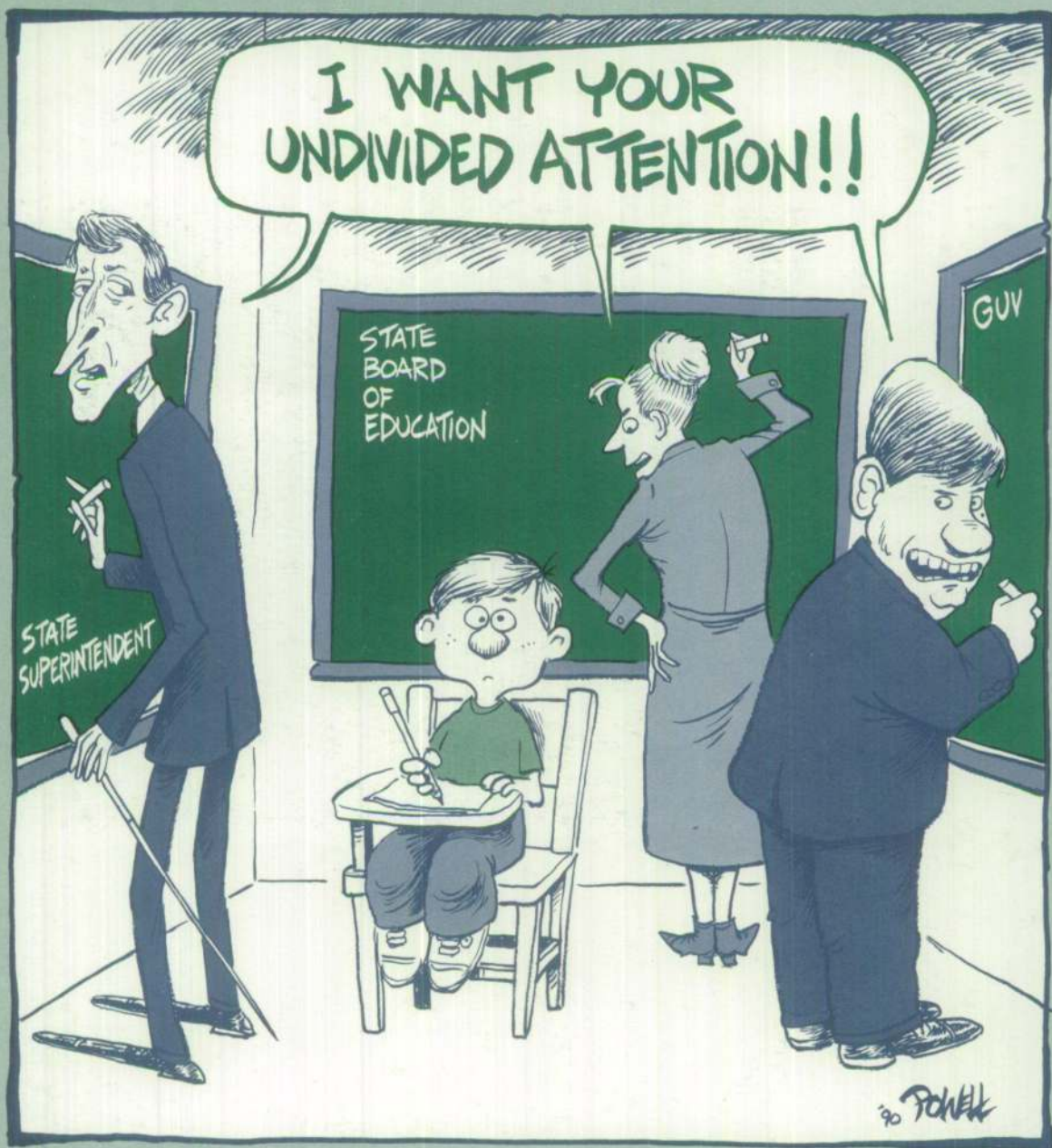


North  
Carolina

# Insight

\$6 September 1990

Vol. 12 No. 4



**North Carolina's Public Schools:  
Who's In Charge?**



# N.C. Center for Public Policy Research

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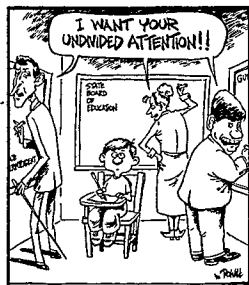
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# The Superintendent of Public Instruction: Should North Carolina's Chief Public School Officer Be Appointed or Elected?

by Jack Betts

**I**n the decade of the 1980s, state politicians and policymakers frequently debated whether North Carolina should drop its century-old history of electing its chief public school officer and join the ranks of the states which have switched to an appointive superintendent of public instruction. The debate spans the spectrum of public issues, and touches on partisan politics, the inter-branch rivalry of the executive and judicial branches, turf battles between the superintendent and the State Board of Education, educational progress, the expectations of parents, and the desires of the business community for more accountability in education.

Sparring over the role of the board and the superintendent and the governor and the chairman of the board is nothing new, of course. During the 1960s and 1970s, when Dallas Herring was chairman of the State Board of Education and Craig Phillips was superintendent, the feuding was a Raleigh fixture—like Thad Eure's bow ties and straw boaters. The feuding went on for years until 1977 when newly-installed Gov. Jim Hunt put a stop to it by naming David Bruton as chairman of the board.

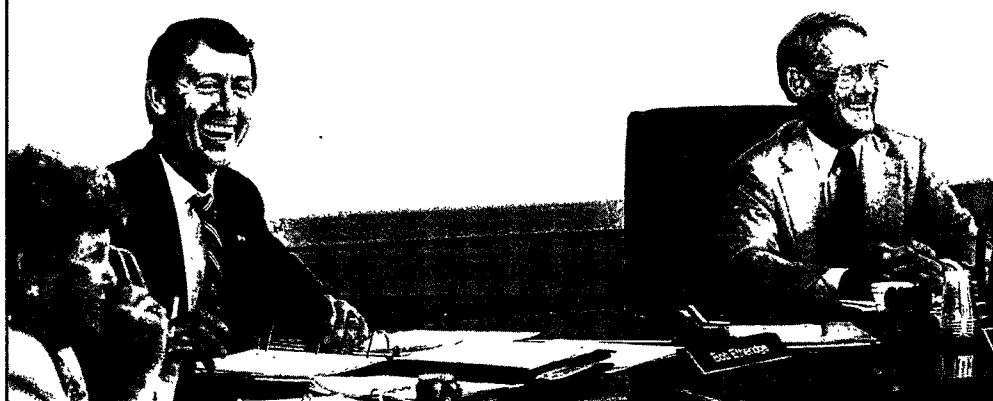
Even then, the governor, the superintendent, and the State Board of Education were at odds. When Hunt took the unusual step of not reappointing Herring as chairman in the spring of 1977, the board went into a momentary uproar—and before Hunt could nominate Bruton, the board temporarily elected the lieutenant governor, an ex-officio member, as chairman. The political impact of this was a slap in the face of Hunt, because the lieutenant governor was Hunt's chief rival, Lt. Gov. Jimmy Green. The actual brouhaha was short-lived, and Bruton became chairman as planned a few weeks later. But the board's swift action reverberated in Raleigh for years to come and symbolized the deep divisions between the Office of the Governor, the State Board of Education, and the Department of Public Instruction.

North Carolina, unlike many states, has clung to its traditional long-ballot Council of State offices, a vestige of Jacksonian democracy that Tar Heel legislators have been reluctant to change because they believe that the more elected offi-

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*Jack Betts is editor of North Carolina Insight.*

THE PEOPLE HAVE A RIGHT  
TO THE PRIVILEGE OF EDUCATION.  
AND IT IS THE DUTY OF THE STATE  
TO GUARD AND MAINTAIN THAT RIGHT.



Karen Tam

*Superintendent of Public Instruction Bob Etheridge, left, and former State Board of Education Chairman Howard H. Haworth, right, during a lighter moment in a state board meeting.*

cials there are, the better off the public will be.<sup>1</sup> Proponents of change believe the best opportunity for switching to an appointive system came in 1987, after then-Superintendent Craig Phillips announced he would not run again for the office. The State Board of Education has been on record since 1987 as supporting an appointed superintendent, and Phillips himself supported switching to an appointed superintendent in 1968 when he first was elected to the post. In the final years of his tenure, he urged the board to consider ways to make the post of superintendent a stronger one. Legislation to make the office appointive cleared the state Senate in 1987 on an overwhelming vote, thanks largely to the backing of then-Lt. Gov. Robert B. Jordan III, but it bogged down in the House—where the Appropriations Base Budget Committee Chairman, Rep. Bob Etheridge, was making it known he might run for the office. In 1988, he did—and he won.

Amending the North Carolina Constitution is a cumbersome business. To do so, the N.C. General Assembly must approve legislation by a three-fifths majority to propose an amendment to the people. Then the voters of the state must ratify the amendment in a statewide election by a

majority vote. Such an amendment would alter Article III, Section 7(1) of the N.C. Constitution, which created the elective office of Superintendent of Public Instruction, as well as several parts of Article IX, which divides responsibility for education among the superintendent, the State Board of Education, and other institutions and officers. Because the process is difficult, the constitution is not easily altered.

David Bruton, a Southern Pines physician who presided over the board during a number of political squabbles in the 1970s and early 1980s, believes the public is not sufficiently aroused about the leadership question. "Until there is a real understanding of how miserably our schools are failing, there probably will not be sufficient public pressure necessary to change the situation, he says. But he adds, "I am certain that our present system of governance is failing. We currently have no person or agency with the responsibility and authority to effect the change required [in public schools]."

The key problem, as former Gov. Bob Scott puts it, is accountability. "Given the sorry state of affairs our public education now is [in], with its babble of voices, the answer to 'Who's On First?'

is 'No one!'"

Now various groups are pushing once again for an appointed superintendent. North Carolina Citizens for Business and Industry, which functions as a statewide chamber of commerce, has endorsed moving to an appointive superintendent, and the superintendent's division of the N.C. Association of School Administrators, meeting July 16, 1990 at Wilmington, has called for restructuring of North Carolina's school management. That followed a major study a month earlier by State Auditor Edward Renfrow, who also called for change but said the state superintendent should remain an elective official, but serve as chairman of the State Board of Education rather than allowing the governor to appoint that post.<sup>2</sup> Still others say there's another way to solve the problem—retain the superintendent as an elected member of the Council of State, and also designate the superintendent as chairman of the state board, but remove all operating authority. The superintendent then would be free to advocate for schools, while the state board would choose a commissioner of education, working for the board and its chairman, to actually run the schools.<sup>3</sup>

These issues may well come before the 1991 General Assembly. In the following pages, Duke Power Company President and Chairman William S. Lee writes in favor of the switch to an appointive post, while state Sen. J. Richard Conder (D-Richmond), chairman of the Senate Education Committee, argues that the state should retain its elected superintendent but make that official chairman of the State Board of Education—and cut the length of board members' terms from eight to four years to boot.

## FOOTNOTES

<sup>1</sup>For more on the Council of State, see Ferrel Guillory, "The Council of State and North Carolina's Long Ballot—A Tradition Hard to Change," *North Carolina Insight*, Vol. 10, No. 4, June 1988, p. 40.

<sup>2</sup>Edward Renfrow, "Summary Report, Chapter XII, Overview of Performance Audit Report on North Carolina Public Schools," Office of the State Auditor, June 1990, p. 8.

<sup>3</sup>See "Proposal by the State Advisory Council on Vocational Education to the State Board of Education, August 21, 1981, pp. 8-11 and 20-21.

## Provisions of the N.C. Constitution Dealing with Education Hierarchy

### Article III. Executive

#### Sec. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

### Article IX. Education

#### Sec. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

Sec. 5. *Powers and duties of Board.* The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

**Pro:**

# North Carolina Needs an Appointed Superintendent of Public Instruction

by William S. Lee



*North Carolina's public education system, which has a \$3.8 billion budget, is also one of the state's largest businesses. And, by a number of measures, the status of that business is desperate. We have a dropout rate that hovers between 25 and 30 percent and the standardized test scores of those students who remain in school are at or near the bottom in the nation.*

We may argue about the usefulness of standardized tests. We may quibble over a few points that enhance our state's standing. But the fact remains that our education system needs more than fine-tuning. It needs a major overhaul. And that overhaul will be difficult, if not impossible, without a change in the way our public schools are governed.

Right now, at the top of our education system, the overall leadership and administration is divided, ambiguous and overlapping. We have the governor, we have a chairman of the State Board of Education appointed by the governor, and we have an elected state superintendent of public instruction—not to mention a host of other state officials who hold some advisory position on public education. Who's in charge? Who's accountable?

We're fortunate at present to have two dedicated, capable individuals in the posts of superintendent and chairman of the State Board of Education, but the system itself does not work. As a business person, I find that it doesn't make sense to have an ambiguous leadership structure for our nearly \$4 billion education enterprise.

There are many steps we should take to improve the quality of educating our young people. Certainly one of those steps is to establish a clearly accountable leadership structure at the top. We must organize the state-level education bureaucracy for management efficiency. And that means amending the N.C. Constitution to provide for the appointment of the top school official.

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*William S. Lee is president and chairman of Duke Power Company in Charlotte.*



This would enable that leader to provide an unbiased focus on the big picture of the state's education needs, to articulate a long-term vision, and to initiate the sometimes unpopular reform measures that are needed to meet the tremendous challenges and changes our society is facing. This article reviews the history of public school governance (see sidebar on pages 13-14), outlines the problems associated with our present governance structure, and summarizes models from other states. But as the sidebar on the system's history makes clear, through more than 200 years of legislative changes, the appointed State Board of Education has developed the policies for the public school system while the elected superintendent of public instruction has implemented the policies and has overseen their funding.

### The Problems With an Elected Superintendent

The nature of the responsibilities of the board and the superintendent requires that they overlap in some of their tasks. As the policymaker, the board must in part oversee the implementation of its own policies, for the board members themselves understand the desired effects and the pos-

sible shortcomings more than someone who did not participate in the planning.

Similarly, as the official who must implement policy laid down by the board, the superintendent must also participate in the policymaking process to offer expertise derived from discussions with students, teachers, parents, and principals in the public school system.

