspects of the culture. At its peak, up to 38 percent of students have participated in enrichment sessions. So for some students, a three-week break could actually consist of one week of remediation, one week of enrichment, and a week at the grandparents.

But it would take participation in every enrichment and remediation session for a student in Mooresville to begin to approach the 210 days of learning in the regular curriculum at Greensboro's Brooks. And Principal Tony Meachum believes Brooks students are reaping the benefit of a true extended year in terms of achievement. This has been documented in the form of a matched-pairs study that teamed kindergartners at Brooks with those on the traditional calendar. The study documented dramatic learning gains in reading and general knowledge, and children from low- and middle socioeconomic-status households had strong gains in math as well.³ Meachum hopes to track the students through college to make sure the gains stick.

"The preponderance of evidence suggests that year-round students' performance on measures of academic learning is about the same in most studies as their performance while on traditional schedules, while some year-round programs were found to yield significantly higher student achievement scores. Overall, there appears to be a slight but not overwhelming advantage for year-round students in learning basic content."⁹

Still, the center's generally favorable report stops short of a full-blown endorsement. "More and better research and evaluation studies will be needed before the picture becomes clear enough to describe it with absolute certainty," the report's authors say.¹⁰

And Meachum believes there are other advantages to the extended-year calendar besides student achievement. Teachers get the benefit of a true 12-month salary—not a 10-month salary in 12 installments. Parents get the benefit of a school that provides strong academics while meshing more effectively with the schedules of the two-worker household.

As a result, parents are clamoring to enroll their children. Brooks Global Studies Magnet currently has a student body of 451 and a waiting list of 700, says Meachum. "The only thing preventing us at this time from replicating this someplace else in the county is the cost," says Meachum. The extra 30 days means it costs an additional \$300,000 a year to operate the school compared to a 180-day calendar, he says. The multi-year evaluation is intended to assure that the Brooks experiment is worth the extra cost.

Brooks clearly qualifies as an extended-year school, but what about the more typical year-round school, which offers optional extra time through enrichment and remediation? Does this opportunity for additional learning time translate into an extended school year? Yes and no. While students *can* go to school longer under the year-round calendar, they also can attend summer school under the traditional calendar. And enrichment classes, while perhaps beneficial, are not the same as additional formal classroom time. Moreover, some schools have dropped enrichment due to

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Similarly, a 1991 review of studies conducted by the California Educational Research Cooperative (CERC) at University of California, Riverside School of Education found that evidence on year-round schools' financial, educational and social impacts is "inconclusive." CERC found current studies to be "problematic, incomplete, and methodologically unsound."¹¹ And a 1990 survey of year-round schooling by Phi Delta Kappa, an honorary education fraternity, concluded, "Despite claims that long summer vacations lead to lessened academic achievement, year-round schools are not associated with great leaps in academic achievement." It also states, "If a district is looking to show major increases in standardized tests, year-round schools are not the answer."¹²

Table 2.
Number of School Days
Per Year in U.S. and
Selected Other Nations

Nation	School Days Per Year
Japan	243
South Korea	220
Soviet Union	211
Netherlands	200
Scotland	200
Thailand	200
Hong Kong	195
England/Wales	192
Hungary	192
France	185
Ireland	184
Spain	180
Sweden	180
United States	180

Sources: The information for this table is taken from *We Must Chart a New Course for Schools. At Stake Is Nothing Less Than the Future of Our State*, Study Group IV, North Carolina School Reform at a Crossroads, Public School Forum of North Carolina, Raleigh, N.C., 1992, p. 24.

An Opportunity To Lengthen the School Year? —continued from page 9

declining participation, and some middle schools on the year-round calendar never offered it at all.

Still, year-round school practitioners say they typically *are* able to bring more days of school to more students than under the traditional calendar. And they pay for these extra days using funds already available for summer school for remediation sessions and a modest per-student fee for enrichment. This, says one Wake County year-round elementary school principal, may be the closest North Carolina will come to an extended calendar in the near future. "I'm not sure North Carolina wants an extended calendar—to pay for the extra days," says Caroline Massengill, principal at Effie Green Elementary School in Raleigh. "In fact, I'm not sure we want to pay for what we've got now."

—Mike McLaughlin

FOOTNOTES

¹ Study Group IV, *We Must Chart a New Course for Our Schools. At Stake Is Nothing Less Than the Future of Our State*, The Public School Forum of North Carolina, Raleigh, N.C., 1992, pp. 23–24.

² *Ibid.*

³ The study by Julie Frazier of Loyola University in Chicago matched 79 students from traditional-calendar magnet schools with 88 students at Brooks Global Extended Year Magnet on 18 different variables, including IQ, school entrance age, gender, race, preschool experience, home literacy environment, parents' education, and parents' occupational status. Students were evaluated over a two-year period to determine whether learning gains could be determined for either group during kindergarten, summer, or first grade. On the whole, the extended-year students outperformed the traditional calendar students in reading and general knowledge. No difference was found between students on the two calendars on a measure of vocabulary. Students from low socio-economic households were found to have particularly strong gains in reading and math. Source: Julie Frazier, "Effects of Extended-Year Schooling on the Achievement of Low Socioeconomic Students in Elementary School," consultant's report, pp. 1–3, 1994.

North Carolina Studies Show Inconclusive Results

In North Carolina, where year-round schools are growing, a few studies on achievement have been conducted. As is the case nationally, conclusive proof of achievement has not been found.

A 1993 evaluation synthesis conducted by Wake County Public School System researchers in Raleigh, N.C., examined 27 studies of year-round programs across the country. On achievement they concluded, "Overall, YRS [year-round schooling] seems to have no adverse effects on academic achievement for most students. The majority of studies we examined reported either positive effects or no effects on achievement."¹³

The evaluation cites the difficulty in comparing the traditional and year-round calendars. It also says, "The lack of longitudinal studies is a . . . major problem with existing literature . . . [A]chievement trends in the first year of YRS may reflect administrative difficulties in starting a new program." And, "[i]nitial achievement gains may be due to the novelty of the schedule and may decrease after the novelty wears off."¹⁴ In an interview, Karen Banks, associate superintendent for evaluation and research for the Wake County Public Schools, stressed the need to examine the impact of the program over time, to determine to what extent any achievement increases may be attributed to the year-round calendar.

The Wake County School System has reviewed its own year-round schools twice since the program's inception in the form of multi-track magnet schools.¹⁵ The first study, examining the first two years of implementation in one school, used race, sex, and free/reduced/paid lunch status to create target groups in year-round and traditional schools to be compared. It concluded that the participation in year-round education was not associated with any significant difference in CAT (California Achievement Test) test scores, which were given at the end of each year, in reading, math, or overall score.¹⁶

The second study covered three school years, from 1992–1993 through 1994–1995, so student groups could be tracked from third to fifth grade at all Wake County elementary schools. The study compared the percentage of students in three year-round programs with the Wake County elementary school average percentage of students that scored at Levels III or IV on End-of-Grade (EOG) tests. EOG tests, given at the conclusion of the school year, are used to measure the progress of student academic

**Overall, there appears to be a
slight but not overwhelming
advantage for year-round students
in learning basic content.**

—N.C. EDUCATIONAL POLICY RESEARCH
CENTER, UNC-CHAPEL HILL

development. Students who score at Level III or IV are considered to have shown consistent mastery of grade-level subject matter and skills, and they are thought to be prepared to advance to the next grade.¹⁷

All three year-round magnet schools had a higher number of students scoring at Levels III or IV than the school system average by the fifth grade. However, all three year-round schools had a higher percentage of students who initially scored at Levels III or IV on the EOG tests in the third grade compared to the school system average of third graders. This suggests that students initially opting for year-round schools were—on average—slightly better students than their traditional school counterparts. By the fifth grade, the number of students scoring Levels III or IV stayed about the same among year-round students in both math and reading, with one exception,¹⁸ while the system-wide average increased (See Table 4, p. 13.)

The stable pattern in year-round schools was probably due to the fact that so many students scored at Levels III or IV initially and may have hit a ceiling on achievement.¹⁹ The student population of the Wake County year-round magnet schools is very different from the system-wide student average. The student population at year-round schools is mainly composed of white, middle-class children of highly educated parents. The number of students with free or reduced-price lunches is between 6 and 11 percent, well below the system average of 25 percent.²⁰ The percentage of non-white students in the year-round schools ranged from 11 to 21 percent, compared to the system-wide average of 31 percent.²¹ (See Table 5, p. 14.) And in the 1992 study, parents of year-round students were found to be more than twice as likely to have a college degree. In that study, 75 percent of the parents of year-round students had an education of college or higher, and 25 percent of the parents had a master's degree or higher (the second Wake County study

did not examine parent education, and the composition of magnet year-round schools may be changing as more students needing remedial help transfer into the program).²² The 1990 Census found that 35.3 percent of Wake County residents ages 25 and over hold a bachelor's degree or higher.

To factor out student differences, the second study used an "effectiveness index" to compare similar students across the school system. It found that "year-round elementary students are performing about the same as similar students in other schools."²³ Thus, neither of the Wake County studies found that year-round schooling leads to better academic performance.

In Reidsville, N.C., Rockingham County Consolidated Schools officials presented three studies of the system's year-round program to its school board in November 1995. Each of these studies matched individual students in the year-round program with counterparts on the traditional calendar. The pairings were based on several factors: grade level, sex, race, free/reduced/paid lunch status, and past performance on several tests. In one case, the data showed a statistically significant difference in performance for year-round students. Year-round kindergartners at Moss Elementary performed better than their traditional calendar peers on a teacher-developed test.²⁴

In a separate study conducted at Dillard Primary School, year-round first- and second-graders were matched with traditional calendar students on sex, race, and scores on an entrance test prepared by the principal. The study covered both the 1993–94 school year and the 1994–95 school year, and the year-round students generally outperformed their counterparts on the traditional calendar.²⁵ No statistical tests were applied. Yet another study of fourth-graders at four different schools noted non-statistically significant positive differences in reading for year-round students and in math for traditional students.²⁶

**If a district is looking to show
major increases in standardized
tests, year-round schools are
not the answer.**

— PHI DELTA KAPPA
CENTER FOR EVALUATION,
DEVELOPMENT, AND RESEARCH

Table 3. Number of Year-Round Schools in North Carolina, 1996-1997

School Level	School w/in a School**	Single-Track	Multi-Track	Total No. of Year-Round Schools	Enrollment in Year-Round Schools
Elementary Schools	43	39	6	88	33,989
Middle Schools*	13	1	2	16	6,976
High Schools	0	5	0	5	2,240
Special Education	0	1	0	1	113
Medical	0	1	0	1	11
Total	56	47	8	111	43,329

* Includes Penderela Elementary of Pender County which is K-8.

** School-within-a-school refers to a school that operates on both a year-round calendar and the traditional calendar, and allows students to choose between the two. For purposes of this table, multi-track schools are considered to be those with more than two tracks.

Source: N.C. Dept. of Public Instruction, "North Carolina 1996-1997 School Year Year-Round Education," Fact Sheet.

A later study comparing performance of fifth grade students who had been on the year-round calendar for two years to students on the traditional calendar found the year-round students to be outperforming their traditional calendar counterparts. The study, which matched students on I.Q., gender, race, and socioeconomic status, found the year-round students to have outperformed the traditional calendar students on 12 of 12 comparisons of end of grade scores on reading and math. In nine of the 12 comparisons, the differences were statistically significant.²⁷

The Mooresville Graded School District is another leader in year-round education in North Carolina. Opening its first year-round program in 1990 at the elementary level with 202 students in a school-within-a-school setting, it has since expanded to almost 1,200 students in grades K-8. All of the programs follow an optional school-within-a-school approach.²⁸ With numbers provided by the school district, the Center has been able to make some observations about the effects of the year-round program on students. Using EOG test scores gathered over a three-year period (from the 1992-1993 to the 1994-1995 school year), it is possible to track four groups of students as they progress over three grades and compare

year-round students with their peers on the traditional calendar. (The initial scores and finishing scores are listed in Table 6, p. 17.)

The groups are: (Group 1) students progressing from third grade through fifth grade; (Group 2) students progressing from fourth grade through sixth grade; (Group 3) students progressing from fifth grade through seventh grade; and (Group 4) students progressing from sixth grade through eighth grade.

In the group of children tracked from third through fifth grade and the group tracked from fourth through sixth grade, a higher percentage of traditional calendar students scored at Levels III and IV after three years than did the year-round calendar students. The percentage of traditional calendar students scoring at this level in reading and math also increased more over the three years than did their year-round counterparts scoring at this level.²⁹ Thus, the traditional calendar students began the three-year period with a lower percentage of students at Levels III and IV than the year-round students, but traditional students ended the study period with a higher percentage. The percentage of year-round students scoring Levels III or IV increased very little in reading and actually declined in math over the three-year span.

**Table 4. Percentage of Students Scoring at Grade Level
or Above on the End-of-Grade Test,
Wake County Public School System, 1993-1995,
Year-Round vs. Average for County Elementary Schools**

Year-Round School	1993 Reading Score (%)	1995 Reading Score (%)	Increase or Decrease in % Passing	1993 Math Score (%)	1995 Math Score (%)	Increase or Decrease in % Passing
Durant Elem.	86	86	0	81	88	7
Morrisville Elem.	91	92	1	91	90	-1
West Lake Elem.	90	89	-1	89	85	-4
County Elementary School Average	74	80	6	72	77	5

Students scoring at grade level or above (Levels III and IV) on the End-of-Grade Test are considered to have shown sufficient mastery of course material to advance to the next grade.

Source: Wake County Public Schools, "Are WCPSS Multi-Track Year-Round Schools Effective?" March 1996.

In the groups tracked from fifth through seventh grade and from sixth through eighth grade, a higher percentage of year-round students scored at Levels III or IV on both reading and math after three years. But in reading, traditional calendar students started with a lower percentage scoring at this level. By the end of the three-year period, the percentage of traditional calendar students scoring at Levels III or IV had increased more than had the percentage of their year-round counterparts. In math, for the group tracked from fifth through seventh grade, the year-round students progressed more than the traditional calendar students, and in the group tracked from sixth through eighth grade, the students on both calendars progressed about the same. The population of those tracked from fifth through seventh grade changed quite a bit over the time period studied. The number of traditional calendar students increased by 43 percent, while the number of year-round students declined by 10 percent. It is unknown how this change affected the test results of this group.

Each of the four groups of students had two opportunities—in reading and math—to do better than their counterparts on the opposite calendar. This provides eight areas of comparison for each calendar to perform better than the other. In over-

all achievement, students on both calendars outperformed each other an equal number of times in terms of the percentage of students scoring at Level III or IV in reading or math after three years. But, in the growth of the percentage scoring Levels III or IV over the three-year period, the percentage of traditional calendar students scoring at this level increased more than the year-round students in seven out of the eight opportunities. And, the one time that the year-round students showed greater increases in scores occurred among the group followed from fifth through seventh grade. This group had a strange population fluctuation that may have skewed the results.

Therefore, the Center's analysis indicates that the Mooresville End-of-Grade test scores do not provide any evidence that year-round education leads to better academic achievement. If anything, the traditional calendar students outperformed their year-round peers. Unfortunately, socioeconomic data on the students involved was not available and therefore could not be included in this evaluation.

Carol Carroll, curriculum director for grades kindergarten through eight for the Mooresville Graded Schools, says the same remediation and extended help available to year-round students has

**Table 5. Student Characteristics,
1994-1995, Wake County Elementary Schools,
Year-Round vs. All Wake County Elementary Schools**

Year-Round School	Race			% Receiving Free or Reduced-Price Lunch
	White	Black	Other	
Durant Road Elementary	79.2%	17.6%	3.2%	11%
Morrisville Elementary	86.7%	8.8%	4.4%	6%
West Lake Elementary	88.8%	9.9%	1.3%	7%
Average for All Wake County Schools	69.4%	26.0%	4.6%	25%

Source: Wake County Public Schools, "Are WCPSS Multi-Track Year-Round Schools Effective?" March 1996, p. 2.

in recent years been offered to traditional calendar students, so all Mooresville students have benefited from the move to the year-round calendar. This has resulted in higher test scores for students on *both* calendars, she says. Carroll also points out a flaw in the data comparing year-round and traditional students. "In tracking grade levels over the years, we are not necessarily tracking the same students," says Carroll. "There's been lots of fluctuation between calendars over the years because we continually operate with choice. You may get children at any point who have not had equal numbers of days of school."

Carroll also notes that in the first year of the three-year period the Center examined (1992-93), the year-round students' scores were higher. "This group included almost all the students who had joined the program in 1990-91, and so they had had two years of intensive help," says Carroll. That was the year the school system did its own evaluation of the program. "We evaluated the initial project on the 1993 year, when all the scores were higher," Carroll says. She adds that 1992-93 also was the year RJR-Nabisco grant funding ran out. Since then, the year-round program has received fewer resources and has increasingly been a magnet for students who are not performing well on the traditional calendar. "For problem students, it's an opportunity for more time," says Carroll, "but it dilutes the scores."

Other Measures of Effectiveness: Teacher Morale and Student Attitudes

Karen Banks, who directs the Wake school system's evaluation and research department, says that if educators are looking at a year-round calendar as the answer to lagging student performance, they may be looking in the wrong place. "Achievement benefits aren't compelling enough to convert for that reason alone," Banks says. "The achievement benefits plus the climate benefits become a stronger argument. The more frequent breaks for students and teachers can be very uplifting."

And it's such issues, whether improved morale for teachers or better attitudes among students, that educators often cite as points that favor year-round schools. That's the conclusion Bruce Boyles, the Mooresville school system personnel director, drew after studying the year-round programs in his school system. Even though such objective measures as test scores gave no clear-cut evidence that year-round is superior, he says better morale among teachers is a positive element that shouldn't be ignored. "Clearly the attitudes of year-round teachers included in this study were more optimistic, and

***Effie Green Elementary School
Principal Caroline Massengill with
students in cafeteria.***

they had higher satisfaction levels at the conclusion of the second year" of the program, Boyles says. Norris Baker, principal at Walkertown Elementary in Winston-Salem, downplays the significance of test scores and says gains are evident only "when you see it and live it."

Caroline Massengill, former principal at Morrisville Elementary in Wake County and now principal at Effie Green Elementary in Raleigh, is even more emphatic about what she says is a positive climate helped by the year-round calendar. "The difference in teachers has been amazing," says Massengill, who pioneered the year-round program in the state seven years ago. "The biggest place that I see the benefits of year-round is at the end of the year. As a teacher [in a traditional school], when it got to be May or June, we were dead."

With a year-round calendar, says Massengill, teachers and students are able to return to school four times a year feeling refreshed, instead of one or two times under the traditional calendar. "I don't care if these kids have been in day care for three weeks or at grandma's for three weeks, they're happy to be back," she says. "I used to see that two times during the year: at the beginning and after the Christmas holiday."

Elaine Hall, principal of Newton-Conover Middle School, where all 650 students are on the same year-round calendar, says the program has made a noticeable difference with student behavior. "Our referrals [to the principal's office] have gone way down," Hall says. "In-school suspensions have dropped, and so have out-of-school numbers."

Year-round advocates also point to what they say is a hidden advantage of the three-week intersessions that come between the typical regular 45-day academic sessions. "It's a different way of looking at time and spending time," says Massengill. She likes to use the term "extended learning" to describe how the three-week break is used by the school and students. Students needing remediation get four or five days of extra help, usually right after the nine-week session ends, giving them as many as 12 extra days of school a year. The cost of the remedial programs is covered by state funds that would otherwise be used for summer school.

Morrisville and other schools also sponsor enrichment programs for all students. At Morrisville, they're known as "discovery days"—special classes in each intersession that focus on a particular theme or activity such as aerodynamics or



Karen Tomi

Egyptology. Students are charged \$50 to participate in each of the three-day programs, Massengill says. Local YMCAs or other day-care providers also are tapped to provide supervision for students when they are on break.

"There are plenty of things for kids to do during breaks," Massengill says. "We have parents who say that summer was too long—the kids were inside watching TV all day."

But opponents of year-round schools wonder if such intangible benefits are worth the cost—both in the dollars that might be needed and in the disruptions that families often face. Sabrina Owen, who helped block a year-round school-within-a-school in Davidson County, says she didn't think the program was worth the cost at a time when the schools were short on textbooks and other supplies. Owen feared that if the program were begun, it would take preference over the traditional calendar.

"I have a concern about money," she says. "It's like taking a house and dividing it down the middle. The traditional kids are being slighted to make the year-round program work." Owen also suspects that offering a single-track school-within-a-school represented an effort to introduce a more ambitious multi-track program in the future. Year-round programs had been proposed for the county's two most crowded elementary schools, even though the single-track calendar wouldn't save space. "We knew that multi-track was in the backs of the minds of the [school] board and the superintendent," she says.

Owen says her opposition boils down to a basic question: "Why pay more for something that doesn't do anything extra?" She adds, "Superintendents are looking for ways to raise scores, but what they're getting is an outdated idea. It's never been proven to do any of the things that they claim. School systems are sold too many ideas. They need to go back to the basics instead of looking for some magic to raise scores. I look at it like this: If IBM had been

School systems are sold too many ideas. They need to go back to the basics instead of looking for some magic to raise scores.

—SABRINE OWEN
YEAR-ROUND SCHOOL FOE

making a computer since the 1960s and hadn't benefited, they wouldn't do it for that long. Why do it with year-round schools?"

A Charlotte-based group opposed to year-round education nationwide shares the view of Owen and parents like her. The group, which calls itself Time To Learn, receives backing from amusement parks, summer camps, and other interests that view year-round schools as a threat—both in terms of their market and their labor pool of high-school age students. To counter the upbeat promotional message delivered by the National Association for Year-Round Education, Time To Learn disseminates a different message: evidence of year-round's failures across the country. Through newspaper reports of disillusionment with the 12-month calendar and critical studies, the group has tried to build the case that year-round education is more a failure than a success.

"Increasing student achievement, controlling the cost of education, and eliminating overcrowding are excellent goals," Time To Learn concludes in a position paper. "But year-round schools have not been proven to meet these goals. On the question of how to improve education, year-round schools do not appear to be the answer."³⁰

Cost Effectiveness of Year-Round Programs

In many cases, particularly in such high-growth states as Florida and California, year-round schools have been adopted because they are seen as a less costly alternative to building more schools. By staggering vacation schedules, students essentially attend school in shifts, often allowing a school to accommodate a population that is as much as a third larger than otherwise.

But many educators say a year-round school can be more costly to operate than one on a traditional calendar. A variety of expenses can raise the

We have parents who say that summer [on the traditional calendar] was too long—the kids were inside watching TV all day.

—CAROLINE MASSENGILL
YEAR-ROUND SCHOOL PRINCIPAL

budget: utilities needed to air-condition during the summer, additional bus transportation costs, higher maintenance costs due to the extra wear and tear on the building, and the salaries of specialty teachers—such as art and music—who must work during the intersessions classroom teachers have off.

Indeed, the Asheboro City Schools system dropped its school-within-a-school year-round offering at the middle school level largely because dwindling enrollment led to excessive cost. “We had to have extra money to make it work, and we were taking it away from the traditional calendar,” says North Asheboro Middle School Principal Daryl Barnes. “We were willing to offer it if enough students had signed up.” The calendar was phased out for the 1996–97 school year. In the prior year, only 95 students chose the year-round calendar. That meant smaller class size for year-round students, which was more expensive. It also meant that cer-

tain teachers who serve both calendars—such as teachers of band, art, vocational education, and Spanish—had to be on a 12-month calendar. Again, this added to the expense of operating the school. “There were not enough dollars to make it work,” says Barnes. “We were taking dollars away from our traditional students and giving them to our year-round students.”

Still, other year-round proponents defend the year-round program as costing no more to operate. “We’re doing the year-round and the traditional program within the same budget,” says Boyles of the Mooresville school system. “We do know there are some things that cost us less.” Boyles says because the school operates two calendars, year-round students returning for remediation during the break can ride buses that are already on the road for traditional students. Cafeteria personnel can be trimmed back at times because there are fewer students eating

Table 6. Percent of Students Scoring at Grade Level or Above on End-of-Grade Tests, Mooresville Graded School District, 1993–1995, Year-Round vs. Traditional

Group	Grades Tracked Calendar		1993	1995	Increase or	1993	1995	Increase or
			Reading, % Passing	Reading % Passing	Decrease in % Passing	Math, % Passing	Math, % Passing	Decrease in % Passing
1	3–5	Year-Round	69.7	71.4	1.7	75.6	67.7	-7.9
		Traditional	66.2	75.2	9.0	70.0	70.8	0.8
2	4–6	Year-Round	69.9	70.5	0.6	68.7	65.3	-3.4
		Traditional	66.7	76.2	9.5	65.3	73.5	8.2
3	5–7	Year-Round	69.9	73.5	3.6	65.5	76.5	11.0
		Traditional	64.0	71.3	7.3	62.0	66.4	4.4
4	6–8	Year-Round	76.1	84.1	8.0	69.0	79.7	10.7
		Traditional	62.7	76.5	13.8	65.5	77.1	11.6

= Lighter areas represent groups that outperformed peers on the other calendar.

Number of times outperformed peers on other calendar: Year-Round = 4
Traditional = 4

Students who score at Levels III and IV on the end-of-grade test are considered to have shown consistent mastery of grade-level subject matter and skills. They are thought to be prepared to advance to the next grade level.

Data provided by Mooresville Graded School District.

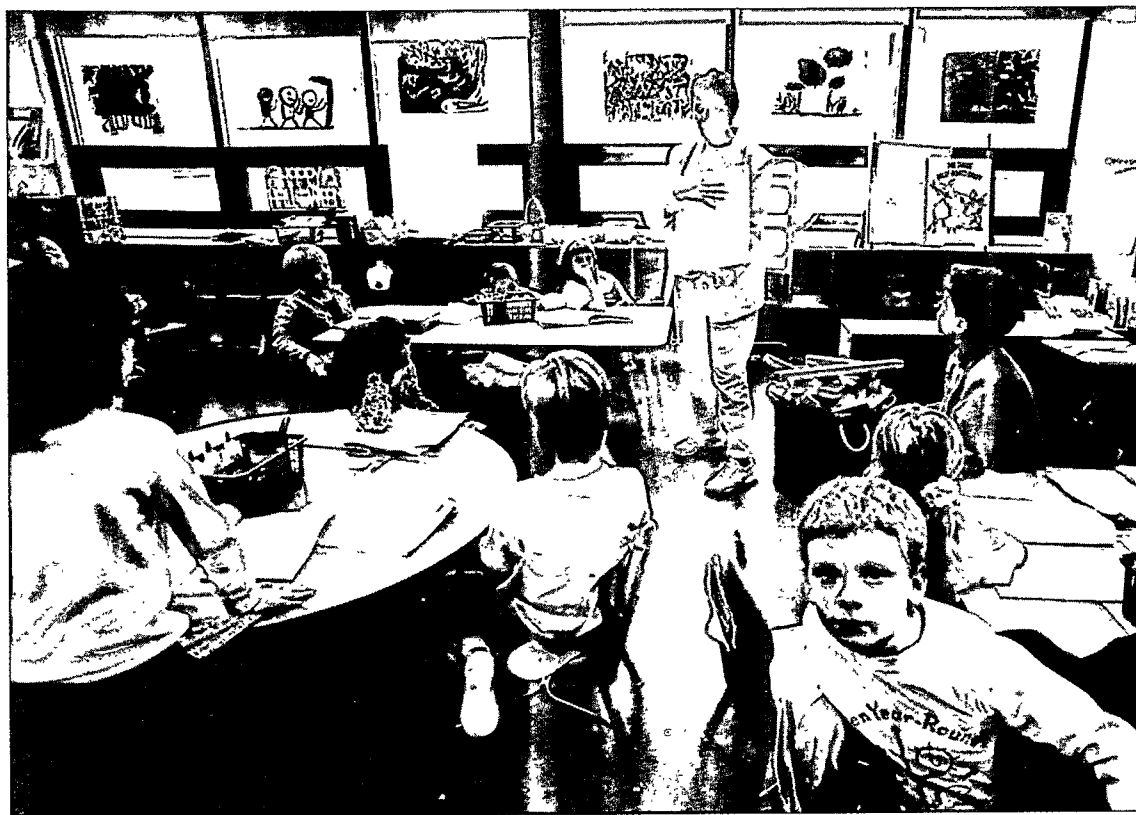
Key Arguments For and Against Year-Round Calendar for Schools

Pros of the Year-Round Calendar

1. More frequent breaks keep students refreshed and ready to learn.
2. Remediation sessions during breaks give students who fall behind the chance to catch up on their studies without waiting for summer school.
3. One week remediation programs offered during the time off between sessions provide the opportunity for lengthening the school year by as many as 20 days for the students who need it most.
4. Optional enrichment sessions give students the opportunity for additional learning experiences outside the classroom setting.
5. Proponents argue that with shorter summer breaks, students forget fewer of their lessons, allowing teachers to spend less time reviewing when school reconvenes in the fall.
6. Teachers say the shorter school sessions (typically 45 days, followed by a break of three to five weeks) allow them to incorporate more time for planning and help prevent teacher and student burnout.
7. Year-round schools may boost student attendance and reduce vandalism of school property.
8. Through multi-track scheduling in which a quarter of the student body is on break at any given time, the year-round calendar can be used to expand the capacity of an existing school, thus saving money on construction costs.
9. If offered on an optional basis, year-round schools provide a choice for parents who may find the calendar provides a better match for their work schedules.

Cons of the Year-Round Calendar

1. The jury is still out on whether students on the year-round calendar outperform their peers on the traditional calendar on standardized tests.
2. Year-round schools, if mandatory, may interfere with family traditions over the longer summer break offered under the traditional calendar.
3. Some experts dispute the claims of year-round-school advocates that students forget much of what they learn over the summer, arguing instead that more breaks mean more memory loss.
4. Principals offering both year-round and traditional calendars at the same school—a popular choice in North Carolina—must juggle resources to make both calendars work.
5. Administrative and other non-classroom personnel at year-round schools have less “down time” when students don’t attend.
6. Year-round schools may carry slightly higher operating costs and place greater stress on school facilities. Many school systems do not choose to offset this by using the calendar to expand the capacity of existing buildings.
7. At the high-school level, the year-round schedule may interfere with some extracurricular activities and with summer jobs. In addition, the high school curriculum is more varied, which may make it harder to schedule classes so that all students have the opportunity to take them.
8. *Mandated* year-round schools may arouse the ire of parents, dividing communities and creating conflict for local school officials.
9. Seasonal amusement parks, summer camps, and other institutions dependent on summer business may feel threatened by a school schedule that could erode their work force or customer base.