This overlapping of responsibilities of the policymaker and the policy implementer, neither of whom is accountable to the other, may lead to a cycle of conflict. For instance, the board may make a decision which the superintendent believes lies within the superintendent's jurisdiction. Then the superintendent may respond by only marginally implementing the policy decision. The board interprets this as incompetence or a lack of commitment on the part of the superintendent. The board then leans on the superintendent even harder, encountering more resistance with each policy decision.<sup>1</sup>

While the potential exists for planning and implementation conflicts in any group where the policymakers are distinct from the implementers, the conflict in the North Carolina system of governance escalates because neither the board nor the superintendent owes accountability to a

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*Incoming State Board of Education Chair Barbara Tapscott, with former board member John Tart, now a member of the N.C. House of Representatives.*



N.C. Department of Public Instruction





Karen Tam

*Superintendent of Public Instruction Bob Etheridge, a former legislator, makes a point at a meeting of the State Board of Education.*

central mediating authority. This imprecision over accountability and responsibility often shows up in the news. Just as one recent example, a number of local boards of education began contracting with Channel One, a company that supplies schools with audio-visual equipment and a daily public affairs program in exchange for the right to broadcast advertising on those programs in the classroom. The superintendent of public instruction warned against such contracts, but not until the State Board of Education went on record against such contracts did the state actively oppose them. Regardless of the merits of Channel One and its programming, the clear fact remains that the public education system was not speaking with a strong, unified voice on this issue until months had gone by.

### **The Emerging Role of the Board Demands Reorganization**

Before the current crisis in education mounted, the board primarily set minimum standards and regulations for the public school system. Problems facing the schools rarely required more than yearly updating of standards and funding. How-

ever, changing archaic standards and increasing funding will not, in and of themselves, solve today's education problems in North Carolina. Raising student achievement scores, improving teacher performance, establishing accountability for educational quality and even reorganizing the governance system for public schools all are goals which will require the state board, the state's primary policymaking body in education, to conceive sophisticated and comprehensive solutions.<sup>2</sup>

Given these needs for a long-range plan as part of the policymaking process, a 1987 national Task Force on State Board Leadership developed a new role for state boards.<sup>3</sup> First, the board needs a long-term vision for education reform. Second, the board should provide systematic information on the extent and quality of education. Finally, the board should add some predictability, vital to sustaining a long-term vision for reform, to the policymaking process.

The ambiguous responsibilities of the state superintendent and the board will impede the board from assuming this new role of leadership, and our education crisis will continue unabated. Often the board may hesitate to form far-reaching policies because the responsibilities of the board

**Table 1. Methods of Selection and Length of Terms for Chief State Public School Officers and for State Boards of Education**

State	How Superintendent Is Chosen	Length of Term
Alabama	Appointed by Board of Education	- <sup>1</sup>
Alaska	Appointed by Board with Governor's approval	5
Arizona	Elected by Public	4
Arkansas	Appointed by Board with Governor's approval	-
California	Elected by Public	4
Colorado	Appointed by Board of Education	-
Connecticut	Appointed by Board of Education	-
Delaware	Appointed by Board of Education	-
Florida	Elected by Public	4
Georgia	Elected by Public	4
Hawaii	Appointed by Board of Education	-
Idaho	Elected by Public	4
Illinois	Appointed by Board of Education	3
Indiana	Elected by Public	4
Iowa	Appointed by Governor	4
Kansas	Appointed by Board of Education	-
Kentucky	Appointed by Board of Education	4 <sup>2</sup>
Louisiana	Appointed by Board of Education	4
Maine	Appointed by Governor with Senate approval	-
Maryland	Appointed by Board of Education	4
Massachusetts	Appointed by Board of Education	-
Michigan	Appointed by Board of Education	-
Minnesota	Appointed by Governor	-
Mississippi	Appointed by Board with Senate approval	4
Missouri	Appointed by Board of Education	-
Montana	Elected by Public	4
Nebraska	Appointed by Board of Education	-
Nevada	Appointed by Board of Education	3
New Hampshire	Appointed by Board of Education	-
New Jersey	Appointed by Governor with Senate approval	5
New Mexico	Appointed by Board of Education	-
New York	Appointed by Board of Education	-
North Carolina	Elected by Public	4
North Dakota	Elected by Public	4
Ohio	Appointed by Board of Education	-
Oklahoma	Elected by Public	4
Oregon	Elected by Public	4
Pennsylvania	Appointed by Governor with Senate approval	-
Rhode Island	Appointed by Board of Education	9
South Carolina	Elected by Public	4
South Dakota	Appointed by Board of Education	-
Tennessee	Appointed by Governor	-
Texas	Appointed by Board with Senate approval	4
Utah	Appointed by Board of Education	-
Vermont	Appointed by Board with Governor's approval	-
Virginia	Appointed by Governor with Assembly approval	-
Washington	Elected by Public	4
West Virginia	Appointed by Board of Education	-
Wisconsin	Elected by Public	4 <sup>3</sup>
Wyoming	Elected by Public	4

How Board Members Are Selected	Number of Board Members	Length of Board Terms
Elected by Public	8	4
Appointed by Governor	7	5
Appointed by Governor .... 8	8	4
Appointed by Governor	9	9
Appointed by Governor	10	4
Elected by Public ..... 5	5	4
Appointed by Governor	9	6
Appointed by Governor	7	6
Elected by Local Boards.... 8	8	4
Appointed by Governor	10	7
Elected by Public	11	4
Appointed by Governor .... 7	7	5
Appointed by Governor	17	6
Appointed by Governor	11	4
Appointed by Governor .... 9	9	6
Elected by Public	10	4
Appointed by Governor	7	4
Mixed method ..... 11	11	6
Appointed by Governor	9	5
Appointed by Governor	9	5
Appointed by Governor ... 11	11	5
Elected by Public	8	8
Appointed by Governor	9	4
Mixed method ..... 9	9	4
Appointed by Governor	8	8
Appointed by Governor	7	7
Elected by Public ..... 8	8	4
Elected by Public	9	4
Appointed by Governor	7	5
Appointed by Governor ... 12	12	6
Mixed method	15	6
Appointed by Legis.	15	7
Appointed by Governor .. 11	11	8
Appointed by Governor	7	6
Elected by Public	23	6
Appointed by Governor .... 6	6	6
Appointed by Governor	7	7
Appointed by Governor	17	6
Appointed by Governor .... 9	9	4
Appointed by Legis.	16	4
Appointed by Governor	7	5
Appointed by Governor ... 12	12	9
Elected by Public	15	6
Elected by Public	11	4
Appointed by Governor .... 7	7	6
Appointed by Governor	9	4
Elected by Public	14	6
Appointed by Governor .... 9	9	9
none	none	-
Appointed by Governor	9	6

and the superintendent are not clearly defined. And because both the board and the superintendent each have some measure of independence, turf battles are likely to be fought anytime either the board or the superintendent takes action—as happened on a number of occasions in the 1960s and 1970s.

If the superintendent were appointed by the governor or by the board itself, as is the case in 35 states (see Table 1, page 8), the top of the continuous chain of command could efficiently allocate the time and resources of the board and the superintendent in collaborative, rather than conflicting, policy solutions.

## Inherent Political Pressures on Superintendent

The inherent political nature of the job creates a number of problems, including the following:

- Rather than encouraging the superintendent to act boldly and creatively, the inherent political pressures on an elected superintendent can actually discourage development of effective policy and workable programs. In order to remain in elective office, the superintendent instead must act in accordance with the prevailing political winds.

The superintendent also must explain and defend education policies to a sometimes uninformed or under-informed public.<sup>4</sup> For example, instead of rethinking the entire way our state measures the academic achievement of its students (a remedial action that may seem radical to many), the superintendent might choose to concentrate on programs improving the state's scores on existing—though perhaps irrelevant—standards. The superintendent could adequately explain and defend the latter proposal to the public, yet that proposal might not be the most effective approach in the long term for improving education. An appointed superintendent, on the other

<sup>1</sup>The symbol - means that the length of term is not specified.

<sup>2</sup>Alone among the 16 elected superintendents, Kentucky's may not succeed to a second term. In 1991, Kentucky shifts to an appointed superintendent.

<sup>3</sup>Alone among the states, Wisconsin has no board of education.

*Sources:* National Association of State Boards of Education; Council of Chief State School Officers.

hand, would have the job stability required for effective long-term planning and for radical changes where needed.

■ An elected superintendent, who holds only a four-year lease on the office, could have a problem with program continuity and long-term vision. As the State Board of Education plans its long-term strategy for reform, it can count on having the strengths and beliefs of the current superintendent for only four years. If the superintendent is not re-elected, a new superintendent with different strengths and a new agenda could undermine the board's long-term reforms. However, if the board selected the superintendent, it could find one who would complement the reform plan for the long term, thus ensuring program continuity as well as enhancing long-term planning.

■ An elected superintendency encourages only a narrow scope for school reform when more comprehensive measures may be needed, particularly when single-issue politics are involved. Political emergencies—where the public is aroused about a single issue that may have little or nothing to do with educational progress—can mire the public school system in a morass of substandard achievement.

If the public feels particularly strongly about a peripheral issue (birth control clinics in schools, for example, or some other issue not related to academics), it may vote for a superintendent who has a thoughtful stance on only one issue. The scope of reform demanded in North Carolina mandates a comprehensive approach to change, encompassing nearly every issue of education from teacher merit pay to curriculum changes. A single-issue, elected superintendent would be unlikely to improve the system as a whole.

■ The high costs of campaigning may mean that the best candidates don't run—or cannot win—an elected super-

intendency. Campaign costs can prohibit excellent, interested candidates from entering a race in the first place, and education leaders with little experience in politics may be effectively prohibited from entering the competition. Furthermore, the superintendent must take time away from creating and implementing education policy and devote that time instead to fundraising and campaigning for re-election.

As education continues to rise to the forefront of public policy concerns, the number of candidates for superintendent may also rise, thus creating more competition for the post and driving up the amount of time and money needed to campaign successfully for it. (For more on the cost of campaigning for superintendent of public instruc-

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*William S. Lee, president and chairman of  
Duke Power Company.*



tion, see "Campaign Finance Research Featured Before N.C. State Board of Elections and on Cable TV," *North Carolina Insight*, Vol. 9, No. 3, March 1987, p. 103.) An appointed superintendent, on the other hand, can devote the full length of the term to education reform without having to deal with elective politics.

■ An elective superintendency can create conflicts of interests. Before the state of Mississippi switched to an appointed superintendent in 1986, charges of corruption plagued its school systems. Local superintendents would informally choose their candidate for state superintendent, and then organize the candidate's campaign. Once in office, the superintendent had the responsibility for accrediting the campaign managers' schools. This not only created the potential for conflicts of interest, but led to allegations of bribery and misconduct.

In North Carolina, the superintendent has some discretion in where to spend money on education, and while there have been no suggestions of political corruption with regard to the office, there is a potential for a conflict of interests between what is best for the state and the pressure to reward the home areas of campaign supporters. An appointed superintendent, on the other hand, would owe loyalty only to the state as a whole—and not to a group of individual political supporters.

■ An elected superintendent cannot be fired (although a Council of State member can be impeached and removed from office for a felony, certain misdemeanors, malfeasance, or neglect of duty). If the elected superintendent were to act unethically or ineffectively, the state could find it so difficult and time-consuming to go through formal impeachment proceedings that it would be impossible to dismiss the superintendent. Instead, the state would be stuck with that official at least until the end of the term. And even an incompetent official may win re-election, even indefinitely. An appointed superintendent, on the other hand, would answer directly to the State Board of Education and could be dismissed for incompetence or misbehavior while in office.

## The Advantages of an Appointed Superintendent

In addition to correcting the problems and potential problems outlined above, appointing the superintendent affords the state an opportunity to benefit directly from the knowledge and strengths

of national education leaders. While all elected superintendents must come from the state, an appointed superintendent could be selected from candidates throughout the country. Employing a superintendent from outside the state could enhance the state's exchange of ideas about education reform, and has the potential for energizing the policymaking process.

In modern times, most governors hope to make education the hallmark of their administration, and thus the governor has a great deal of clout in proposing educational programs to the General Assembly and in marketing them to the public. It is only natural, then, that the superintendent of public instruction be appointed by the governor to push for those programs and to be the chief cheerleader for them—both with the legislature and with the State Board of Education. That's not the only way to choose a superintendent, of course, but it would be among the more direct ways—with clear lines of accountability straight to the top.

Former Gov. Terry Sanford clearly saw the problem when he wrote, "No citizen of any state should tolerate the diffusion of command, the division of authority or the hamstringing of executive power. The head of a corporation could not run his firm if the vice president in charge of sales were elected by the board, the superintendent of production selected by the vice presidents with the approval of the president, the transportation chief by union members and the personnel director by a visiting committee."<sup>5</sup> What Sanford saw then is equally important today—we need a change.

Other states have chosen to switch from an elected superintendent to an appointed superintendent. A little over 40 years ago, a majority of the states elected their chief state school officers, while less than a third do so now. In 1947, 31 of the 50 states had an elected superintendent, while in 1990, that number had dropped by more than half, to 15. In 1989, Kentucky joined the list of states switching to an appointed superintendent. Earlier in the 1980s, Mississippi and Louisiana also switched to an appointive superintendent—clear evidence that the trend continues toward a professional manager and educator as the top school administrator.

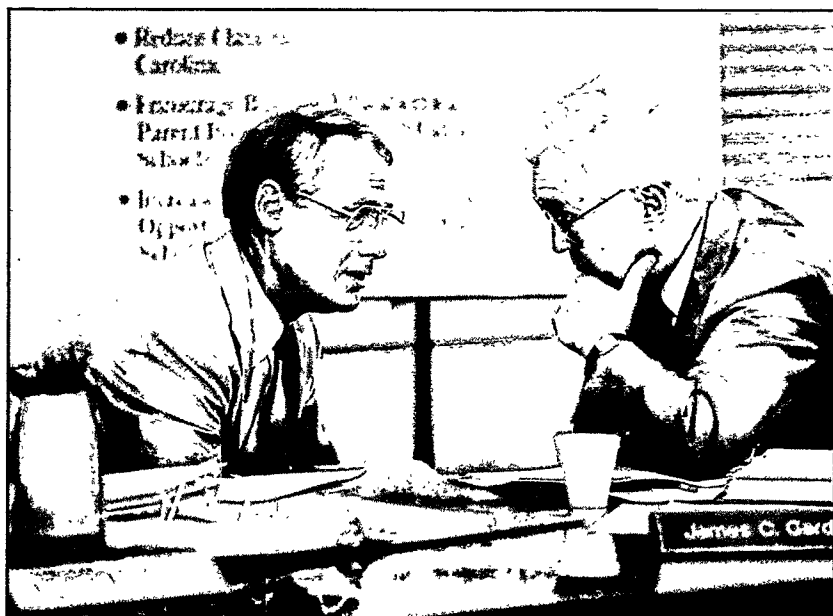
North Carolina study commissions on several occasions have raised questions about an elected superintendent and an appointive board. Study commissions appointed by the governor in 1948 and in 1968<sup>6</sup> questioned "the validity of electing

an individual to fill a position that is so demanding of the highest professional leadership abilities." Each commission urged the legislature to enact a procedure allowing the board to appoint the superintendent as its executive officer, but those proposals have gone nowhere.

The current State Board chairman, Howard Haworth, who stepped down in September 1990, says that the governance structure is one of the most important issues to resolving our education problems. "I personally feel very strongly that a change to an appointed superintendent of public instruction for the North Carolina public education system is a must if we are to ultimately achieve adequate overall reform and improvement of the endeavor. It is not the only change, by any means, that is necessary, but one of four or five critical issues to real progress in this area. To suggest that the people of North Carolina would not endorse such a change through the referendum process is perhaps more politically self-serving than it is an accurate assessment. This is simply one of a number of matters that the General Assembly seems determined to protect the citizens from re-evaluating," Haworth says.

As Table 2 on page 18 indicates, there are 10 public school governance models in the United States, though three of these models are used in nearly three-fourths of the states. In three of the top four models, the superintendent is appointed rather than elected. Several of these models would enable our state to streamline management and maximize the efficiency of the public school bureaucracy. And no matter which of the models we choose, we should make certain that the lines of command are clear.

There almost certainly will be political obstacles to overcome in achieving this revision in school governance. But we must end today's politically driven, three-headed system. It im-



*Howard H. Haworth, left, former chairman of the State Board of Education, and Lt. Gov. James Gardner, an ex-officio member of the board, confer during meeting of the board.*

pedes our ability to offer our young people the best education they can have. We simply must take the sometimes difficult steps that are necessary for the benefit of our children. One such step is to adopt a system of an appointed superintendent of public instruction in North Carolina.

#### FOOTNOTES

<sup>1</sup>For more on the potential interaction between superintendent and board, see Grady McGonagil, "Board-Staff Partnership: The Key to the Effectiveness of State and Local Boards," *Phi Delta Kappan*, a national education journal, September 1987, p. 67.

<sup>2</sup>For more on educational policymaking, see Michael Cohen, "State Boards in an Era of Reform," *Phi Delta Kappan*, September 1987, p. 61.

<sup>3</sup>"The Challenge of Leadership: State Boards of Education in an Era of Reform," National Association of State Boards of Education, 1012 Cameron St., Alexandria, Va., 22314, 1987.

<sup>4</sup>For more on this subject, see *Overview of State Education Governance Structure*, National Association of State Boards of Education, Alexandria, Va., February 1989.

<sup>5</sup>Terry Sanford, *Storm Over the States*, McGraw-Hill (New York), 1967, p. 197.

<sup>6</sup>*Education in North Carolina Today & Tomorrow: The Report of the State Education Commission*, United Forces for Education, Raleigh, December 1948, pp. 50-51; and *1968 Report of the Governor's Study Commission on the Public School System of North Carolina*, Raleigh, 1968.

# *A Short Constitutional History of Public School Governance in North Carolina, 1776-1990*

North Carolina's three state constitutions (1776, 1868, and 1971) have dealt in increasing detail with public education, and the 1868 and 1971 constitutions have dictated the roles of the state superintendent of public instruction and the State Board of Education.

**1. The Constitution of 1776.<sup>1</sup>** Section 41 of North Carolina's first constitution established the public school system:

"That a school or schools shall be established by the legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and, all useful learning shall be duly encouraged and promoted in one or more universities."

**2. The Constitution of 1868.** Article IX of this constitution established a State Board of Education which including these popularly elected members: governor, lieutenant governor, secretary of state, state treasurer, state auditor, superintendent of public works (a position abolished in 1873), attorney general, and superintendent of public instruction.

The responsibilities of the board were to "make all needful rules and regulations in relation to Free Public Schools and the Educational Fund of the State."

The responsibilities of the superintendent of public instruction were to direct operations and enforce laws; to report to the governor annually; to study school systems in other states and countries; and to be responsible for sectional needs of the state.

## ■ Statutory changes, 1927-1945.

—In 1927, the General Assembly created a State Board of Equalization<sup>2</sup> which relieved the State Board of Education of its responsibility to distribute money to counties using the equalizing fund. The equalizing fund had been created in 1901 to subsidize education in the poorer counties.

—In 1933, the General Assembly created the State School Commission<sup>3</sup> to succeed the State Board of Equalization. The commission included the governor, lieutenant governor, state treasurer, superintendent of public instruction, and one member, appointed by the governor, from each congressional district. The commission's task was to manage the public school system's fiscal affairs.

—In 1943, the statutes were amended to abolish the State School Commission, and the constitution was amended to change the membership of the State Board of Education. The board now included the lieutenant governor, the state

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*Compiled by Andy Baxter, a Duke University graduate student and intern at Duke Power Co., based on a study by E. Michael Latta, executive director of the N.C. Advisory Council on Vocational Education, cited in footnote 1, below.*



treasurer, the superintendent of public instruction, and one member from each congressional district. In addition, the constitutional amendment created the position of controller, who would assume the fiscal responsibility for the school system in lieu of the State School Commission.<sup>4</sup>

— In 1945, the General Assembly described the board's responsibilities in the reorganization of 1943:<sup>5</sup>

"Those relating to the supervision and administration of the public school system of which the superintendent shall be the administrative head, except as they relate to the supervision and management of the fiscal affairs of the board.

"Those relating to the supervision and administration of fiscal affairs of the public school funds committed to the administration of the State Board of Education, of which the controller shall have supervision and management."

**3. The Constitution of 1971.** Article IX recreated the State Board of Education which would "supervise and administer a free public school system and the educational funds provided for its support . . . and shall make all needed rules and regulations in relation, thereto . . ." The state board included the lieutenant governor, treasurer, and 11 members appointed by the governor, one from each of the eight education districts and three at-large members. The superintendent of public instruction was the chief administrator and secretary of the board, but was not an official member and no longer had a vote. The controller, answering to the board, continued to manage the fiscal affairs of the public schools.

■ **Statutory changes, 1988-89.** In the 1988 Act to Provide a Governance Structure for the Department of Public Instruction, the General Assembly granted the superintendent these duties:<sup>6</sup>

— As administrator of the Department of Public Instruction: To organize and establish a Department of Public Instruction including the divisions and departments needed for supervision and administration of the public school system, to administer the funds for the operation of the Department of Public Instruction, and to enter into contracts.

— As secretary of the State Board of Education (the superintendent already held this post by constitutional provision, but the legislature's 1988 action enhanced the post with these duties): To administer through the Department of Public Instruction all policies established by the board; and to administer the funds appropriated to the Department of Public Instruction for the operations of the state board and for aid to local school administrative units.

## FOOTNOTES

<sup>1</sup>For those wishing to read more about the three constitutions (1776, 1868, and 1971) adopted in North Carolina, copies can be found in a number of places, including the *North Carolina Manual*, published biennially by the Department of the Secretary of State, and in various sources in most public libraries in North Carolina. For an excellent source for key constitutional provisions and statutory changes regarding N.C. education law, see E. Michael Latta, *The Constitutional and Statutory Development of the State Board of Education and the State Superintendent of Public Instruction (as well as the Defunct Office of the Controller)*, first presented to the Select Committee on Education of the N.C. General Assembly, Oct. 4, 1982. Reissued Nov. 17, 1989 with amendments, and available from the State Advisory Council on Vocational Education in Raleigh at (919) 733-2064.

<sup>2</sup>Chapter 256, Public Laws and Resolutions, 1927 General Assembly.

<sup>3</sup>Chapter 562, Public Laws and Resolutions, 1933 General Assembly.

<sup>4</sup>Chapter 721, Session Laws and Resolutions, 1943 General Assembly.

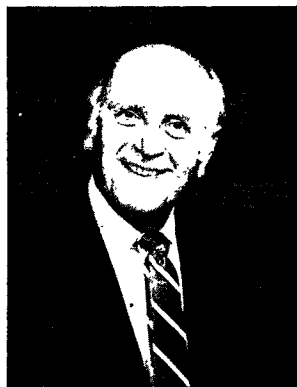
<sup>5</sup>Chapter 530, Session Laws and Resolutions, 1945 General Assembly.

<sup>6</sup>Chapter 1025, 1987 Session Laws (Second Session 1988), now codified as GS 115C-19 and 115C-23.

Con:

# North Carolina Should Keep Its Elected Superintendent of Public Instruction

by J. Richard Conder



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

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

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

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

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*J. Richard Conder is a North Carolina state senator from Rockingham, representing the counties of Anson, Montgomery, Richmond, Scotland, Stanly, and Union. He is chairman of the Senate Education Committee.*

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Louisiana, Mississippi, New Mexico

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

New York

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

South Carolina

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

Washington

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

Florida

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

Wisconsin

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

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

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

## New Superintendent Should Be Given a Chance

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

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

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



Karen Tan

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

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

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

*Source:* North Carolina Manual

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

## FOOTNOTES

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Karen Tom

# Work Force Preparedness: Training 21st Century Workers on a Mid-20th Century Budget

by Jack Betts

*This article on work force preparedness is the first of a new regular feature of Insight magazine that will examine demographic trends and the policy implications of those trends, especially as they affect state government but also other institutions such as schools, businesses, and health care systems. This particular installment examines North Carolina's projected work force needs in the early 21st Century and whether the state has adapted its policies to help fulfill those needs.*

**I**t's 10 years before the 21st century begins, and already North Carolina's work force of the future is in tatters. Consider:

■ Workers entering the work force in the year 2000 are in the 6th grade right now, supposedly enjoying the benefits of the fourth year of the state's much-heralded Basic Education Plan (BEP). In Raleigh, legislators facing reelection in the fall of 1990 worked hard to cut planned increases in the state budget and avoid tax increases—and made hefty cuts in the long-planned 1990-91 BEP expansion. Will these schoolchildren be any more prepared than the

class of 1990, whose SAT score averages were the worst in the country?

■ North Carolina will lose 75,000 textile jobs in this decade alone, and as many as 500,000 in textiles and furniture over the next 20 years, throwing a huge number of loyal workers with a strong work ethic onto the job market.<sup>1</sup> They won't be able to find comparable jobs, because they won't be trained to do the sort of work that the new work place will demand. For them, it may be menial labor or service work, or the dole.

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*Jack Betts is editor of North Carolina Insight.*

Will the state shift policy gears to provide the sort of intensive retraining necessary to keep these workers on the production line and out of the welfare line?

■ And what about those tens of thousands of North Carolinians who should be in the work force right now but are not because they have no marketable job skills—and may not even be able to read and write? North Carolina has more illiterate adults than the nation of Japan, notes job development expert George Autry, yet Japan has 95 million more adults than does North Carolina. The state's literacy and adult job training programs are not geared to recruit these potential workers, school them to the point that they can handle the work of the future, and turn them into productive citizens.<sup>2</sup>

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*"Do you realize that if present trends continue unabated—and our present level of illiteracy holds—that within the next 10 years we as a state will have in essence educationally and economically disenfranchised fully a third of our state's adults?"*

— BOB SCOTT

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Will the General Assembly push for a new state policy that emphasizes training and retraining the state's work force to handle what's coming? Will the state take note of these and similar demographic trends and consider their implications for public policy?

So far, the answers to these questions are a resounding *no*, filed in triplicate. That's what worries policymakers like Bob Scott and a number of other North Carolinians who are preaching a sermon on the unbreakable link between education and economic development in this state. "Do you realize that if present trends continue unabated—and our present level of illiteracy holds—that within the next 10 years we as a state will have in essence educationally and economically disenfranchised fully a third of our state's adults?" asks Scott, governor from 1969-1973 and now president of the N.C. Community College system.<sup>3</sup>

George Autry, president of MDC, a firm spe-

cializing in economic development and work force preparedness in the South, puts it this way: "There is a declining pool of new entrants into the work force; and an increasing proportion of that declining pool is poor, it is minority, it is under-educated, it is immigrant. These are the people we are going to look to to pay for our national debt service, our bills for national defense, and our Social Security benefits."<sup>4</sup>

And Jim Hunt, governor from 1977-1985 and a prominent national advocate for educational reform, adds this view from his work as a member of the Commission on the Skills of the American Workforce: "We found that most firms in this country are competing in the international marketplace not by development of workers' skills, but by cutting costs and using less-skilled people to do the job," says Hunt. "There are two ways to compete in this economy. One is to take the work force and make it more skilled, more versatile, and more valuable. Or you can compete by cutting costs, and getting fewer skilled workers. Those employers are not thinking for the long-term. And they know it. If you press them, they will admit this can't go on forever."

## **New Strategies Needed for Education and Training**

**I**f North Carolina's economy is to remain competitive in the future, work force experts say, it will require a new sense of cooperation among the states, the federal government, local governments, school units, and businesses. These often-competing factions should develop plans and programs for the future economy—plans that include new strategies for economic development and new strategies for education and job training. Consider the findings of Donald Tomaskovic-Devey, associate professor of sociology at N.C. State University. In a spring 1990 report on human resources and economic development, Tomaskovic-Devey said, "With the internationalization of economic activity, North Carolina is no longer competing with Massachusetts or Ohio for branch plants, but with Mexico, Brazil, and the Philippines. Wages are low in North Carolina, but not nearly low enough to compete with the poverty of the third world. If North Carolina is to enjoy any comparative advantage in the national and international economy in the 21st century, the state must give a very high priority to the skills and basic training of its work force."<sup>5</sup>



Scott Hoffman

*Four former governors gather with the incumbent on June 11, 1990 to promote using the community college system to prepare North Carolina's future work force. Shown here, listening to Sherwood Smith, chairman of the Commission on the Future of the North Carolina Community College System, are, from left, James B. Hunt Jr., James E. Holshouser Jr., Robert W. Scott, Terry Sanford, and incumbent Gov. James G. Martin.*

That means the state must "redirect its economic development strategy from one based on surplus low-skilled labor to one that nurtures the skills of the local work force," adds Tomaskovic-Devey. "The low-skill-low-wage development strategy was probably appropriate for the transition from an agricultural to an industrial economy," but that transition took place long ago. The problem is that "future development cannot be based on surplus labor [that is] leaving agriculture and supplying low-wage-low-skill labor to branch plants of national and international firms."

That system simply won't work in the new economy of the 21st century. Today, the unemployment rate is relatively low, and the U.S. Department of Labor is predicting a huge shortage of workers by the year 2000.<sup>6</sup> The department predicts that the state will create 760,000 new jobs by the beginning of the new millennium, but that only 550,000 new workers will be available to fill them. That means that as many as 210,000 new jobs could go unfilled because there won't be enough North Carolinians—or immigrants from

outside the state—with sufficient education and skills to handle those jobs. In other words, it's not that there will be a lack of people. But because of the lack of salable job skills, the lack of training, and especially the lack of retraining for formerly employed workers, there will be a large number of jobs without workers to fill them.