Karen Tom

lunch when students on one calendar or the other are on break. And teachers can be employed for an extra month or two with no corresponding increase in certain benefit costs such as hospitalization.

A study done by an outside contractor for the Wake County Public Schools also found year-round elementary schools to be competitive with traditional schools when operating costs were compared on a per student basis.³¹ The study by the Wilmington, N.C., office of the accounting firm McGladrey & Pullen found average operating costs of \$3,849 per year for year-round elementary schools and \$3,819 for traditional elementary schools. When capital costs were factored in, the year-round elementary schools were found to be cheaper, at \$4,664 per student compared to \$4,811 per student for traditional schools.

Indeed, the most ambitious experiments with year-round schooling—most notably in California, Texas, and Florida—have been launched in the name of saving money that would be needed to build new schools. By using a “multi-track” calendar, typically one in which about a quarter of a school’s enrollment is on vacation at any given time, more students can attend the same school than if they all attend on the same calendar.

Hence, some educators have argued that such

an approach can be an effective way to save millions of dollars on school construction by making existing schools more efficient. “When you have overcrowding, multi-track scheduling is always a solution,” says Charles Ballinger of the year-round association in San Diego, Calif.

But even though school systems and taxpayers save in the short term on school construction, several studies suggest that the long-term costs may exceed the initial savings.³² For example, a 1992 study in Wake County concluded that, after 20 years, the additional costs of operating a multi-track school would have exceeded the cost of building an entire new one.³³

The system’s most recent study, however, found costs to be slightly lower for year-round elementary schools than for traditional schools when capital costs and operating costs were combined.³⁴ And the prospect of squeezing more students into the same number of classrooms to save money in the short-term remains a powerful argument in favor of year-round schools. In New York City, school officials have been looking at the multi-track option as they wrestle with a shortage of 30,000 seats alone for a high-school population of about 312,000 students.³⁵ Chicago, too, is considering a year-round calendar, both as a way to stem overcrowding in

It's just another reinvention of the flat tire, like whole language and the open classroom.

—YEAR-ROUND SCHOOL OPPONENT
DON PATTERSON

schools and to boost student performance.³⁶

In North Carolina, the State Board of Education endorsed the concept of year-round education in 1991, citing more efficient use of buildings as a key factor.³⁷ Also, the 1994 report by the N.C. Educational Policy Research Center at UNC-Chapel Hill listed several areas of perceived cost savings in addition to reduced capital outlay for new schools:³⁸

- Reduced debt service for new construction.
- Cost savings for such items as books and furniture that can be shared by students.
- Savings from not having to hire additional personnel, from principals to custodians, who would be needed to staff new buildings.³⁹

The same report, however, goes on to give ammunition to those who are not convinced of the cost savings from year-round schools. Year-round costs could be higher, the report says, due to the following factors:

- High costs of starting the program.
- Higher utility costs for providing air-conditioning during the summer.
- Construction costs for installing air-conditioning units in year-round schools without cooling.
- Increased maintenance costs due to extra use of the building.
- Extra money for remedial teaching during intersessions.⁴⁰

The experiences of school systems in other states suggest that big savings shouldn't be expected with multi-track, year-round schools. For example, the system in Albuquerque, N.M., has been retreating from an aggressive push toward mandatory year-round schools partly because savings weren't being realized, in addition to a backlash by parents and changes in the makeup of the local school board, says Don Patterson, a member of the board. Patterson, who ran for the school

board as an opponent of the year-round concept, says the shift to a 12-month calendar didn't live up to its promise.⁴¹

"The whole thing died under its own weight because the claims never hold true," Patterson says. "The cost savings are never realized. The academic improvements don't happen. Schedules become very complicated for families." Patterson argues that students benefit from unstructured learning time away from school during the long summer break and that the increased stopping and starting of the segmented year-round calendar interrupts the rhythm of learning. "With year-round education, the aggregate time reviewing is probably longer than on a traditional schedule since after each three-week break there is a need for reacclimating children to the school routine and reminding them where they left off. . . . A segmented schedule maximizes forgetting."

At its peak during the 1992-93 school year, Albuquerque's year-round calendar was in place at 25 of its 126 schools (20 percent). Eight year-round schools now remain (6 percent). Patterson says the school system embarked on the year-round model under a false premise: that voters wouldn't support a bond referendum for school construction.

"The administration didn't do its homework," he says. "The premise wasn't adequate for the purpose. The cost savings were exaggerated. There is no cost savings. We've figured out that we could build schools cheaper." Patterson characterizes year-round schools as another quick-fix reform that sounds good on paper but fails in practice. "It's just another reinvention of the flat tire," he says, "like whole language and the open classroom."

Critics such as Patterson often cite the experiences of Los Angeles, which all but abandoned a systemwide single-track program at 543 schools after a two-year experiment that the state helped to finance. The program cost the system an extra \$4 million a year to operate.⁴² Nevertheless, Los Angeles continues to be a big player in the concept of 12-month schools. Some 240,000 L.A. students—about one-third of the system's total enrollment—still attend multi-track year-round schools due to overcrowding.⁴³

But even year-round advocate Ballinger concedes that a distinction needs to be made between those school systems that resort to year-round sessions simply as a quick fix to crowded schools and those systems that embrace the alternative calendar for its educational benefits. Quick-fix programs eventually will be rejected, as they were in Albuquerque or in several Florida school systems that

now are backing away from year-round programs. The other approach, aimed at improving education, stands a better chance of success, he says.

The Seminole County school system in Florida adopted a year-round calendar in the early 1990s, even after an internal report concluded that the per-student cost in a multi-track program would run 12 percent more than the cost of a traditional school calendar. The same report concluded that any savings in capital costs would be lost after six years.⁴⁴ But the school system had no choice other than adopting a year-round program because voters in 1990 had rejected a \$520 million bond referendum that would have paid for new schools.

The 1990 study by Phi Delta Kappa concluded that, "Cost savings which result from the avoidance of new construction are reduced by higher operating and maintenance costs. In growing districts, savings may be entirely offset if inevitably neces-

sary new construction is completed above original estimates, due to inflation, or other increases. A district should not consider implementing year-round schools simply to save money."⁴⁵

The Importance of Broad Public Support

Seminole County Superintendent Paul Hagerty distinguishes between multi-track and single-track year-round calendar schedules. He told a group of parents in Orlando, Fla., that "a multi-track schedule is a very effective short-term solution to overcrowding but is not desirable for a permanent design. On the other hand, single-track schedules can be highly desirable." Once additional space became available in the Seminole County Schools, multi-track schedules were eliminated. The single-

"In her classroom our speculation ranged the whole world. She breathed curiosity into each of us. When she left us, we were sad, but her light did not go out. She had written her indelible signature on our minds. . . ."

—JOHN STEINBECK



Karen Tam

Glossary of Year-Round Terms

Enrichment: An optional learning program offered during the intersession. The activities offered are normally less academic and are intended to be fun as well as educational. Sometimes called "discovery days."

Extended year: A year-round calendar in which students attend school more than the traditional 180 days apart from summer school or remediation.

Grade enhancement: A week of educational review, administered during the intersession, that is offered to students who want to improve their grades.

Intersession: A short break between school sessions. Typically three to five weeks, part of which can be devoted to remedial work and enrichment activities.

Magnet school: A school that students can *choose* to attend as opposed to being *assigned* to a school according to a zoned district. Each school has a unique area of specialization such as math and science, performing arts, or a year-round calendar.

Multi-track: A year-round program that operates with different groups or *tracks* of students attending on separate calendars. The groups attend on a staggered schedule that rotates, so there is always one group of students on vacation. This way, the school can accommodate a greater capacity of students.

Remediation: A week of educational review, administered during the intersession, that is given to students who are at risk of failing. It is the year-round version of "summer school."

School-within-a-school: A school that operates on both a year-round calendar and the traditional calendar, and allows parents and students to choose between the two.

Single-track: A year-round program in which all of the students in the year-round program attend school on the same calendar and take breaks at the same time. It is offered for educational purposes rather than as a means to remedy overcrowding.

Traditional calendar: The typical American school calendar in which students attend school for nine months, from late August to early June, with a concentrated three-month summer break.

Year-round calendar: A calendar in which students attend school during all seasons of the year. The school calendar is reorganized by eliminating the long summer break and replacing it with more frequent short breaks.

—John Charles Bradbury

track schedules also were eliminated, says Hagerty, for one valid reason and one not so valid reason. The valid reason, Hagerty says, was the lack of a common K-12 calendar in the Seminole County Schools. The not so valid reason? The multi-track experience eroded enthusiasm and psychological support for the year-round experiment among parents and teachers. Support for even the more manageable single-track calendar could not be sustained.

To Ballinger, the Florida system's sudden disaffection is no surprise. "In Florida, it was a top-down expansion without real buy-in from parents,"

Ballinger says. "Too often, principals and superintendents haven't bought in to the year-round idea. They're doing it simply to solve the problem of overcrowding."

Ballinger's point seems crucial to the debate about year-round schools. As long as everyone involved—parents, teachers, principals, and students—think that the unconventional calendar has merit, it holds promise as a potentially effective reform. But rarely has the 12-month calendar survived or flourished when parents and school personnel feel that it has been forced upon them.

In North Carolina, virtually all of the three

dozen school systems that offer year-round programs have largely avoided serious opposition because they operate their programs on a voluntary basis. Those systems either run their alternative programs side-by-side with traditional classes in the same school, forming a school-within-a-school, or they operate the entire school on a 12-month calendar with voluntary enrollment. Wake County has the only school system in the state with multi-track programs—to help ease a critical shortage of space—but those are voluntary as well and are operating near capacity.

With the school-within-a-school model, however, educators often come to a crossroads in which the number of students choosing one calendar or the other gets out of balance and school

boards feel they must make a choice. In most recent cases, this has resulted in the phase-out of year-round schedules. Such was the case at North Asheboro Middle School. "I'm totally committed to year-round education," says Principal Daryl Barnes. "If the school board would give me total year-round, I'd take it in a heartbeat. But school-within-a-school at the middle school level is tough. I could take it for awhile if we were moving toward total year-round, but that was not going to happen here."

Barnes says he saw declining interest in the year-round calendar as students hit the seventh and eighth grades and became more interested in extracurricular activities. "Kids seem to make the decision more than parents the higher up they go,"



Karen Tam

Do Parents Support Year-Round Schools?

Among the claims of year-round education advocates are that parents enthusiastically support the program. But do they? Given that enrollment in most year-round schools in North Carolina is voluntary, the intuitive answer is yes. After all, if parents didn't support the calendar they could shift their child to the traditional calendar. But is there other evidence of parental support for the year-round calendar?

Administrators contemplating a year-round start-up typically find some support for the idea. Bill Upton, principal of Meadowbrook Elementary School in the western North Carolina town of Canton, surveyed parents in the spring of 1996 as part of a study of whether to convert the school to a year-round calendar. All but about a dozen of the 340 parents surveyed responded. Upton found 60 percent of parents favored the idea and 40 percent opposed it. The response gave Upton, part of the information he needed to plan the shift to a year-round calendar. "With 60 percent of parents for it and 40 percent against, we want to do an optional year-round-school," says Upton.

Upton's research convinced the Haywood County Board of Education to approve a single-track magnet school for the 1997-98 school year, with current Meadowbrook students getting first preference. Students preferring the traditional calendar will be placed at nearby elementary schools.

Other surveys exploring parental interest in the year-round concept have found support similar to that Upton found among Meadowbrook parents. A survey of parents in the Chapel Hill-Carrboro school system in January 1996 found about 80 percent of parents would like the option of sending their children to year-round schools.¹ The survey of 900 parents drew 377 responses (41.9 percent).

A similar survey for the Orange County Public Schools in October 1994 found 64.7 percent of the 480 parents who responded would send their children to a newly renovated year-round school in Hillsborough.² The school opened in July 1996.

So school officials *can* find support for the

year-round concept when their schools are in the planning stages. But how do parents feel once the calendar is implemented?

In 1991, researchers at North Carolina State University surveyed 350 parents of year-round students at Wake County's Morrisville Elementary School. The study found overwhelming support.³ Of the 290 parents who responded to the survey (82 percent):

- 99 percent agreed that year-round education is suitable to their lifestyles;
- 95 percent agreed that children's needs were better met by the year-round program than by traditional programs;
- 94 percent agreed that the year-round program was one reason that their children were more eager and enthusiastic about learning;
- 83 percent agreed year-round education better promotes the development of the whole child, and;
- 76 percent agreed that year-round education allows parents greater opportunity to be involved in their children's education.

Parents were less inclined to agree that child care and supervision can be provided more adequately in a year-round setting (60 percent agreed), and that extracurricular activities and events were better accommodated at year-round school. Only a minority (39 percent) agreed that changing classes after each three-week break was an advantage for their children.⁴

Additional evidence of parental support for year-round schools may be taken from the Wake County Public Schools parent survey, which goes to the parents of all children in the school system. In the 1994-95 school year, Wake County had three year-round magnet elementary schools. At those three schools, parents were far more likely to agree or strongly agree with the statement, "My child's school provides a high-quality educational program," than were parents of elementary students system wide. The system-wide average was 82.8 percent, while 93.4 percent of parents at year-round Durant Road Elementary School agreed or

"The World is full of mostly invisible things,
And there is no way but putting the mind's eye,
Or its nose, in a book, to find them out . . .

—HOWARD NEMEROV, "TO DAVID, ABOUT HIS EDUCATION"

strongly agreed with the statement, 89.4 percent of parents at Morrisville Elementary School agreed or strongly agreed with the statement, and 91 percent of parents at West Lake Elementary School agreed or strongly agreed with the statement.⁵

Similar strong support has been found for the year-round calendar in the Rockingham County Public Schools. Five elementary schools offer year-round programs in Rockingham County. In a parent survey conducted at all five schools in May 1995, overwhelming majorities of parents said they strongly agreed or tended to agree that "my child learns more in the year-round program."⁶

But if there is some evidence of parental support for optional year-round schools, what about taxpayers at large—parents and non-parents alike? After all, multi-track year-round schools are sometimes billed as a way to realize short-term savings on school construction. And it's the taxpayers who ultimately must foot the bill for school construction.

In Wake County, at least, there seems to be creeping support for year-round schools as a space-saving device. In a poll of Wake County citizens conducted prior to a June 1996 vote on whether to authorize \$250 million in bonds for school construction, 53 percent of respondents said they would support mandatory year-round schools to help relieve school overcrowding.⁷ That compares to 47 percent who gave a similar response in 1993. In the end, the question was moot because the voters overwhelmingly approved the bond referendum. But supporters of optional year-round schools realize the issue could arise again.

—Mike McLaughlin

FOOTNOTES

¹Deidra Jackson, "Year-round schools backed," *The News & Observer*, Raleigh, N.C., Feb. 10, 1996, p. 6B.

²Deidra Jackson, "Parents interested in year-round school," *The News & Observer*, Raleigh, N.C., Nov. 30, 1995, p. 6B.

³Robert Serow *et al.*, "Year-Round Education Program: Evaluation Report," Wake County Public School System, Raleigh, N.C., March 1992, pp. 2-4.

⁴Students are forced to change classes at Morrisville Elementary School because the school offers a multi-track program with students on four different calendars, thus accommodating more students than a traditional calendar school or a single track year-round school.

⁵*School Profiles: 1995-96*, Wake County Public School System, Department of Evaluation and Research, November 1995, elementary school section (schools are arranged alphabetically with a four-page profile for each). Another year-round elementary school, Vena Wilburn, also operated on a year-round calendar in 1995-96 but is not a magnet school. Parents who wish to transfer their children out of the school district may do so, but those living outside the attendance zone generally do not have the option of transferring in. At Vena Wilburn, only 75.9 percent of parents agreed or strongly agreed that the school provides a high-quality educational program—less than the system-wide average. It should be noted, however, that the question is an indirect measure. Vena Wilburn has a higher percentage of students on free and reduced lunch than the system average, while the other three year-round schools have a far lower percentage. This indicates students at the school are, on the whole, from less affluent families, and the school is located in a less affluent section of Wake County. Thus, other factors may play into the lower level of satisfaction with school programs among Vena Wilburn parents.

⁶Parents of students in five schools in Rockingham County were asked to respond to 12 different questions about year-round schools. For each question, parents at all four schools were overwhelmingly supportive of year-round schools. Responses to the statement, "I feel that my child learns more in the year-round program" are illustrative. Here are the percentages of parents who strongly agreed or tended to agree with the statement at each of the five schools: Central Elementary School, 96.7 percent; Dillard Primary School, 97 percent; Moss Street Elementary School, 89.5 percent; New Vision Intermediate School, 97.2 percent; and Stoneville Elementary School, 90.2 percent. Response rate of parents ranged from 89 percent at Central Elementary School to 76 percent at Dillard Primary School. The survey was conducted in May 1995 and the results were presented to the Rockingham County Board of Education in November 1995.

⁷Todd Silberman, "Wake notes growth in support for 12-month schools," *The News & Observer*, Raleigh, N.C., Jan. 19, 1996, p. 1B.

says Barnes. The decision to drop the year-round calendar was the direct result of this declining interest, which caused resources to be stretched between the two calendars.

A similar result occurred in Hendersonville, where the Henderson County Board of Education elected to drop school-within-a-school year-round calendars at one middle school and one elementary school but retain a single track year-round calendar at another elementary school. Hendersonville Middle School Principal Bobby Wilkins professes some dismay at the decision, which takes effect in the 1997-98 school year. "We had more kids in year-round this year than traditional," says Wilkins.

Hendersonville Elementary Principal Catherine Childress says her school retained its single-track calendar, but she is worried that the loss of the middle school option will hurt parents with children of both elementary and middle-school age. "It could have a ripple effect on us because that's where kids go from here."

One North Carolina school system has taken a different tack by placing all of its programs and students on the same, single-track, year-round calendar. Newton-Conover City Schools took that step after finding that parallel schools-within-schools created a degree of conflict for parents and teachers.

"We felt there was division among teachers and in the community," says Elaine Hall, principal of

"Education and religion are two subjects on which everybody considers himself an expert."

—ROBERTSON DAVIES,
THE REBEL ANGELS

Newton-Conover Middle School. "There was an issue for teachers who had children on a different schedule."

The school system has about 2,700 students in three elementary, one middle, and one high school. "We still have some folks who aren't happy with the calendar," Hall says. "But the majority is in favor. We were trying to give everyone a choice, but we began hearing that whatever we're going to do, let's do the same thing."

For teachers, Hall says, the two different calendars posed problems with staff development efforts, because it was difficult to schedule meetings and programs that worked for both schedules. "We were losing cohesiveness," she says.

Nevertheless, some strong opposition to dropping "choice" from the calendar came from high school students and their parents. They were concerned about summer jobs, special summer programs, and athletic seasons that wouldn't match up with the 45/15 (nine weeks on/three weeks off) year-round calendar. In fact, most systems with year-round schools—even those with ambitious programs—have steered clear of high schools for such reasons.

But Hall says the sports issue hasn't been the problem in Newton-Conover that some had feared. The football team finished 10 and 0 in its first season on the year-round schedule, she says. "We found that students had to be around in the summer anyway if they made a commitment to a sport or to the band." Thus, in a year-round school, students might have to return to school during their breaks to play in a game or participate in practice. School superintendent Everette Simmons also says that summer jobs have not been a problem in Newton-Conover. Students tend to take jobs during the school year anyway, so most student jobs are not affected.

A multi-track program is especially difficult for a comprehensive high school because of class scheduling conflicts. For example, a low-enrollment advanced placement course might not be feasible for each of the four tracks. Those kinds of

Organizations to Contact

for More Information

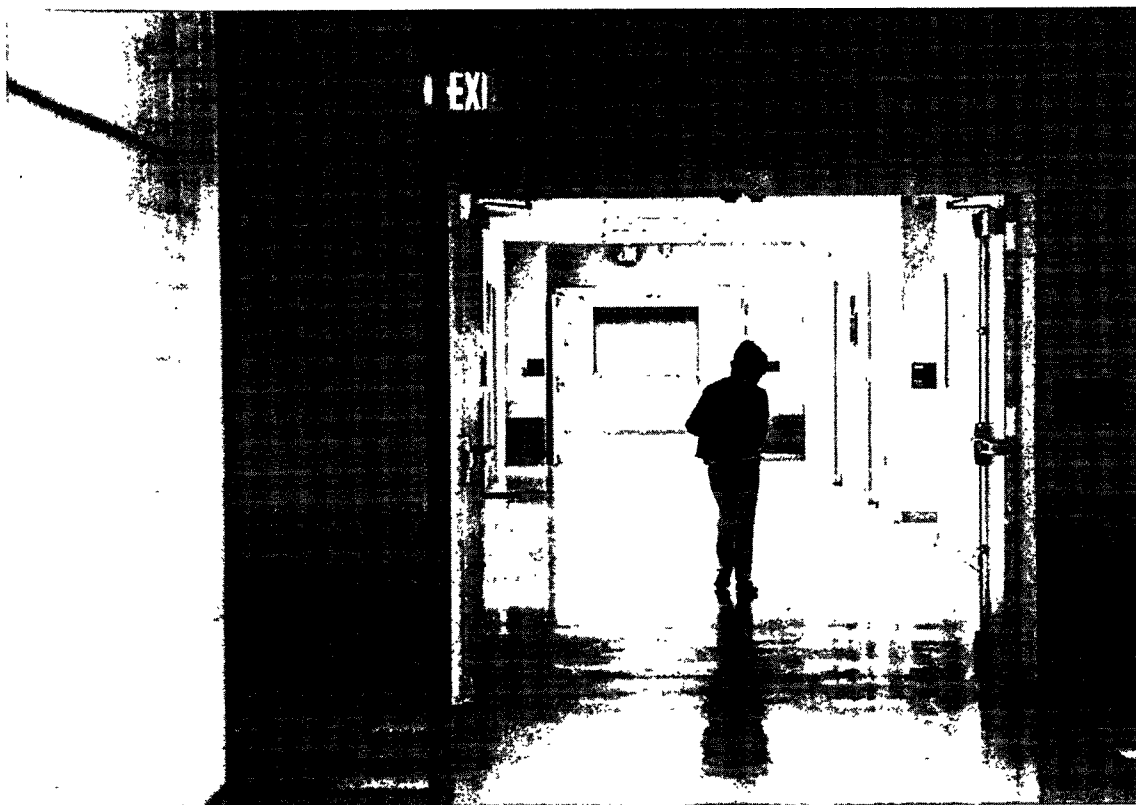
About Year-Round Schools:

Supports Year-Round Schools

The National Association for
Year-Round Education
P.O. Box 711386
San Diego, CA 92171-1386
Phone: (619) 276-5296

Opposes Year-Round Schools

Time To Learn
P.O. Box 12525
Charlotte, NC 28220
Phone: (704) 442-1131



Karen Tam

concerns led the Wake County school board to shelve a proposal for a year-round high school in the early 1990s.

Incrementally, however, more high schools are sampling the year-round schedule. One alternative high school, for example, has found the calendar to be a natural fit for students who fail to flourish within the traditional school setting. Cape Lookout High in Morehead City implemented the year-round calendar for the 1996-97 school year, and Principal Laura Beth Taylor already is impressed with the results. "We saw year-round as a really natural step to take because we can do nine weeks of work and then remediate," says Taylor. "We're finding we can keep kids focused for nine weeks. They work like their pants are on fire, knowing they're going to get a break."

About 40 percent of the school's 60 students are enrolled in algebra II, says Taylor. "And they're all at-risk kids," she says. "They're not just taking it. They're passing it."

Yet another high school that has converted to the year-round calendar is Northampton County High School West. The school operates on a 90-days-in-school, 30-days-out calendar with 15-day breaks in the fall and spring. Northampton County Schools Superintendent Gregory Todd says the

schedule allows the school to use a semester system and get exams in before the Christmas and summer breaks. Remediation programs are incorporated for students who are failing. "The other high school and two middle schools are going year-round next year," Todd says.

Conclusion

The debate over the year-round school calendar typically has turned on a simple question: Is it the solution to the myriad problems that public education faces today? This, however, may be requiring an experiment with the school calendar to carry too much baggage. One strong argument made by proponents of year-round schools is that they allow school facilities to accommodate more students—thus relieving overcrowding and reducing construction costs for new schools. A second major argument is that the restructured calendar actually can improve academic achievement.

But as much as proponents want to believe that year-round schools increase academic achievement, studies have produced inconclusive or mixed results. This is in part due to difficulties inherent in matching year-round students with their counterparts on the traditional calendar in order to design

studies that fully account for differences in abilities among students. In this sense, the studies in North Carolina are as inconclusive as those in other states. While there are some hints of increased achievement on the year-round calendar, there are other examples where students on the traditional calendar have outperformed their year-round peers. No dramatic leaps in learning should be anticipated unless year-round schools are willing to use time when their students are on break to lengthen the school year. Even then, the differences may be subtle and may take years to materialize.

A more dramatic result of the year-round calendar seems to be the increase in positive attitudes among teachers and students who enroll in the program on an optional basis. Teachers enjoy more frequent vacations and may therefore experience less "burnout." This is increasingly an issue as North Carolina attempts to retain its best classroom teachers. Many students also may benefit from more frequent remediation on a case by case basis, even though there is little evidence that it helps all or even most students. And teachers say the more frequent breaks keep students fresh and more eager to learn. Parents with lifestyles that are more conducive to frequent breaks rather than one long break also benefit. Supporters say that these factors—happy teachers, happy students, and happy parents—combine to create a better atmosphere for learning than the traditional calendar.

But if the atmosphere for learning has improved, why is there so little evidence of increased achievement? While it makes sense intuitively that shorter breaks and more frequent remediation might enhance learning, compelling empirical evidence indicating stronger academic performance does not exist. The best proponents can claim is that year-round education does no worse than the traditional calendar.

Because the findings on year-round schools are still debatable, the public schools should move cautiously on this issue. It must be remembered that many school systems across the country (Los Angeles, California; Albuquerque, New Mexico; Orange County, Florida) and in North Carolina (Blowing Rock, Catawba County, Asheboro, and Hendersonville among others) have ended or scaled back year-round programs for reasons such as cost, community dissatisfaction, and lack of academic results.

Satisfaction among parents, teachers, students, and the community is vital to success of any year-round program. To make sure this support exists, North Carolina should continue its permissive approach of allowing individual school districts to ex-

periment with different year-round approaches. Where possible, year-round programs should remain optional. Forcing people to participate in a program they strongly oppose makes success less likely. By allowing localities to experiment, costs and benefits will be clearer, and successes in one district can be adopted in another. ▢

FOOTNOTES

¹ N.C. Department of Public Instruction, "North Carolina 1996-97 School Year Year-Round Education," Fact Sheet.

² Linda K. Wertheimer, "Parents: Turn Back Calendars; Year-Round Education Loses Favor Amid Furor," *The Orlando Sentinel*, Orlando, Fla., June 4, 1995, p. B1.

³ Todd Silberman, "School bond details put off," *The News & Observer*, Raleigh, N.C., Sept. 18, 1992, p. B1; Silberman, "Crowds putting schools in bind," *The News & Observer*, Sept. 8, 1992, p. A1; Silberman, "Group readies school protest," *The News & Observer*, Aug. 11, 1992, p. B1; Tim Simmons, "Year-round schools on hold," *The News & Observer*, July 17, 1992, p. B1.

⁴ For a comprehensive discussion of the school choice issue, see Tom Mather, "School Choice: A Simple Term Covers a Range of Options," *North Carolina Insight*, Vol. 16, No. 2 (September 1995), pp. 2-50.

⁵ Walter L. Winters, "A Review of Recent Studies Relating to the Achievement of Students Enrolled in Year-Round Education Programs," National Association for Year-Round Education, Nov. 1994, p. v.

⁶ Carolyn Calvin Kneese and Stephanie L. Knight, Texas A&M University, a report presented at the annual meeting of the American Educational Research Association, San Francisco, Calif., April 18-22, 1995, p. 3.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Blaine R. Worthen and Stephen W. Zsiray, Jr., "What Twenty Years of Educational Studies Reveal About Year-Round Education," report commissioned by N.C. Educational Policy Research Center, School of Education, University of North Carolina at Chapel Hill, March 1994, pp. 10-11.

¹⁰ *Ibid.*, p. 11.

¹¹ Jane L. Zykowski *et al.*, "A Review of Year-Round Education Research," California Educational Research Cooperative, School of Education, University of California, Riverside, Feb. 1991, p. 49.

¹² *Year-Round Schools: Do They Make a Difference?* Center for Evaluation, Development, and Research, Phi Delta Kappa, Bloomington, Ind., May 1990, p. 243.

¹³ D. Kirk Grotjohn and Karen Banks, "An Evaluation Synthesis: Year-Round Schools and Achievement," Wake County Public School System, 1993, p. 3, presented at the 1993 Annual Meeting of the American Educational Research Association, Atlanta, Ga.

¹⁴ *Ibid.*, pp. 5-6.

¹⁵ A "multi-track" school operates with different groups of students on separate calendars, or tracks, that rotate when the groups are in session. The groups attend on staggered schedules with one group always on vacation. This way, the school can serve a greater number of students. The Wake County schools use a 45-15 calendar, where each track attends school for nine weeks (45 days) then takes a three-week (15 day) break. "Magnet" refers to a school that is optional for students to choose to attend, as opposed to going to the school to which the student is assigned by zoning. In Wake County, the entire student body of

a year-round magnet school is on the year-round calendar.

¹⁶ Robert Serow *et al.*, "Year-Round Education Program: Evaluation Report," Wake County Public School System, Raleigh, N.C., March 1992, p. 6.

¹⁷ Bethany Prohm and Nancy Banen, "Are WCPSS Multi-Track Year-Round Schools Effective?" Wake County Public School System, Raleigh, N.C., March 1996, p. 3.

¹⁸ The exception was at Durant Elementary, where students increased from 81 percent scoring at Levels III or IV in math to 88 percent.

¹⁹ Bethany Prohm and Nancy Banen, note 17 above, p. 4.

²⁰ *Ibid.*, p. 2. See Table 3 for specific school information.

²¹ *Ibid.*

²² Robert Serow *et al.*, note 16 above, p. 15.

²³ Bethany Prohm and Nancy Banen, note 17 above, p. 5.

²⁴ Cammie Hall *et al.*, "Results of Year-Round Education Research," Rockingham County Public School System, November 6, 1995, pp. 1-18.

²⁵ *Ibid.* at pp. 1-8.

²⁶ *Ibid.* at p. 11.

²⁷ Faye H. Frye *et al.*, "YRE—What Is the Real Truth!," report presented to the Rockingham County Board of Education and to a national conference on year-round schools. Data analysis by Ann Brady, September 1996, pp. 6-7.

²⁸ A "school-within-a-school" refers to a school that has students on both a year-round calendar and the traditional calendar.

²⁹ The gains in math were small. However, they were more than 8 percent greater than the percent of the year-round students scoring at Levels III and IV.

³⁰ Quinn Raspberry, "Year-Round Schools May Not Be the Answer," position paper, Time To Learn, Charlotte, N.C., June

1994 (revised May 1996), p. 13.

³¹ McGladrey & Pullen, LLP, *Wake County Public Schools Cost Comparison of Year-Round Schools Versus Traditional Schools*, Wilmington, N.C., June 6, 1996, pp. 2-3.

³² Seminole County Schools, Fla., Division of Business and Finance, "Cost Effectiveness of a Modified School Calendar vs. The Traditional 180 Day Calendar," 1989, pp. 6-20; and report to the Wake County Board of Education by Farrell Hanzaker, former associate superintendent for administrative services, Nov. 1992, pp. 11-12.

³³ *Ibid.*, p. 12.

³⁴ McGladrey & Pullen, LLP, note 31 above, p. 2.

³⁵ Neil MacFarquhar, "Trenton Schools Begin an Experiment with Year-Round Classes," *New York Times*, July 22, 1995, p. 1B.

³⁶ Jacquelyn Heard, "Year-Round School Could Face Some Heat," *Chicago Tribune*, July 9, 1995, p. 1.

³⁷ N.C. State Board of Education policy on year-round education, adopted Dec. 4, 1991.

³⁸ Worthen and Zsiray, note 9 above, pp. 18-19.

³⁹ *Ibid.*

⁴⁰ *Ibid.*, p. 19.

⁴¹ Telephone interview with Don Patterson, Oct. 6, 1995.

⁴² Lois Timnick, "Year-Round School Plan Rescinded," *Los Angeles Times*, June 3, 1993, home edition, p. J1.

⁴³ Henry Chu, "School Year Vote Forces Officials to Scramble," *Los Angeles Times*, May 5, 1993, p. B4.

⁴⁴ Seminole County School System's report on year-round costs, Sanford, Fla., May 10, 1995, p. 12.

⁴⁵ Center for Evaluation, Development, and Research, note 12 above, p. 243.

Recommendations on Year-Round Schools Policy

While the year-round calendar shows much promise in improving teacher morale and creating a better classroom atmosphere for children, that promise is yet to be translated into dramatic improvements in classroom performance. In some studies, year-round students have outperformed their peers on the traditional calendar. In others, it's traditional calendar students who have attained higher marks.

A Texas study, for example, found year-round students performed slightly better in reading and math than their peers on the traditional calendar. And at-risk students in schools serving poorer populations were found to reap even more benefits.¹ Researchers at the now-defunct North Carolina Educational Policy Research Center within the School of Education at the University of North Carolina at Chapel Hill reviewed

20 years of studies on year-round schools conducted across the nation. Their conclusion? "Overall, there appears to be a slight but not overwhelming advantage for year-round students in learning basic content."²

Still, results of studies across the nation have been mixed, and the results are clouded by difficulty in matching students on innate ability and demographic factors such as income and education level of parents. A Wake County study that used an "effectiveness index" to compare similar students across the school district concluded, "[Y]ear-round elementary students are performing about the same as similar students in other schools." The North Carolina Educational Policy Research Center concluded that "[m]ore and better research and evaluation

—continues

studies will be needed before the picture becomes clear enough to describe it with absolute certainty."

Therefore, the ground is not entirely firm under the feet of those who would adopt a year-round calendar in hopes of improving academic achievement. In fact, a 1990 survey of year-round schooling by Phi Delta Kappa, an honorary education fraternity, reaches this firm conclusion: "If a district is looking to show major increases in standardized tests, year-round schools are not the answer."³

Neither is the record entirely clear for school officials who want to adopt a multi-track year-round schedule to serve more students in the same amount of space and realize cost savings on school construction. The Phi Delta Kappa study found, "Cost savings which result from the avoidance of new construction are reduced by higher operating and maintenance costs. . . . A district should not consider implementing year-round school simply to save money." A study of Wake County multi-track schools by the accounting firm McGladrey & Pullen of Wilmington, N.C., found average annual operating costs of \$3,849 per student for year-round elementary schools and \$3,819 for traditional calendar students. When capital costs were factored in, the year-round elementary schools were found to be moderately cheaper, at \$4,664 per student compared to \$4,811 for traditional schools.⁴

One piece of the evidence on year-round schools is clear, however. Year-round schedules adopted without giving parents the option of sticking to the traditional model create so much friction among disgruntled parents and teachers that opponents can scuttle the entire program. Support from parents for a shift to the year-round calendar has ranged as high as 60 percent at an elementary school in the mountain town of Canton and 80 percent in the university community of Chapel Hill-Carrboro. Evidence also is strong that parents who choose to send their children to year-round schools are satisfied with that choice. In Wake County, parents who sent their children to multi-track year-round magnet schools were more likely to agree that "My child's school provides a high-quality educational program"

than were parents on the traditional calendar. In Rockingham County, overwhelming majorities of parents strongly agreed or tended to agree that "my child learns more in the year-round program."

Yet administrators at Blowing Rock Elementary School found that a committed and vocal minority could derail a year-round experiment that was highly popular with many parents and teachers. And a move to *mandatory* year-round schools in Newton-Conover spurred at least one school board member to run for election and win on an anti-year-round schools platform. Two members of the six-member board count themselves as foes of the calendar, while four members continue to support it. The Catawba County Board of Education elected *not* to shift to a mandatory year-round calendar because the contemplated shift was beginning to divide the community.

Therefore, it behooves public education officials who are considering the year-round model to: clearly define their objectives in moving to the year-round calendar; communicate those objectives clearly to the public; and preserve parental choice. To make the right choice, parents could benefit from more information. So could school officials wrestling with whether to convert to a different calendar. That's where the state could provide an important public service—by providing school officials and parents with comparative information to help them make choices.

To preserve informed parental choice and to increase the amount of information available to choose wisely in deciding whether to switch to a year-round calendar for local public schools, the North Carolina Center for Public Policy Research makes the following recommendations:

(1) Local school boards should keep the year-round calendar *optional* for parents, teachers, and students where possible when implementing a new school calendar. There are many ways to preserve choice while making the shift to a restructured school year. The best choice seems to be the magnet-style approach in which an entire school is converted to a year-round calendar, and students who prefer this

type of calendar apply to attend. While magnet schools often feature beefed up curricula to attract students, Wake County schools are attracting students solely on the basis of the calendar.

Another option is the "school-within-a-school" approach in which two calendars are used at the same school. This approach can create friction between the two calendars—particularly if too many students choose one or the other calendar and class sizes get out of balance. But the school-within-a-school approach does provide choice, and it avoids some of the controversy of the mandated approach. School systems which determine they *must* move fully to the year-round calendar may wish to stem the all-but-certain controversy that will ensue by lengthening the summer break slightly or negotiating open transfers with neighboring school systems to ease the concerns of those who support the traditional calendar.

(2) Because North Carolina is moving rapidly toward more year-round schools and has the third highest number in the nation, the Superintendent of Public Instruction and the State Board of Education should publish comparative data on student achievement in year-round schools versus similar traditional schools, thus allowing parents to make an informed choice regarding how students perform on these two types of calendars. The state already collects and reports school system data on student performance in reading and math in grades 3–8 and writing in grades 4 and 7. At the high school level, student scores are published by school system on proficiency tests in core courses such as Algebra I, Biology, Economics/Legal/Political Systems, English I, and U.S. History, as well as average scores on the Scholastic Assessment Test (SAT). Indicators such as drop-out rates, attendance, and percentage of poor students also are reported.

The state plans to publish such data *by school* for the 1997–98 school year, which will provide a major resource for parents seeking information about academic performance at their children's schools. But with 56 of 111 year-round schools using the school-within-a-school model, differences in academic performance between students on different calendars operating

within the same school may be hidden in the overall school scores. To allow parents to assess how well students are doing on the *year-round-school* calendar versus the traditional calendar, scores for both calendars should be reported by school. These school-by-school indicators should be compiled in an annual report on year-round schools that would provide a resource for both parents and local school boards who are attempting to assess the success or potential of the year-round calendar.

These data would allow parents to see how children on the year-round calendar at a particular school perform on such measures as end-of-grade tests in reading, writing, and math. This is particularly important for school-within-a-school models where parents could just as easily pick one calendar as the other. And, the data would provide valuable information for the state and for local school boards as well. Over time, patterns might emerge that would contribute greatly to knowledge of the efficacy of the year-round calendar. After all, the experiment is still a young one in North Carolina, dating only to 1989 but growing by leaps and bounds ever since. As North Carolina public schools rush to the head of the national class in the year-round schools movement, it seems wise for the state to provide some evaluation, as well as guidance and quality control measures to assure that the public is getting what it thinks it is getting with the year-round school calendar.

—Mike McLaughlin

FOOTNOTES

¹ Carolyn Calvin Kneese and Stephanie L. Knight, Texas A&M University, a report presented at the annual meeting of the American Educational Research Association, San Francisco, Calif., April 18–22, 1995, p. 3.

² Blaine R. Worthen and Stephen W. Zsiray Jr., "What Twenty Years of Educational Studies Reveal About Year-Round Education," report commissioned by N.C. Educational Policy Research Center, School of Education, University of North Carolina at Chapel Hill, March 1994, pp. 10–11.

³ *Year-Round Schools: Do They Make a Difference?* Center for Evaluation, Development, and Research, Phi Delta Kappa, Bloomington, Ind., May 1990, p. 243.

⁴ McGladrey & Pullen, LLP, *Wake County Public Schools Cost Comparison of Year-Round Schools Versus Traditional Schools*, Wilmington, N.C., June 6, 1996, pp. 2–3.

YEAR-ROUND SCHOOLS IN NORTH CAROLINA:

A Firsthand Look

by Mike McLaughlin

Everette Simmons sweated the start of the 1995–96 high school football season. As superintendent of the Newton-Conover Public Schools, Simmons had been instrumental in the move to switch the high school to a year-round calendar. The school's athletics director opposed the move, and in small town North Carolina, a high school athletics director carries a lot of clout. A bad season could mean a bad end for mandatory year-round schools in Newton-Conover.

The team went 10–0. "I'm glad that occurred," says Simmons. "Knock on wood."¹

Like the Newton-Conover football team, year-round schools are on a roll in North Carolina. At last count, 111 schools had converted to a year-round calendar, the third highest total in the nation. To get a firsthand look at these programs, the Center visited year-round programs in the Newton-Conover City Schools, the Mooresville Graded School District, and the Wake County Public Schools. The Center also discussed with education officials decisions to shelve year-round experiments in Blowing Rock, N.C., and in the Catawba County Schools. Here's what we found:

Newton-Conover City Schools

Newton and Conover are a pair of small Catawba County towns joined at the middle. "When the mama town gave birth, she had twins," says Everette Simmons, the superintendent of the Newton-Conover City Schools. The mutual boundary isn't the only thing joining the two towns. They also share the only school system in the state that has mandated year-round schools for every student.

But Superintendent Simmons is well aware that could change. The school board re-adopts the calendar every year, and there is mounting disaffection with the mandated calendar—particularly at the high school level. In January 1997, the year-round calendar passed by a 4–2

vote—with some modifications, and Newton-Conover's commitment to year-round schools was reaffirmed for another year.

The vote was no doubt a relief to five teachers at Thornton Elementary School, who, on the last day of school before a five-week break, jumped at Simmons' spur of the moment invitation to stay after school and discuss the year-round calendar. Each of these teachers offered a glowing account of the calendar's merits. "From an exceptional children standpoint, it's unbelievable the amount of retention of materials," says Pat Rice, a special education teacher with 30 years of classroom experience. "You don't have to spend half the year teaching what you taught before."

The five credited the calendar with everything from easing problems with after-school care, to improved classroom behavior, to preventing vandalism committed by bored school children on long summer breaks.

And according to these teachers, most parents and students like the calendar as much as they do. "One of my little boys told me the other day he wished he could spend the night," noted one teacher.

Scores on End-of-Grade tests at Thornton soared in 1995–96, with fourth graders notching a 30-point gain to exceed the state average in writing.² Whether because of a new principal, the calendar, or some other factor, the gains were impressive in this small school in a less affluent area of the school district.³

Newton-Conover lies at the heart of the industrialized Catawba River Valley—a major furniture production center and the sock-making capital of the nation. Mill and factory jobs predominate, and in most households with school-age children, both parents work. Year-round schools with shorter breaks dispersed over the course of the year—buttressed by before- and after-school care and special programs during

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the breaks—seem a solid match for these kinds of households. “We have one of the highest percentages of mothers in the labor force in the state,” says Simmons. “We also have a higher percentage of single parents. We saw year-round schools better fitting into those lifestyles.”

Yet year-round schools are not universally popular. Two board members—Fielding Clark II, a lawyer practicing in Hickory, and Dr. Alan Forshe, a physician with a family practice in Newton, remain firmly opposed to the calendar—and they are trying to win other board members to their point of view. Their opposition stems primarily from the school system’s decision to mandate the year-round calendar at the high school level.

But there are critics at the elementary and middle school levels as well. Simmons has found that traditional households—those in which one parent stays home and the other wins the bread—are the ones most likely to favor a traditional calendar. Simmons has heard all the complaints. “‘You’re taking away from our family time, our quality time together, our time for the swimming pool or the house at the lake.’” And he is not entirely unsympathetic.

Ideally, Simmons says, year-round schools would have remained optional. But at Newton-Conover, year-round schools represent the experiment that took over the lab. The experiment began when a high school principal won a \$1,000 grant and used it to go to a year-round schools conference in San Diego, Calif. Next came a task force and the development of a school-within-a-school experiment for grades kindergarten through five. This gave students a choice of both calendars. But by the second year, 62 percent of students were choosing year-round. “If it went above 65 percent, there wouldn’t have been enough to have one traditional class at each grade level,” says Simmons.

Simmons decided the time had come to choose between year-round and traditional, and he chose year-round. The school board agreed, and embarked on a mission to convert all of the schools. With all schools on the same calendar, scheduling conflicts would be minimized for parents with children at more than one school. In the third year, Newton-Conover converted the middle school to a year-round schedule. The high school was last to convert, in 1995–96.

Within four years, the Newton-Conover Schools had gone from no year-round schools to mandated year-round schools for the entire system.

Simmons supports year-round schools because of the educational benefits he perceives and because he believes the schedule and support activities better suit the lifestyles of working parents—not to relieve overcrowding. In fact, the student population at Newton-Conover is shrinking a little and now stands at about 2,700 students. The schools operate on a single-track system, meaning all students attend on the same schedule—45 days in class followed by breaks of three- to five-weeks.

Simmons sees the opportunity for extending the school year during breaks as the most important advantage the year-round calendar has over the traditional. Many year-round schools offer remediation during breaks only to students in danger of failing. But Newton-Conover has attempted to broaden the appeal of these intensive five-day sessions through grade enhancement. Students earning a B or lower can improve their marks by one letter grade if they perform satisfactorily during the break. Those earning A’s get the reward of a longer vacation. But for many students, the school year can be extended to the equivalent of 200 days.

Optional non-school activities called enrichment can extend the year even further, but these will be eliminated for the 1997–98 school year due to declining interest on the part of parents and students, Simmons says. Enrichment programs have included such opportunities as trips to the Outer Banks on the coast or to the western North Carolina ski slopes, as well as more practical activities such as a week-long “orientation to the justice system” program that includes courtroom observation and a student-run mock trial.

But Simmons says enrichment “never reached its full potential.” The school board voted to drop it, shorten the breaks between sessions to two weeks, and lengthen the summer vacation to eight weeks effective for the 1997–98 school year. While dropping enrichment, the calendar changes preserve the grade enhancing review sessions for students who fall behind in their studies. “We are, in a sense, trying to reach some sort of compromise to make the summer as long as possible and at the same time maintain

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The whole thing is, Newton-Conover is geeing and the rest of the state is hawing,

—FIELDING CLARK II
OPPONENT OF YEAR-ROUND SCHOOLS

the integrity of the remediation program," says Simmons. "Intersession is the key," he says. "If you do not do anything with it, there is not any reason to continue with the year-round calendar."

Implementing the year-round schedule at the high school level has been the greatest challenge. There, Simmons says, both teachers and students have resisted the change. "You can take a horse to water, but you can't make him drink," says Simmons. "I guarantee you there are some high school students who are failing, and a lot of those kids will not come back for that extra week of help."

Critics of the calendar, however, say the real blame lies with the administration for trying to force-feed the high school an ill-conceived idea. "I think at the high school level it is not working at all," says school board member Clark. "It causes more problems than the benefits you get out of it." Clark cites problems with staffing remediation and enrichment sessions at high school, as well as the logistical difficulties of Newton-Conover students being on a different schedule than the rest of the high school students across the state. "The teachers want out. The students want out. There is no real benefit other than the preference of wanting to go to school in the summer or be off. It may look good on paper, but in the practical application of it, it's not working. It probably would work with a magnet-type school where people who wanted to could send their child there."

Clark says the five-week break is too short for students to get a summer job, and Newton-Conover students miss out on summer activities for teens such as Governor's School and summer camp. "The whole thing is, Newton-Conover is geeing and the rest of the state is hawing," says Clark. "There's more to learning than what's

written in a book. What teen can get a job? All they do, my teens, they sit around and watch TV."

Despite such complaints, Simmons says disruptions at the high school caused by the year-round schedule have been minimal. He says conflict with summer jobs also has been minimal because most students who work do so throughout the year, not just during the summer break. Scheduling conflicts for such extracurricular activities as band and sports also have been less a problem than the critics predicted, Simmons says.

Still, board member Forshe, the physician, believes community opposition ultimately will end the Newton-Conover experiment. "It wasn't marketed correctly, it's not effective, and it won't be effective," says Forshe, "and I don't think it will be very long-lived in this community. . . . I ran openly against it and got elected easily. That should tell them [school administration officials] something."

Forshe notes that SAT (Scholastic Assessment Test) scores at the high school dropped by 24 points for the 1995-96 school year, a drop he attributes to discontent about the calendar. "Basic discontent pervades our school system," says Forshe. "The public perception around our town is, the year-round calendar is causing us to drop [in SAT scores]."

But Sam McRee, a school board member at Newton-Conover and a high school guidance counselor in a neighboring school system, says the critics should give the calendar more time. The drop in the SAT score, he says, came during the first year the calendar was implemented—too early to blame the drop in scores on the calendar.

*I don't think we will ever get
all of the people to like
one way or the other.*

—EVERETTE SIMMONS
SUPERINTENDENT
NEWTON-CONOVER SCHOOLS
ADVOCATE OF YEAR-ROUND SCHOOLS

Some students who took the test only had been on the calendar a few months.

McRee, in fact, sees potential for improving academic performance through the calendar, particularly if students take advantage of review time offered when students are on break. "In the public schools, we never have time to stop, regroup, and remediate and catch kids up when they fall behind, and this is the ideal way to do that," says McRee. "My daughter got behind in geometry. She went back after nine weeks [for a week-long review], and it was perfect for her."

Advocates of the year-round calendar were buoyed by the January 1997 release of the school system's 1995-96 state report card, which showed Newton-Conover students to be above the state average on 10 of 11 indicators. Still, the transition to mandatory year-round schools has not been entirely smooth, and as Simmons is quick to point out, the calendar is adopted annually. It remains to be seen whether Newton-Conover's distinction as the only school system with mandated year-round schools will continue for long. "We've still got a lot of obstacles to overcome," says Simmons. "I don't think we will ever get all of the people to like one way or the other."

Mooresville Graded School District

For a long while, Mooresville called itself the port city because of its proximity to Lake Norman. White flags bearing blue sails still flap in the summer breeze from lampposts along a picturesque main street. But the brick sign at the city limits declares the town to be Race City because of the number of NASCAR racing teams that call the area home. Perhaps Mooresville should rethink the issue yet again and bill itself as the city of year-round schools, for it is a simple experiment with the school calendar that is putting the town on the map.

Part of the reason is Carol Carroll, the curriculum director for grades kindergarten through eight and a tireless advocate for year-round schools. The school system has been featured in publications ranging from *Time* magazine to the *Congressional Quarterly Researcher*. And in a nation thirsty for public school reform, the Mooresville Graded School District experiment with year-round schools is touted as a success

story. The calendar is optional for all children in grades K-8, and the current superintendent, Jane Carrigan, plans to keep it that way. "What we have in Mooresville is strong feelings about both calendars," says Carrigan.

Mooresville's population is socio-economically diverse. The town—with its roots in agriculture and textile manufacturing—now faces growth pressures because of its proximity to both Charlotte and Lake Norman. "We have everyone from shift workers to folks whose bosses say, 'I don't care where you live as long as you're close to a phone, a fax, and an airport,'" says Carrigan.⁴

These different work situations place different stresses on family life, says Carrigan. "Family time is very important today," she says. "We don't have as much of it as we did." Carrigan figures a choice regarding when children attend school and when they are off is one thing the school system can do to ease the stress on family life. Because there is choice, she says, there is little controversy about the year-round calendar. Parents like it, teachers like it, and kids like it, and if they don't, they can choose the other calendar without even changing schools—thus the beauty of the school-within-a-school approach.

So, how many children would choose year-round education if they really had the choice? In Mooresville, the answer is 48 percent. "We used to say, 'How many classes will it take for everybody to go year-round,'" says Bruce Boyles, the school personnel director, "but it just leveled off."

Mooresville's flirtation with year-round schools began when the school system decided to pursue an R.J.R.-Nabisco Next Century Schools grant. "As a small school system, we're always looking for grants that will do something for kids," says Carroll. The school system got the grant—\$500,000 over a three-year period—and scrambled to put its year-round-schools program in place. "We shot for 15 students," says Carroll. "We were going to make a go of it if we could get one classroom of 15 students." Instead, the school system got 202 students who wanted to shift to the year-round calendar, and the numbers doubled for three consecutive years before leveling off at almost 1,200 students.

Carroll has become a firm believer in what

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started as an effort to attract more resources to a small school district. "It's turned into, 'this is a better way of doing it.'"

Administrators cite the usual benefits of the year-round calendar: more frequent breaks during which remediation can be offered to help students who fall behind; and special enrichment programs that help keep children enthused about learning while giving them a break from the traditional classroom setting.

Ultimately, it's a way of lengthening the school year slightly (from 180 to up to 200 days) for students who have not mastered the material

on the first attempt. "You get to children earlier in the school year to work with their deficiencies," says Boyles, a former principal who wrote his doctoral dissertation on the year-round schools concept. "There's a whole different attitude toward what we call remediation compared to summer school. It's additional help—not punishment."

Year-round teachers who gathered at Mooresville Middle School to discuss the pros and cons of the calendar also appeared to be thoroughly sold on its benefits. "Coming from the traditional calendar to year-round, the stress



Karen Tomi

level of students and teachers was the first thing I noticed going way down, especially with older students," says science teacher Beth Murphy. "You can tell them, OK, only two weeks left. Hang in there."

Happy teachers plus eager students equals a better atmosphere for learning, says sixth grade science teacher Brian Dunagan. The students ultimately benefit, he says. "It's great for us, but I think it does reflect back on the students," Dunagan says.

While the benefits of the calendar are yet to be definitively proven through standardized tests, school officials are convinced the calendar is making a difference. And the town that changed its mind about its nickname seems unlikely to change its mind about year-round schools. "I'm so proud of Mooresville because we've stuck with something long enough to where we're now reaping the benefits," says Carroll.

Wake County Public Schools: Multi-Track Mania

Effie Green Elementary School Principal Caroline Massengill's tidy bookshelves contain volumes of hardbacks bearing serious titles like *The Book of Virtues*, *Out of the Crisis*, and *Education for Character*. They also contain four bright pink Energizer bunnies, each about four inches tall. "They're our year-round symbol," says Massengill. "They keep going and going and going."

For the Wake County Public Schools, the symbol works. Of all of the 111 year-round schools in North Carolina, Wake is one of only a handful of school systems using the calendar for what has been its chief selling point in some other states—to relieve overcrowding. Students go to class on four separate schedules—or tracks—so that the school truly is used year-round and doesn't stand empty during the summer break. As a result, a school building can house up to 33 percent more students.

Wake County has a magnet school program in which students are allowed to transfer out of their attendance zone to schools with special programs. Multi-track year-round schools are one such program. Attendance is purely by choice, and parents and children are choosing

the calendar in droves. "There are now more kids in year-round magnets than all other magnets combined," says Massengill.

The method creates extra administrative headaches, but Massengill thinks it's worth it—not because it's a way to shoehorn more children into existing school buildings, but because she thinks this different way of organizing the calendar represents a better way of educating.

"We think there are definite educational advantages for children to be in year-round," says Massengill. "I think it's the way we use time."

Like single-track schools, Wake schools have 45-day sessions, with three- to five-week breaks during which students can return for re-teaching and enrichment. Media centers are open year-round, and students are encouraged to take home at least three books during every break. The frequent breaks give the students a chance both to catch up on their studies and recharge their batteries for the next round.

Massengill has seen relatively high achievement test scores wherever she has applied her methods, but she realizes other factors may have contributed. Many of the students at Morrisville Elementary School come from affluent households where the parents are highly educated. Indeed, the number of students receiving free and reduced lunches in 1995–96 totaled 5 percent, compared to a system-wide average of 24 percent.⁵

But the school also apparently had another key variable in its favor—a good principal. Massengill, who spent six years at the helm at Morrisville, was named Wake County Principal of the Year for the 1995–96 school year. She also won regional principal of the year honors and was one of six finalists for North Carolina principal of the year. The accolades spilled over to Morrisville Elementary, which *Redbook* magazine named one of the 142 best elementary schools in the nation in 1995.

Massengill is a pioneer in the year-round schools movement in North Carolina. She developed the first contemporary year-round school in the state in her first job as a full-fledged principal—at Kingswood Elementary School. The program later was moved to Morrisville Elementary School. "It was single-track, which is so easy," says Massengill.

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Single-track programs—while they rearrange the calendar—do not increase the number of students attending a school. “It worked so well Wake decided to go to multi-track.”

With the shift to multi-track, Massengill was operating without a map. Like a number of North Carolina administrators who have implemented year-round schools, Massengill made the pilgrimage to San Diego, Calif., to the annual year-round schools conference sponsored by the National Association for Year-Round Education. “I talked to every single person I could find (about how to make the conversion),” says Massengill. “There are a lot of variables.”

One advantage of multi-track was readily apparent—more students in the same amount of space. Massengill figures Wake already has avoided building at least one new school through its multi-track program, deferring a cost of about \$7 million.

But there are challenges in synchronizing four different groups of children on different calendars at the same school so they seamlessly come to a stopping point at the end of the year. One example is when to administer achievement tests. “We have to count the number of days to make sure our days in the classroom are comparable with traditional students. We have them [the four groups] testing at different times.”

Another challenge: what to do about snow days. “We have no make-up days in the calendar,” says Massengill. “Last year, we had to go six days on Saturday.”

Yet Massengill has mastered these challenges in previous assignments. In a pure choice system, Wake County’s multi-track, year-round schools cannot always accommodate all the students whose parents want them to attend. Now Massengill is being asked to restructure 48-year-old Effie Green Elementary, an underachieving school that had been losing population to transfers and to private schools. School officials decided a year-round school magnet program at Effie Green might reverse the flow of students out of the school’s attendance zone. So far, it’s worked.

The school had 479 students in 1995–96. “This year, we have 625,” says Massengill. Of those students at Effie Green in 1995–96, Massengill estimates that 125 elected to stay and try the new magnet year-round program. “We’ve

got 500 new students,” says Massengill. The school also has a whole new staff. “Everybody here was reassigned,” says Massengill. “They could have reapplied, but most did not want to.”

Massengill faces a challenge in converting Effie Green. The more typical pattern in Wake County has been to create year-round magnets at new schools in the outer reaches of the county, where expensive new homes are being constructed that fill the schools with children from more affluent families. Students whose parents are affluent and highly educated generally outperform their peers, and that has been the case at Wake County’s year-round schools. At Effie Green, Massengill must register achievement gains with a more diverse student body. And parents will be watching closely. Because Effie Green is a magnet school, parents chose to enroll their children there. They can just as easily choose to take them out.

The age and location of the school creates its own set of problems. For instance, the school grounds were not designed to accommodate the number of buses needed to serve its relatively large attendance zone. The number of parents dropping off children also has greatly increased. As a result, when the new magnet opened for the first time, traffic backed up into a busy city street during prime commuting hours, creating a sort of mini-gridlock.

Older buildings also require more maintenance, and since the buildings are never vacant for significant stretches, disruptive renovations must take place while class is in. Even mundane tasks such as keeping the floors gleaming get magnified by the schedule. And since the school is a magnet, the older physical plant must remain attractive to parents and children who have other choices. So far, parents have been willing to give Effie Green a shot. Only the upper grades have vacancies, which Massengill says is typical of a new, optional year-round school. Parents who have already gotten their children started on a traditional calendar are more reluctant to change than those in the earlier grades.

Massengill believes the magnet school at Effie Green will succeed. She says the higher grades will fill as students advance and as more students move into the attendance zone. Already, the school is serving about a third more students than it did in 1995–96 as

a traditional calendar school.