Not surprisingly, the state Department of Economic and Community Development rejects Tomaskovic-Devey's thesis, even as it agrees with the call for work force preparedness training. "That study was based on too small a group of employers, and you cannot do that and get a true picture of what the economy of North Carolina is all about," says spokesman Kenneth Rabb. The fact is, says Rabb, one in every five jobs created in the state in the last five years carries a salary of \$50,000 or higher. But, he goes on, "We're enormously concerned about work force preparedness. That's why Governor Martin appointed the Commission on Workforce Preparedness, and that's why the Secretary [James Broyhill] is chairing it."

## A Declining Work Force

**T**here are several reasons for the decline in the size of the work force compared to past growth. For one thing, the population is growing only about a third as fast as it did in the 1970s, when the work force grew 3 percent a year thanks to rapid population growth from 1945-65.<sup>7</sup> Over the next 15 years, growth will increase only at 1 percent a year, and thus there will be fewer new workers available to fill jobs than there were during the 1970s and into the early 1980s.

Of the new workers available to fill the new jobs, they will be different demographically than they have been in the entire postwar period. Increasingly, workers "are women, minorities and non-English speakers, traditionally less-skilled members of the labor force," writes Sheron K. Morgan, director of the Office of Policy and Planning in the N.C. Department of Administration.<sup>8</sup> The new work force may also attract older and more highly-skilled workers back into the labor force as well as a number of immigrants who may already have needed work skills. But these new workers won't be sufficient to fill all the jobs.

Janice Kennedy-Sloan, vice president for student development services of the Department of Community Colleges, says it's time to focus on the needs of the potential work force as well as the needs of employers. "We know what business wants and needs," she says. "What do the folks need who could fill the jobs?"

For these reasons, the state's four living former governors and Gov. Jim Martin made a rare joint public appearance in Raleigh on June 11, 1990, ostensibly to promote the state's 58-campus community college system but really to hold a camp meeting about using the community college system to prepare North Carolina's workers to meet the economic job demands of the future.

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*The new work force may also attract older and more highly-skilled workers back into the labor force as well as a number of immigrants who may already have needed work skills. But these new workers won't be sufficient to fill all the jobs.*

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When his time came in the pulpit, Hunt related a recent conversation with a high-ranking official at IBM Corporation, who told Hunt that his plants had ceased hiring workers who only had completed high school and perhaps one or two courses at the community college level. "He told me that his plants were hiring only those who have an associate's degree or better," Hunt told the crowd.

The meaning was as plain as day: In the factories of the future, at least two years of college would be required just to get in the door, and the state had better redraft its educational and economic development policies to plan for the future. But unfortunately, the very ears upon which Hunt's voice should have fallen were not in attendance in appreciable numbers; most instead were down the street at the General Assembly, where the appropriations committees were wrestling with how to carve half a billion dollars out of the 1990-91 portion of the biennial budget to meet available revenues and avoid raising taxes for education and other state programs.

In an interview, Hunt expands on the critical need for worker training. Few employers, Hunt says, give much credence to a high school diploma these days. "About 90 percent of the employers we talked to said the high school diploma made no difference to them. They counted it only as an indication that the kid would stick it out, as a measure of their potential work ethic." North Carolina's active work force, on average, has completed 12.3 years of school—below the national average of 12.6 years of school. But by the year 2000, most new jobs will require much more education. Four out of five new jobs will require about 13.5 years of schooling. Tomaskovic-Devey also found in his survey that North Carolina natives have less schooling than workers who move here from other states, and that of 306 North Carolina employers surveyed, most value the skills of native North Carolinians less than those of immigrants. Employers also find that the largest barrier to future business expansion is the shortage of skilled labor, and that a key problem for employers is finding workers who can read adequately.<sup>9</sup>

To Scott, the obvious answer lies in beefing up funding for community colleges without doing damage to the universities or to the public schools. The state's community colleges "represent the best—if not the only—hope this state has to forestall the economic equivalent of a Hurricane Hugo" through the education system. Community colleges, in Scott's view, are "going to have

to do it—educate the under-educated, train and retrain the low- or semi-skilled, retool the work forces of the business community in much the same way as a manufacturing company retools its machines to do a new job.”

And to do that, the community colleges need money. The Commission on the Future of the North Carolina Community College System has recommended boosting spending on the system by \$135 million over current operating funds (the department’s budget in 1989-90 was \$426 million).<sup>10</sup> But the legislature has pared away much of the planned spending increases on public schools, which also need more funding. This does not go unnoticed by those in academia or business. “We have all read and followed the drama being played in Raleigh these days concerning the budget shortfall,” says Scott. “The heroes and villains can be pretty much whomever you choose to believe is at fault. But the bottom line is being reached in the community college system. And the state is about to pay a price it can ill afford to pay . . . and from which it will take years to recover . . . [T]he only question is whether the state’s leadership has the will to do what has to be done. So far, I don’t see much of that will in tangible ways—only lip service.”

## Lack of Leadership Part of the Problem

**T**omaskovic-Devey, whose study has stirred debate not only over worker preparedness but also over the state’s economic development policies, says, “The business community is taking this much more seriously than do legislators.” His study noted that 80.4 percent of 306 N.C. employers in a survey were so concerned about preparedness issues and related questions involving the quality of life in North Carolina that they were willing to support higher taxes if necessary. That finding was backed up in dramatic fashion during the 1990 short session of the legislature, when the state’s most powerful and well-known business lobby joined in a unusual call for higher taxes. North Carolina Citizens for Business and Industry, a statewide chamber of commerce, joined with four other groups—the Public School Forum of North Carolina, the N.C. Association of County Commissioners, the N.C. School Boards Association, and the N.C. League of Municipalities—to urge the General Assembly to take whatever steps were necessary to support “initiatives

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*The Times noted that North Carolina “symbolizes more than any other state the contradictions of a region increasingly split between metropolitan areas that prospered in the Sun Belt boom of the last two decades and rural areas left behind.”*

—THE NEW YORK TIMES

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aimed at strengthening the economic competitiveness of our state,” including the state’s educational programs. “While it is not simple to pinpoint an easy solution to the revenue problem, all of our organizations believe that some form of increased tax revenue should be considered and acted on in this session. That is especially true if the alternative is draconian cuts in ongoing initiatives or passing along the state’s financial crisis to local governments,” the five groups said in a joint statement.

But not every business group agreed with the call for higher taxes. The Raleigh lobbyist for the National Federation of Independent Business opposed the call, saying that small businesses were more concerned about tax increases than they were about funding for education or other programs. “Our tax load is more than heavy enough. We simply can’t afford full BEP funding at this time,” Susan Valauri said in a June 28, 1990 press release. Legislators must have agreed, for they chose to cut the rate of budget increases rather than raise revenues.

At the same time that the legislature was avoiding increases in taxes, *The New York Times* was weighing in with one of its periodic looks at problems in North Carolina, particularly in educational achievements.<sup>11</sup> The *Times* noted that North Carolina “symbolizes more than any other state the contradictions of a region increasingly split between metropolitan areas that prospered in the Sun Belt boom of the last two decades and rural areas left behind.” Politicians predictably objected to the article, some of them calling it “a hatchet job,” *The Charlotte Observer* noted editorially. Yet, the *Observer* went on, the *Times* was correct in pointing out how poorly the state was faring—and why. “This isn’t news,” noted the *Observer*. “But what has given it new urgency is



## Characteristics of North Carolina Job Growth and Work Force Growth

### Job Growth

# of new jobs available by 2000:	760,000
# of new workers available by 2000:	550,000
# of new jobs that could go unfilled:	210,000

### Reasons for Shortfall in Work Force

% Annual growth in work force 1990-2005:	1%
% Annual growth in work force 1970-1980:	3%

### Who Will Fill New Jobs in 2000?

- Women who have not previously worked
- Minorities seeking to move up in work force
- Hispanics and other non-English-speaking workers
- Immigrants, especially those with work skills
- Older workers rejoining the work force

*Source:* U.S. Department of Labor; N.C. Department of Administration; N.C. Department of Economic and Community Development

he said. Rep. David Diamont (D-Surry), chairman of the House Appropriations Committee (and himself a school teacher), added, "Education is like human resources. You could always put more money into it. As a high school football coach, I could have 15 assistant coaches and I'd still put in for a sixteenth if I thought I could get it. But that doesn't mean more money would mean improvement."

Other legislators were painfully aware that the 1990 legislature was putting off inevitable—and tough—decisions for the 1991 regular session, both in funding public schools and in financing work force preparedness programs. House Majority Leader Dennis Wicker (D-Lee) says part of the problem was that legislators did not yet realize the importance of work force preparedness issues. "You don't hear as much about it inside the beltline as you do outside the beltline," he says.

the realization that low levels of education will no longer attract even the industries that have placed us on the bottom rungs of the nation's wage scale. Even the consultants touting our affordable wages to industry warn about the lack of a skilled work force. If you want to know what business groups and chambers of commerce really think, look at their complaints about the quality of workers they've been getting from the state's high schools."<sup>12</sup>

On the day that editorial was published, the state House of Representatives was unveiling a new budget scheme that basically followed a similar plan in the Senate—no new taxes for education, and severe cuts into planned expansion of education programs. Yet most legislative leaders wanted to avoid talks of the education programs that would not be funded, and instead cast the decision in terms of paring away at budget fat. Senate Majority Leader Ted Kaplan (D-Forsyth) tried to put the best face on what the legislature was doing. "Our goal really is to cut the bureaucracy more than cut things out of the classroom,"

"But pretty soon our community colleges are going to be in the same shape our public schools are in, and the reason is that they don't have the money they need." Wicker had plans to sponsor a big increase for community colleges but didn't push the bill in the 1990 session "because it'd be an exercise in futility. I fully expect the next session [1991], when we'll have the time and the revenues to talk about education big-time, to be the turning point on education and worker training."

That can't come too soon for some experts. Michael Vasu, professor of political science and public administration at N.C. State, worries that the state is not providing the leadership the issue needs. "Someone really does need to pay attention to this," says Vasu. "State government is not hearing what the business community wants. We need a different kind of work force from what we're getting from traditional vocational education programs. We need a larger concept of vocational education than just bricklayers and carpenters. We need people who can

do decimal fractions, who can handle digital readouts. We need a whole new conceptualization of work force training."

Vasu and Andy Frazier, director of the Governor's Commission on Workforce Preparedness, have examined business needs and weighed them in relation to what the public schools are producing. More than half the state's employers are dissatisfied with the schools, Vasu and Frazier found, and they say the evidence is clear that North Carolina's future "will hinge in important ways upon all students in the educational system; however, much of our economic future will depend upon the forgotten half of our student population [who do not pursue post-secondary education]. These will be the 'human capital' upon whom we base a major portion of our economic hopes. But even if we are successful in reforming elementary and secondary education, public school reform only solves a small part of the immediate problem with our work force"—the fact that most of our workers for the next 15 years already are out of school and in the job market. Too many of these workers "are functionally illiterate by today's standards," and many more may be considered functionally illiterate in the future. The best answer may be a new set of strategies that encompasses "a continuum of education and training services that begin in early childhood and continue throughout an adult's working life," Vasu and Frazier say.<sup>13</sup>

The final report of the Governor's Commission on Workforce Preparedness, appointed by Gov. Jim Martin to hold a series of statewide hearings and to develop plans for preparing future workers, will be released in November 1990. Proponents of work force preparedness hope they can use that report as a springboard for action in the 1991 General Assembly, which will have to tackle ways of making up for funding cut in the 1990 session. Political observers expect the 1991 session to enact at least one new tax—and perhaps a package of new taxes including an increase in tobacco taxes—to pay for education programs and for worker training programs. But there's no guarantee that the 1991 session will do what the 1990 session failed to do, and Bob Scott often wishes that funding schools and worker training programs were as easy as building new highways—as evidenced by the 1989 General Assembly's adoption of a \$9 billion paving program. "If our leadership showed half the creativity at coming up with funding for education that it shows for highways, we would not be in the

penny-pinching mess we're in today," says Scott. "I have the feeling that if this state goes down the road to economic stagnation, it'll be on a six-lane highway." ☐☐

## FOOTNOTES

<sup>1</sup>Daniel D. Mahoney, Managing Director, DRI/McGraw-Hill, "North Carolina in 2010: Discussion of Major Trends," presentation to the Office of Policy and Planning, N.C. Department of Administration, Feb. 23, 1990.

<sup>2</sup>A number of recent studies have faulted state and federal literacy and job training programs *not* for their content, but for the fact that so many citizens need literacy and job training and so few of them get it to the point that they are able to hold a full-time job. For more on literacy problems in North Carolina, see Barbara Barnett, "Poverty and Education: A Costly Problem in North Carolina," *North Carolina Insight*, Vol. 11, Nos. 2-3, April 1988, pp. 106-121. For more on job training programs, see Bill Finger and Jack Betts, "Off the Dole and Onto the Payroll: Do Job Programs Get People Out of Poverty?" *North Carolina Insight*, Vol. 11, Nos. 2-3, April 1988, pp. 64-93.

<sup>3</sup>Robert W. Scott, remarks to the Southeastern N.C. Rural Leaders Program, Pembroke State University, Lumberton, N.C., May 15, 1990.

<sup>4</sup>George B. Autry, remarks to the Governor's Commission on Workforce Preparedness, Raleigh, N.C., April 11, 1990.

<sup>5</sup>Donald Tomaskovic-Devey and Rosemary Ritzman, *Back to the Future? Human Resources and Economic Development Policy for North Carolina*, Department of Sociology, Anthropology and Social Work, N.C. State University, Spring 1990, p. 4.

<sup>6</sup>*Workforce 2000: Work and Workers for the 21st Century*, Hudson Institute, Indianapolis, for the U.S. Department of Labor, June 1987. For a regular update on employment forecasts, see also *Outlook 2000, the Occupational Outlook Quarterly*, published by the U.S. Department of Labor's Bureau of Labor Statistics, Washington, D.C.

<sup>7</sup>*North Carolina's 21st Century Workforce*, Labor Market Information Division, Employment Security Commission of North Carolina, 1989, p. 6.

<sup>8</sup>*Listening to the Future: Workers in a Changing World*, Office of Policy and Planning, N.C. Department of Administration, June 1990, p. 6.

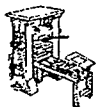
<sup>9</sup>Tomaskovic-Devey and Ritzman, generally.

<sup>10</sup>*Gaining the Competitive Edge: The Challenge to North Carolina's Community Colleges*, a report of the Commission on the Future of the North Carolina Community College System, MDC, Inc., February 1989, p. 33.

<sup>11</sup>Peter Applebome, "In North Carolina, the New South Rubs Uneasily With the Old Ways," *The New York Times*, July 2, 1990, p. A1.

<sup>12</sup>"A 'Hatchet Job'?" Legislative Ax, Not New York Times, Should Worry N.C.," editorial, *The Charlotte Observer*, July 5, 1990, p. 12-A.