And Massengill believes that as long as year-round schools remain optional, their numbers will continue to increase in Wake County and across the state. "Many families are putting their children there because they just think they [year-round-schools] are better for kids," she says. "In Wake County, pediatricians and psychologists are recommending them for children with attention deficit disorder and other learning problems. So many kids are on year-round that other people are changing what they are doing. . . . I do think they [year-round-schools] are the wave of the future," says Massengill. "I do think we will continue to see more."

West Lake Middle School

It's an 18-mile drive from the heart of Raleigh to West Lake Middle School. Beyond bus-

ting Cary, stop lights and heavy traffic give way to rolling, tree-covered hills and green fields. Only the occasional red clay scars of a new subdivision going in or a new road under construction provide signs of Wake County's continuing population boom.

Just past a farm house nestled in shade trees, the sprawling middle school campus emerges from the greenery. Its pastoral setting suggests a sort of peacefulness, despite the awkward ages of the school's 1,400 students. Principal Ramey Beavers says in this case, looks are not deceiving. "It's a safe environment," he says. "We're more likely to see a deer or a rabbit than somebody selling drugs."

West Lake is one of two Wake County middle schools on the year-round calendar. Beavers says the school has its own identity, and part of that identity is that the teachers and administrators don't tolerate much nonsense.

"The kids really perceive that we're very strict," says Beavers. "We don't put up with much. We don't let kids wear hats in the building. Some of them get really bent out of shape about it. We teach students values like being polite to adults, respecting each other, and respecting themselves, but we do it in subtle ways."

The lessons apparently take. Beavers says one teacher tells of overhearing a West Lake student telling a peer, "'We don't even have fights there, and when we do, it's a West Lake fight, not a real fight.'" Beavers quickly adds, "That's not to say we never have problems, but the kids are pretty good."

The school is fed by the affluent suburbs of western Wake County—where two-worker families are the norm, and both parents may hold white collar jobs. Added to the mix are children from farm families and other households with deep rural roots. "If we're skewed, we're skewed toward the upper end," says Beavers.



**West Lake Middle School
Principal Ramey Beavers**

Karen Tam

West Lake has a relatively low number of students who receive free and reduced-price lunches, and relatively few minority students, despite what Beavers calls "a real concerted effort" to recruit these students. The fact is, Beavers says, the school just isn't very convenient to any major concentrations of minority residents, although it is served by more than 30 buses.

Students perform very well on standardized achievement tests. Beavers doesn't claim the high test scores are solely because of the calendar, although he does believe the shorter, more frequent breaks aid student retention. "I think if you were to take the End-of-Grade test results and look at middle schools, I think you would find West Lake to be right at the top," says Beavers.⁶ "Is that because of year-round schools? It's not something I can prove. It's one of the variables. Is it because kids are here by choice? Because we have different kids than everybody else? Year-round schools are one of the variables we look at, but it's hard to say, 'Yeah, I can guarantee you this is the reason my kids do better than other kids.'"

Still, it's clear that Beavers *thinks* year-round schools are part of the reason. "My gut tells me there's a difference. You go to a traditional school and the first week, two weeks, or three weeks are spent reviewing. We don't do that. We don't have to do that."

The calendar options at West Lake are identical to those at a multi-track elementary school. Students have a choice of four different tracks that disperse their vacations differently across the course of the year to maximize use of space. The increased student population that results increases operating costs and adds to the workloads of some staff members, although teachers get the same breaks as students. "Some people have to struggle with it," says Beavers, "and the first group are administrators because you're never, ever down. You don't have any down time."

For families, Beavers says, the calendar also has its pluses and minuses. "The upside with families is that they can take vacations at non-traditional times of the year," says Beavers. "My track-one people are my beach lovers," says Beavers. "My track-four people are my skiers."

"The down side is, they are looking at day care in short segments. But now there are thousands of kids in year-round, and where there is

demand, somebody is going to supply."

Unlike the elementary schools, Wake County middle schools do not offer enrichment—the optional non-academic programs provided during the breaks. The school does provide one-week remediation sessions for students who are failing, and Beavers sees this as a key advantage for the 1 to 2 percent of West Lake students who fall in this category. The YMCA in Cary, Beavers says, is providing day care and programming to support the school calendar, though there are clearly fewer non-school recreational options during the intersessions than a traditional calendar student would have across the course of a long, hot summer.

The calendar has its critics, Beavers notes. "We have a pretty good group that's just adamant against it," he says. "They claim it's destroying the family. The amusement park people are opposed. They say it's destroying their clientele." But the only time the protests reached any appreciable decibel levels among Wake County parents came when local school officials briefly discussed converting all of the county's schools to a year-round calendar.

Beavers doesn't think that would be a good idea. "When you mandate, you put all of the opponents onto the playing field with you. People can make a program successful, or they can make it fail."

Choice, Beavers says, helps make West Lake a success. "We sell it as a magnet versus other magnets," says Beavers. "Everybody here wants to be here. The staff chose to be here. Nobody was sent." The result is a reasonably happy place where both parents and teachers perform. "We're one of the top two or three middle schools in the county in anything you can look at," says Beavers.

But while Beavers is convinced that choice is the best way to implement year-round schools, he isn't sure there will always be choice in Wake County. With the kind of growth the county is experiencing, the temptation is great to seize on year-round schools as a short-term solution to overcrowding. "I'm not sure Wake County taxpayers are going to keep passing bond issues," says Beavers.⁷ "One of these times they're not going to pass one, and we're going to have to look at other means of educating kids—whether it's double shifts or year-round."

Blowing Rock Elementary and the Catawba County Schools: Tracking Back to Traditional

Tucked among quaint shops and restaurants in a town perched high in the Blue Ridge Mountains, Blowing Rock Elementary School was once a popular spot for task forces exploring the prospect of a new year-round school. No more. After a three-year pilot program that proved popular with a number of parents and teachers, the school is back on the traditional calendar.

"Change is hard to effect," says Joyce Alexander, the elementary school's retired principal who shepherded it through its year-round phase. "It's just like church and the 11 o'clock service. We feel like we need to keep going at that time, even though we don't go by horse and buggy anymore."

Year-round school at Blowing Rock got off track when the school-within-a-school concept began to founder because the school was too small to maintain both calendars, Alexander says. "We asked the school board to expand the year-round calendar, and those who did not want it said we were forcing it down their throats," she says. "They mounted a pretty good campaign."

Opponents got the ear of the school board, and the board voted to return to the traditional calendar. "Because there was no hard, statistical data to prove that one [calendar] was better than the other, they [the school board] said, 'why bother?'" Alexander says. "We had some very upset parents and kids who had been in it and had to go back to something else."

Catawba County Schools Superintendent Glen Barger describes a similar phenomenon. Year-round schools were popular with most parents and staff, and more immediate remediation seemed to have a positive impact for some students. Yet when the school system came to a crossroads and began to contemplate going totally year-round, it ran into staunch opposition from a small group of parents. "About 20 to 25 percent of parents didn't want anything to do with it," says Barger.

But despite the shift away from the year-round calendar, Barger insists the experiment wasn't a failure. "We had some test data showing kids doing as well as, if not a little better [than

students on the traditional calendar]," Barger says. "The only danger was making sure we had comparative groups. We had more involved parents. Attendance was better for the most part."

Though Barger thinks year-round schools had some advantages, he doesn't believe the difference was great enough to justify a forced conversion. "The calendar was getting to be a divisive issue in this community, and I'm not sure the calendar is an important enough issue to be a divisive issue," Barger says. ■■

FOOTNOTES

¹ The football team slid to 3-8 for the 1996-97 school year, but the year-round calendar fared better. It was re-adopted with some modification in January 1997.

² A total of 57.89 percent of Thornton Middle School fourth graders scored a 2.5 or above on the End-of-Grade writing test in 1996, compared to 27.78 percent of Thornton fourth graders who scored a 2.5 or higher in 1995. Students scoring a 2.5 or above on the writing test, graded on a 4 point scale, are considered to be performing at grade level.

³ The Newton-Conover City Schools ranked 17th in the state in per pupil expenditures for the 1994-95 school year at \$5,161.75, including state, local, and federal dollars. For a complete listing, see Mebane Rash Whitman, "The Right to Education and the Financing of Equal Educational Opportunities," *North Carolina Focus*, N.C. Center for Public Policy Research, November 1996, Table 2, pp. 132-136. A version of the article also appears in this edition of *North Carolina Insight* on pp. 42-71. The table appears on pp. 48-55.

⁴ The Mooresville Graded School District ranked 102nd in the state in per pupil expenditures for the 1994-95 school year at \$4,262.31, including state, local, and federal dollars. *Ibid.* at p. 134 or p. 50 in this edition of *North Carolina Insight*.

⁵ *School Profiles: 1995-96*, Wake County Public School System, Department of Evaluation and Research, November 1995, Morrisville Elementary School section, p. 1. The Wake County Public School System ranked 75th in the state in per pupil expenditures for the 1994-95 school year at \$4,478.30, including state, federal, and local dollars. *Ibid.* at p. 136 or p. 54 in this edition of *North Carolina Insight*.

⁶ West Lake Middle School was the top-performer among Wake County's 18 middle schools on End-of-Grade testing in reading and math for the 1994-95 school year. See *School Profiles: 1995-96*, Wake County Public School System, Department of Evaluation and Research, November, 1995, for school-by-school profiles that include testing data for all Wake County public schools.

⁷ For results of school bond referenda in North Carolina from 1993 through 1995, see Art Eisenstadt, "Who's in Charge? How the Federal, State, and Local Governments Allocate Responsibilities," *North Carolina Insight*, Vol. 16, No. 3 (May 1996), Table 2, p. 29.

Center Update

The Right to Education and the Financing of Equal Educational Opportunities in North Carolina's Public Schools

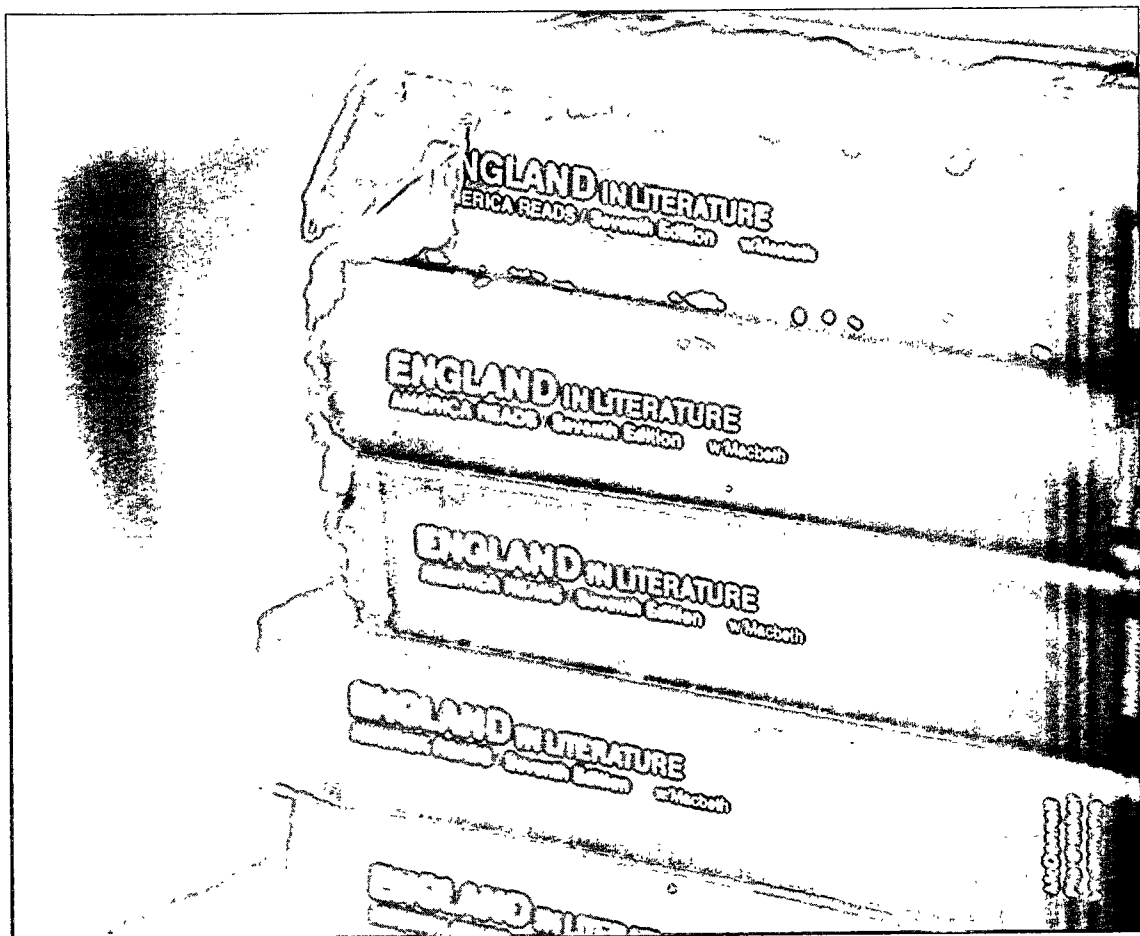
by Mebane Rash Whitman

North Carolina Constitution, Article I, Section 15. *Education.* The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

North Carolina Constitution, Article I, Section 19. *Equal protection of the laws.* No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

North Carolina Constitution, Article IX, Section 2 (1). *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

North Carolina Constitution, Article IX, Section 2 (2). *Local responsibility.* The General Assembly may assign to the units of local government such responsibility for the financial support of the free public schools as it may deem appropriate.



Imagine going to school and having classes in the hallway, the cafeteria, or even a closet. The lighting is inadequate, making it difficult for you to see your textbook. The plaster walls that define your learning space are cracked, and the paint on them is peeling. Overhead, you can see some rusting pipes, and sometimes the roof leaks when it rains. In your science classroom, there aren't enough microscopes—much less the measuring devices, sinks, and safety equipment needed for experiments. Many of your textbooks are outdated, and sometimes you have to share your workbook because there aren't enough to go around.

On the other hand, imagine going to school in a newer facility with dependable heating and air conditioning. Lots of courses are offered: calculus, advanced biology, chemistry, and physics, several foreign languages, journalism, as well as creative writing. There are plenty of desks, blackboards, and textbooks, plus many state-of-the-art computers that can be checked out overnight. The media center has audiovisual equipment that you can use to produce your own videos for special projects; the chemistry lab has many high-tech instruments, including digital read-out balances; the library has more than

Mebane Rash Whitman is the Center's policy analyst.

This article is excerpted from the new edition of North Carolina Focus and updates articles previously published in North Carolina Insight. See: Mebane Rash Whitman, "The Right to Education and the Financing of Equal Education Opportunities in North Carolina's Public Schools," North Carolina Focus, N.C. Center for Public Policy Research, Raleigh, N.C., 1996, pp. 121-141; Jody George, "Courts Split on School Finance Issue," North Carolina Insight, Vol. 7, No. 1, June 1984, pp. 38-41; and Bill Finger, "Disparity in Public School Financing—An Update," North Carolina Insight, Vol. 7, No. 4, April 1985, pp. 44-49.

**Table 1. Percentage of Funding for Public Education from
Local, State, and Federal Sources in the 50 States, 1995-96
(Ranked in order of least local support)**

State	Local	State	Federal
1 Hawaii	2.0	89.5	8.4
2 New Mexico	14.9	74.3	10.7
3 Alabama	19.1	70.9	10.0
4 Kentucky (tie)	23.9	67.2	8.9
Alaska (tie)	23.9	63.6	12.6
6 Washington	24.3	69.4	6.3
7 North Carolina	24.9	66.5	8.6
8 Arkansas	26.1	65.4	8.5
9 Delaware	26.7	65.2	8.2
10 Oklahoma	27.6	63.5	8.9
11 Mississippi	29.1	55.6	15.3
12 Idaho	31.1	61.2	7.7
13 Louisiana	32.5	54.4	13.2
14 West Virginia	33.7	58.5	7.8
15 California	34.2	57.0	8.8
16 Utah	35.2	58.4	6.4
17 Michigan	35.6	57.9	6.5
18 Oregon	36.4	56.5	7.1
19 Kansas	37.3	57.4	5.3
20 Montana	40.4	49.6	10.0
21 Georgia	40.7	52.6	6.7
22 Tennessee	40.9	50.3	8.7
23 Indiana	42.5	52.3	5.2
24 Florida	43.3	49.5	7.2
25 Minnesota	43.8	51.7	4.5
26 Wyoming	44.5	49.0	6.5
27 South Carolina	45.2	46.1	8.7
28 Iowa	45.4	49.5	5.1
29 Maine	45.5	47.5	6.9
30 North Dakota	46.5	42.5	11.0
31 Texas	47.7	43.5	8.8
32 Arizona	49.3	42.0	8.7

Table 1, continued

State	Local	State	Federal
33 Colorado	50.3	44.2	5.5
34 Wisconsin	51.5	44.1	4.4
35 Ohio	52.0	41.7	6.3
36 Pennsylvania	52.6	41.8	5.6
37 New York	54.6	39.3	6.1
38 Maryland	54.9	39.3	5.8
39 Rhode Island	55.0	41.0	4.0
40 Missouri	55.8	37.3	6.8
41 New Jersey	56.0	40.3	3.6
42 Connecticut	56.5	39.1	4.4
43 Nebraska	57.3	38.4	4.2
44 Virginia	58.4	36.3	5.3
45 Massachusetts	59.2	35.5	5.3
46 Nevada	60.9	34.4	4.7
47 Illinois	61.3	29.9	8.8
48 South Dakota	63.7	26.1	10.1
49 Vermont	65.2	29.7	5.1
50 New Hampshire	90.0	7.0	3.0
National Average	45.0	47.9	7.1

Source: National Education Association, *Ranking of the States 1996*, NEA Research Division, Washington D.C., 1996, pp. 41-42.

26,000 volumes; the art department has a kiln, a press, and extensive art supplies; there is a publishing center—complete with an up-to-date graphics department where the school newspaper is printed. Classes are smaller, so your teachers have more time to help you.

Although it is hard to imagine that schools could be so different, these schools are not hypothetical. They are composite descriptions of schools across North Carolina.

The reason these schools differ is because they receive disparate amounts of funding from federal, state, and local governments—the traditional funding sources of public schools across the nation. In the United States, the nationwide average of federal funding is 7.1 percent. State and local governments chip in roughly equal amounts—47.9

percent and 45.0 percent respectively.¹ In North Carolina, 8.6 percent of public school funding is federal, 66.5 percent is state, and 24.9 percent is local. (See Table 1 on pp. 44-45.) Deriving such a substantial percentage of funds from local governments, however, creates the problem. Most local funds are raised by property taxes, a tax levied by cities and counties on property that is owned by residents. The rates of taxation vary widely from locality to locality, as does the tax base—the value of property that exists in a city or county on which a tax may be imposed. Therefore, the revenue generated by property taxes varies enormously.

The resulting disparities in expenditures exist in school districts across the nation. A recent nationwide study by the U.S. General Accounting office found that most states have failed to eliminate

Snapshots of Schools Across North Carolina: Are They Adequate and Equal?

- In Robeson County, at Rowland Norment Elementary School, the facilities are in desperate need of repair. "This school is infested with termites, has corroded exposed pipes, cracked walls, and peeling paint. The school has poor lighting and poor acoustics. The library has tables with broken legs and numerous books that are outdated and in poor condition." At St. Paul's High School, the science classes need "microscopes, Bunsen burners, electronic balances, multimeters, models, charts, and other basic science supplies. Some safety equipment, such as the eye wash, does not work, while other safety items, such as goggles and gloves, are simply not available."¹
- In Halifax County, at Inborden Elementary School, signs are posted throughout the school warning of asbestos. But that is not the only problem. "Textbooks are frequently in short supply. In addition to shortages, students must often make do with worn out and outdated textbooks. Other supplementary materials that are recommended to accompany state textbooks are frequently unavailable, or must be shared with other classes. Classrooms often do not have resources such as dictionaries."²
- In Vance County, "there are no elementary school programs in second languages, drama, creative movement education, choral music or instrumental music—all of which are basic elements in North Carolina's Standard Course of Study." Furthermore, "[t]he school system has experienced considerable difficulties attracting and retaining well-qualified teachers."³
- In Hoke County, increasing enrollment presents a variety of problems. "With no locally paid teachers we have an inordinate number of combination grade classes (There are not enough teachers to provide for self-contained grade levels.) and frequently exceed class size maximums."⁴
- In Cumberland County, "[f]ew, if any, schools have adequate technology in the area of computers. Indeed, many of these schools lack much more basic equipment, such as overhead projectors. . . . The children of Cumberland County do not have anything approaching the educational opportunities available to children in wealthier North Carolina school districts."⁵

FOOTNOTES

¹ Affidavit filed with the plaintiffs' amended complaint in Halifax County Superior Court on Sept. 26, 1994, by Purnell Swett, Superintendent of the Robeson County School System.

² *Ibid.*, by Willie J. Gilchrist, Superintendent of the Halifax County School System.

³ *Ibid.*, by A. Craig Phillips, Superintendent of the Vance County School System.

⁴ *Ibid.*, by William C. Harrison, Superintendent of the Hoke County School System.

⁵ *Ibid.*, by John R. Griffin, Jr., Superintendent of the Cumberland County School System.

wide funding differences between rich and poor school districts. North Carolina had the 15th highest gap in funding between wealthy and poor districts, according to the GAO, even though the state ranked 19th in its efforts to equalize funding.² For example, in 1994–95, Hyde County spent \$7,460 per-pupil—almost double the amount (\$3,809) that Onslow County spent. (See Table 2 on pp. 48–55.)

The Right to Education

In two landmark legal efforts in the early 1970s, parents challenged the funding of school systems near Pasadena, Calif., and San Antonio, Texas. In *Serrano v. Priest*,³ the California Supreme Court ruled that the reliance on local property taxes to fund the California school system violated the federal

constitution. The Texas action, *San Antonio Independent School District v. Rodriguez*,⁴ brought in federal district court, reached the U.S. Supreme Court on appeal before *Serrano*. In 1972, the U.S. Supreme Court ruled against the Mexican-American parents from Texas. (See Table 3 on pp. 62-63.)

In reaching its decision, the Court relied upon two important legal principles. First, the Court said that the U.S. Constitution does not guarantee the right to an education, as it does rights such as free speech and privacy. Second, the Court said that the way the Texas schools were financed did not violate the equal protection clause of the 14th Amendment of the U.S. Constitution. Although the Court conceded the system the state used to finance schools was imperfect, it refused to become involved because "direct control over decisions concerning the education of one's children is a need that is strongly felt in our society."⁵ This is one legal principle that undergirds school finance policy: "The courts have firmly established the *states'* authority over education."⁶ The U.S. Supreme Court's decision in *Rodriguez* foreclosed the use of federal courts and the federal Constitution for school finance challenges, such as the *Serrano* appeal. Thus, since 1972, plaintiffs have looked to state courts for relief in funding disparity suits. Defendants rarely argue that the disparities in funding do not exist. Rather, the issue is whether the disparities are unconstitutional.

Plaintiffs' Arguments: Disparities are Unconstitutional

Most successful school finance suits have had several factors in their favor. First, they have been brought on the basis of education clauses or equal protection clauses in *state constitutions*. The North Carolina Constitution has such an education clause. Article I, Section 15 states that the people of this state have a right to the privilege of education and that it is the duty of the state to guard and protect that right. Also, Article IX, Section 2(1) directs the General Assembly to provide a *general and uniform* system of free public schools. This provision is comparable with the education provisions in other state constitutions, some of which require "thorough," "efficient," "suitable," or "adequate" systems of free public schools.

For example, the Ohio Supreme Court ruled in April 1997 that the state's system for funding its public schools is unconstitutional because it is not "thorough and efficient." Writing for the majority in the 4-3 decision, Ohio Justice Francis E.

Sweeney Jr. said: "When a district falls short of the constitutional requirement that the system be thorough and efficient, it is the state's obligation to rectify it." Sweeney was critical of the state's formula for aiding school districts, while charging that the Ohio legislature had thrust most of the responsibility of paying for education onto local districts. "By our decision today, we send a clear message to lawmakers: The time has come to fix the system," Sweeney wrote. "Let there be no misunderstanding. Ohio's public school financing scheme must undergo a systematic overhaul."⁷

"The courts have firmly established the states' authority over education."

—William E. SPARKMAN,
IN *BOSTON COLLEGE LAW REVIEW*

Such clauses can help establish that education is a fundamental state right. Article I of the North Carolina Constitution is entitled the "Declaration of Rights" and Section 15 follows sections on religious liberty and the freedom of speech. It precedes sections on *ex post facto* laws (a law that punishes a person for something he did, even though at the time it was done the action was not a crime) and slavery. It could be argued that the nestling of education in our state Constitution among some of the most important individual rights indicates that education is a fundamental right in this state, and as such, it would be protected by the equal protection clause.

State constitutional equal protection provisions, while substantially equivalent to the federal equal protection clause, possess an "independent vitality."⁸ Thus, the equal protection clause of state constitutions may be interpreted independently of the U.S. Supreme Court's interpretation of the federal equal protection clause, so state courts are largely unrestrained by the precedent set in *Rodriguez*. If plaintiffs can prove either that education is a fundamental state right or that wealth is a suspect classification (such as race or national origin), then the court may apply the legal standard of *strict scrutiny*, and the funding scheme will be struck down unless the state can prove it is necessary to achieve a compelling government purpose.

Plaintiffs in funding suits, citing these state constitutional provisions, assert that the disparities in funding among school districts are unconstitu-

Table 2. Per-Pupil Expenditures, Average Daily Membership, and Low Wealth and Small Schools Allocations for N.C. School Systems, 1994-95

School System	State		Federal		Local		Total	
	PPE	Rank	PPE	Rank	PPE	Rank	PPE	Rank
Alamance County	\$3,262.74	107	\$174.92	98	\$ 749.84	69	\$4,187.50	109
Burlington City	3,275.53	101	198.32	82	1,043.14	26	4,516.99	70
Alexander County	3,372.12	80	167.15	105	521.28	105	4,060.55	116
Alleghany County	4,509.32	4	379.47	17	695.98	79	5,584.77	5
Anson County	3,699.73	33	268.92	50	700.86	78	4,669.51	52
Ashe County	3,833.28	25	291.40	43	605.73	95	4,730.41	47
Avery County	4,088.48	14	325.22	32	952.30	34	5,366.00	12
Beaufort County	3,577.19	44	334.88	26	864.14	46	4,776.21	43
Bertie County	3,862.47	24	375.48	18	485.40	113	4,723.35	49
Bladen County	3,741.00	30	468.44	6	675.02	84	4,884.46	40
Brunswick County	3,313.08	95	213.01	79	1,016.66	29	4,542.75	65
Buncombe County	3,377.75	78	165.22	107	1,056.92	22	4,599.89	57
Asheville City	3,621.23	38	765.20	1	2,224.98	2	6,611.41	2
Burke County	3,446.12	64	169.76	101	764.64	65	4,380.52	89
Cabarrus County	3,226.94	112	137.39	115	775.75	61	4,140.08	112
Kannapolis City	3,393.73	74	189.42	91	873.64	44	4,456.79	78
Caldwell County	3,325.67	93	178.16	97	754.43	67	4,258.26	103
Camden County	4,311.88	8	289.15	45	704.90	75	5,305.93	13
Carteret County	3,288.68	98	231.18	68	1,015.60	30	4,535.46	67
Caswell County	3,803.81	26	249.81	59	610.71	93	4,664.33	54
Catawba County	3,210.12	114	133.66	116	863.59	47	4,207.37	107
Hickory City	3,360.19	84	235.40	64	1,146.09	17	4,741.68	46
Newton-Conover	3,779.07	28	217.35	74	1,165.33	16	5,161.75	17
Chatham County	3,353.72	85	141.32	113	1,088.59	20	4,583.63	59
Cherokee County	3,909.68	22	317.74	35	480.98	114	4,708.40	50
Chowan-Edenton	3,936.40	21	256.53	55	759.83	66	4,952.76	37
Clay County	4,395.04	6	214.64	77	451.56	116	5,061.24	27
Cleveland County	3,408.53	72	198.41	81	687.48	80	4,294.42	101
Kings Mountain	3,582.39	42	230.50	69	944.49	35	4,757.38	45
Shelby City	3,504.34	51	398.59	15	1,052.79	23	4,955.72	36
Columbus County	3,504.21	52	416.44	13	533.50	104	4,454.15	80
Whiteville City	3,618.84	39	293.99	41	503.05	109	4,415.88	86
Craven County	3,274.34	102	430.72	11	714.06	74	4,419.12	84
Cumberland County	3,125.98	117	291.75	42	753.62	68	4,171.35	111
Currituck County	3,626.55	36	195.70	85	1,431.70	9	5,253.95	15

ADM	ADM Rank	State Allocation	
		Low Wealth	Small School
11,151	29	\$ 0	\$ 0
6,378	55	NA	0
4,878	67	158,951	0
1,455	112	2,054	617,021
4,330	71	404,995	0
3,443	83	119,387	0
2,390	100	0	518,348
7,655	43	360,345	0
3,949	75	500,363	631,805
5,379	62	452,020	0
8,885	36	0	0
23,518	8	0	0
4,493	70	NA	0
12,780	26	575,084	0
14,973	19	0	0
3,922	78	NA	0
11,466	28	587,365	0
1,210	115	106,527	561,460
8,031	40	0	0
3,379	84	267,058	521,874
13,513	24	0	0
4,168	73	NA	0
2,751	94	NA	0
6,262	56	0	0
3,366	86	195,094	571,594
2,572	97	181,276	592,045
1,200	116	38,343	604,698
8,362	37	524,590	0
3,926	77	NA	0
3,193	87	NA	0
7,586	44	862,220	0
2,764	93	NA	0
14,233	21	714,228	0
49,030	4	2,041,430	0
2,892	92	0	538,392

—continues on p. 50

tional because of the resulting *inequalities* among districts as well as the *inadequate educational opportunities* that exist for the school children from the poorer districts. "Adequacy arguments, demanding for all students an opportunity to enjoy the schooling mandated by the state's charter, offer a natural . . . alternative [to inequality arguments]."⁹ In North Carolina, the adequacy of education might be measured by comparing the educational program provided in a given school district with the Basic Education Program (BEP) required to be provided by statute.¹⁰

Under the BEP, schools must offer a core curriculum, including arts, communication skills, physical education, math, computer skills, science, second languages, social studies, and vocational education. The BEP also sets forth minimal standards for facilities, equipment, materials, class size, and staffing. To the extent that districts fail to meet the requirements of the BEP, an inadequacy claim could be brought in North Carolina. In 1994, a significant portion—36.1 percent—of the BEP remained unfunded.¹¹ Since then, the legislature has stopped using the term BEP but has continued funding portions of the program—focusing particularly on class-size reductions in the lower grades, according to Jim Johnson, senior fiscal policy analyst at the General Assembly.¹² The funding system, critics say, is unconstitutional because it results in districts with inadequate course offerings, facilities, and equipment as measured against the BEP—which determines "what each child in the North Carolina public schools is guaranteed."¹³

An equality argument, on the other hand, would go one step further, noting to the court that the BEP is just that—basic. The BEP does not equalize educational opportunities among school districts: therefore, the BEP does not require the teaching of calculus, advanced biology, chemistry, physics, or other classes needed to get into college—and often available in wealthier school districts. In an appendix to the BEP, such classes are suggested as appropriate electives for high school, but school districts that choose to offer these classes "are expected to do so at local expense."¹⁴ Instead of using the BEP to define what is adequate, the law could be challenged on the grounds that the BEP itself is inadequate. Among other things, the BEP does not, for instance, take into account the special education needs of children from poorer districts.

Also, in successful suits, the factual records generally have been extensive and well documented. "Plaintiffs meticulously documented how

Table 2, continued

School System	State		Federal		Local		Total	
	PPE	Rank	PPE	Rank	PPE	Rank	PPE	Rank
Dare County	\$ 3,408.76	71	\$ 172.35	99	\$ 1,557.20	6	\$ 5,138.31	20
Davidson County	3,219.95	113	138.64	114	613.10	92	3,971.69	117
Lexington City	3,509.89	49	256.67	54	1,323.37	11	5,089.93	24
Thomasville City	3,637.87	35	353.02	23	1,100.76	19	5,091.65	23
Davie County	3,445.54	65	179.73	95	920.39	41	4,545.66	64
Duplin County	3,341.35	87	276.21	49	488.66	112	4,106.22	114
Durham County	3,271.16	104	194.25	88	1,969.43	3	5,434.84	11
Edgecombe County	3,461.55	59	335.91	25	776.25	60	4,573.71	61
Forsyth County	3,250.18	110	167.26	104	1,638.45	4	5,055.89	28
Franklin County	3,394.23	73	289.04	46	678.81	83	4,362.08	94
Gaston County	3,280.53	99	181.94	94	791.40	59	4,253.87	104
Gates County	4,062.08	16	243.09	61	867.64	45	5,172.91	16
Graham County	4,626.00	3	576.50	3	292.37	119	5,494.87	7
Granville County	3,338.67	88	234.56	65	849.54	51	4,422.77	81
Greene County	3,984.51	19	458.17	8	619.62	91	5,062.30	26
Guilford County	3,369.91	82	178.73	96	1,563.25	5	5,111.89	22
Halifax County	3,689.51	34	470.05	5	504.19	108	4,663.75	55
Roanoke Rapids City	3,444.69	66	195.24	86	1,176.35	15	4,816.28	41
Weldon City	4,075.14	15	438.92	10	1,425.19	10	5,939.25	4
Harnett County	3,384.78	76	225.24	71	492.97	111	4,102.99	115
Haywood County	3,607.86	41	263.97	52	1,064.85	21	4,936.68	38
Henderson County	3,257.48	109	191.79	90	930.41	40	4,379.68	90
Hertford County	3,435.03	69	363.05	19	717.52	72	4,515.60	71
Hoke County	3,469.31	56	327.23	31	440.26	117	4,236.80	105
Hyde County	5,742.78	1	529.72	4	1,187.84	14	7,460.34	1
Iredell Co.-Statesville	3,314.27	94	169.86	100	933.21	38	4,417.34	85
Mooresville City	3,261.82	108	113.08	119	887.41	43	4,262.31	102
Jackson County	3,794.71	27	348.82	24	818.69	55	4,962.22	34
Johnston County	3,457.00	60	166.92	106	684.03	82	4,307.95	98
Jones County	4,478.67	5	425.57	12	570.44	98	5,474.68	8
Lee County	3,247.12	111	244.50	60	822.32	54	4,313.94	97
Lenoir County	3,474.75	54	331.83	27	771.82	63	4,578.40	60
Lincoln County	3,329.79	91	167.79	103	684.08	81	4,181.66	110
Macon County	3,614.40	40	254.27	56	766.33	64	4,635.00	56
Madison County	4,145.14	11	322.36	33	510.81	107	4,978.31	32

ADM	ADM Rank	State Allocation Low Wealth	Small School
3,931	76	\$ 0	\$ 0
16,988	17	296,390	0
2,927	91	NA	0
2,101	104	NA	0
4686	69	0	0
8,043	39	488,569	0
27,215	7	0	0
7,843	42	548,565	0
38,811	5	0	0
6,443	54	619,083	0
28,544	6	0	0
1,873	109	192,376	601,472
1,225	113	69,684	594,428
6,848	51	582,650	0
2,715	95	232,254	529,303
54,756	3	0	0
6,177	57	1,058,078	0
3,066	89	NA	0
1,216	114	NA	0
13,067	25	1,462,094	0
7,109	47	50,130	0
10,473	30	0	0
4,253	72	528,087	0
5,489	60	874,766	0
771	118	0	635,187
13,617	23	NA	0
3,183	88	NA	0
3,374	85	0	0
15,852	18	1,045,218	0
1,524	111	106,250	619,517
7,936	41	106,113	0
10,227	31	499,929	0
9,091	35	159,994	0
3,581	82	0	0
2,497	99	140,410	552,706

—continues on p. 52

"Allowing local communities to go above and beyond established minimums to provide to their people encourages the best features of democratic government."

—COURT RULING, 1973, in

SAN ANTONIO INDEPENDENT

School District v. RODRIGUEZ

state school-finance systems discriminated against school children as a result of the fiscal capacity of the school district—a factor that has nothing to do with education. They also documented the ways in which inequalities in financing resulted in unequal educational facilities, staff, course offerings, equipment, and instructional materials."¹⁵

Sympathetic courts have been concerned that taxpayers in property-poor districts paid in some cases higher tax rates for education than taxpayers in property rich districts. Because the higher tax rates generated revenues in comparatively smaller amounts, property-poor districts could not afford to spend for the education of their pupils, on a per-pupil basis, the same amounts that the rich towns could. Several options exist, including: 1) the state could redistribute property taxes from the richer to poorer districts, or 2) it could supplement local revenues with state funds from statewide taxes. However, courts often find that such state programs do not adequately *equalize* the amounts available to individual districts.

North Carolina already has two programs in place designed to provide additional funds to low-wealth counties. Since 1991, counties have been eligible to receive *low wealth supplemental funds* if their property tax base is below the state average and their tax rate is above the state average. So, only low-wealth counties making high tax efforts are able to get the dollars. The North Carolina General Assembly appropriated \$47.5 million dollars in fiscal year 1996–97 for this program. (See Table 4 on p. 64.) However, as a *Fayetteville Observer-Times* editorial pointed out, that amount "doesn't sound so impressive when it's doled out among the 70 percent or so of schools that qualify. And remember: The goal had been \$100 million a year. Even *that* figure had been considered low. The amount originally

Table 2, continued

School System	State		Federal		Local		Total	
	PPE	Rank	PPE	Rank	PPE	Rank	PPE	Rank
Martin County	\$ 3,623.67	37	\$ 395.39	16	\$ 955.61	33	\$ 4,974.67	33
McDowell County	3,471.14	55	188.96	92	639.82	88	4,299.92	99
Mecklenburg County	3,270.42	105	202.08	80	1,545.13	7	5,017.63	30
Mitchell County	4,044.48	17	220.01	73	460.38	115	4,724.87	48
Montgomery County	3,578.93	43	303.75	39	537.32	103	4,420.00	83
Moore County	3,273.02	103	228.57	70	1,022.70	28	4,524.29	69
Nash Co.-Rocky Mount	3,270.12	106	285.86	47	930.55	39	4,486.53	72
New Hanover County	3,276.69	100	214.81	76	1,040.26	27	4,531.76	68
Northampton County	3,715.64	32	358.75	20	625.44	90	4,699.83	51
Onslow County	3,059.62	119	231.73	67	517.60	106	3,808.95	119
Orange County	3,455.51	62	187.41	93	1,437.80	8	5,080.72	25
Chapel Hill-Carrboro	3,178.15	116	123.86	118	2,252.39	1	5,554.40	6
Pamlico County	4,030.26	18	328.61	28	572.33	97	4,931.20	39
Pasquotank County	3,441.24	67	264.08	51	714.82	73	4,420.14	82
Pender County	3,372.67	79	303.61	40	863.45	48	4,539.73	66
Perquimans County	4,197.76	9	448.89	9	609.65	94	5,256.30	14
Person County	3,384.68	77	252.53	57	912.86	42	4,550.07	63
Pitt County	3,303.56	96	258.01	53	808.39	58	4,369.96	93
Polk County	4,164.10	10	236.73	63	1,043.44	25	5,444.27	10
Randolph County	3,188.01	115	115.46	111	549.69	102	3,893.16	118
Asheboro City	3,419.55	70	232.10	66	1,118.16	18	4,769.81	44
Richmond County	3,501.75	53	291.33	44	567.07	99	4,360.15	95
Robeson County	3,452.54	63	402.72	14	554.22	101	4,409.48	87
Rockingham County	3,461.79	58	224.00	72	704.64	76	4,390.43	88
Rowan Co.-Salisbury	3,341.48	86	165.10	108	730.10	71	4,236.68	106
Rutherford County	3,467.92	57	240.44	62	773.24	62	4,481.60	74
Sampson County	3,507.37	50	309.46	37	559.86	100	4,376.69	91
Clinton City	3,371.35	81	250.90	58	973.88	32	4,596.13	58
Scotland County	3,533.22	46	313.00	36	937.23	36	4,783.45	42
Stanly County	3,388.64	75	156.05	110	581.40	96	4,126.09	113
Albemarle City	3,724.96	31	283.76	48	1,044.68	24	5,053.40	29
Stokes County	3,437.29	68	162.04	109	859.27	49	4,458.60	77
Surry County	3,361.73	83	197.70	83	630.33	89	4,189.76	108
Elkin City	3,945.70	20	196.12	84	1,011.52	31	5,153.34	18
Mount Airy City	3,759.23	29	194.56	87	1,199.11	13	5,152.90	19

ADM	ADM Rank	State Low Wealth	Allocation Small School
4,898	66	\$ 362,107	\$ 0
6,052	59	391,996	0
84,216	1	0	0
2,320	102	115,116	525,848
4,141	74	246,419	0
9,851	32	0	0
16,998	16	707,325	0
20,318	10	0	0
3,732	81	416,370	521,520
19,835	11	1,755,236	0
5,464	61	0	0
7,509	46	NA	0
2,120	103	135,816	541,287
6,081	58	495,603	0
5,340	63	350,052	0
1,899	108	195,205	544,822
5,273	64	0	0
18646	12	690,101	0
2,083	105	0	544,135
14,622	20	424,821	0
3,797	80	NA	0
8,106	38	844,425	0
22,518	9	3,066,840	0
13,931	22	593,952	0
17,939	14	461,214	0
9,738	33	492,221	0
6,813	52	560,281	0
2,505	98	NA	0
6,971	50	677,107	0
7,053	48	383,965	0
2,079	106	NA	0
6,462	53	186,061	0
7,579	45	239,162	0
1,028	117	NA	0
1,911	107	NA	0

—continues on p. 54

said to be needed was \$200 million.”¹⁶

Also in place since 1991, *small schools supplemental funds* provide additional money to counties with enrollments below 3,150 students or to counties with enrollments between 3,000 and 4,000 students and property tax bases below the state average. This funding is intended to help very small school districts provide the standard course of study and additional teachers. The N.C. General Assembly appropriated \$15.4 million for this program in the 1996–97 fiscal year. (See Table 4 on p. 64.)

“No one can look at the disparities in schools statewide and draw any other conclusion than that funding is inequitable.”

—Editorial,

The Wilson Daily Times

Defendants’ Arguments: Disparities are Constitutional

Many states, on the other hand, have held that disparities in school financing do not violate state constitutions. (See Table 3 on pp. 62–63.) To the extent that defendants successfully argue that education is not a fundamental right or that wealth is not a suspect class, courts will apply a different legal test, the *rational basis* standard. Many courts, have held that local control is a rational basis for upholding the state’s system of financing public schools.

One of the major reasons cited by courts for sustaining inequitable financing schemes has been the preservation of local control. Also, courts say “[a]llowing local communities to go above and beyond established minimums to provide to their people encourages the best features of democratic government.”¹⁷ Local control has long been the rallying cry of school districts: locally set tax rates and locally elected school boards are two of the most visible signs of local control in most communities. It arises from a deeply ingrained conviction held by Americans—that children’s education can best be provided by the community in which they will live and work as productive citizens in the future.

Most defendants also argue that the issue of financing the public schools is a policy or political

Table 2, continued

School System	State		Federal		Local		Total	
	PPE	Rank	PPE	Rank	PPE	Rank	PPE	Rank
Swain County	\$ 4,344.77	7	\$ 742.57	2	\$ 385.30	118	\$ 5,472.64	9
Transylvania County	3,333.53	90	215.78	75	934.70	37	4,484.01	73
Tyrrell County	5,389.20	2	355.77	22	817.59	56	6,562.56	3
Union County	3,293.92	97	148.38	112	853.62	50	4,295.92	100
Vance County	3,516.32	48	304.26	38	846.35	52	4,666.93	53
Wake County	3,125.49	118	133.16	117	1,219.65	12	4,478.30	75
Warren County	3,896.32	23	467.54	7	641.44	86	5,005.30	31
Washington County	4,134.43	13	327.61	30	493.74	110	4,955.78	35
Watauga County	3,551.99	45	169.33	102	840.46	53	4,561.78	62
Wayne County	3,326.71	92	357.53	21	640.00	87	4,324.24	96
Wilkes County	3,524.24	47	193.62	89	738.27	70	4,456.13	79
Wilson County	3,334.86	89	317.97	34	809.96	57	4,462.79	76
Yadkin County	3,456.73	61	214.02	78	703.44	77	4,374.19	92
Yancey County	4,143.64	12	327.78	29	657.36	85	5,128.78	21
State Totals								
PPE	\$3,369.08		\$230.93		\$979.36		\$4,579.37	
ADM								
Allocations:								
Low Wealth								
Small Schools								

NOTES

Per Pupil Expenditure: PPE is based on current expense expenditures. It excludes capital expense expenditures and child nutrition.

Average Daily Membership: The total number of school days within a given term or school year that a student is on the current roll of a class, regardless of his being present or absent, is the "number of days in membership" for that student. The sum of the "number of days in membership" for all students divided by the number of school days in the term yields ADM. The final ADM is the total days in membership for all students over the school year divided by the number of days school was in session. ADM is a more accurate count of the number of students in school than enrollment.

NA: Not applicable because low wealth funds are allocated by county, not by school district.

For an explanation of the low wealth and small schools allocations and 1996-97 appropriations, see pages 51-53 of this article.

Sources: Selected Financial Data 1994-95, Statistical Research Section, Department of Public Instruction. For PPE Ranking, see Table 5. For ADM ranking, see Table 10. See also Overview: Fiscal and Budgetary Actions, North Carolina General Assembly 1995 Session, Fiscal Research Division, Raleigh, N.C. For low wealth allocation, see pages 395-396. For small schools allocation, see pages 397-399.

		State Allocation	
ADM	ADM Rank	Low Wealth	Small School
1,611	110	\$ 110,715	\$ 667,872
3,891	79	0	0
760	119	49,914	686,571
17,273	15	370,286	0
6,982	49	497,751	0
76,273	2	0	0
3,034	90	335,555	558,497
2,630	96	271,135	555,314
4,770	68	0	0
18,336	13	1,547,345	0
9,656	34	464,442	0
11,719	27	303,983	0
5,038	65	278,771	0
2,354	101	110,547	554,009
1,131,090			
		\$ 35,283,809	
			\$14,389,725

matter for the legislature, not the courts. Courts may use the constitutional principle of separation of powers between the three branches of government to stay out of disputes like school finance, which basically come down to the level of funding that will be provided for public education.¹⁸ When courts agree with this theory, they decide that the issues are not *justiciable*, or proper for the court to decide.

State defendants also can assert that equal educational *opportunities*, not equality of *results* or resources, is the promise of state constitutional provisions. Parity or substantial equivalence of funding between rich and poor districts is alleged to be sufficient. "There is no mandate in state constitutions to do this," says Vanderbilt University professor Thomas McCoy, whose specialty is school funding suits. "Courts are taking a very liberal or broad view of their state constitutions to arrive at the conclusion that education funding must be equal."¹⁹ The concept of equal educational opportunities is also argued to refer to equal *access* to schools, thus only barring racial segregation.²⁰ Because access to education for all children is provided and, similarly, no absolute denial of education has occurred, defendants argue that the equal protection clause is inapplicable.

Remedies Prove Elusive

Once a court decides that a state's system of funding its public schools is unconstitutional, then what? In many cases, the court has directed the legislature to devise a remedy to address the constitutional violation. However, when the remedy is left to the legislature, redress often is not forthcoming because (1) of the political power of legislators from property-wealthy districts, and (2) voter resistance to paying the higher taxes required to equalize funding.²¹

It has been difficult for the legislature in New Jersey, for example, to develop a public school fi-

"Courts are taking a very liberal or broad view of their state constitutions to arrive at the conclusion that education funding must be equal."

—THOMAS MCCOY, PROFESSOR
VANDERBILT UNIVERSITY

nancing scheme that addresses the court's concerns and has popular support. The result in such cases may be inaction, inadequate legislation, or inadequate funding. The courts have been reluctant to step in and reinvolve themselves in fashioning the remedy for several reasons: (1) separation of powers—judicial deference to the legislative remedy; (2) taxing and appropriations powers—clearly within the legislature's province in state constitutions; and (3) fear that the judiciary's protection of the rights of less powerful groups will result in an organized effort to amend the state's constitution.²²

Another option is for the court itself to formulate the remedy. In Kentucky, the Supreme Court held that the entire system of school finance and governance violated the state constitution's mandate to provide an "efficient system of common schools

throughout the state."²³ The Court then spelled out education standards in terms of equality and adequacy. The legislature was ordered to fund the system adequately.

Most courts, however, have been more cautious in setting forth remedies. And, often there is a "gap between right and remedy [that] can be traced to fundamental conflicts between the interests of the grievants and those of the institutional actors."²⁴

Two Remedies with Drawbacks: Earmarking and Lotteries

Two remedies often relied on by states to provide new revenue for schools, earmarking and lotteries, have significant drawbacks and should

Public School Forum and Center Criticize Education Funding Disparities

by Tom Mather

Not only are there large disparities in the local funding for school systems across the state, but those gaps continue to widen, studies by the Public School Forum of North Carolina and the N.C. Center for Public Policy Research show. But critics say the groups' studies distort the differences between school systems by focusing on measures of *local* spending and taxes rather than the total educational resources available to students, including state and federal support.

The Center has conducted previous studies of school finance in 1984, 1985, and 1989.¹ The Forum—a nonprofit group of educators, politicians, and business leaders—has published annual studies of local school finance in North Carolina since 1987. The Forum's most recent study, released in October 1996, found that poorer school systems are able to generate much less local money for their schools than wealthier districts—even though many poor systems are taxing themselves at greater rates than wealthy systems.²

Such disparities in the ability to raise rev-

enues—compounded by greater funding demands for welfare programs in poorer counties—translate into wide differences in the abilities of counties to help pay for additional teachers, school buildings, advanced placement courses, and extras such as classes in the arts and foreign languages, the Forum says. And those gaps have been widening.

"What is most startling is not the disparity across this state in property wealth, tax rates, welfare mandates, and capital and current expenditures—we've seen that for years—it is the degree to which these differences continue to grow," says John Dornan, the Forum's executive director.

That conclusion is disputed by others, however, who contend that North Carolina is far ahead of most states in equalizing spending for public schools. Charles D. Liner, a professor in the Institute of Government at the University of North Carolina at Chapel Hill, says measures

Tom Mather is the associate editor of North Carolina Insight.

be considered carefully before being implemented in a state.²⁵ Earmarking refers to the practice of dedicating state revenue for a specific program, in this case the financing of public schools. Thirty states earmark revenue for this purpose. There are two ways to earmark funds. The conventional method is to earmark revenue from a specific tax (sales or tobacco tax, for example) to be dedicated to funding public education. California developed another way to earmark funds when it decided to dedicate a certain percentage of its overall state budget to education—40 percent of California's general fund is earmarked for this purpose. Often, once funds are earmarked, it is difficult to obtain additional funds for the specified purpose. Plus, earmarking a percentage of a state budget obviously impacts the funding of other state programs.

North Carolina already earmarks funds for education. In 1983 and then again in 1986, the General Assembly authorized counties to levy an additional one-half cent sales and use tax, with a specified percentage of the resulting revenue earmarked for school construction. Legislators in 1987 increased the corporate income tax and earmarked the additional revenue for school construction by establishing the Public School Capital Building Fund and the Critical School Facility Needs Fund.²⁶ The earmarked funds for capital needs provided school districts with \$1.5 billion dollars from 1984 to 1993, half of the total dollars spent on construction during this period.²⁷ Local governments paid the balance of the school construction bill.²⁸

In a related matter that could have a bearing on such issues, Senate President Pro Tem Marc

such as *local* property tax rates and per pupil expenditures are poor ways to compare the adequacy of different school districts because they disregard the equalizing effect of funding from the state and federal governments.

"The advantage of North Carolina's system of school finance is that the state government is responsible for providing from statewide tax sources the resources needed to provide a basic education program in every school system, without regard to the ability or willingness of local taxpayers to support the schools," Liner says. In other words, state allocations to local school systems are not based on money, per se, but on what the schools need to get the job done—such as the numbers of teachers, assistants, and textbooks. Thus, per pupil expenditures from the state tend to be higher in small, rural systems where it costs more money to provide the same level of resources as in urban districts.

The Public School Forum's study analyzes and ranks the state's counties on their relative abilities, actual expenditures, and efforts to support their public schools. It does not examine the impact of state and federal funding, except for the supplemental funding for low-wealth districts that the state began in 1991. Most of the state's wealthiest counties encompass major cities and retirement havens, according to the study. By contrast, most of the poorest counties are located in rural areas in the Coastal Plain and the mountains.

The gap between these wealthy and poor counties is illustrated by their funding for educational programs and school construction. The Public School Forum found that the state's 10 wealthiest counties spent on average \$2,103 per student for educational programs *and* school construction in 1996, compared to \$589 per student

—continues

"The numbers continue to tell the story. Low-wealth, rural counties from one end of the state to the other, continue to try to match the educational opportunities of wealthier counties. But they aren't going to be able to do it without state help. Ironically, the longer the state delays taking action, the bigger the problem becomes."

—JOHN DORNAN, director, The Public School Forum of North Carolina

Basnight (D-Dare) in the 1997 session proposed establishing a special dedicated fund for public education in the state budget for the first time. The proposal, still in its preliminary stages, would earmark a portion of the budget for educational programs—such as boosting teacher pay.²⁹

Many states have earmarked funds from lotteries to fund public education. However, lotteries may in fact harm educational funding for the following reasons: “(1) Lotteries contribute only a fraction of the funding needed for education, . . . (2) Lotteries are an unstable source of revenue, due to waning interest over time and their susceptibility to changes in the economy. (3) Education budgets might be reduced, then refilled by lottery proceeds—lessening the actual enhancement of the budget. (4) When lotteries are used, the public may

falsely believe that schools are adequately funded, making it difficult to raise funds through other sources.”³⁰

North Carolina: Funding Disparities Continue to Increase

In 1984, 1985, 1989, and again in 1996, research by the N.C. Center for Public Policy Research found a significant difference in per-pupil spending among North Carolina’s school districts. “Financial disparity is not the only factor leading to educational disparity, but financial equity does represent the cornerstone of any effort to build a ‘uniform system of free public schools,’” wrote education analyst Lanier Fonville when the Center first reported this disparity in 1984.³¹

in the 10 poorest counties—a gap of \$1,514 per student, or 242 percent. That gap was \$1,294 (222 percent) in the Forum’s 1994 study and \$1,280 (267 percent) in its 1991 study. The Forum also found that the 10 wealthiest counties spent on average \$1,441 per student just on educational programs in 1996, compared to \$431 per student in the 10 poorest counties—a gap of \$1,010 per student, or 234 percent. Likewise, the 10 wealthiest counties spent on average \$648 per student for constructing and renovating schools in 1996, compared to \$156 per student in the 10 poorest counties—a difference of \$492 per student, or 315 percent.

Liner, however, says it’s not valid to combine current expenses and capital expenditures when comparing school systems. That’s because current expenses are for present, on-going needs, while capital expenses can occur infrequently to meet long-term needs. The Forum’s study counts construction costs based on a five-year running average—rather than spreading them out over the life of school buildings, which can last 30 years or more. Also, much of the local spending for school construction comes from state aid, including local option sales tax revenues. Another factor is that systems in rapidly growing areas, such as Wake County, tend to have much higher construction costs due to the large numbers of new schools needed to keep up with their population growth—although such differences can be partially offset by higher renovation expenses in poor, rural counties.

Comparing the gap between *local* spending in the state’s richest and poorest counties is misleading, Liner says, because such gaps tend to be evened out by funding from the state and federal governments. When school districts are compared by spending from all sources, he says, many of the state’s poorest systems rank among the highest in *total* per pupil expenditures. For example, the top 10 school systems in total spending per student include such relatively poor, rural counties as Alleghany (5th in total spending), Graham (7th), Hyde (1st), Jones (8th), Swain (9th), and Tyrrell (3rd). Likewise, some of the state’s wealthiest, urban counties rank lower than might be expected in total per pupil spending, including Orange (25th), Forsyth (28th), Mecklenburg (30th), and Wake (75th). (See Table 2 on pp. 48–55 for a list of all school systems in the state with their rank in local, state, federal, and total per pupil expenditures.)

The Public School Forum’s study also looked at local tax rates, concluding that much of the funding gap is due to the wide differences in the tax bases of counties. For example, Wake County generated \$210.3 million in property tax revenue for the 1995–96 fiscal year from a tax rate of 55 cents per \$100 valuation. Yet nearby Vance County was able to generate just \$8.5 million in tax revenues that year—with a higher tax rate of 75 cents per \$100 valuation. Thus, a wealthy county such as Wake can raise substantial amounts of money for its schools with only very small changes in its tax rate.

Fonville, pointing out the wide variety of course offerings among the school districts, said, "expenditure equity is not the same as program equity." She noted that while every school cannot offer advanced Latin, minimum course requirements and creative efforts such as cross-district services and access to community colleges could provide more equality in course offerings. "By funding a minimum, comprehensive program and imposing statewide standards, the state could focus on program equity as well as expenditure equity," concluded Fonville. The Basic Education Program (BEP) was later adopted by the state legislature. Nevertheless, funding disparities have not decreased.

Instead, the disparity in *state per-pupil expenditures* among the 119 school districts actually in-

Such disparities are compounded by the fact that poorer counties generally allocate a higher portion of their locally-generated revenue for mandated welfare payments. For example, welfare payments account for 7 percent of the local revenue in Wake County but 34 percent in Vance County.

These findings have prompted the Public School Forum and the N.C. Center for Public Policy Research to urge the state to do more to level the playing field between the state's wealthiest and poorest school systems. In a news release accompanying its 1989 study, the Center urged the General Assembly to create a State Equalization Fund to address disparities in public school finance. In 1990, the Center's director, Ran Coble, testified before the Equity Subcommittee of the legislature's Education Study Commission and urged lawmakers to establish such a fund, taking into account each school system's local per-pupil expenditures, tax wealth, and its tax effort relative to other counties.

"The long-term goal for this Equalization Fund would be to bring all counties closer to the state average for total per-pupil expenditures," Coble said. "Under this plan, counties which have low tax wealth but which nevertheless tax this wealth heavily for education purposes would receive proportionately more money from the state than those counties having either higher wealth or making less of an effort to fund education. In other words, those counties making the most effort with the least

**"All animals are equal.
But some animals are more
equal than others."**

—GEORGE ORWELL, *Animal Farm*

creased.³² In 1983–84, Hyde County spent the most state funding per-pupil (\$1,761) and Cumberland County spent the least (\$1,345)—a difference of \$416. Hyde County spent *31 percent* more than Cumberland County. In 1987–88, the difference between Hyde County (\$2,967) and Onslow County (\$2,098)—the highest and lowest that year—was \$869, or *41 percent*. In 1994–95, the difference be-

resources would receive the benefit."³³

The combined work of the Center, the Forum, and legislative staff were instrumental in the establishment of both a Low Wealth Supplemental Fund and a Small Schools Supplemental Fund in 1991. By 1996–97, that appropriation had grown to \$47.5 million in the low-wealth fund and \$15.4 million in the small-schools fund, for a total of nearly \$63 million. (See Table 4 on p. 64.) Even so, the disparity between rich and poor districts has increased—perhaps because local supplements have increased, the Basic Education Plan was never fully funded, or federal funding has been cut so sharply.

"The numbers continue to tell the story," says John Dornan, the Forum's director. "Low-wealth, rural counties from one end of the state to the other, continue to try to match the educational opportunities of wealthier counties. But they aren't going to be able to do it without state help. Ironically, the longer the state delays taking action, the bigger the problem becomes."

Liner also is critical of the Forum's use of local tax rates to compare school systems. Although tax rates might be much higher in rural counties, rural property owners actually could pay much lower taxes than urban residents because of differences in assessed values. In some small counties, he says, the sales of property are so limited that such transactions do not provide a reliable basis for adjusting property tax rates.

"Using tax rates is highly misleading," says

—continues

tween Hyde County (\$5,743) and Onslow County (\$3,060)—again the highest and lowest—was \$2,683, or 88 percent, a significant increase in spending disparity over the past ten years.