<sup>13</sup>Michael L. Vasu and Andy Frazier, *Workforce Preparedness for Economic Development: Report on the 1989 North Carolina Business and Industry Survey*, a joint initiative of the N.C. Department of Administration, the N.C. Department of Economic and Community Development, and the Office of the Governor, 1990, p. 14. For further information on how business people view work force needs of the future, see *America's Choice: high skills or low wages!*, prepared by the Commission on the Skills of the American Workforce, the National Center on Education and the Economy, Rochester, N.Y., June 1990.



## *Customers or Citizens?* *The Redefining of Newspaper Readers*

by Ferrel Guillory

*This regular Insight feature focuses on how the news media—newspapers, television, and radio—cover public affairs in North Carolina. In this column, Insight examines whether newspaper readers should be defined as customers or citizens, and what the potential impact of this attempt to redefine readers could be on coverage of public affairs at the state and local levels.*

**H**ow should the readers—and potential readers—of American newspapers be defined? Do they form an audience or an electorate? Are they customers, or are they citizens?

Newspapers are in transition, and the way that newspaper managers define their targeted readership will determine how that transition is played out. The outcome will, in turn, have an influence on the vibrancy of American democracy.

North Carolina newspapers—most notably the major-city dailies facing the task of attracting readers in sprawling suburbs—are not immune to the calls within the industry for a reassessment and repositioning in light of new technologies and shifting demographics. This is a state with a tradition of strong state and local journalism, so a refocusing that diminishes reporting and commentary on public affairs would be felt particularly in state and local politics and government.

"The newspaper can measure governing where the requirements of TV will rarely allow it to touch that subject," says Bill Green, a former ombudsman at *The Washington Post* and the de-

veloper of the Visiting Journalists Program at Duke University. "If newspapers give up some of their public affairs reporting—their watchdog role—it is not irrational to argue that democracy as we know it may be jeopardized."

Green, who recently retired after serving three years as a special assistant to U.S. Sen. Terry Sanford (D-N.C.), spent some of his last days as a Senate aide traveling around North Carolina to confer with newspaper editors. Green found newspapers healthy financially, at least in the short-term, and he detected no despair among newspaper people. But, he said, a "shadow" hangs over them as they drift into being "market-driven."

Newspapers feel pressure stemming from changing lifestyles, developments in technology for collecting and delivering information, and diverse competition for advertising dollars. Still, the notion, widespread several years ago, that newspapers might fade away has given way to a renewed sense of the durability of the printed word. But if survival of newspapers as a medium of mass communication seems less in doubt, there is much uncertainty as to how they will evolve.

Two major lectures in 1989, each by a renowned journalist, illustrate the contrasting visions of newspapering that now vie for ascendancy in newsrooms in North Carolina as well as across the United States. One was delivered by Anthony Lewis, twice a Pulitzer Prize winner and

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a columnist for *The New York Times*. The other was delivered by James K. Batten, a former reporter and executive editor of *The Charlotte Observer* and now president and chief executive officer of Knight-Ridder Inc., a large newspaper chain.

The Lewis lecture took place in Hamilton Hall on the campus of the University of North Carolina at Chapel Hill. It was the annual Weil Lecture on American Citizenship, and it exemplified the tradition of journalism as servant of the citizens of a democracy.

Lewis examined three major historical developments that had left the United States with a free press to speak out on powerful people and public

*"Let's be done with the all-too-common journalistic queasiness about entertaining readers. Too many editors and reporters think there's something demeaning and unworthy—'pandering' is the favorite epithet—about making newspapers entertaining and enjoyable."*

—JAMES K. BATTEN  
CHAIRMAN AND CHIEF EXECUTIVE OFFICER  
KNIGHT-RIDDER, INC.

policy: the rise and fall of the Sedition Act,<sup>1</sup> the landmark *Times v. Sullivan* libel ruling,<sup>2</sup> and the Pentagon Papers lawsuit over government secrets.<sup>3</sup> He warned of what he called the "rise of the national security state" and of the growing power of the presidency.

There is, Lewis said, a reluctance on the part of the courts to stand against these trends. The press itself is hesitant to challenge presidential authority, he said. Still, said Lewis, "The burden of checking the president increasingly falls on the press," and he asked rhetorically, "Do we want less scrutiny from the press?" The United States, said Lewis, "gambled on an open society." And part of that gamble, he said, is to tolerate the "annoyance of the press."

The Batten lecture took place at the University of California at Riverside, one of the long-

running series of lectures sponsored by The Press-Enterprise, a major daily suburban newspaper. Far from celebrating the "annoyance of the press," Batten gave full voice to the school of thought that newspapers need to serve their readers as customers.

"Our newspapers' audience—actual and potential—is changing in ways that put it at odds with our traditional assumptions," he said, "and with our preferred definition of our own mission. Most of the best journalists I know were drawn to their careers by an intense interest in public affairs. They saw newspapers as indispensable instruments of American self-government. And they tended—we tended, to be more precise—to assume that ordinary Americans (all good newspaper readers, of course) shared—or at least should share—our voracious appetite for news of government and politics. That was a little naive. But today, that high-minded assumption is hopelessly inaccurate."

Batten offered the kind of statistics that make newspaper managers anxious not so much about current profitability as about the future: In the 20 years from 1967 to 1987, the percentage of adults saying they read a newspaper every day dropped from 73 percent to 51 percent. Despite population and economic growth, daily newspaper circulation—63 million in 1989—is only a million or so above the level of 1970.

What especially worries newspaper managers is a term of the trade known as "penetration"—which is a measurement of circulation as a proportion of potential subscribers. Since 1970, daily circulation rose only 1 percent, while the number of American households grew by 42 percent. Circulation of Sunday newspapers, which contain all sorts of feature sections, grew by 22 percent.

"We need to develop a new and fierce commitment to publishing newspapers that strain to please and satisfy our customers every day," said Batten. "The days when we could do newspapering *our way*, and tell the world to go to hell if it didn't like the results, are gone forever.... Let's be done with the all-too-common journalistic queasiness about entertaining readers. Too many editors and reporters think there's something demeaning and unworthy—'pandering' is the favorite epithet—about making newspapers entertaining and enjoyable."

If Lewis and Batten were to debate each other face to face, they undoubtedly would find much in each other's lectures with which to agree. Batten surely would subscribe to Lewis' point that news-

papers have rights, responsibilities, and challenges under the First Amendment. And Lewis would have to acknowledge that a newspaper losing—or about to lose—readers crucial to the health of the enterprise would ultimately be sapped of its viability.

As anyone who has read Frank Luther Mott's tome, *American Journalism*, would know, change is a constant in the history of the press in the United States.<sup>4</sup> In recent decades, the definition of news has expanded rapidly, as newspapers dramatically extended their reach into science, business, health, and the arts. Newspapers have long been a mixture of information and entertainment, offering readers crossword puzzles, comic strips, horoscopes, and gossip columns. What's at stake now is the balance within the mix.

It is easy—almost too easy—to attribute certain changes in American daily newspapers to the magnetic pull of *USA Today*, the color-snazzy national newspaper of the Gannett chain. Even though it is much maligned by some journalists for its short, shallow articles, *USA Today* has indeed had an influence on the industry, in terms of color and graphics and in the vivid example it offers of how newspapers can be adapted to the television age. But it is important to note that Batten does not come out of the *USA Today* milieu. Rather, he is the chief executive of a major newspaper chain, Knight-Ridder, which publishes some of the most substantive dailies in the United States—newspapers known for their investigative, national, and international reporting. That Batten would seem to suggest more customer-centered, as distinct from citizen-centered, newspapers is especially noteworthy.

Not only at *USA Today*, but throughout the industry, newspaper publishers, managers, and editors have become eager consumers of reader-ship surveys and focus group studies. And they have discovered what politicians, churches, businessmen, and others dependent upon public approval have learned about late 20th century Americans. This has become a more visual society with a shorter attention span. More and more people look inward, put their own wants and desires above public involvement, live in two-worker families, and thirst for an array of leisure activities. Too many people are nonvoters and nonsubscribers.

Batten urges newspaper people to become "more reader-driven, customer-driven." And *Editor and Publisher* magazine, the newspaper trade journal, reinforces the message. "One of the

most pressing problems facing the nation's newspapers is declining market penetration," says a December 1989 article. "Nationally, just one out of two households receives a daily newspaper."<sup>5</sup> Another article in the same magazine begins, "The world is changing, people are changing, and newspapers had better adapt because their survival depends on it."<sup>6</sup>

Accordingly, newspaper managers have begun heeding the message—and in some respects with beneficial results. Circulation departments strive mightily to deliver newspapers on time and dry, regardless of the weather. The drive to make newspapers more visually attractive has led to a renewed appreciation of maps and use of color. And much more emphasis now goes to the organization of the newspaper, so that the same kind of material appears more or less in the same place, day after day.

And yet, the more readers and potential readers are treated as customers, to be served, pleased, and satisfied, the less they may be treated as citizens, to be educated, informed, and even challenged to think about public affairs. At the outset of the 1990s, the gravitational pull toward treating newspapers as customers remains strong.

Small samples of evidence point to larger trends: On the day after Vice President Dan Quayle visited Charlotte in April 1989, *The Charlotte Observer's* first edition carried a picture of Quayle in a schoolroom over a story with the headline, "Vice President Calls Busing a Failure."<sup>7</sup> *The Observer's* final edition, however, had the school picture and the busing story on an inside page, and it had replaced them on the front page with a photo of Quayle jogging and a story with the headline, "Visit Leaves Little Time for Relaxation."<sup>8</sup> (See pages 35-37 for the text of these articles.)

■ ■

*"And yet, the more readers and potential readers are treated as customers, to be served, pleased, and satisfied, the less they may be treated as citizens, to be educated, informed, and even challenged to think about public affairs."*

■ ■

As part of its redesign in late 1989, *The News and Observer* of Raleigh shifted the "Under the Dome" column, a daily dose of political chatter and insider news about state government, from the front page to the first page of a section called "Local/State," a symbolic move indicating that the *N&O* appears headed toward becoming a more local newspaper. "Who wants to read all this government stuff?" an editor grumbled one day during the 1989 session of the General Assembly when I had budgeted an especially long list of stories. And then just before the Christmas holidays, another editor gave me some wry words of encouragement to continue pressing for news of government and politics. "It's good to have some dinosaurs around," he said.

To be sure, neither Batten nor the newspaper people who subscribe to his analysis call for an abandonment of government and political coverage. Batten's thesis is that newspapers will attract readers to public policy and hard truths by becoming more "warm and caring and funny and insightful and human." And he suggests some changes in the way newspapers approach politics and public debate: joining in an alliance, for instance, with get-out-the-vote programs. Moreover, he proposes that newspapers create their own news events by sponsoring local debates between public figures and experts and then printing stories and texts.

For the foreseeable future, newspapers will almost surely contain a mix of both trends: public policy here, customer-driven features and briefs there. While TV has bypassed newspapers as headline deliverers, newspapers—if they have the will to do so—can retain a franchise as the deliverers of what Walter Lippmann called "explained news."

That means hiring educated journalists who not only write well but know a thing or two about the subjects they are covering. It means less grind-it-out daily coverage of legislative committees, but more updates on unresolved issues, trend stories, personality profiles of public policymakers, and articles about how government works and how government decisions affect the lives of real people.

If newspapers aren't in a drum-roll retreat from public policy, they plainly are seeing their readers more as customers and less as citizens. And, in Bill Green's view, as newspapers tie themselves to the findings of readership surveys, "they are less independent than they used to be."

It is a thought-provoking observation. For

centuries, American newspapers have fought to keep themselves free from government intrusion. Moreover, newspapers—or at least the best of them—have had pride in maintaining their independence from the pressure of big advertisers. Now a diminishing of independence and integrity may come from a too-tight binding to public whims and attitudes of the times.

A repositioning of American newspapers that results in a substantial erosion of their devotion to public affairs would have an impact at all levels of government and politics. But the federal government and presidential campaigns would feel the impact least. This is so because Washington remains a focal point when major events break out and because the newspapers with a national scope, as well as the TV networks, have a competitive stake in maintaining their attention to the government and politics that flow out of the nation's capital.

More likely to fall through the cracks are state and local campaigns, and the debates and decisions that take place in state capitols and in city halls and county courthouses. With some exceptions, state and local candidates tend not to be the sort of celebrities or public figures that attract the public's gaze. Clashes over such issues as taxes and abortion will still draw coverage. But state and local issues tend to be less ideological and more mundane, however important such matters as public schools, poverty, health care, and environmental protection may be.

Newspapers have long used the metaphor of the mirror. They have defined themselves as mirrors held up for their communities to see themselves, warts and all, even to the point of annoyance. Now, the mirror metaphor increasingly may take a different connotation. Newspapers may be drifting toward becoming mere mirrors of a public detached from public affairs and absorbed in private pursuits.

## FOOTNOTES

<sup>1</sup> Sedition Act of 1798, 1 Stat. 596.

<sup>2</sup> *The New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

<sup>3</sup> The Pentagon Papers case: *The New York Times Co. v. United States*, 403 U.S. 713 (1971).

<sup>4</sup> Frank Luther Mott, *American Journalism, A History: 1690-1960*, Third Edition, The MacMillan Company, New York, Fifth Printing, 1966.

<sup>5</sup> M.L. Stein, "Adapting to Change," *Editor & Publisher*, Dec. 2, 1989, p. 24.

<sup>6</sup> James Clark, "Shop Talk at Thirty," *Editor & Publisher*, Dec. 2, 1989, inside back cover.

<sup>7</sup> *The Charlotte Observer*, April 18, 1989, p. 1A.

<sup>8</sup> *Ibid.* at p. 4A.

# Comments on "Customers or Citizens?"

**James K. Batten**, *chairman and chief executive officer, Knight-Ridder, Inc.*

In general, Ferrel Guillory has done a thoughtful and balanced job. These *are* interesting and important issues, and they affect the role the press will play in our democratic society over the next decade or two.

I had not read Tony Lewis' lecture at Chapel Hill last year. But from Guillory's portrayal, it does not represent a "contrasting vision" of newspapering from my own. As near as I can tell, Lewis and I were talking about somewhat different topics, even though they intersect at points along the way.

I do question the implications of Guillory's lead, in which he suggests that readers and potential readers are either customers or citizens. In fact, of course, they are both. If newspapers treat them as "citizens" only, the danger is we lose them as customers. If newspapers treat them as "customers" only, the danger is that the moral purpose will go out of newspapering.

Our challenge these days, it seems to me, is to avoid either of those results. We need to do more than one thing at a time. Good newspapers have always managed that.

In this dialogue, no one, as far as I know, is suggesting that newspapers relinquish their watchdog role. The trick is to play the role effectively—and in a context that encourages strong readership of public affairs reporting. It is not enough to print our stories about government and politics and go away feeling righteous, if our coverage doesn't really *reach* the people we're trying to serve.