The disparity in *total per-pupil expenditures* also increased significantly, despite a decrease between 1983–84 and 1987–88. The affluent Chapel Hill/Carrboro City district spent 58 percent more per-pupil than the poorest district in 1983–84, Davidson County. That difference had decreased to 56 percent when comparing the highest spending Tryon City system in Polk County and the lowest spending Onslow County system in 1987–88. But, in 1994–95, that difference dramatically increased to 96 percent when comparing total per-pupil expenditures for Hyde County (\$7,460) and Onslow County (\$3,809).³³

Liner, who says comparing assessments is mixing apples and oranges. “There is no way I know to reliably adjust for differences in assessments and property tax bases.”

Any effort to guarantee full equality in spending, Liner says, would mean that the state could not allow local units to supplement state funds. “Under our system, you’ll never have total equality, because we allow local counties to add to it,” he says. “If you try to equalize funding, you say to Wake County: ‘You cannot spend money to improve your schools.’”

The high level of state support, together with the state’s method for allocating funds to local systems based on average daily membership, tends to have a strong equalizing effect on the resources available to local school systems, Liner says. In 1995–96, two-thirds (66.5 percent) of the total funding for public education in North Carolina came from state funds—ranking 6th highest among the 50 states. (See Table 1 on pp. 44–45.)

“North Carolina’s system does not seek to achieve equality in spending, but rather sets a basic level of education resources to be provided everywhere,” Liner says. “Under the Basic Education Program enacted in 1985, that level of support is defined as a standard course of study that should be available to every child in the state—and the state government, not local units, is responsible for providing it. We must be sure that our system operates so that the state government is in fact providing the resources that all

And, the difference in *local per-pupil expenditures*³⁴ is still huge. In 1987–88, the Chapel Hill/Carrboro City system spent 5.3 times more money per-pupil (\$1,535) than the Fairmont City system in Robeson County (\$287). The Chapel Hill/Carrboro City system spent 7.7 times more money per-pupil (\$2,252) than the Graham County system (\$292) in 1994–95.

The disparities between rich and poor school districts are reflected in other ways as well, such as course offerings available to students. For example, in the 1996–97 academic year, relatively wealthy West Mecklenburg High offered 294 classes to its 1,400 students—compared to the 131 classes that relatively poor Hoke County High offered to the same number of students. Another wealthy school, Asheville High, offered 190

our children need—regardless of the size of the school system or the ability and willingness of local taxpayers to support the schools.”

Researchers with the Public School Forum and the N.C. Center for Public Policy Research acknowledge that North Carolina does a better job than most states in equalizing state funding, but say that doesn’t eliminate substantial disparities in the quality of education available in different school districts across the state.

“Certainly the state does a lot better job in providing a basic level of education than a lot of other states do,” says J.B. Buxton, director of policy and research for the Forum. “The question is: What is basic? . . . The BEP was never fully funded, never fully implemented—compared to what is on the books.”

FOOTNOTES

¹ For previous Center studies on school finance, see: Jody George, “The Right to Education in State Constitutions: Courts Split on School Finance Issue,” *North Carolina Focus*, 1989, pp. 45–50; Bill Finger and Marianne M. Kersey, “Disparity in Public School Financing—An Update,” *North Carolina Focus*, 1989, pp. 250–255; Bill Finger, “Disparity in Public School Financing—An Update,” *North Carolina Insight*, Vol. 7, No. 4 (April 1985), pp. 44–49; and Jody George, “Courts Split on School Finance Issue,” *North Carolina Insight*, Vol. 7, No. 1 (June 1984), pp. 38–41.

² *North Carolina Local School Finance Study 1996*, Public School Forum of N.C., 3739 National Drive, Suite 210, Raleigh, N.C. 27612; phone (919) 781-6833.

³ Ran Coble, presentation to the Equity Subcommittee of the Education Study Commission of the N.C. General Assembly, March 14, 1990.



A one-room schoolhouse in the mountains of North Carolina, circa 1900.

classes to its 1,150 students—compared to the 100 classes that poorer North Davidson High offered to its 1,200 students. (See Table 5 on p. 65.)

In 1990, five years after the BEP was enacted, the State Auditor concluded that “[t]he distribution of BEP funds based on [average daily membership] **does not** contribute to equalized opportunity for education.”³⁵ According to a report to the General Assembly from the N.C. Civil Liberties Union and the American Civil Liberties Union, there are four reasons for this shortfall: 1) the BEP has not been fully funded; 2) the BEP,

although it establishes standards for facilities, does not allocate resources for capital projects; 3) the BEP, although it acknowledges the greater needs of children with special needs, does not provide

additional resources to school districts with large at-risk populations; and 4) the BEP does not take into account the differing abilities of school districts to supplement state dollars with local funds.³⁶ The state’s low-wealth supplemental funding program also is not making a significant difference in equalizing funding disparities, according to the Public School Forum of N.C.³⁷

“Financial disparity is not the only factor leading to educational disparity, but financial equity does represent the cornerstone of any effort to build a ‘uniform system of free public schools.’”

—LANIER FONVEILLE,
EDUCATION ANALYST

Table 3. State Courts' Rulings on the Financing of Public Schools

The following 16 state courts have held that funding disparities violated their state constitution:

1. Alabama	<i>Alabama Coalition for Equity v. Hunt</i> , 624 So.2d 107 (Ala. 1993);
2. Arizona	<i>Roosevelt Elementary School District No. 66 v. Bishop</i> , 877 P.2d 806 (Ariz. 1994);
3. Arkansas	<i>Dupree v. Alma School District No. 30</i> , 651 S.W.2d 90 (Ark. 1983);
4. California	<i>Serrano v. Priest</i> , 487 P.2d 1241 (Cal. 1971)(<i>Serrano I</i>); <i>Serrano v. Priest</i> , 557 P.2d 929 (Cal. 1976)(<i>Serrano II</i>); <i>Serrano v. Priest</i> , 226 Cal. Rptr. 584 (Cal. 1986)(<i>Serrano III</i>); <i>Butt v. State</i> , 842 P.2d 1240 (Cal. 1992);
5. Connecticut	<i>Horton v. Meskill</i> , 376 A.2d 359 (Conn. 1977);
6. Kentucky	<i>Rose v. Council for Better Education</i> , 790 S.W.2d 186 (Ky. 1989);
7. Massachusetts	<i>McDuffy v. Secretary of Executive Office of Education</i> , 615 N.E.2d 516 (Mass. 1993);
8. Montana	<i>Helena Elementary School District No. 1 v. State</i> , 769 P.2d 684 (Mont. 1989), amended, 784 P.2d 412, 413-14 (Mont. 1990);
9. New Hampshire	<i>Claremont School District v. Governor</i> , 635 A.2d 1375 (N.H. 1993);
10. New Jersey	<i>Robinson v. Cahill</i> , 303 A.2d 273 (N.J. 1973); <i>Abbott v. Burke</i> , 575 A.2d 359 (N.J. 1990);
11. Ohio	<i>DeRolph v. State</i> , ___ Ohio St. 3d ___ (No. 95-2066, March 24, 1997);
12. Tennessee	<i>Tennessee Small School Systems v. McWherter</i> , 851 S.W.2d 139 (Tenn. 1993);
13. Texas	<i>San Antonio Independent School District v. Rodriguez</i> , 411 U.S. 1 (1973); <i>Edgewood Independent School District v. Kirby</i> , 777 S.W.2d 391 (Tex. 1989)(<i>Edgewood I</i>); <i>Edgewood Independent School District v. Kirby</i> , 804 S.W.2d 491 (Tex. 1991)(<i>Edgewood II</i>); <i>Carrollton-Farmers Branch Independent School District v. Edgewood Independent School District</i> , 826 S.W.2d 489 (Tex. 1992)(<i>Edgewood III</i>);
14. Washington	<i>Seattle School District No. 1 v. State</i> , 585 P.2d 71 (Wash. 1978);
15. West Virginia	<i>Pauley v. Kelly</i> , 255 S.E.2d 859 (W. Va. 1979); and
16. Wyoming	<i>Washakie County School District No. 1 v. Herschler</i> , 606 P.2d 310 (Wyo. 1980).

North Carolina ranked 39th in per-pupil expenditures for public education among the 50 states in 1995-96.³⁸ Examining the federal, state, and local shares of total per-pupil spending reveals that the federal share generally has decreased. In 1978-79, the federal share of total expenditures

was 13.1 percent; in 1987-88, it was 7.7 percent; and in 1995-96, it was 8.6 percent. The share of state funds continues to average about two-thirds: in 1983-84, the state share was 64.0 percent; in 1987-88, it was 69.3 percent; and in 1995-96, it was 66.5 percent. The share of local funds is still

Table 3, continued

The following 17 state courts have held that funding disparities *did not* violate their state constitution:

1. Colorado	<i>Lujan v. Colorado State Board of Education</i> , 649 P.2d 1005 (Colo. 1982);
2. Georgia	<i>McDaniel v. Thomas</i> , 285 S.E.2d 156 (Ga. 1981);
3. Idaho	<i>Thompson v. Engelking</i> , 537 P.2d 635 (Id. 1975); <i>Idaho Schools for Equal Educational Opportunity v. Evans</i> , 850 P.2d 724 (Id. 1993);
4. Illinois	<i>People ex rel. Jones v. Adams</i> , 350 N.E.2d 767 (Ill. 1976); <i>Committee for Educational Rights v. Edgar</i> , 641 N.E.2d 602 (Ill. 1994);
5. Maryland	<i>Hornbeck v. Somerset County Board of Education</i> , 458 A.2d 758 (Md. 1983);
6. Michigan	<i>Milliken v. Green</i> , 212 N.W.2d 711 (Mich. 1973); <i>East Jackson Public Schools v. State</i> , 348 N.W.2d 303 (Mich. 1984);
7. Minnesota	<i>Skeen v. State</i> , 505 N.W.2d 299 (Minn. 1993);
8. Nebraska	<i>Gould v. Orr</i> , 506 N.W.2d 349 (Neb. 1993);
9. New York	<i>Board of Education v. Nyquist</i> , 439 N.E.2d 359 (N.Y. 1982); <i>REFIT v. Cuomo</i> , 199 A.D.2d 488 (N.Y. 1993);
10. North Carolina	<i>Britt v. N.C. Board of Education</i> , 86 N.C. App. 282, 357 S.E.2d 432, 436 (1987); <i>Leandro v. State</i> , 468 S.E.2d 543 (N.C. 1996);
11. North Dakota	<i>Bismarck Public School District No. 1 v. State</i> , 511 N.W.2d 247 (N.D. 1994);
12. Oklahoma	<i>Fair School Finance Council v. State</i> , 746 P.2d 1135 (Okla. 1987);
13. Oregon	<i>Olsen v. State</i> , 554 P.2d 139 (Or. 1976); <i>Coalition for Equitable School Funding v. State</i> , 811 P.2d 116 (Or. 1991);
14. Pennsylvania	<i>Danson v. Casey</i> , 399 A.2d 360 (Pa. 1979);
15. South Carolina	<i>Richland County v. Campbell</i> , 364 S.E.2d 470 (S.C. 1988);
16. Virginia	<i>Scott v. Commonwealth</i> , 443 S.E.2d 138 (Va. 1994); and
17. Wisconsin	<i>Kukor v. Grover</i> , 436 N.W.2d 568 (Wis. 1989).

significant, decreasing only slightly from 23.6 percent of the total in 1983–94 to 23.0 percent in 1987–88, and increasing to 24.9 percent in 1995–96. (See Table 1 on pp. 44–45 for the percentages of local, state, and federal funding for public education by state. Also see Table 6 on p. 67 for a

description of what North Carolina's public school financing system pays for.)

Charles D. Liner, a faculty member of North Carolina's Institute of Government and a public school finance analyst, finds that such differences in spending are not very meaningful when trying

to assess the adequacy of resources in various school districts. "[A] large county with a dispersed student population will have much higher transportation costs per student than a small, urban unit. Likewise, heating costs for a school in the mountains will be higher than for a school in the coastal areas. The cost of providing teachers from state funds varies because state salaries are based on teachers' education and experience. Units with low turnover of teachers may account for more state funds per student for teacher salaries because their more experienced teachers receive higher state salaries."³⁹

North Carolina's system for funding its schools is one of the fairest in the United States, Liner says, because it bases allocations to local districts not on money, per se, but on the resources

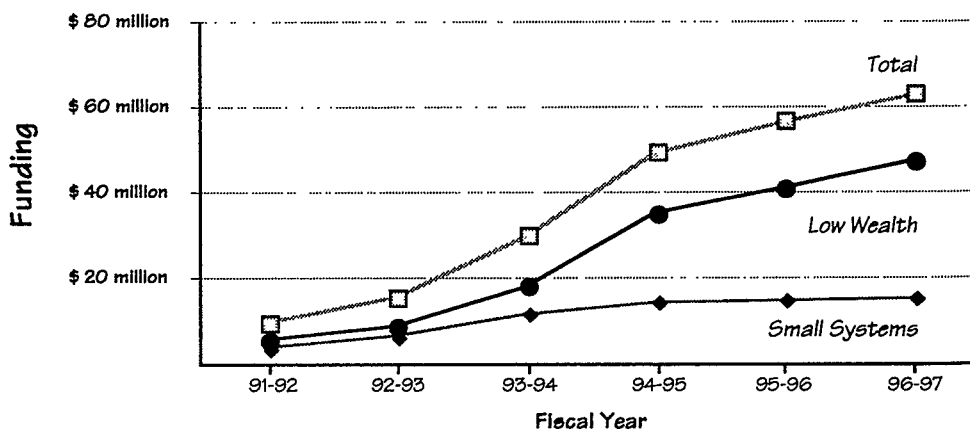
schools need to educate children—such as teachers, assistants, and textbooks. "Our system does not guarantee equality, but sets a minimum level," he says. "The BEP says all of the state's citizens are responsible for educating children. It says we'll do it based on what each kid needs—regardless of the size of a school or system." (See the article, "Public School Forum and Center Criticize Education Funding Disparities," on pp. 56–60.)

Per-pupil expenditures do not succeed in reflecting the differences between large and small school systems, or rural and urban school systems. Nor are they an *ideal* measure of the quality of educational opportunity. However, they are the most readily available statistics that can be meaningfully compared.

Table 4. Supplemental Funding for Low Wealth and Small School Systems in North Carolina, FY 1991–96

Type of Supplement	Total Appropriations by Fiscal Year					
	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97
Low Wealth Schools	\$6,000,000	\$9,000,000	\$18,063,577	\$35,283,809	\$41,483,809	\$47,528,813
Small School Systems	4,000,000	7,000,000	11,731,907	14,389,725	15,117,295	15,434,577
Total Supplements	\$10,000,000	\$16,000,000	\$29,795,484	\$49,673,534	\$56,601,104	\$62,963,390

Source: N.C. Department of Public Instruction, based on appropriations from the N.C. General Assembly.



Lawsuits in North Carolina

In 1994, a lawsuit (*Leandro v. State*) asserting unconstitutional school funding disparities was filed on behalf of five low-wealth counties in North Carolina—Cumberland, Hoke, Halifax, Robeson, and Vance. “The complaint states that despite the constitutional requirement, the system for funding public schools does not provide adequate or equal educational opportunities for students in North Carolina’s low-wealth counties. It asserts that the education provided is inadequate when compared to both the minimal requirements contained in the State’s Basic Education Program (BEP) and to the programs, facilities and opportunities available in wealthier counties. . . . The complaint says that students from these districts frequently have to un-

dertake remedial work once in college and face a lifetime of relative disadvantage as a result of inadequate educational opportunities. The suit seeks a declaration that the overall North Carolina school funding system violates the State Constitution. . . .”⁴⁰

This is not the first time such a suit has been filed in North Carolina. In 1987, plaintiffs from Robeson County lost in the N.C. Court of Appeals in *Britt v. N.C. Board of Education*.⁴¹ In *Britt*, the plaintiffs contended that education was a fundamental right under North Carolina’s Constitution, and that this right was being violated by the state’s school finance system as it then existed. At the trial court level, the plaintiffs’ case was dismissed on a motion and, therefore, little evidence was presented. The appeals court dismissed the plaintiffs’ arguments, and relied upon the history surrounding

Table 5. Comparison of Course Offerings by Selected High Schools in Low- and High-Wealth School Districts, 1996–97 School Year

Name of High School	Enrollment (Approx.)	Rank in Local PPE ¹	Rank in Total PPE ²	Total Courses Offered (#) ³
<i>Low Wealth</i>				
Alexander County Central High	970	105	116	85
Harnett County Central High	980	111	115	115
Hoke County High	1,400	117	105	131
North Davidson County High	1,200	92	117	100
<i>High Wealth</i>				
Asheville High	1,150	2	2	190
Chapel Hill High	1,600	1	6	150
Northwest Guilford County High	1,500	5	22	262
West Mecklenburg County High	1,400	7	30	294

¹ Rank in per pupil expenditures from local governments in the 1994–95 fiscal year; see Table 2 on pp. 48–55.

² Rank in per pupil expenditures from local, state, and federal governments in the 1994–95 fiscal year; see Table 2 on pp. 48–55.

³ Total number of courses offered to students in the 1996–97 academic year, including honors, advanced placement, and non-academic classes (such as shop). Numbers for Hoke County High School are for the fall term only.

Source: Numbers on enrollments and courses compiled by the N.C. Center for Public Policy Research from interviews with administrators in each school. Numbers on per pupil expenditures from N.C. Department of Public Instruction; see Table 2 on pp. 48–55.

"Inadequate and inequitably distributed state funding means that the kind and quality of a child's education depends solely on where he or she lives. What results is a dual system of public education: one for the rich and one for the poor."

—N.C. CIVIL LIBERTIES UNION AND AMERICAN CIVIL LIBERTIES UNION IN
A RIGHT DENIED: EDUCATIONAL INEQUITY IN NORTH CAROLINA'S SCHOOLS

the drafting of the state Constitution. "The fundamental right," the court held, "that is guaranteed by our Constitution, then, is to equal *access* to our public schools—that is, every child has a fundamental right to receive an education in our public schools."⁴² Instead of relying on the plain meaning of the language in the N.C. Constitution that requires equal educational opportunities for all students, the court interpreted Article IX, Section 2(1) to mandate only "equal access to full participation

in our public schools, regardless of race or other classification."⁴³ Because *Britt* was not decided by the N.C. Supreme Court,⁴⁴ the facts of the case were less than ideal as a vehicle for testing the state's school finance system, and it did not raise adequacy issues, the 1987 defeat did not close the door for the *Leandro* case.

The State of North Carolina and the State Board of Education filed a motion to dismiss *Leandro* for failure to state a claim. The Superior Court judge,

Scene from an elementary school in Iredell County, circa 1938.



**Table 6. Primary Components of the System for Funding
Public Schools in North Carolina**

State Money Pays For:	Local Money Pays For:
Superintendents	School Sites*
Principals	School Buildings
Assistant Principals	Temporary Classroom Units
Teachers	Water and Sewage Facilities*
Teacher Assistants	Plant Maintenance
Library and Media Personnel	Utilities
Office Support Personnel	School Furniture*
Bus Drivers	Additional School Buses and Garages
	Custodians
Vocational and Technical Education Program	Food Services
Special Education for Handicapped Students	
Alternative Education for At-Risk Students	
Transportation System	
School Safety	
Basic Textbooks	
Low-Wealth Schools Supplemental Fund	
Small Schools Supplemental Fund	
Critical School Facility Needs Fund	
Public School Building Capital Fund	
State School Technology Fund	
Both State and Local Money Pays For:	
Instructional Supplies:	
blackboards	
reference books	
library equipment	
maps	
science equipment	

* Money from the state bond referendum passed in November 1996 can be used to pay for some traditional local expenses, such as school sites, furnishings, and water and sewage facilities.

Source: See North Carolina General Statutes, sections 115C-12, -96, -106, -156, -232, -249, -263, -265, -272, -285, -289, -301, -315, -316, -408, -418, -489, -517, -521, -522, -524, -525, -546.1. Also see Chapter 507, sections 17.1 and 17.2 of the 1995 N.C. Session Laws.

"OUR COURTS HAVE HELD that education is a fundamental right with several components including the right to a free education for at least nine months every year within a state-wide system that is general and uniform and free from race-based discrimination. What they have not held is that the General Assembly's decision to assign a part of the funding responsibilities to counties, as specifically authorized by the Constitution, is unconstitutional, or that the Constitution contains a funding based requirement for an adequate education. This does not mean that adequacy is left to whim or caprice by the Constitution; it means that adequacy as measured by level of funding is left in the hands of the people through the votes they cast for their representatives in the General Assembly and on boards of county commissioners."

—EDWIN M. SPEAS, JR.,

SPECIAL LITIGATION, OFFICE OF THE ATTORNEY GENERAL,
IN A LETTER TO THE N.C. CENTER FOR PUBLIC POLICY RESEARCH, MAY 2, 1996

E. Maurice Braswell, denied the motion. The Court of Appeals granted an interlocutory appeal to the State, and oral arguments were heard on January 25, 1995. On March 19, 1996, the Court of Appeals reversed the trial court's order denying the state's motion to dismiss.⁴⁵ Chief Judge Gerald Arnold, a former state legislator, wrote the opinion and Judges John Lewis and Ralph Walker concurred.⁴⁶

After noting that "education is primarily the responsibility of parents, teachers, and state and local school officials, and not of state judges,"⁴⁷ the court held that the "general and uniform" clause of the N.C. Constitution requires *system* uniformity, not spending or program uniformity.⁴⁸ Then, Judge Arnold opined that the plaintiffs' claim under the "equal opportunities clause" of the Constitution was foreclosed by the *Britt* decision,⁴⁹ which "established that the Constitution provides no fundamental right to equal educational opportunities, but simply 'equal access to our public schools.'"⁵⁰ According to the opinion of the court, school children in North Carolina do not have a right to an adequate education because the fundamental right afforded by the Constitution is "limited to one of equal access to education, and it does not embrace a qualitative standard."⁵¹ The strict scrutiny legal standard was not used to evaluate the plaintiffs' equal protection or substantive due process arguments because the court had already decided that students did not have a fundamental right to an adequate education, so these claims were dismissed.⁵²

The Court of Appeals decision was criticized roundly in the press. An editorial in a paper located in one of the plaintiffs' home counties decried: "It is a grossly unfair outrage for the people of North Carolina that not only has this process been allowed to stand, but that it has been given a seal of approval by a state court."⁵³ *The Charlotte Observer* reported that John Leandro, the father of one of the students who brought the suit, said "If you have access to an education that's inadequate, you might as well not have access."⁵⁴

That sentiment was echoed in an editorial in *The Charlotte Observer*: "Thanks to the Court of Appeals, it is clearer now that North Carolina's Constitution doesn't guarantee much of an education."⁵⁵ And an editorial in *The Wilson Daily Times* concluded, "No one can look at the disparities in schools statewide and draw any other conclusion than that funding is inequitable. Such funding penalizes some unfortunate students and rewards others, and violates American principles of fairness and equality."⁵⁶

Attorney General Mike Easley, the state's lawyer, acknowledged that although the system is constitutional, it's not necessarily fair. Editorials in the *Greensboro News & Record* and the *Greenville Daily Reflector* thought the decision was a fair interpretation of the Constitution and that the General Assembly was the appropriate branch of government to deal with funding equity questions.⁵⁷ The controversial decision will be reviewed by the N.C. Supreme Court.⁵⁸

The Importance of Resolving the Issue

Since 1991, when funds were first appropriated for low-wealth and smaller school districts, the N.C. General Assembly has attempted to remedy disparity in school finance, with almost \$63 million appropriated in fiscal year 1996-97. (See Table 4 on p. 64.) However, the gap is now 96 percent in total spending per-pupil between the district that spends the most and the district that spends the least. Some studies document the widening of the gap,⁵⁹ and others document the effects of such a system. "Inadequate and inequitably distributed state funding means that the kind and quality of a child's education depends solely on where he or she lives. What results is a dual system of public education: one for the rich and one for the poor," said one report to the General Assembly.⁶⁰

"Our only real hope," notes an editorial in *The Robesonian*, "is that the state legislature [will] finally wake up and correct this glaring inequity, an inequity they have allowed to stand for far too long. They have the political power to correct this political explosive problem. We can only hope they have the courage to do so." ■

FOOTNOTES

¹ National Education Association, *Ranking of the States 1996*, NEA Research Division, Washington, D.C., 1996, pp. 41-42.

² U.S. General Accounting Office, *School Finance: State Efforts to Reduce Funding Gaps Between Poor and Wealthy Districts*, Report to U.S. Congress, No. 6AO/HEH5-97-31, Washington, D.C., February 1997, pp. 1-23.

³ *Serrano v. Priest*, 487 P.2d 1241 (Cal. 1971) (*Serrano I*).

⁴ *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973).

⁵ *Ibid.*, p. 49.

⁶ William E. Sparkman, "The Legal Foundations of Public School Finance," 35 *Boston College Law Review* 569 (1994) (emphasis added).

⁷ *DeRolph v. State*, ___ Ohio St. 3d ___ (No. 95-2066, March 24, 1997). Also see Jeanne Ponesse, "Justices Reject Ohio System of School Finance," *Education Week*, April 2, 1997, pp. 1 and 31.

⁸ *Serrano v. Priest*, 557 P.2d 929, 950 (Cal. 1976) (*Serrano II*).

⁹ Peter Enrich, "Leaving Equality Behind: New Directions in School Finance Reform," 48 *Vanderbilt Law Review* 101, 183 (1995).

¹⁰ N.C. General Statute § 115C-81(a1) (1994).

¹¹ Complaint for Plaintiffs, *Leandro v. State* (94 CVS 520), filed Sept. 26, 1994 with the Halifax Co. Clerk of Superior Court, p. 10.

¹² The state deadline for full funding was 1993, but that deadline was extended to July 1995. The legislature in recent years has disregarded portions of the BEP, such as plans for hiring more administrators in high schools. But it has strived to meet some of the BEP goals, such as reductions in class sizes, and exceeded other goals, such as providing new textbooks.

¹³ N.C. State Board of Education, *The Basic Education Program for North Carolina's Public Schools*, 1988, p. 1.

¹⁴ *Ibid.*, Appendix, pp. 46-47.

¹⁵ D.C. Long, "Rodriguez: The State Courts Respond," *Phi Delta Kappan*, March 1983, pp. 481-84.

¹⁶ Editorial, "No Clout: Poorer schools didn't get respect or cash," *Fayetteville Observer-Times*, Fayetteville, N.C., July 7, 1995. According to John Dornan, executive director of the Public School Forum of North Carolina, the formula for allocating low wealth supplemental funds was revised in 1993. The result was halving the goal that the State was pursuing in addition to changing the qualification and effort requirements.

¹⁷ See "Under the Dome," column in *The News & Observer*, Raleigh, N.C., Jan. 9, 1997, p. 3A.

¹⁸ *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 at 48, note 102 (1973).

¹⁹ Funding decisions are usually legislative matters.

²⁰ Mark Curriden, "Unequal Education at Issue," *ABA Journal*, May 1994, p. 36.

²¹ *Britt v. N.C. Board of Education*, 86 N.C. App. 282, 357 S.E.2d 432, 436 (1987).

²² "Unfulfilled Promises: School Finance Remedies and State Courts," 104 *Harvard Law Review* 1072, 1078-80 (1991).

²³ *Ibid.*, pp. 1082-85.

²⁴ *Rose v. Council for Better Education*, 790 S.W.2d 186 (Ky. 1989).

²⁵ "Unfulfilled Promises," see note 22 above, p. 1078.

²⁶ For a complete discussion of these remedies, see Mary Fulton and Laura Sonovick, "Percentage of public elementary and secondary school operating costs from Federal, State, and Local Governments," *Clearinghouse Notes*, Education Commission for the States, 707 17th St., Suite 2700, Denver, Colo., 80202-3427, phone (303) 299-3600, 1995, pp. 1-2.

²⁷ N.C. General Statute § 115C-546.1 to -2; N.C. General Statute § 115C-489 to -489.4.

²⁸ Charles D. Liner, "Twelve Years and \$3 Billion Later: School Construction in North Carolina," *Popular Government*, Institute of Government, Chapel Hill, N.C., Fall 1994, Vol. 60, pp. 30-43.

²⁹ See generally, Charles D. Liner, *State and Local Government Relations in North Carolina: Their evolution and current status*, Institute of Government, Chapel Hill, N.C., 1995, pp. 186-87.

³⁰ For a complete discussion, see Fulton and Sonovick, note 26 above.

³¹ Lanier Fonvielle, "Disparity in Public School Financing," *North Carolina Insight*, Vol. 7, No. 1, June 1984, p. 31.

³² The number of school districts in North Carolina has decreased from 143 in 1982-83, to 142 in 1983-84, to 140 in 1987-88, to 119 in 1994-95, to 117 in 1996-97.

³³ For many small school districts with low average daily membership, like Hyde County, the per pupil expenditures are very high. North Carolina allots most of its state education dollars on a "resource" basis; see Table 6 on p. 67. Therefore, small school districts have higher unit costs than large school districts. For this reason, although Hyde County has the highest total per pupil expenditures of any school system in the state, it does not provide the most representative example of funding disparities in North Carolina. See Table 2 on pp. 48-55.

³⁴ For another look at local school financing among the school districts, see *North Carolina: Local School Finance Study 1996*, published in 1996 by The Public School Forum of North Carolina, 3739 National Dr., Raleigh, N.C., 27612; phone (919) 781-6833.

³⁵ Office of the State Auditor, *Performance Audit Report, North Carolina Department of Public Instruction, Chapter VII—Impact of the Basic Education Program on Public Schools and a Review of School Financing*, 1990, p. 2 (emphasis in the original).

³⁶ *A Right Denied: Educational Inequity in North Carolina's Schools*, N.C. Civil Liberties Union and the American Civil Liberties Union, June 1991, p. 35–37.

³⁷ See note 35 above, p. 5.

³⁸ National Education Association, *Ranking the States 1996*, NEA Research Division, Washington, D.C., 1996, p. 48.

³⁹ Charles D. Liner, "Spending and Employment in the Public Schools," *Popular Government*, Institute of Government, Chapel Hill, NC, Spring 1990; p. 32.