\* \* \*

**Rich Oppel**, *editor,*  
*The Charlotte Observer*

I don't think Tony Lewis and Jim Batten are in conflict at all in what they say, certainly not in the notion of a difference in viewing people who buy newspapers as citizens (Lewis) versus customers (Batten).

Even Guillory notes Batten's call for newspapers to become active in voter registration efforts, and I can think of no situation in which a newspaper would address a reader more squarely as a citizen than in informing him and encouraging him to register to vote—and then to vote.

As for Lewis's point about the press going soft on the presidency, we and other Knight-Ridder newspapers are represented on the White House beat by Owen Ullman (who I hired into journalism in Detroit), and who I think provides solid, skeptical coverage of the presidency.

I understand how Guillory might have seen, on the surface, that our switch of the Dan Quayle story between the first and final editions on the Dan Quayle story last April [1989] was a diminution of a serious angle. The early version focused on busing ("Vice President Calls Busing a Failure"), the later version seemed softer ("Visit Leaves Little Time For Relaxation").

Yet, if you read the two versions [see pages 35-37], I think you will see that the first piece was a relatively shallow, early account of Quayle's boiler-plate remarks on busing. One more Republican knocking busing. A no-newser. I won't hold up the second version as a paragon of weightiness, but the article told what Quayle did and said—and, frankly, he didn't do or say much.

In any event, I think Guillory writes wisely about an important issue that concerns many of us today, how to hold to our traditional values (at least those worth holding to) and yet respond to the reader's interests. It does become a matter of giving up some of the editor's power to the reader. If we respect the American voter's ability to choose leaders, I think we also can also respect the American newspaper reader's ability to participate in the decision about what goes into his newspaper.

This is not easy. Some of those same people Guillory aptly describes as having gone into journalism because of their interest in public affairs today are responsible for seeing that newspapers stay alive as an institution—and that means selling them, one by one. I'm confident we can, and not abandon the historic role of the American newspaper.

—continued on page 37



# A Tale of Two Stories

The following stories appeared in *The Charlotte Observer* on April 18, 1989. The first, by staff writer Jim Morrill, reports on Vice President Dan Quayle's remarks about busing in Charlotte. In the *Observer's* later editions, however, the article by staff writer Ricki Morell appeared, replacing the article on busing. Which article had more substance to it? Which article was more entertaining? You be the judge.

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## Quayle Spends a Day in Charlotte

### Vice President Calls Busing a Failure

CHARLOTTE— Vice President Dan Quayle, appearing at a Charlotte-Mecklenburg school that's combined integration with academic excellence, said Monday that forced school busing has not worked.

"I think mandatory busing, without any flexibility, is a tool that has proven to be not very successful," he said at a news conference at First Ward Elementary School. "Even those who have traditionally promoted that as a way to achieve desegregation have admitted that it has not been ... successful."

Quayle, whose comments came after meetings with students, teachers and parents, could name no specific school systems in the country where mandatory busing had failed.

Asked whether forced busing has failed in Charlotte-Mecklenburg, where it has been used to desegregate schools for nearly 20 years, Quayle said, "I do not know enough about this particular school district to give you an intelligent comment."

Quayle's visit to First Ward—one of four N.C. schools cited in the federal Outstanding School Recognition Program last year—was the first of a series of appearances. He also met with editors of *The Charlotte Observer*, attended two Republican receptions and spoke to more than 1,300 at a banquet of Concerned Charlotteans, a conservative group.

Quayle's appearance at the banquet was engineered by Sen. Jesse Helms, R-N.C., one of five "special guests" on the program who failed to

attend. No-shows included GOP Gov. Jim Martin, who was ill; Lt. Gov. Jim Gardner; Rep. Alex McMillan, R-N.C.; and Democratic N.C. Attorney General Lacy Thornburg.

Though alluding to a shared "pro-family" agenda, Quayle spoke almost exclusively about taxes and defense. Some Concerned Charlotteans said Quayle's failure to emphasize social issues did not bother them.

"I think there's no dispute about where Quayle stands on those issues," said Charlotte developer Steve Walsh. "The mere fact that he is present here endorses the issues and positions that this group supports."

Earlier, Quayle said his speech to the conservative group did not signal, as some critics have suggested, that he has become the Bush administration's "spear carrier" for the right.

"First of all, I've come here to this school," he said. "I don't know if they (the students) thought I was the spear carrier for the right wing of my party.... I'm going from here down to *The Charlotte Observer* to meet with the editorial board. They may think that. I don't know."

"I don't know what their political goals are," he said of Concerned Charlotteans. "But from what I do know, they stand for traditional values. Strong defense. Pro-George Bush. For Dan Quayle. For issues we feel are important."

During his meeting with *Observer* editors, he refused to say whether he would support a constitutional amendment saying life begins at concep-

—continued on page 37

## Visit Leaves Little Time for Relaxation

CHARLOTTE— Vice President Dan Quayle ducked into the Adam's Mark hotel room, slipping off his navy blue suit jacket.

The door closed.

Outside in the lobby, tall men with wires in their ears waited.

Reporters whispered, "What's going on?"

Minutes later Quayle reappeared, wearing his new red First Ward Elementary T-shirt and navy jogging shorts.

"Let's go," he said, grinning as he sprinted down the back stairs into a black limousine.

"Let's go," said the tall men, including reporters and police.

They made a 15-car caravan of flashing lights and dark cars, down 3rd Street to Kings Drive.

Then, on a sunny Charlotte afternoon, the vice president of the United States ran four times around Memorial Stadium.

It was probably the most relaxed 15 minutes of his six-hour, 45-minute visit to Charlotte on Monday.

At 1:30 p.m., he sang, "My Country 'Tis of Thee" with schoolchildren in the First Ward auditorium. At 7 p.m., he accepted the first annual Traditional American Family Award of 1989, before more than 1,300 Concerned Charlotteans in the convention center.

At First Ward, the waiting began at 1:15 p.m. In the faculty lounge, Quayle's favorite soft drink, Sprite, was being chilled.

In the auditorium, about 700 fourth through sixth graders found their seats. The band practiced "Reveille Rock."

At 1:38, assistant principal Carl Flamer said, "I have just gotten word that there is a helicopter in the vicinity."

Silence.

"I have just gotten an official sign ... that he is now in the building," Flamer added.

Gasps.

"The vice president of the United States."

Applause.

From behind a blue curtain, rented espe-

cially for the occasion, emerged Quayle, 41.

In a navy suit, white shirt and gray and maroon striped tie, he was stiff but smiling.

He shook the hand of the first child he encountered.

Then, with his right hand on his heart, his left hand moving nervously at his side, Quayle joined the assembly in saying the Pledge of Allegiance.

In brief remarks, he spoke of the strength of President Bush's commitment to education and the importance of saying no to drugs.

Quayle accepted gifts graciously, including T-shirts for himself and his three children, and then hurried off to Tina Wilson's sixth-grade classroom.

The children were sitting at their desks, corraled by a yellow rope. The press stood behind.

"Welcome to Room 201," said Wilson, wearing a corsage.

Quayle took a seat at a child's desk, hung his jacket on the back of his chair, folded his hands and listened.

He asked the children questions: "Is this—science class—the best class of the day? What's the most favorite experiment you've done?"

The children weren't given time to ask their own questions but did present him with a plaque.

"I guess vice presidents don't stop by here too often," Quayle said as he was leaving.

Later, Quayle held a new conference, then met with Republican party loyalists [sic] and the editorial board of *The Charlotte Observer*. He seemed the most relaxed during the small private sessions.

At the 3 p.m. news conference at First Ward, he was polite but obviously still sensitive to questions about his qualifications.

"I understand that in Washington the general feeling is you're doing better than expected," said a reporter.

"I'm glad that you asked that question,"

—continued on page 37

## Hugh Stevens, *general counsel, North Carolina Press Association*

I teach my Duke University seminar in First Amendment policy from a distinctly Meiklejohnian point of view.<sup>1</sup> I stress to my students that, as I understand it, the "preferred position" conferred on the press by the First Amendment involves an implicit bargain: the press was freed from the government so that it could tell the people about the government. Thus I tend strongly toward the view that telling people what they need to know in order to be informed, participating citizens is the highest calling—indeed, the constitutional duty—of the press.

Unfortunately, a substantial portion of the people seem not to want to be well informed about

government affairs. As Guillory notes, people seem increasingly caught up in themselves, either out of opportunity (more money, more leisure) or necessity (working overtime in order to earn more money). They are, in his words, "nonvoters and nonsubscribers." He implies that, for a variety of reasons, people are growing less interested in government, politics, and public affairs.

While there is some evidence to suggest that public apathy toward government is increasing, my congenital iconoclasm and my lawyer's skepticism lead me to wonder whether the perceived decline is as dramatic as we tend to think.

For example, when we talk about "declining political participation" and "falling voter turnout," what benchmarks are we using? Throughout the history of the Republic, the franchise has gradually been extended to persons who were legally excluded from voting in the Founding

## A Tale of Two Stories — *continued from pages 35 and 36*

from "Busing a Failure," early edition:

tion. He said he favors delegating the issue to states. Concerned Charlotteans strongly opposes abortion.

Also during that interview, Quayle acknowledged that he's still bothered by persistent ridicule of his background and qualifications.

"Do I like the jokes?" he said. "No. But we'll live with it."

Asked if he'd changed since the election, Quayle said, "I hope so. If you go a year ago, I would describe myself as a capable, confident senator from the state of Indiana. I was young then."

from "Visit Leaves Little Time," later edition:

Quayle responded with chilly humor, "because I try to do that at every press conference—make sure someone says, 'Gee, you're doing a lot better than we all expected.'"

"So I thank you for bringing that up. If you

hadn't brought it up, I would have brought it up."

It was a considerably more relaxed Quayle who managed the 4:30 p.m. jog, though the outing was no quiet commune with nature.

In front and behind him ran Secret Service agents carrying two-way radios. Above him circled a helicopter.

"C'mon, why don't you join us?" Quayle called to the entourage of men in dark suits and women in high heels milling around the edge of the field.

Beside him ran five photogenic young men, all Republicans and First Union bank employees.

"It was not a setup," said Tracey Warren, part of the advance team.

"We just happened to be here playing Frisbee," said Richard Pace.

When Quayle stopped running, his cheeks were rosy, his cornflower blue eyes bright.

"You guys gonna show up for practice tomorrow?" he joked to the five young men.

"He's in better shape than I am," said Richard Davis.

Fathers' time: persons who do not own real property; women; blacks; and persons under 18. Other barriers to voter registration, such as poll taxes and literacy tests, also have been erased.

Therefore, to say that the percentage of "eligible voters" who vote has declined steadily in recent years is to state a statistical fact, but it is a misleading fact. Between 1972 and 1988, the percentage of persons over 65 who voted in presidential elections actually *increased*, while participation among those 45-64 remained just about steady. The group that was least likely to vote, those aged 18-24, was also the group whose participation declined by the largest percentage over those years.

Such figures suggest to me that, by steadily expanding the franchise, we have labeled as "participants" some persons (such as 18-, 19- and 20-year-olds) who are congenitally inclined to be non-participants. If we carefully analyzed the demographics, we *might* conclude that our basic political apparatus—i.e., the election of public officials—is controlled by essentially the same segment of society which controlled it when the franchise was not so universal.

Thus, when we talk in terms of the press' obligation and ability to "inform the people" in order to keep democracy functioning, shouldn't we ask *which* people we mean? Perhaps our society tends to divide naturally into participants and non-participants, and the recent data should be viewed not as indicating that true participation has declined, but that our expectations have been unrealistic.

If our society *does* divide naturally into these two groups, then the dilemma posed by Guillory's article is not a dilemma at all: newspapers should cover government fully and aggressively for the benefit of the participants, but if they wish to attract non-participants, they had better stress features, sports, and other "entertainment." Indeed, newspapers have always included both types of content, with the balance between the two serving to define each newspaper's status. For example, *The New York Times* has defined itself as a "paper of record" by weighting itself heavily toward news about government, world affairs, and other "lofty" matters, whereas *The New York Daily News* has focused on crime, gossip, celebrities, and other "blue collar" fare. As a consequence, the *News'* circulation and readership have been much greater than the *Times'* for many years.

This same sort of demarcation between newspaper audiences, which is even more pronounced in Britain, existed in most U.S. cities until recently. In many instances, the A.M. daily was seen as the businessman's newspaper, whereas afternoon dailies often contained a high concentration of sports news, features, and other "entertainment" content. And, while it is correct to say that the number of "daily newspapers" has declined over the last 40 years (from 1,763 in 1946 to 1,643 in 1988), what really has happened is that there has been a dramatic shift from afternoon newspapers to morning and Sunday newspapers. Since 1946, the number of afternoon papers has declined from 1,429 to 1,150; during the same period, the number of morning dailies has *grown* from 334 to 525, while the number of Sunday papers has *grown* from 497 to 834. Although any definitive analysis would require much more concerted study, I suspect that these figures may tell us that while the number of daily newspaper subscribers has remained flat since the early 1960s, the people who are no longer reading newspapers are largely "non-participants" who read newspapers primarily for "entertainment" in the first place. Why buy a newspaper if "Entertainment Tonight" and "A Current Affair" will give you the same stuff for free and the only daily available in your market is filled with information about government which you find boring or intimidating to read?

Somewhere in the analysis we should also find room for the startling fact that while daily newspaper readership has remained flat for 30 years, the circulation figures for non-dailies have soared, as have those of the "supermarket tabloids."

In sum, I think it is possible that, despite our egalitarian theories, our society may tend to divide naturally into "participants" and "non-participants." If so, the future of democracy does not rest with everyone, but with those who care, and we had better be damned sure that we provide *them* with what they need to know, if for no other reason than because no one else is doing it. ☐

#### FOOTNOTE

<sup>1</sup> After Alexander Meiklejohn, a noted legal expert on the constitution and the free press, and author of *Free Speech and Its Relation to Self-Government*, 1948. The book has been out of print for years, but frequently is cited for Meiklejohn's views about the freedom of the press.



## *The Demographics of the Judiciary: No Longer a Bastion of White Male Democrats*

by Katherine White, Dale McKeel, and Jack Betts

*This regular Insight department usually examines policymaking and the decision-making process in the judicial branch of state government. But this installment takes a look at the demographics of the judiciary and reveals some eye-opening statistics about those who sit in judgment of North Carolina's 6.5 million citizens.*

**F**or the first six decades of this century, you could walk into any courtroom in North Carolina and find the same thing as in the General Assembly or the Office of the Governor: a white male Democrat in charge. That began changing in the late 1960s in the General Assembly and in 1972 when a Republican took over the Office of the Governor, but the N.C. judiciary remained largely insulated from such changes.