⁴⁰ Robert Spearman, Parker, Poe, Adams, & Bernstein L.L.P. Press Release, May 25, 1994. See also Complaint for Plaintiffs, *Leandro v. State* (94 CVS 520), filed Sept. 26, 1994 with the Halifax Co. Clerk of Superior Court, p.10.

⁴¹ *Britt*, see note 21 above.

⁴² *Ibid.*, p. 436.

⁴³ *Ibid.*

⁴⁴ *Britt v. N.C. Board of Education*, 320 N.C. 790, 790 (1987). The Supreme Court denied the plaintiffs' petition for discretionary review and allowed the defendant's motion to dismiss the appeal for lack of a substantial constitutional question.

⁴⁵ *Leandro v. State*, 468 S.E.2d 543, 552 (1995).

⁴⁶ *Ibid.*, pp. 547 and 552.

⁴⁷ *Ibid.*, p. 548.

⁴⁸ *Ibid.*, p. 549 (emphasis in the original).

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, p. 550.

⁵² *Ibid.*, p. 551.

⁵³ "Schools lose another round," *The Robesonian*, Lumberton, N.C., March 20, 1996, p. A4.

⁵⁴ Foon Rhee, "Court deals blow to schools suit," *The Charlotte Observer*, Charlotte, N.C., Mar. 20, 1996, p. 1A.

⁵⁵ "Access vs. adequacy," *The Charlotte Observer*, Charlotte, N.C., Mar. 22, 1996, p. A12.

⁵⁶ "School funding is legal but not fair," *The Wilson Daily Times*, Wilson, N.C., Mar. 25, 1996.

⁵⁷ "Equity in schools is up to the legislature," *News & Record*, Greensboro, N.C., Mar. 21, 1996, p. A16; "Another chance," *Daily Reflector*, Greenville, N.C., Mar. 25, 1996.

⁵⁸ The N.C. Supreme Court agreed to review the case on June 13, 1996. Oral arguments were held on Oct. 17, 1996, but the Court had not reached a decision at press time.

⁵⁹ See Public School Forum, note 34 above.

⁶⁰ See N.C. Civil Liberties Union, note 36 above, p. v.

Center Recommends That the State Address the Financing of Equal Educational Opportunity in North Carolina

Despite steady appropriations for low-wealth and small school districts by the N.C. General Assembly, disparities in educational opportunity persist in the North Carolina public schools. At least three indicators point to North Carolina's failure to live up to its constitutional promise of public schools where "equal opportunities shall be provided for all students." Those indicators are: (1) the gap in per pupil expenditures between the state's public school systems with the least to spend per student and those with the most; (2) differences in number of courses offered at high schools located in wealthy and poor school districts in North Carolina; and (3) the state's failure to fully fund its Basic Education Plan, which provides a statutory promise of a base level for educational opportunity in the state.

Differences in per pupil expenditures. In the 1994–95 school year, the gap between the public school system that spent the most per student for public education and the one that

spent the least approached 96 percent. Hyde County spent \$7,460 per pupil, while Onslow County spent only \$3,809. The Asheville City Schools spent the second most per student at \$6,611—some 74 percent more than the resource-poor Onslow County district. Factors such as size of school district and education-level of teachers have a strong impact on per-pupil expenditures, but so does whether state and local officials decide to provide adequate funding for local schools. In that sense, the fact that the gap has persisted and even grown over time is troubling. In 1987–88, for example, the North Carolina Center for Public Policy Research found that the gap between the school system that spent the most and the one that spent the least—including federal, state, and local appropriations—was 56 percent. In 1983–84, the gap was 58 percent. The legislature began appropriating funds for small and low-wealth school systems in 1991, and this has helped move up some of the least able of the

state's 119 school systems. But these appropriations have not approached the need, and many underfunded school systems are not small enough or poor enough to get any help.

Course offerings at the high school level.

The Center found high schools in some of the least affluent North Carolina counties to have far fewer course offerings than those in more affluent counties. Alexander County Central High School, for example, offered 85 courses to its 970 students in the 1996-97 school year, including honors, advanced placement, and non-academic courses such as shop. The county's school system ranked 116th in per pupil expenditures among the state's 119 public school systems in 1995-96. On the other end of the spectrum, Asheville High offers its 1,150 students 190 courses, more than twice as many as the number offered in the poorer county. The Asheville City Schools rank 2nd in the state in per pupil expenditures. Consider also Harnett County Central High, located in another low-wealth county and ranking 115th in total per-pupil expenditures. The school offers its 980 students 115 courses, while Chapel Hill High—an affluent school district ranking 6th in the state in total per-pupil expenditures—offers 150 courses to its 1,600 students.

Other examples among low-wealth counties include: Hoke County High—1,400 students, 105th in total PPE, 131 courses offered; and North Davidson County High—1,200 students, 117th in total PPE, 100 courses offered. Among higher-wealth counties, there are these additional examples: Northwest Guilford County High, 1,500 students, 22nd in total PPE, 262 courses offered; and West Mecklenburg County High, 1,400 students, 30th in PPE, 294 courses offered.

Failure to fully fund the state Basic Education Plan. While the state Constitution promises equal opportunities for all students, the Basic Education Plan spells out in state statutes what the opportunity should be. Yet even though the Basic Education Plan has been on the books since 1985, it never has been fully funded. The BEP is a good example of North Carolina's start-and-stop approach to education reform, which has given it a national reputation for carrying out "random acts of reform" while failing to stick with those reforms to fruition.

The fact that the Basic Education Plan is not fully funded supports a contention that not all of North Carolina's public school students have access to an adequate public education.

Five counties—Cumberland, Hoke, Halifax, Robeson, and Vance—have sued the state on grounds that its system for funding the public schools does not provide "adequate or equal education" in North Carolina's low-wealth counties (*Leandro v. State*). In March 1996, the Court of Appeals reversed a Superior Court judge's denial of a motion by the state to dismiss the case for failure to state a claim. Chief Judge Gerald Arnold, writing for the majority, opined that the state Constitution guarantees "equal access to education," rather than "equal educational opportunities." Yet the constitution clearly states, "[E]qual opportunities shall be provided for all students." The case currently is before the state Supreme Court, which must decide whether to uphold the Appeals Court decision or remand the case to Superior Court for trial.

The Center's research indicates at least three factors that point to less-than-equal educational opportunities in the North Carolina public schools: (1) there are persistent gaps in per-pupil funding between school systems with the most to spend per student and those with the least; (2) some high school students in low wealth school systems get fewer courses from which to choose; and (3) the Basic Education Plan to provide a guaranteed level of educational opportunity for all students has never been fully funded.

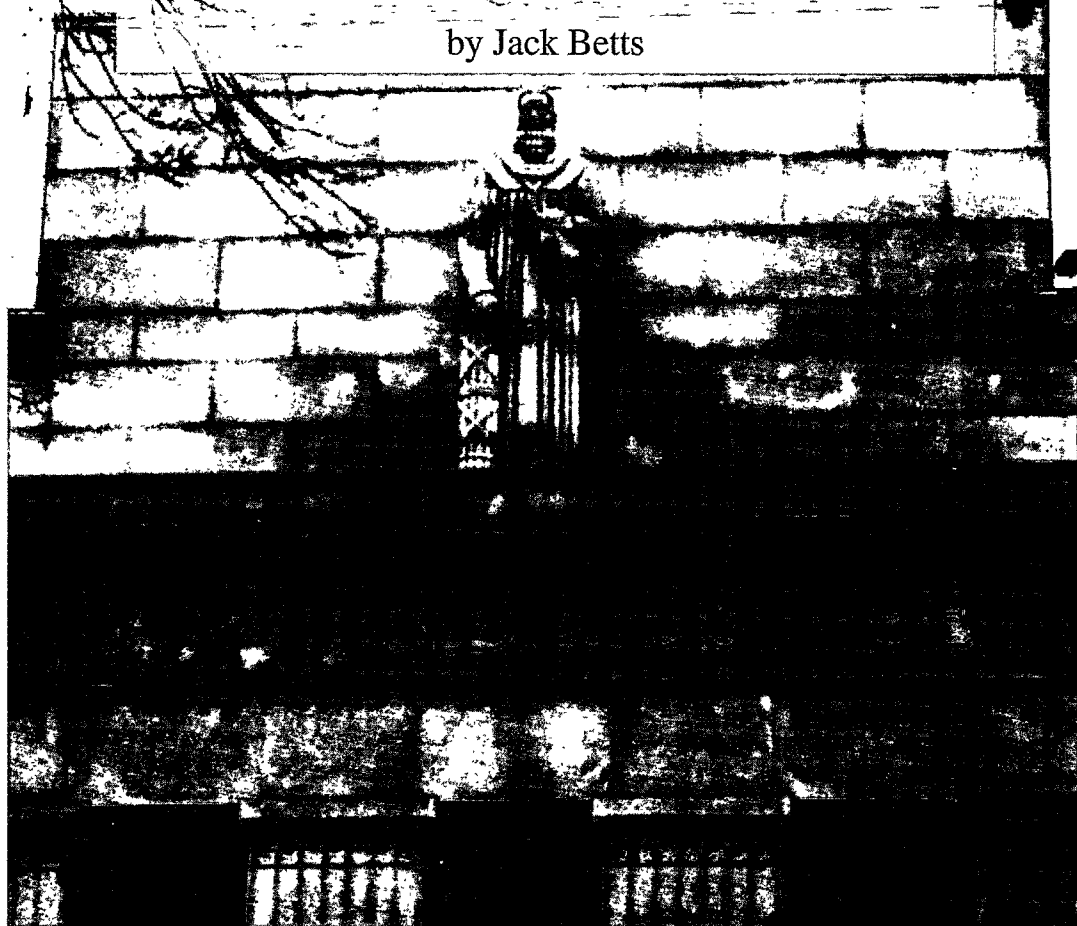
Whether the five plaintiffs in the case currently before the state Supreme Court deserve a trial on the merits of this case is a matter for the court to decide. But a trial *would* allow the five counties to present their evidence and thus help determine once and for all whether the state has an equitable system of school finance, as promised by its own Constitution. That would be in the best interest of North Carolina's public school students and *all* its citizens. Whatever the courts decide, the N.C. Center for Public Policy Research recommends that the executive and legislative branches continue to address the problem of disparity in educational opportunity in North Carolina. ☐☐

—Mike McLaughlin

Center Update

The Debate over Merit Selection of Judges

by Jack Betts



North Carolina Constitution, Article IV, Section 16. *Terms of office and election.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified.

Tom Mather

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For decades, politicians, lawyers, political scientists, and citizens have debated how to choose judges—by popular election, direct appointment, or a screening process that has come to be known as “merit selection.” Nationally, 20 states use some variation of merit selection and 16 of those states use a form known as the “Missouri Plan,” which includes: (1) a nominating commission to screen judicial candidates, (2) gubernatorial appointments of judges from a list of those nominees, sometimes with legislative confirmation, and (3) retention elections in which voters determine whether a judge serves another term. North Carolina’s Constitution requires that judgeships be filled by partisan elections, except when vacancies occur between elections. However, nearly half of the state’s judges—48 percent in 1996—were first appointed to their current seats.

Voters in the 1974 Republican primary for Supreme Court Chief Justice had an intriguing choice of candidates from which to choose. The two candidates’ backgrounds presented a razor-sharp contrast: District Court Judge Elreta Alexander of Greensboro, an African-American woman and trial judge with years of courtroom experience; and James Newcombe, a fire extinguisher salesman from Laurinburg who not only had no judicial experience, but also lacked a law degree.

Guess who won? That’s right—Newcombe, who took 59 percent of the vote in the primary. To his dismay, however, the Republican Party hierarchy declined to support him in the general election, and Associate Justice Susie Sharp, the Democratic nominee, handily won the race. A few years later, North Carolina voters adopted a constitutional amendment requiring that all judges be licensed to practice law in North Carolina, a direct outgrowth of the 1974 primary.¹

In fact, North Carolinians have been bickering since Colonial days over the way their judges have been chosen. More than 200 years ago, the British Crown appointed judges in this colony, antagonizing the Lords Proprietors who saw the Crown’s influence as an abridgment of their powers granted by Royal Charter, and annoying colonists who thought they should be allowed to judge their own affairs. When that unseemly system was dispatched by the American Revolution, such weighty matters as choosing judges and governors were delegated to the North Carolina General Assembly. For nearly a century, the legislature appointed the state’s judiciary to “hold their offices during good behavior,” as the 1776 Constitution allowed.

Another war once again changed the way judges were chosen. In the Reconstruction after-

Jack Betts is an associate editor for The Charlotte Observer and former editor of North Carolina Insight. This article was updated by Mebane Rash Whitman, a policy analyst with the N.C. Center, and Tom Mather, associate editor of North Carolina Insight.

This article updates a series of articles, including pro/con arguments on merit selection of judges, that were previously published in North Carolina Insight and now are contained in the latest edition of North Carolina Focus: Jack Betts, “The Debate Over Merit Selection of Judges,” North Carolina Focus, N.C. Center for Public Policy Research, Raleigh, N.C., 1996, pp. 315–327; Jack Betts, “The Merit Selection Debate—Still Waiting in the Legislative Wings,” North Carolina Insight, Vol. 9, No. 4, June 1987, pp. 15–21; H. Parks Helms, “Merit Selection: The Case For Judicial Election Reform,” North Carolina Insight, Vol. 9, No. 4, June 1987, pp. 22–27; Joel Rosch and Eva R. Rubin, “Merit Selection: The Case Against Judicial Election Reform,” North Carolina Insight, Vol. 9, No. 4, June 1987, pp. 28–34.

Table 1.
Arguments For and Against Merit Selection

For Merit Selection:

Would take politics out of the judicial selection process.

Judges would be selected more on merit and legal ability.

Merit selection would attract qualified candidates who do not now seek election to judicial office.

Merit selection would prohibit judicial candidates from having to seek campaign funds from lawyers who later must appear before those judges.

Merit selection would produce a more independent judiciary without ties to party, politicians, or lawyers who appear before judges.

A judicial nominating committee would be able to make better choices than voters because it would have access to better information on the candidates' actual performance in the legal profession.

Merit selection would eliminate bitter political campaigns.

Merit selection would shorten North Carolina's long ballot and relieve voters of the burden of having to vote for judges they do not know.

Merit selection has worked well in 20 other states and would produce better judges in North Carolina, where 24 judges have been removed or censured for misconduct in office since 1975.

Against Merit Selection:

Would shift politics from electoral decisions by large numbers of voters to political decisions by a select few within the bar's nominating committee in the appointment process.

Judges still would be selected on the basis of political alliances with those in power.

Merit selection would not produce more qualified judges than the electoral process does.

Judicial candidates would still have to drum up pledges of support from judicial nominating committee members.

Few problems stem from judicial ties to political parties, and merit selection would not eradicate party alliances or beliefs.

As North Carolina increasingly becomes a two-party state, more contested judicial elections would mean that more information is available to voters.

Political campaigns still could exist because voter groups could oppose a judge who is up for a retention vote under a merit selection system.

Merit selection would remove choice of judges from the electorate, where it belongs, and place that choice in the hands of a select few.

Judges in North Carolina already are good ones, and merit selection in other states has not produced better judges.

"We have many excellent district court judges. Some are outstanding jurists. Unfortunately, however, a minority of these judges are so highly unqualified that they are damaging the image of that echelon; and if we continue to elect such judges, they will inevitably tarnish the image of the entire judiciary."

—FORMER CHIEF JUSTICE SUSIE SHARP OF THE N.C. SUPREME COURT
IN A 1977 LETTER TO FORMER STATE REP. PARKS HELMS (D-MECKLENBURG)

math of the Civil War, a new Constitution was adopted in 1868 that for the first time embraced Jacksonian democracy and gave the citizens of North Carolina the power to elect trial and appellate judges. So it has remained ever since, despite periodic calls for yet another change in the selection of state District, Superior, Court of Appeals, and Supreme Court judges. Most recently, the Commission for the Future of Justice and the Courts in North Carolina issued a report in December 1996 recommending—among other things—that the state replace its system of electing judges with a modified form of merit selection. (See the related article, "Legislature Considers Courts Panel's Recommendation to Install Merit Selection in N.C.," on pp. 87–88.) The commission's recommendations led to the introduction of legislation aimed at establishing a form of merit selection in the 1997 session of the N.C. General Assembly.²

This movement to alter the selection process has usually proposed a process known around the country as "merit selection" of judges. It refers to choosing judges by (1) naming a bipartisan commission to screen a pool of candidates for a judicial vacancy and making a recommendation to an appointing authority, usually a governor but sometimes a legislature; (2) authorizing appointment of a qualified candidate, and sometimes requiring confirmation by a legislative body; and (3) usually requiring the judge to stand for a "retention" vote after a certain period in office. Voters, in a retention election, are asked only whether a judge should be kept in office. If a certain percentage—sometimes a simple majority, sometimes a three-fifths majority—vote yes, the judge then serves a full term, whereupon another retention vote is taken; if the vote is no, a vacancy is declared and the nominating and appointment process begins anew. Scores of variations and combinations of certain elements of these plans and of other methods—such as non-

partisan statewide elections—have been debated and sometimes adopted by various states. Some use merit selection only for trial judges; others for appellate judges only.

Why adopt such a change? The arguments for merit selection generally include that (1) the existing partisan system of election discourages qualified lawyers from running for judgeships; (2) the cost of running for office is too high; (3) politicking requires candidates to seek funds from lawyers who may subsequently have cases before that judge; (4) voters already are faced with an unusually long statewide ballot; (5) voters often lack information about candidates, and without the time or resources to become familiar with them, they are unable to make good choices; and (6) merit selection has worked well in some other states.

Why resist such a change? The arguments against merit selection generally include that (1) the system takes power from its proper place—with the people—and deposits it in the hands of a select few; (2) North Carolina has had a good judiciary under the current system; (3) merit selection does not eliminate politicking, it just alters the way judicial candidates must run for office; and (4) merit selection has not worked well in some other states. (See Table 1 on p. 74 for a summary of key arguments for and against merit selection.)

These arguments have been batted back and forth for most of the 20th century following growing national dissatisfaction with the politicizing of the judicial selection process, according to Keith Goehring, a staff attorney with the National Center for State Courts in Williamsburg, Va.³ Goehring's research attributes the development of merit selection plans in the early 1900s to Albert M. Kales, a law professor at Northwestern University, and Harold Laski, an English political scientist. They developed a merit selection process that was first

—continues on page 78

Table 2.
State Systems for the Regular Selection of State Judges

State	Partisan Election	Nonpartisan Election	Gubernatorial Appointment	Legislative Election	Missouri Plan	Other Merit Selection
AL	X					
AK					X	
AZ					X	
AR	X					
CA		X	X			
CO					X	
CT						X
DE			X			
FL		X			X	
GA		X				
HI						X
ID		X				
IL	X					
IN	X				X	
IA					X	
KS					X	
KY		X				
LA		X				
ME			X			
MD					X	
MA						X
MI		X				
MN		X				
MS	X					
MO	X				X	
MT		X				
NE					X	
NV		X				
NH			X			
NJ			X			
NM					X	
NY	X		X			

Table 2, continued

State	Partisan Election	Nonpartisan Election	Gubernatorial Appointment	Legislative Election	Missouri Plan	Other Merit Selection
NC	X					
ND		X				
OH		X				
OK		X			X	
OR		X				
PA	X					
RI			X	X		
SC				X		
SD		X			X	
TN	X				X	
TX	X					
UT					X	
VT						X
VA				X		
WA		X				
WV	X					
WI		X				
WY					X	
TOTALS	12	17	7	3	16	4

Notes: Lighter areas indicate states that use some sort of merit selection.

The Missouri Plan is the term used for merit selection that involves (1) a nominating commission to screen judicial candidates, (2) gubernatorial appointments of judges from a list of those nominees, sometimes with legislative confirmation, and (3) retention elections in which voters determine whether a judge serves another term.

Many states have different judicial selection plans for different groups of judges, so states may appear in more than one category on this chart. States are classified according to the system they use for the regular selection of judges, rather than for the filling of vacancies or for the staffing of minor trial courts.

Source: *The Book of the States 1996-97*, The Council of State Governments, Lexington, Ky., Table 4.4: "Selection and Retention of Judges," pp. 133-135.

**Table 3. Number of
Court Officials in
North Carolina, 1996**

Supreme Court Justices	7
Court of Appeals Judges	12
Superior Court Judges*	90
District Court Judges	198
Magistrates	698
Clerks of Superior Court	100
Assistant and Deputy Clerks	2,022

* The number of Superior Court judges does not include five special, limited-term seats that are by statute appointed by the governor.

Source: Administrative Office of the Courts, from *Without Favor, Denial or Delay: A Court System for the 21st Century*, report by the Commission for the Future of Justice and the Courts, Raleigh, N.C., December 1996, p. 80. Figures for magistrates and clerks are for actual numbers of people employed, including part time. Numbers are less for budgeted, full-time positions.

—continued from page 75

adopted by the state of Missouri in 1940 and thus is commonly referred to as the Missouri Plan. Generally, there are now five systems used by the states for the regular selection of judges: partisan election (12 states), nonpartisan election (17 states), gubernatorial appointment (7 states), legislative election (3 states), and some form of merit selection (20 states). (Numbers do not add up to 50 because some states use more than one method to select judges. See Table 2 on pp. 76–77.)

North Carolina has been toying with the notion of merit selection for more than 20 years. In the 1973–1975 sessions of the General Assembly, efforts were made to push for a constitutional amendment after the N.C. Courts Commission endorsed merit selection in 1971, but those efforts ultimately failed. In part, the bill went nowhere because it lacked the support of then-Lt. Gov. (and later Gov.) Jim Hunt and then-Chief Justice Susie Sharp. It wasn't that Sharp opposed merit selection. In fact, she supported it but objected to the 1975 legislation because she believed the nominating commission would not have adequately re-

flected the state's judicial districts.⁴ Two years later, she endorsed another attempt, sponsored by Rep. Parks Helms (D-Mecklenburg), that resolved her concerns.

Sharp was especially concerned about the quality of the state's lower court judges. "We have many excellent district court judges," she wrote Helms in 1977. "Some are outstanding jurists. Unfortunately, however, a minority of these judges are so highly unqualified that they are damaging the image of that echelon; and if we continue to elect such judges, they will inevitably tarnish the image of the entire judiciary."

However, in 1979 the bill still lacked the support of Governor Hunt, who waited until the proposal had been killed in committee before he endorsed it—at least as a proposal worthy of further debate. Hunt's attitude at first was rather like that of Chicago Mayor Richard J. Daley. Under some lobbying heat to have judges appointed rather than elected, Daley is said to have asked, "What's all this fuss about merit selection? We already got it. If they have merit, we select 'em."

North Carolina's Constitution requires that judgeships be filled by elections, except when vacancies occur between elections. Justices of the Supreme Court and Judges of the Court of Appeals run on the statewide ballot, while District and Superior Court Judges run within their judicial district.⁵ North Carolina has 307 regular judgeships—not counting retired judges who may be called upon to fill in during busy court dockets and five special Superior Court judges (who are appointed by the Governor to four-year-terms and who do not stand for re-election). There are seven Supreme Court justices, 12 judges of the Court of Appeals, 90 regular Superior Court judges, and 198 District Court judges. (See Table 3 above.) District Court judges serve four-year terms; all others serve eight-year terms.⁶ That means lots of elections—11, for example, on the 1996 ballot in Wake County.

"[F]or many years in North Carolina a system supposedly giving voters complete control over judicial selection has given them almost no control."

— JOHN KORZEN

IN WAKE FOREST LAW REVIEW

Recent History of the Merit Selection Debate in the N.C. General Assembly

- 1971 The North Carolina Courts Commission recommends replacing the partisan election method of selecting judges with a nonpartisan merit selection system.* The recommendation is never reported out of legislative committees.
- 1973 The recommendation is introduced as a constitutional amendment (SB 72, HB 76) and an implementing statute (SB 120, HB 145). The House Committee on Courts and Judicial Districts gives HB 76 a favorable report, but the bill is withdrawn before floor debate by its sponsors, who sense that they lack the three-fifths majority (72 votes) required for passage of a bill submitting a constitutional amendment to the voters.
- 1974 HB 76 is reported favorably by the same committee. Sponsors of the bill amend it on the floor of the House to remove district court judges from the merit selection plan. As amended, the bill passes second reading by two votes. However, the next day, the bill fails third reading by six votes.
- 1975 Backed by the North Carolina State Bar and most of the state's trial judges, merit selection bills are introduced (SB 145, HB 212). Hearings on HB 212 before the House Committee on Courts and Judicial Districts result in tie votes, and the sponsor requests that the bill not be considered further. SB 145 is reported without prejudice and without debate, and postponed indefinitely on the floor of the Senate.
- 1977 Pushed by the North Carolina State Bar, merit selection bills are again introduced. The House bill reaches the floor, but falls short of the three-fifths majority needed for a constitutional amendment. Those opposed to the bill claim that merit selection is a departure from the principles of Jacksonian democracy and that the composition of the committee that would nominate the judges would be insufficiently representative.
- 1979 A merit selection plan with implementing legislation (HB 1163, HB 1164) is introduced in the House, but dies in committee. Even though Governor Hunt supports the plan, "an informal survey of House members indicated there were not enough favorable votes to justify committee hearings and a floor fight."
- 1985 In Governor James G. Martin's State of the State Address, he calls for merit selection of judges in North Carolina. The Courts Commission and the Governor's Crime Commission also support SB 676 and SB 677, which would have submitted a constitutional amendment to the voters on the issue of judicial appointment. The bills never emerge from committee.
- 1987 No proposal for merit selection is introduced. A 20-member Judicial Selection Study Commission is established to recommend changes and improvements in the method of selecting judges in North Carolina. The Chief Justice, Governor, Lieutenant Governor, Speaker of the House, and Attorney General each appoint four members of the Commission.
- 1989 SB 218, approved by the Senate with a vote of 30 to 16, calls for the initial appointment by the governor of all justices of the N.C. Supreme Court and judges of the N.C. Court of Appeals, subject to confirmation by the General Assembly. The bill is sent to the Rules Committee of the House for consideration in 1990.
- 1990 SB 218 dies in the House.
- 1991 Merit selection is introduced in two similar bills (HB 102, SB 71). HB 102 dies in House committee. SB 71 passes the Senate and is sent to the House Committee on Courts, Justice, Constitutional Amendments and Referenda for consideration in 1992. Judges of superior and district courts would continue to be elected.
- 1992 SB 71 dies in the House.
- 1993 No merit selection bills are introduced.

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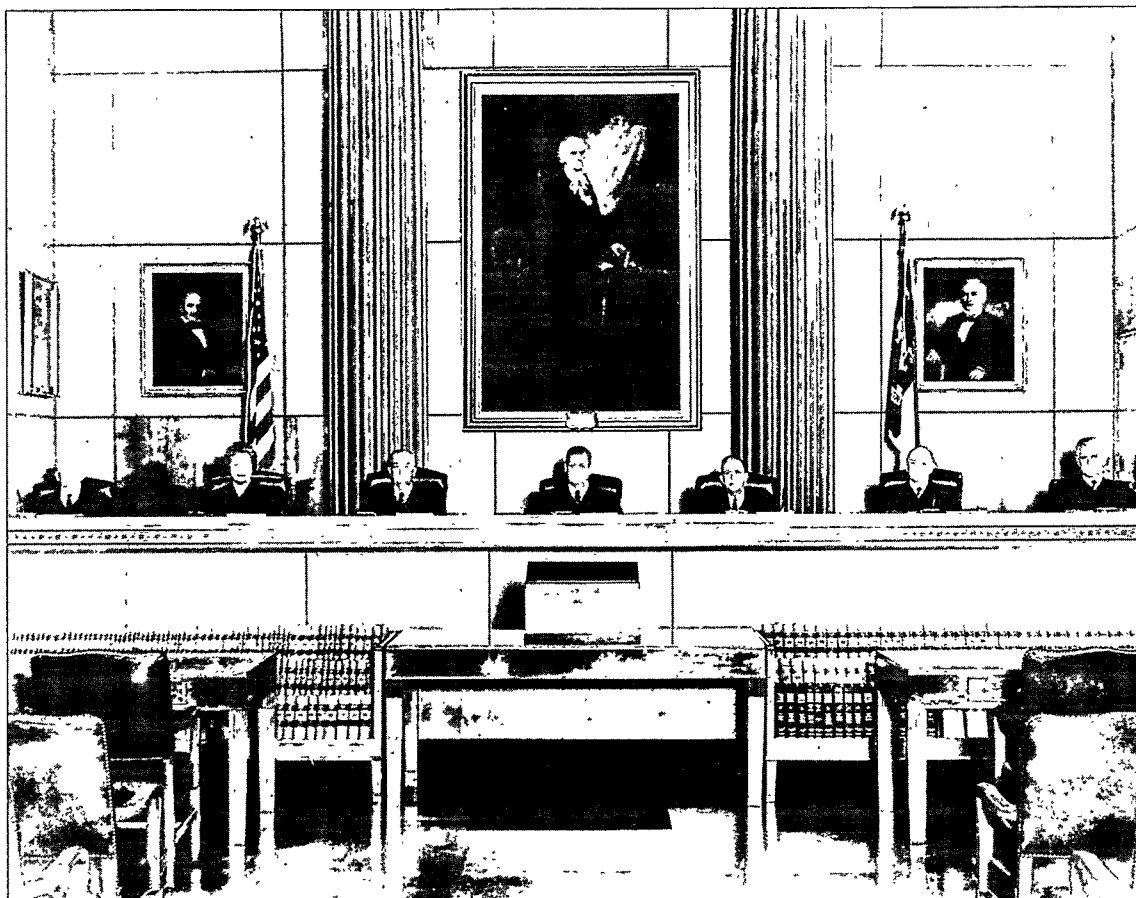
Recent History of the Merit Selection Debate, continued

- 1994 Chief Justice James Exum establishes a bipartisan panel, the Commission for the Future of Justice and the Courts in North Carolina (Futures Commission), to find ways to improve the state's legal system. The commission, a 27-member panel of citizens from across the state, is led by Chair John Medlin, chairman of Wachovia Corp., and vice chairs Rhoda Billings, a former chief justice and current law professor at Wake Forest University, and retired Superior Court Judge Robert Collier. Also in 1994, a federal district court rules in favor of the Republican Party in a suit the party had filed in an effort to force the election of Superior Court judges by district, *Republican Party of N.C. v. Hunt*, 841 F. Supp. 722 (E.D.N.C. 1994).
- 1995 Before the 1995 session, for the first time, the state's trial and appellate judges have a conference in Raleigh. A resolution recommending judicial appointment is almost unanimously adopted. Six different bills introduced in the 1995 session would change judicial selection in North Carolina. SB 971 becomes the primary vehicle for changing the state's elective system to an appointive one. Trial judges are removed from SB 971's coverage early in deliberations. The bill passes the Senate with bipartisan support. However, SB 971 fails second reading in the House 62–43 because it lacks Democratic support. "The House's failure to confirm Governor Hunt's appointment of Kathy Taft (the wife of a former Democratic state senator) to a seat on the State Board of Education played a key role in the demise of judicial appointment. House Republicans had voted as a bloc to defeat Taft's nomination, and Democratic opponents of judicial appointment said that vote was an example of how partisan politics might play out if judicial candidates had to be confirmed by the General Assembly."
- 1996 The Fourth Circuit U.S. Court of Appeals reverses the ruling in *Republican Party of N.C. v. Hunt*, sending the case back to federal district court for another review [77 F.3d 470 (4th Cir. 1996)]—and once again leaving unsettled the issue over the election of state Superior Court judges. The situation is resolved by the N.C. General Assembly in the final days of the 1996 session. The legislature enacts a law [Chapter 9, 2nd Ex. Sess. (S 41)] requiring that Superior Court judges be elected by district in partisan elections, starting with the 1996 general election. Under the law, Superior Court elections will be nonpartisan starting with the 1998 general election. Also in 1996, the Futures Commission releases a report, *Without Favor, Denial or Delay: A Court System for the 21st Century*, summarizing its recommendations for improving North Carolina's legal system. One of the panel's key recommendations is that the state drop its system of selecting judges through partisan elections and replace it with a form of merit selection combined with periodic retention elections. The commission bases its study on findings from monthly meetings, public hearings, a statewide survey of voters, focus groups, a survey of all sitting judges in the state, and consultations with judicial experts in North Carolina and other states.
- 1997 Legislation is introduced into the N.C. General Assembly that would implement the recommendations of the Futures Commission. This legislation, including House Bills 741 and 742 and Senate Bills 834 and 835, would amend the North Carolina Constitution to establish a system for choosing judges by merit selection. Under the bills, which also would have to be approved by voter referendum, the governor would appoint all state judges from nominees submitted by neutral judicial panels. New judges would face retention votes at the first general election occurring more than one year after their appointments.