Those days are only now beginning to pass. Of North Carolina's 261 active judges at all levels, 38 are Republicans—14.6 percent of the state's judiciary. The judiciary comprises four different court levels in North Carolina's General Court of Justice: the seven-member N.C. Supreme Court, the 12-member N.C. Court of Appeals, the 74 judges of the Superior Court (plus three Special Superior Court judges) and the 165 judges of the District Court. Democrats, who just a few years ago held nearly all of the judgeships, are down to 85.4 percent of the judiciary.

Similarly, blacks and Indians have begun making inroads. North Carolina now has 24 black judges—9.2 percent of the judiciary, and 2 Indian judges, comprising 0.8 percent, while there are 235 white judges—90 percent. And more women are judges as well. Of the 261 sitting judges, 22 are female, or 8.4 percent of the total, while 239 are male, or 91.6 percent of the total.

Thus, women, minorities, and Republicans have made some progress in gaining representation on the bench, but that progress has been slow and does not begin to match their numbers among the state's general population. For example, North Carolina's voter registration ratio is 64.2 percent Democratic and 30.8 percent Republican (with 5 percent registered in other categories), but the judiciary is more than 85 percent Democratic. The statewide racial breakdown is 76 percent white, 21.8 percent black, and 1.1 percent Indian or other race, but the judiciary is 90.4 percent white. And the statewide gender makeup is 48

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*Katherine White is a Raleigh lawyer with the firm of Everett, Gaskins, Hancock and Stevens, and is a frequent contributor to North Carolina Insight. Dale McKeel, an N.C. Center intern who did the demographics research for this article, is a graduate student in the Department of City and Regional Planning at the University of North Carolina at Chapel Hill. Jack Betts is editor of North Carolina Insight.*

percent male and 52 percent female, but the judicial makeup is 91.6 percent male.

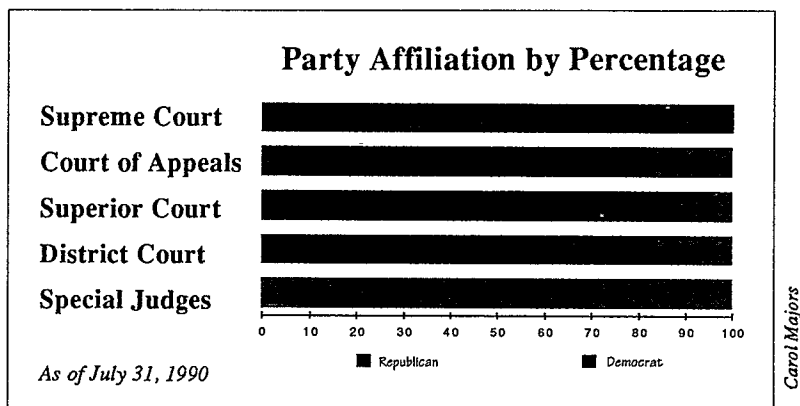
What difference does all this make? It depends upon how you view the judiciary. Unlike a legislative body, the judiciary traditionally has not been perceived as a group that should be representative of the population, but rather should have certain characteristics that enable it to judge fairly and impartially, regardless of demographics. U.S. Senator Roman Hruska, Republican of Nebraska, once argued, in defense of a presidential nomination for an associate justice of the U.S. Supreme Court, that mediocrity deserved representation on the Supreme Court. Hruska's words did not sway his colleagues, who turned down the appointment. They agreed with the traditional view that more importance should be attached to legal training, experience, temperament, and scholarly ability than to one's race, gender, political affiliation, or other demographic characteristics. Yet because there are so many groups in a society as large as ours, many observers believe it's important that society feel that the judiciary is broadly drawn.

As Chief Justice James G. Exum Jr. puts it, "The bench needs to be broadly representative of the makeup of society generally. Judges are passing daily on the fortunes, the liberties, and on the lives of our citizens. It is important for the public to know they are represented racially, sexually, and politically." Does that mean that a judge's gender or race or political party makes a difference in the outcome of a case? Exum says no. "We're all working from the same set of law books and we are all trying to apply the law evenhandedly and fairly," Exum says. What is important is "that justice not only be done but that it be perceived to be done," Exum adds.

## Several Factors Bring About Change in Judicial Makeup

Several factors account for these changing—however slowly—demographics of the bench. The emergence of a two-party state has resulted in the political changes.<sup>1</sup> Not only have the state's two Republican governors been able to

appoint more GOP judges, but Republicans have been running for and winning judgeships on their own as well. Of the current judiciary, 15 Republicans ran for and won their judgeships



outright without first having been appointed to the post. In the same way, blacks and women have made inroads by the ballot box. Federal court litigation has forced North Carolina to increase the number of minorities on the bench,<sup>2</sup> and the women's movement of the 1970s has led to a steady increase in the number of female law students and more female lawyers—to the point that one in five lawyers in North Carolina is a woman.<sup>3</sup>

A decade ago, the N.C. Center for Public Policy Research evaluated the performance and makeup of the N.C. judiciary, including an examination of the appellate courts and the Superior Court judiciary for their political and gender makeup (the District Court bench was not included).<sup>4</sup> In 1980, the survey found, there were 85 judgeships in the Superior Court and appellate judiciary; 84 of them were filled by Democrats and 84 were filled by males. There was one white Republican, making the upper level of the judiciary 98.8 percent male and 98.8 percent Democratic. The 1980 survey did not examine race or other demographic elements.

But a new 1990 survey by the Center found that on the same levels—the Superior Court and appellate bench—women had made progress, though significantly less progress than Republicans. By July 30, 1990, when there were 96 judgeships at these levels, 92 were held by males and only 4 by women—in other words, 95.8 percent male, 4.2 percent female. But 11 Republicans now hold judgeships compared to 85 Democrats, or 11.5 percent Republican compared to

**Table 1. Party Affiliation of North Carolina Judges**

	Democrat		Republican		Total	
<b>All Judges</b>	<b>223</b>	<b>85.4%</b>	<b>38</b>	<b>14.6%</b>	<b>261</b>	<b>100.0%</b>
Supreme Court	7	100.0%	0	0.0%	7	100.0%
Court of Appeals	10	83.3%	2	16.7%	12	100.0%
Superior Court	68	91.9%	6	8.1%	74	100.0%
District Court	138	83.6%	27	16.4%	165	100.0%
Special Judges	0	0.0%	3	100.0%	3	100.0%
<b>Registered Voters in North Carolina</b>	<b>2,019,800</b>	<b>64.2%</b>	<b>969,349</b>	<b>30.8%</b>	<b>3,147,867</b>	<b>100.0%</b>

Note: 158,718 voters (5.0%) are registered as unaffiliated.

Source: N.C. Center survey in July 1990 based on data from the State Board of Elections, Administrative Office of the Courts, local boards of elections, and interviews with judges.

Table by Dale McKeel

As of July 31, 1990

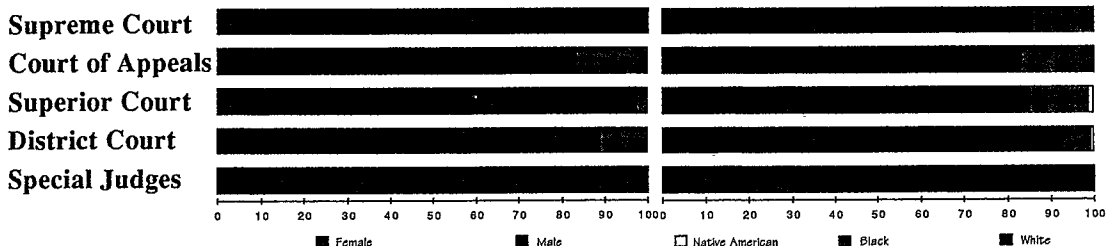
88.5 percent Democratic.

The Center's 1990 survey examined all levels of the judiciary, and revealed that much of the progress for women and for Republicans was coming at the District Court level. While there are no 1980 data to compare progress of these groups, the 1990 survey shows that of the 165 district court judges, 18 of them (10.9 percent) are women and that 27 (16.4 percent) are Republicans. The survey also showed that blacks have made steady progress in the trial courts judiciary.

Ten of the 74 regular Superior Court judges are black (13.5 percent) and 11 of the 165 District Court judges are black (6.7 percent).

Is there a noticeable difference in the decisions of these groups, or on the policymaking process? The presence of women and minorities on the bench and their impact on the judicial process have been studied a number of times over the years, and for the most part, these studies have found that neither group sentences differently from the way their white male counterparts have,

**Gender of Judges by Percentage    Minority Judges by Percentage**



As of July 31, 1990

**Table 2. Gender of North Carolina Judges**

	Male		Female		Total	
<b>All Judges</b>	<b>239</b>	<b>91.6%</b>	<b>22</b>	<b>8.4%</b>	<b>261</b>	<b>100.0%</b>
Supreme Court	7	100.0%	0	0.0%	7	100.0%
Court of Appeals	10	83.3%	2	16.7%	12	100.0%
Superior Court	72	97.3%	2	2.7%	74	100.0%
District Court	147	89.1%	18	10.9%	165	100.0%
Special Judges	3	100.0%	0	0.0%	3	100.0%
<b>General Population of North Carolina</b>	<b>3,179,037</b>	<b>48.1%</b>	<b>3,434,354</b>	<b>51.9%</b>	<b>6,613,391</b>	<b>100.0%</b>

*Source:* Department of Administration; N.C. Center survey in July 1990; and data from the Administrative Office of the Courts.

*As of July 31, 1990*

*Table by Dale McKeel*

**Table 3. Minority Judges in North Carolina**

	White		Black		Native American		Total	
<b>All Judges</b>	<b>235</b>	<b>90.0%</b>	<b>24</b>	<b>9.2%</b>	<b>2</b>	<b>0.8%</b>	<b>261</b>	<b>100.0%</b>
Supreme Court	6	85.7%	1	14.3%	0	0.0%	7	100.0%
Court of Appeals	10	83.3%	2	16.7%	0	0.0%	12	100.0%
Superior Court	63	85.1%	10	13.5%	1	1.4%	74	100.0%
District Court	153	92.7%	11	6.7%	1	0.6%	165	100.0%
Special Judges	3	100.0%	0	0.0%	0	0.0%	3	100.0%
<b>General Population *</b> <b>of North Carolina</b>	<b>5,006,337</b>	<b>75.7%</b>	<b>1,441,719</b>	<b>21.8%</b>	<b>72,748</b>	<b>1.1%</b>		<b>100.0%</b>

\* Note: The 1988 County and City Data Book identifies 1.0% of the state's population as Hispanic, and 0.4% as Asian/Pacific Islander.

*Source:* 1988 County and City Data Book; N.C. Center survey in July 1990; and data from the Administrative Office of the Courts.

*As of July 31, 1990*

*Table by Dale McKeel*



but that perceptions have been an important factor. In *Race Versus Robe: The Dilemma of Black Judges*, respondents to a survey thought that the presence of a black judge enhances the chance for justice for blacks. As one judge reasoned, "The mere presence of a black judge is going to influence his white associates in their thinking. Secondly, because he is in, shall we say, the councils of the mighty, with policies being fixed that's [sic] going to control the police department, the prosecutor's office, and so forth, he can make the input that blacks would like to have with respect to the formulation of that policy. And if he's on his toes, he will do that. Thirdly, of course, he serves as a rallying point . . . . He gives a sense of dignity to blacks generally, and particularly to the youngsters from various schools who come down to visit the courts . . . . When they see the black judge there in the flesh, they realize there's hope for them, that they might also one day achieve their highest ambition."<sup>5</sup>

Not surprisingly, what women bring to the bench is similar. Elaine Martin, associate professor of political science at Eastern Michigan University, puts it this way: "Their differences might influence such things as decisional output, especially in cases involving sex discrimination; conduct of courtroom business, especially as regards sexist behavior by litigators; influence on sex-role attitudes held by their male colleagues; especially on appellate courts where decisions are collegial . . . ."<sup>6</sup>

But perhaps a Washington state prosecutor has put it in the most direct terms. Ric Martinez, a Hispanic prosecutor in Seattle, Wash., put it this way: "You can have sensitivity sessions 'til the cows come home. But if you don't have minority faces up on the bench, you're not going to have an impact on the system and its built-in biases. Not only will a minority judge be able to better understand the position of a minority defendant, but that same judge will have a sensitizing effect on his fellow judges."<sup>7</sup>

## Is There a Political Impact?

**A**nd how about the political impact? Does that show up in decision-making, or is its importance more a matter of balanced representation and public confidence in a system that is not dominated totally by one political party? Court of Appeals Judge Robert Orr, a Republican, says, "I think it's important that the judicial system be represented by a broad cross section of indi-

viduals and that certainly includes gender, race, political affiliation, and judicial philosophy." Orr believes that, particularly at the appellate level where cases are decided by panels of judges, "the range of different experiences and different perspectives on a panel provides the necessary broad scope of legal analysis so important to the decision-making process. If you have a panel consisting only of three older white male Democrats who came on the bench from the district attorney's office, do you really have a cross-section of thinking on a particular issue? Or, for that matter, any three judges sitting on a panel, all of the same gender, race, party, and background?" Even so, says Orr, political affiliations do not decide cases. "I have not seen party affiliation or gender or race play a deciding factor in how a case is decided," he says.

## GOP Progress

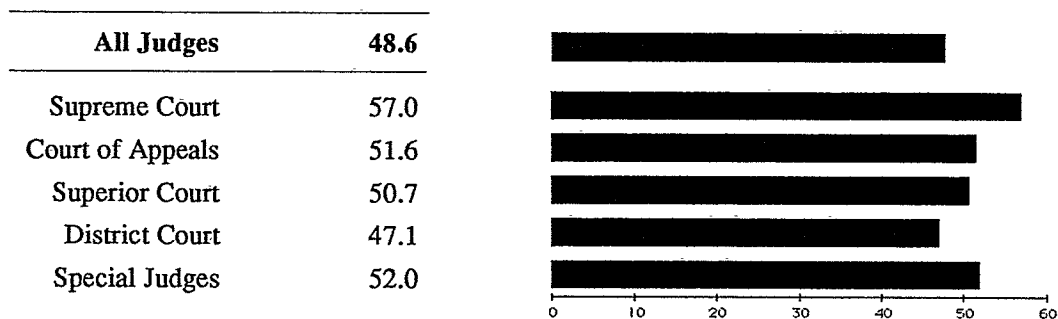
**W**hat other demographic items of interest turned up in the Center's study? In party affiliation, Republicans have made the most progress on the Court of Appeals, where they constitute 16.7 percent, and on the District Court bench, where they constitute 16.4 percent. But they have no members on the Supreme Court and only 8.1 percent on the Superior Court bench.

Women have made their presence felt on the same two benches. Women make up 16.7 percent of the Court of Appeals and 10.9 percent of the District Courts, but 0 percent of the Supreme Court and only 2.7 percent of the Superior Court judgeships.