—Mebane Rash Whitman

* "A Recommended Nonpartisan Merit Selection Plan for North Carolina," *Report of the Courts Commission to the North Carolina General Assembly*, 1971, pp. 11–15.

Source: Compiled from the UNC-CH Institute of Government's legislative summaries, *North Carolina Legislation 1974 through 1995*. See the sections on "Constitutional Amendments" and "Courts and Civil Procedure."



The N.C. Supreme Court in its chambers, 1966.

But the fact is that many judgeships are *not* filled by election. Vacancies routinely occur because of resignations, retirements, and occasionally death in office. The Governor appoints judges to fill these posts, and confirmation of the legislature is not required. But the judge must stand for election for the position in the next regularly scheduled general election. *Thus, despite North Carolina's electoral system, nearly half of its judges in 1996 initially were appointed to their posts.* For instance, of the seven Supreme Court justices, three first reached the court by appointment; of the 12 judges on the Court of Appeals, three reached the court by appointment; of 90 regular Superior Court judges, 47 percent were appointed; and, of 198 District Court judges, 51 percent were appointed. *Overall, 48 percent of North Carolina's judges in 1996 first won their current seats by appointment, not by election.* (See Table 4 on p. 82.) That number was down slightly from 1995, when 52 percent of the state's judges were appointed rather than elected. A similar study in 1987 found that about 59 percent of North Carolina's judges had first been appointed to

the bench, rather than elected—although that study used a slightly different methodology.⁷

Of the 37 African-American or Native-American judges in 1996, 14 were appointed and 23 were elected. Of the 47 female judges, 21 were

"Some oppose taking away votes from the people. Others think the system would act like a close cousin to the federal system, where judges are appointed for life. And some fear that confirmation hearings would become political."

—EDITORIAL IN
THE NEWS & OBSERVER, OF RALEIGH, EX-
PLAINING 1995 DEFEAT OF
A MERIT SELECTION BILL

**Table 4. How North Carolina Judges Reached the Bench:
Appointment vs. Election, 1996**

All Judges					
Court	Total # of Judges	# Appointed	% Appointed	# Elected	% Elected
Supreme Court	7	3	43%	4	57%
Court of Appeals	12	3	25%	9	75%
Superior Court*	90	42	47%	48	53%
District Court*	198	100	51%	94	47%
TOTAL	307	148	48%	155	50%

African American/Native American Judges				
Court	Appointed	Elected	Total	% Sitting on the Court
Supreme Court	1	0	1	14%
Court of Appeals	1	1	2	17%
Superior Court	4	10	14	16%
District Court	8	12	20	10%
TOTAL	14	23	37	12%
SUMMARY	37 African American/Native American Judges = 12% of the Judiciary			

Female Judges				
Court	Appointed	Elected	Total	% Sitting on the Court
Supreme Court	1	0	1	14%
Court of Appeals	2	0	2	17%
Superior Court	1	4	5	6%
District Court	17	22	39	20%
TOTAL	21	26	47	15%
SUMMARY	47 Female Judges = 15% of the Judiciary			

Judges Who Are Republicans				
Court	Appointed	Elected	Total	% Sitting on the Court
Supreme Court	0	2	2	29%
Court of Appeals	0	2	2	17%
Superior Court	0	6	6	7%
District Court	13	31	44	22%
TOTAL	13	41	54	18%
SUMMARY	54 Republican Judges = 18% of the Judiciary			

Source: Thomas J. Andrews, Chief Counsel, Administrative Office of the Courts, 1996. The appointment/election statistics are based on the way the judge first was seated in his or her current position.

* Percentages for District Court and total judges do not add up to 100% because four District Court seats were vacant. The number of Superior Court judges (90) does not include five special, limited-term judgeships, which by statute are appointed by the governor.

Removal and Censure Actions Against N.C. Judges by the State Supreme Court Since 1975

Judges Removed from the Bench

1. District Court **Judge Linwood Peoples** of Henderson resigned his seat in 1977 after he was accused by the Judicial Standards Commission of accepting money from defendants to settle traffic cases out of court. The Commission recommended to the Supreme Court that Peoples be removed from office. In 1978, Peoples ran for Superior Court and won a seat, but the Supreme Court refused to seat him, ruling that his misconduct in office made him ineligible to retain his seat.
2. District Court **Judge William Martin** of Hickory was removed from the bench by the Supreme Court in 1981 after the Judicial Standards Commission accused him of trying "to obtain sexual favors from female defendants who had matters pending before the courts." The Commission earlier had recommended in 1978 that Martin be removed from office, but the Supreme Court reduced that recommendation to a public censure of Judge Martin.
3. Superior Court **Judge Charles Kivett** of Greensboro was accused by N.C. Department of Justice prosecutors in 1982 of sexual misconduct in office and of giving light sentences to certain defendants at the request of a friend. The Judicial Standards Commission recommended that Kivett be removed, and the Supreme Court removed him from office in 1983.
4. District Court **Judge Wilton Hunt** of Whiteville was accused by the Judicial Standards Commission of accepting bribes in an undercover operation conducted by law enforcement authorities. The Supreme Court removed Hunt from the bench in 1983.
5. Superior Court **Judge Terry Sherrill** of Charlotte was removed from the bench by the Supreme Court in 1991 for conduct that constituted willful misconduct in office and conduct prejudicial to the administration of justice that brings the judicial office into disrepute. In 1990, Sherrill had been placed in the Deferred Prosecution Program for offenses arising out of his arrest on March 10, 1990 for misdemeanor possession of marijuana and drug paraphernalia and felony possession of cocaine.

—continues

appointed and 26 were elected. And, of the 54 judges who are Republicans, 13 were appointed and 41 were elected. Thus, only in theory has North Carolina had a partisan system of judicial selection and retention. In fact, because of the Governor's appointment power, the system has worked quite differently. "As a result, for many years in North Carolina a system supposedly giving voters complete control over judicial selection has given them almost no control,"⁸ notes John Korzen in the *Wake Forest Law Review*.

In addition to the Governor's de facto control over the seating of judges, proponents of merit selection could cite a rise in judicial misconduct. North Carolina's judges occasionally run afoul of the law themselves, and some have been defrocked or censured by the state Supreme Court, which has final authority in disciplinary actions. The N.C. Judicial Standards Commission was created in 1973 to make recommendations to the N.C. Supreme Court in cases of misconduct in office. From 1975 to

—continues on page 86

Judges Censured

1. District Court **Judge E.E. Crutchfield** of Albemarle, 1975, for *ex parte*¹ disposition of several court cases.
2. District Court **Judge Joseph P. Edens** of Hickory, 1976, for *ex parte* disposition of a case.
3. District Court **Judge George Stuhl** of Fayetteville, 1977, for *ex parte* disposition of cases, making overtures to an arresting officer about his testimony, and improperly urging an assistant district attorney to take a dismissal in a case.
4. District Court **Judge Milton Nowell** of Goldsboro, 1977, for *ex parte* disposition of a case.
5. District Court **Judge Herbert Hardy** of Goldsboro, 1978, for *ex parte* disposition of cases and for writing another judge urging him to enter a certain sentence in a pending court case.
6. Superior Court **Judge Paul Wright** of Goldsboro, 1985, for making a campaign contribution to a candidate in another race, contrary to a judicial canon proscribing such political activity.
7. Superior Court **Judge Kenneth Griffin** of Charlotte, 1987, for making an inappropriate courtroom comment and for making a derogatory gesture in court.
8. District Court **Judge Lacy Hair** of Fayetteville, 1989, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute.
9. District Court **Judge George Greene** of Raleigh, 1991, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. While presiding over a prosecution for assault on a female, the judge told the victim she would ruin her children's lives if she did not reconcile with the defendant. He referred to a battered women's assistance group as a one-sided, man-hating bunch of females and pack of she-dogs. He also polled the courtroom spectators to see how many of them had minor spats during their marriages. While presiding over speeding trials, the judge routinely admitted that he drove 52 m.p.h. in 45 m.p.h. zones and 65 m.p.h. in 55 m.p.h. zones. He counseled defendants to restrict their speeding violations to those limits to avoid apprehension and conviction.
10. District Court **Judge Stafford Bullock** of Raleigh, 1991, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge ordered the detention of an attorney who declined to give a reason for his motion to withdraw as counsel in a criminal case, and the judge informed the attorney in open court that in the future, he would not accept recommendations from him, would not grant him continuances, would not appoint him to represent indigent defendants, and would require his clients to plead guilty or not guilty as charged.
11. District Court **Judge Allen Harrell** of Wilson, 1992, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge involved himself in a criminal child abuse case in the district in which he was sitting.
12. District Court **Judge James E. Martin** of Greenville, 1993, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge convicted defendants for reckless driving when they were charged with impaired driving, an action he knew was improper and *ultra vires*.²

13. District Court **Judge Marilyn Bissell** of Charlotte, 1993, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge barred an attorney, who had initiated a preliminary investigation of the judge with the Judicial Standards Commission, from a session of juvenile court over which she was presiding. The proper course of action was for the judge to recuse³ herself.
14. District Court **Judge John S. Hair Jr.** of Fayetteville, 1993, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge made comments which could reasonably be interpreted as threats of professional reprisal against members of the district attorney's office and attorneys practicing in district court for what the judge perceived to be disloyalty and a betrayal of him in his divorce case.
15. Superior Court **Judge Preston Cornelius** of Mooresville, 1993, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge gave legal advice to an individual with regard to her discharge from employment with Iredell County Department of Social Services and he undertook in his official capacity to intervene on her behalf.
16. District Court **Judge Jerry Leonard** of Raleigh, 1995, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge was censured for (1) his behavior while publicly intoxicated in Key West, Fla., which resulted in his arrest and a negotiated plea of *nolo contendere* to the criminal offense of trespass after warning; (2) his behavior while publicly intoxicated in Raleigh, N.C., which resulted in his conviction of the criminal offense of indecent exposure; and (3) his refusal to abstain from the consumption of alcohol.
17. District Court **Judge James E. Martin** of Greenville, 1995, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge initiated a series of *ex parte* communications with law enforcement and court personnel concerning the son of a friend who had been arrested for felonious breaking and entering. The judge also initiated *ex parte* communications with a law officer concerning an automobile accident that resulted in charges being filed against the driver of a car in which the daughter of a friend was a passenger. He told the officer his opinion was that the matter was civil, not criminal, and that if the case came before him in court, he would so declare it, and he suggested to the officer that he reconsider his assessment of fault. Previously censured in 1993.
18. Superior Court **Judge George Greene** of Raleigh, 1995, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute for comments made during the trial of two separate cases over which he presided. Previously censured in 1991.
19. District Court **Judge James Ammons Jr.** of Fayetteville, 1996, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute based on his actions in a worthless check case in which the prosecuting witness was a personal friend of his. Also for issuing an *ex parte* arrest order in a separate custody dispute.

—Mebane Rash Whitman

FOOTNOTES

¹ *Ex parte* means on behalf of one party in a lawsuit.

² *Ultra vires* means beyond or exceeding the legal authority.

³ Recuse means a judge disqualifies himself or herself from hearing a lawsuit because of self-interest, bias, or prejudice.

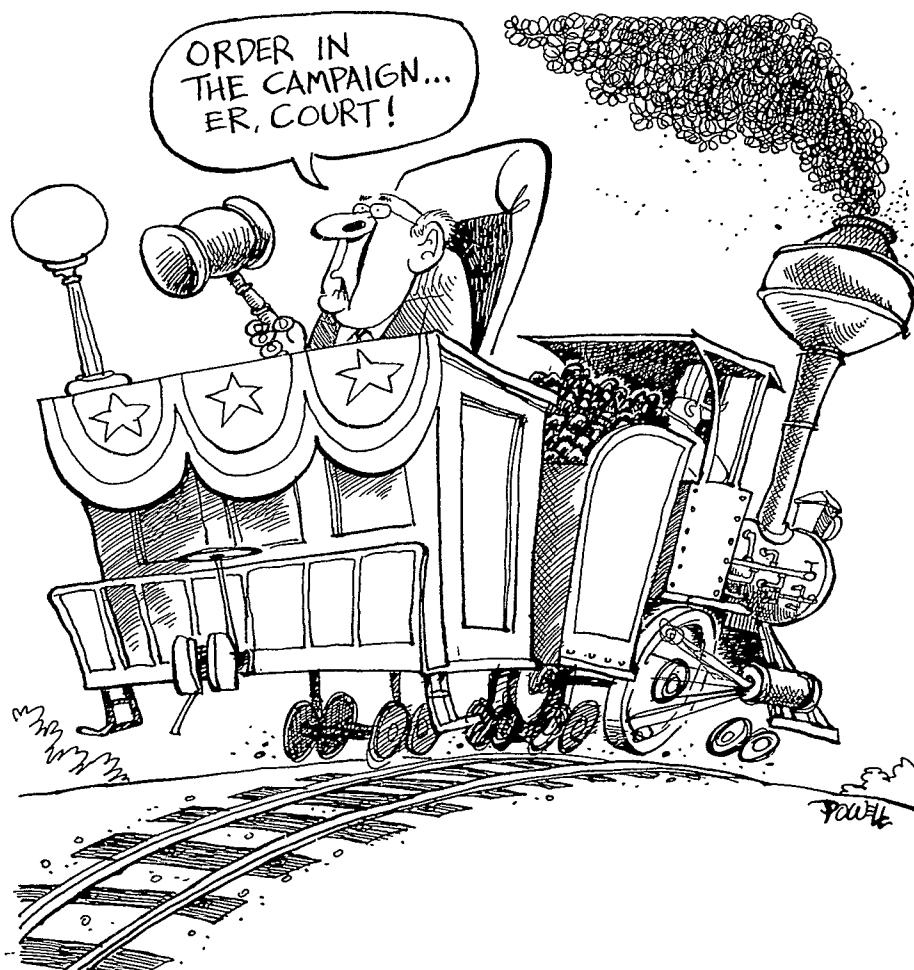
Table 5.
Salaries of N.C. Judges, 1996

Chief Justice of the Supreme Court	\$ 103,012
Associate Justices of the Supreme Court	\$ 100,320
Chief Judge of the Court of Appeals	\$ 97,812
Judges of the Court of Appeals	\$ 96,140
Senior Resident Superior Court Judges	\$ 93,528
Superior Court Judges	\$ 90,915
Chief District Court Judges	\$ 82,555
District Court Judges	\$ 79,943

—continued from p. 83

1996, five North Carolina judges were removed from the bench and 19 were censured. By and large, District Court judges seem to get in the most trouble, accounting for three of the five judges removed from the bench and 15 of the 19 censures. (See article on pp. 83–85, “Removal and Censure Actions Against N.C. Judges by the State Supreme Court Since 1975.”)

In the 1995–96 General Assembly, a push to end partisan judicial election for judges on the Court of Appeals and justices on the Supreme Court failed again. “The 1994 elections saw record amounts of money spent in Supreme Court and Court of Appeals races,” writes Joseph Neff in *The News and Observer*.⁹ “In the Supreme Court race won by Bob Orr, a Republican, candidates spent almost \$500,000. In the Court of Appeals race won by Mark Martin, a Republican, candidates spent more than \$300,000.” Neff continues, “The bulk of campaign contributions in North Carolina come from trial lawyers who argue before



Duwayne Powell

the court, and from businesses that often appear before the court as defendants." Senator Fountain Odom (D-Mecklenburg), a sponsor of a judicial reform bill, notes that such contributions tend to corrupt the image of an impartial judiciary. (See Table 5 on p. 86 for a list of salaries for N.C. judges.)

N.C. Chief Justice of the Supreme Court Burley Mitchell Jr. endorses reform of the judicial selection system. In an address to the 1995 Gen-

eral Assembly, he noted that (1) strongly contested partisan elections have led to more expensive and time-consuming races; (2) the Supreme Court was required to cancel court in November and December of 1994 after two justices were defeated, the third such cancellation in the past ten years resulting from partisan sweeps; and (3) all the judges in the state adopted a 1994 resolution endorsing an appointive system for judges.¹⁰

—continues on page 89

Legislature Considers Courts Panel's Recommendation to Install Merit Selection in N.C.

by Tom Mather

When lawmakers rewrote the North Carolina Constitution in 1868, one of their key reforms was to let voters elect state judges for the first time. But today, most voters don't realize they have that responsibility or they don't exercise it, a recent survey shows. And now that reality has led a judicial reform panel to recommend that the state scrap its 129-year-old system of choosing judges through partisan elections and replace it with a type of merit selection.

"[M]ost voters do not even know that judges are elected and only a handful can recall an individual judge for whom they cast a ballot," states a recent report by the Commission for the Future of Justice and the Courts in North Carolina, a panel established in 1994 by then-Chief Justice James Exum to find ways to improve the state's legal system.¹ One of the commission's key recommendations was that the state replace its partisan judicial elections with a form of merit selection combined with periodic retention elections.

The commission's recommendations were incorporated into legislation introduced in the 1997 session of the N.C. General Assembly.² Because the legislation would change the State Constitution, to become law it would need to pass the N.C. House and Senate by three-fifths votes and then be approved by voter referendum at the next general election. Under the proposed

legislation:

- All judges would be appointed by the governor from nominees submitted by politically neutral, blue-ribbon judicial panels.

- New judges would stand for retention votes at the first general election occurring more than a year after their appointments.

- Judges retained by voters would serve eight-year terms, with additional retention elections at the end of each term.

- All judges would be subject to regular performance evaluations by neutral judicial panels, and those evaluations would be made available to the public before retention elections.

- Clerks of court would be appointed to four-year terms by the chief circuit judges in their districts from lists of nominees submitted by panels of local lawyers, county commissioners, and other citizens.

The current method of selecting judges through partisan elections has limited the independence and accountability of judges, while eroding public confidence in the judicial system, the Futures Commission concludes. "The public cannot have confidence in the fairness of decisions when judges must raise large sums in campaign funds from lawyers and other interest groups," the commission states. "And many lawyers who would make excellent

—continues

Courts Panel Recommends, continued

judges will not consider the office because of the political demands."²

The commission based its recommendations, in part, on a statewide survey it conducted in 1995. That survey found that less than half (40 percent) of the respondents knew that the state Supreme Court is an elected body. Although 60 percent said they participated in the 1994 general election, only half of those voters recalled casting a ballot for any judges. Of those who did recall voting for a judge, most (78 percent) could not name a single judge on the ballot.³ [Actual totals from the 1996 general election show that about 92 percent of those participating voted for the contested seats on the N.C. Supreme Court and the N.C. Court of Appeals.⁴]

"These findings suggest that the public accountability supposedly gained through elections is a myth," the commission report states.⁵ "... If judges need to consider only voters' approvals, they are not accountable to their superiors—who are in a better position to know how well they perform their jobs."⁶

The commission acknowledges that "eliminating all participation by voters could result in an isolated judiciary with no real check on its power," but says that possibility could be prevented through the use of retention elections and performance evaluations. "Retention elections provide an opportunity for voters to say 'yes' or 'no' on whether a judge should continue in office at the end of his or her term," the commission states. "If accompanied by published evaluations of judges' performance by a neutral body, this kind of election would provide an effective means of removal of those appointed judges who are unsuited for the office."⁷ ■

FOOTNOTES

¹ *Without Favor, Denial or Delay: A Court System for the 21st Century*, report by the Commission for the Future of Justice and the Courts in North Carolina, Raleigh, N.C., December 1996, p. 32. The commission, a 27-member non-partisan panel of citizens from across the state, based its study on findings from monthly meetings, public hearings, a statewide survey of voters, focus groups, a survey of all sitting judges in the state, and consultations with judicial experts in North Carolina and other states. In addition to its proposals dealing with merit selection of judges, the commission made a series of recommendations for streamlining court structure, strengthening governance, modernizing information systems, improving case management, and increasing the use of alternative methods of dispute resolution. The commission was led by Chair John Medlin, chairman of Wachovia Corp., and vice chairs Rhoda Billings, a former chief justice and current law professor at Wake Forest University, and retired Superior Court Judge Robert Collier. Grants from the Z. Smith Reynolds Foundation of Winston-Salem and the U.S. Department of Justice (via the Governor's Crime Commission) helped fund the commission's study.

² House Bills 741 and 742 and Senate Bills 834 and 835.

³ *Without Favor, Denial or Delay*, note 1 above.

⁴ *Ibid.*, p. 8. The commission's survey, conducted by Wilkerson & Associates of Louisville, Ky., was based on telephone interviews of 805 adult North Carolinians in August 1995. It had a margin of error of about +/-3 percent. With regard to the state Supreme Court data, the specific question was: "... I am going to read you a list of the types of officials who work in the North Carolina Court System. For each one, tell me if you think they are elected by the voters, or not elected, but appointed. The first one is the Supreme Court. Are these officials elected or appointed?" With regard to the percentage of voters who recalled voting for judges, the specific questions were: "Did you personally vote in the November, 1994 General Election? ... In the November 1994, General Election—did you personally vote for a candidate for judge, or not? ... Do you remember the name of any judge that you voted for?"

⁵ Totals compiled by the State Board of Elections show that of the voters participating in the 1996 elections, 92.8 percent voted in the race for chief justice of the N.C. Supreme Court, 92.6 percent voted in the race for associate justice, and 91.5 percent voted for the contested seat on the N.C. Court of Appeals.

⁶ *Without Favor, Denial or Delay*, note 1 above, p. 8.

⁷ *Ibid.*, p. 32.

⁸ *Ibid.*

"The public cannot have confidence in the fairness of decisions when judges must raise large sums in campaign funds from lawyers and other interest groups. And many lawyers who would make excellent judges will not consider the office because of the political demands."

— COMMISSION FOR THE FUTURE OF JUSTICE AND THE COURTS IN NORTH CAROLINA
IN *WITHOUT FAVOR, DENIAL OR DELAY: A COURT SYSTEM FOR THE 21ST CENTURY*

Despite strong support, the 1995 judicial reform bill died in the House after it passed the Senate. The vote was 62–43 in favor of merit selection, but supporters of the bill, who included the leadership of the House, needed approval by three-fifths of the members of the House—72 votes—since the bill involved an amendment to the Constitution. The bill proposed gubernatorial nomination of judges, legislative confirmation, and retention elections for judges on the Court of Appeals and justices on the Supreme Court.

Why was the bill voted down? “Some oppose taking away votes from the people. Others think the system would act like a close cousin to the federal system, where judges are appointed for life. And some fear that confirmation hearings would become political,” noted an editorial in *The News and Observer* of Raleigh.¹¹

Nevertheless, the push for merit selection isn’t going away. The number of states using some form of merit selection grew from 17 to 20 over the past decade, and the N.C. General Assembly is facing a renewed effort to install such a system here. That effort gained steam in 1996 when the influential Commission for the Future of Justice and the Courts in North Carolina called for the end of partisan judicial elections in the state. (See the related article, “Legislature Considers Courts Panel’s Recommendation to Install Merit Selection in N.C.,” on p. 87–88.) Legislators now are considering the Commission’s proposal for a modified form of merit selection, which was incorporated into legislation introduced in April of 1997.¹² Thus, merit selection is on the agenda for the 1997–98 session of the General Assembly—representing another chance at becoming reality in North Carolina. ☐

tration ratio favored Democrats.

The Republican Party sued the state in an effort to force the election of Superior Court judges by judicial district and won the case in federal district court, *Republican Party of N.C. v. Hunt*, 841 F. Supp. 722 (E.D.N.C. 1994). However, in early 1996, the Fourth Circuit U.S. Court of Appeals reversed that ruling and sent the case back to federal district court for another review [77 F.3d 470 (4th Cir. 1996)]—once again leaving the issue unsettled.

The situation was resolved in 1996 by the N.C. General Assembly, which under the state Constitution can approve elections of Superior Court judges within their own districts. Such legislation was enacted in the final days of the 1996 session. The law [Chapter 9, 2nd Ex. Sess. (S 41)] required that Superior Court judges be elected by district in partisan elections, starting with the 1996 general election. Also under the law, Superior Court elections will be nonpartisan starting with the 1998 general election.

⁶ Joan G. Brannon, *The Judicial System in North Carolina*, UNC Institute of Government, Chapel Hill, N.C., 1994, pp. 3–8.

⁷ See Jack Betts, “The Merit Selection Debate—Still Waiting in Legislative Wings,” *North Carolina Insight*, Vol. 9, No. 4 (June 1987), p. 20. The 1987 Center Study looked at how judges were first selected to any judicial seat, while the current data in this article show how judges reached their current post.

⁸ John J. Korzen, “Changing North Carolina’s Method of Judicial Selection,” *Wake Forest Law Review*, Vol. 25, 1990, p. 265.

⁹ Joseph Neff, “Change in selection of judges advances,” *The News and Observer*, June 14, 1995, p. A3. The judicial reform bill was Senate Bill 971, introduced in the 1995 session of the General Assembly.

¹⁰ Burley Mitchell, “Picking Judges,” *The Charlotte Observer*, March 22, 1995, p. 12A.

¹¹ “Judicial bill may get benched,” *The News and Observer*, Raleigh, NC, July 26, 1995, p. A3.

¹² In April 1997, Legislators introduced four bills aimed at establishing a form of merit selection in North Carolina. The bills are: House Bills 741 and 742, introduced by Reps. Chuck Neely (R–Wake) and Philip Baddour (D–Wayne); and Senate Bills 834 and 835, introduced by Sen. Frank Ballance (D–Warren).

FOOTNOTE

¹ N.C. Constitution, Article IV, Section 22, first passed by the legislature as Chapter 638 of the 1979 Session Laws, and then approved by the voters on November 4, 1980.

² House Bills 741 and 742, and Senate Bills 834 and 835.

³ Keith Goehring, “Judicial Selection Procedures,” memorandum prepared for the National Center for State Courts, Williamsburg, Va., June 28, 1985, p. 2.

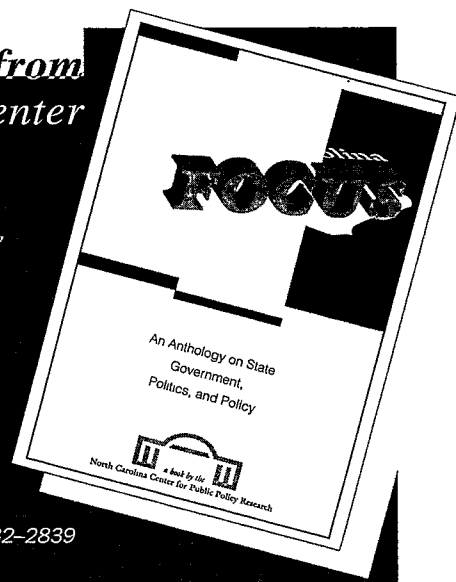
⁴ Correspondence from Chief Justice Susie Sharp to the Hon. Parks Helms, March 9, 1977, p. 2.

⁵ Until the November 1994 election, Superior Court judges were elected statewide. Candidates were nominated within their own judicial districts, but they appeared on the statewide ballot. As a consequence, voters in other areas of the state often did not know who the candidates were or how to choose among those running for a judicial seat. Republicans argued that the system worked to keep both Republicans and African Americans off the bench, because the measure diluted their voting strength and assured that Democratic candidates would always win because the voter regis-

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2-60-3 wakemed story head

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By DEBBY SPENCER
STAFF WRITER

RALEIGH—Wake Medical Center's board added its endorsement Thursday to recommendations that the public hospital become a not-for-profit private facility.

Last month, a

competitive without its county ties. As envisioned by the Wake Medical Center's board, the hospital would remain and the county would continue to appoint a majority of its members if it became private and not-for-profit.

The owner also would inherit the hospital's mission of caring for the poor. Many people have been about who would inherit the

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