Minorities, meanwhile, have done better at the upper levels. Blacks comprise 14.3 percent of the Supreme Court, 16.7 percent of the Court of Appeals, and 13.5 percent of the Superior Court, but only 6.7 percent of the District Court bench, and none of the three Special Superior Court judgeships.

The average age of North Carolina's judges is 48.6 years. The state's District Court judges average 47.1 years of age; the Superior Court judges, 50.7 years; the Court of Appeals, only slightly older at 51.6 years; and the Supreme Court, considerably more mature at a grand old 57. But female judges are on average much younger than male judges, reflecting the fact that women have only recently increased their numbers on the judiciary. Women judges on the Court of Appeals average 43, while men average 10 years older—53.3 years of age. On the Superior

**Table 4. Average Age of North Carolina Judges**



Source: N.C. Center survey in July 1990; and data from the Administrative Office of the Courts.

As of July 31, 1990

Table by Dale McKeel

Court, women average 37 years of age, while men average 51. On the District Court bench, women average 43.4, while men average 47.5. (The averages for female judges on the Court of Appeals and Superior Courts may not be that significant, because there are only two women judges on each court.)

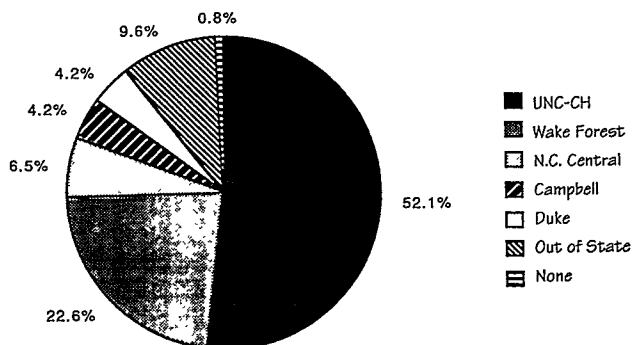
## Carolina, Wake Law Schools Most Frequent Training Grounds

**L**egal training is also a key element of judicial demographics, and the Center's research found that there still are two of the state's 261 judges who did not graduate from law school. Prior to 1980, the N.C. Constitution did not require judges to be licensed to practice law,<sup>8</sup> and because judges are selected by election in North Carolina, there were a number of judges who had not been to law school and who had thus not been licensed to practice. Those judges who were already on the bench were allowed to remain as long as they could win re-election, but their number is now down to two on the District Court bench—Judges Stephen M. Williamson of Kenansville and Arnold O. Jones of Goldsboro.

Of the remaining 259 judges, more than half went to law school at UNC-Chapel Hill. Carolina's law school claims 136, or 52.1 percent of the judges; followed by Wake Forest Law School with 59, or 22.6 percent; N.C. Central University with 17 judges, or 6.5 percent; Campbell University and Duke University each with 11 judges, or 4.2 percent; and 25 law schools in other states with the remaining 9.6 percent—except for the 0.8 percent who didn't go to law school.

The Center's survey also examined the geographic elements of the state's judiciary, and found, not surprisingly, that most of North Carolina's judges hail from the populous Piedmont area of the state, and the fewest from the

## Law School Attended by N.C. Judges



As of July 31, 1990

western reaches. The 35-county Piedmont, stretching from Hickory in the west to Raleigh in the east, has 125 of the state's 239 trial court judges—40 of the Superior Court judges and 85 of the District Court judges—or 52.3 percent of the state's trial judges. The Piedmont has 54.6 percent of the state's population.

By contrast, the 24-county western section of the state has 32 of the trial court judges, including nine Superior Court judges and 23 District Court judges—representing 13.4 percent of the state's trial judges. The region has 14.2 percent of the state's population. And the 41-county eastern region of the state has 82 of the 239 trial judges—25 Superior Court and 57 District Court judges—representing 34.3 percent of the trial judges. The region holds about 31.2 percent of the state's population. Thus, the trial court judiciary ap-

proximates the population distribution in North Carolina.

But in the appellate judiciary, the Piedmont has a larger share and the eastern and western regions have a smaller share of the judges. Twelve of the 19 appellate judges come from the Piedmont (63 percent of the appellate judges), while five come from the East (26 percent) and only two (11 percent) hail from the West.

### Most Judges Are Appointed, Not Elected

And the Center's survey confirmed once again that, while the North Carolina court system professes to have an *elective* judiciary, in fact most judges are first *appointed* to their judgeships. Of the 261 judges sitting on the bench, 160

**Table 5. Law School Attended by North Carolina Judges**

	UNC-CH	Wake Forest	N.C. Central	Campbell	Duke	Out of State	None	Total
<b>All Judges</b>	<b>136</b> 52.1%	<b>59</b> 22.6%	<b>17</b> 6.5%	<b>11</b> 4.2%	<b>11</b> 4.2%	<b>25</b> 9.6%	<b>2</b> 0.8%	<b>261</b> 100.0%
Supreme Court	3 42.9%	1 14.3%	0 0.0%	0 0.0%	0 0.0%	3 42.9%	0 0.0%	7 100.0%
Court of Appeals	7 58.3%	3 25.0%	1 8.3%	0 0.0%	1 8.3%	0 0.0%	0 0.0%	12 100.0%
Superior Court	48 64.9%	14 18.9%	4 5.4%	0 0.0%	5 6.8%	3 4.1%	0 0.0%	74 100.0%
District Court	77 46.7%	39 23.6%	12 7.3%	11 6.7%	5 3.0%	19 11.5%	2 1.2%	165 100.0%
Special Judges	1 33.3%	2 66.7%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%	3 100.0%

*Source:* N.C. Center survey in July 1990; and data from the *Martindale-Hubbell Law Directory, North Carolina Manual (1989-1990)*, the Administrative Office of the Courts, and interviews with judges.

*As of July 31, 1990*

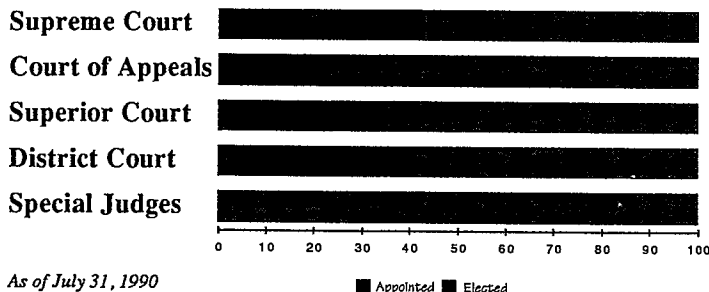
*Table by Dale McKeel*

of them—or 61.2 percent—were first appointed to the post they occupy, although they may since have won election to the same judgeship, while 99—or 38 percent—got to their current judgeships by the elective route.

By type of court, four of seven Supreme Court justices, or 57.1 percent, were first appointed to their posts; eight of 12 Court of Appeals judges, or 66.7 percent, were appointed; 48 of 74 Superior Court judges, or 64.9 percent, were appointed; and 97 of 165 District Court judges, or 58.8 percent, were appointed. By law, the three Special Superior Court Judges are appointed. These findings are consistent with other surveys of the judiciary. In 1987, the Center found that 59 percent of the state's existing judiciary had been appointed, compared to 1990's 61.2 percent.<sup>9</sup>

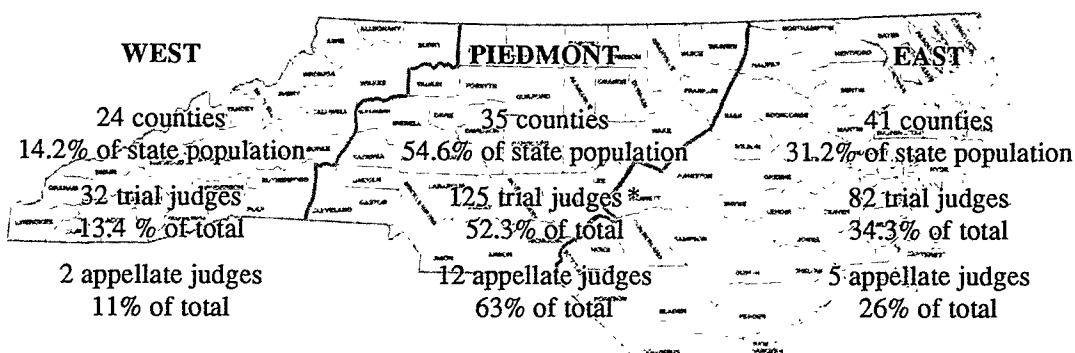
And finally, the Center found that former Gov. Jim Hunt appointed more of the state's exist-

## Percentage of Judges Elected Versus Appointed to their Judgeships



ing judiciary than has Gov. Jim Martin, who has been in office for nearly six years (since January 1985). Hunt served eight years from 1977-1985. Of the 261 judges currently on the bench, Hunt appointed 79 of them—or 30.3 percent of the state's judiciary. Martin, meanwhile, has named 47 of the current bench—or 18 percent of the state's judiciary. Of the 160 appointed judges (some were appointed by previous governors), Hunt named 49.4 percent of them, while Martin named 29.4 percent of them.

**Table 6. Geographic Distribution of North Carolina Judges**



Source for geographic divisions of the state:

Ole Gade, H. Daniel Stillwell, *North Carolina People and Environments* (Boone, N.C.: Geo-App Publishing Company, 1986)

Source for county population data: *North Carolina Manual*

Source for judicial data: N.C. Center survey in July 1990; and data from the Administrative Office of the Courts, *Martindale-Hubbell Law Directory*, and *North Carolina Courts Directory*.

As of July 31, 1990

Table by Dale McKeel

**Table 7. Whether Judges Were First Appointed  
or Elected to Current Position**

	Elected		Appointed		Total	
All Judges	101	38.7%	160	61.3%	261	100.0%
Supreme Court	3	42.9%	4	57.1%	7	100.0%
Court of Appeals	4	33.3%	8	66.7%	12	100.0%
Superior Court	26	35.1%	48	64.9%	74	100.0%
District Court	68	41.2%	97	58.8%	165	100.0%
Special Judges	0	0.0%	3	100.0%	3	100.0%

Source: N.C. Center survey in July 1990; and data from *North Carolina Reports*, *North Carolina Court of Appeals Reports*, *North Carolina Manual* (1989-1990), and the Administrative Office of the Courts.

As of July 31, 1990

Table by Dale McKeel

**Table 8. Judicial Appointees by Governors  
James B. Hunt Jr. and James G. Martin**

	Hunt Appointees Still on the Bench		Martin Appointees Still on the Bench	
All Judges	79	30.3%	47	18.0%
Supreme Court*	4	57.1%	0	0.0%
Court of Appeals	4	33.3%	2	16.7%
Superior Court	17	23.0%	6	8.1%
District Court	54	32.7%	36	21.8%
Special Judges	0	0.0%	3	100.0%

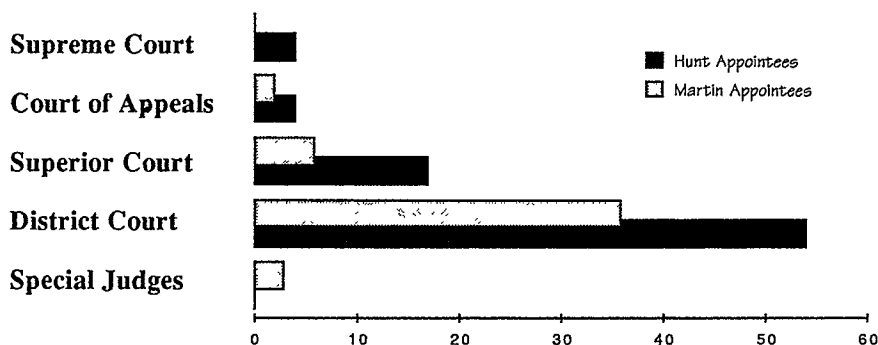
\*Percentages indicate the proportion of judges at each level that were appointed by Governors Hunt and Martin, respectively, and still on the bench.

Source: N.C. Center survey in July 1990; and data from *North Carolina Reports*, *North Carolina Court of Appeals Reports*, *North Carolina Manual* (1989-1990), and the Administrative Office of the Courts.

As of July 31, 1990

Table by Dale McKeel

## Judicial Appointments by Governors



As of July 31, 1990

Carol Majors

Hunt appointed four justices, or 57.1 percent of the Supreme Court, while Martin has no current appointees; Hunt named four judges of the Court of Appeals, or 33.4 percent, while Martin has named two, or 16.7 percent; Hunt appointed 17 of the current Superior Court judges, or 23 percent, while Martin has named six judges, or 8.1 percent; and Hunt appointed 54 of the District Court judges, or 32.7 percent, while Martin has named 36 of the District Court judges, or 21.8 percent. Martin has named all three of the Special Superior Court judges.

Of the current judiciary appointed by Hunt, a Democrat, all are Democrats; of the judges appointed by Martin, a Republican, most are Democrats. Because in many cases Martin had to pick from a list of Democrats nominated for District Court judgeships (state law requires nominees for District Court vacancies to be of the same political party as the judge who vacated the post<sup>10</sup>), Martin has appointed 29 Democrats to judgeships and 19 Republicans to such posts.

This survey of the state's judiciary makes it clear that most of North Carolina's judiciary is still white, male, and Democratic. But increasingly, the judiciary is becoming more reflective of the state's population. It may never mirror that population, but it likely will continue to diversify as more diverse views and backgrounds are brought to the state's trial and appellate benches. "Appointing authorities are becoming—and have been over the years—more sensitive to appointing women and minorities to the bench," notes Exum. But as their numbers continue to lag well behind their percentage in the general population, it's evident that there's plenty of room for improvement. ☐☐☐

## FOOTNOTES

<sup>1</sup>For more on how North Carolina increasingly has become a two-party state, see Vanessa Goodman and Jack Betts, "The Two Party System in North Carolina," a special report by the N.C. Center for Public Policy Research, December 1987.

<sup>2</sup>*Haith v. Martin*, 618 F Supp. 412 (E.D.N.C., 1985).

<sup>3</sup>Michael Vasu and Associates, "North Carolina Survey of Attorneys," cosponsored by the N.C. Association of Women Attorneys and the N.C. Bar Association, May 1, 1990. Vasu et al. found that in 1970, about 5 percent of the state's attorneys were women, but that by 1983, 15 percent were women and that in 1990, about 20 percent of the lawyers were women. That number should continue to grow, according to an informal survey of North Carolina's law schools conducted by Chief Justice Exum during the spring of 1990 for a speech. Exum said that about 43 percent of the law school students in North Carolina are women. See James G. Exum Jr., address on "Women and the Law: Changing Roles and Changing Attitudes in the 1990s," April 27, 1990, pp. 1-2.

<sup>4</sup>*Article IV: A Guide to the N.C. Judiciary*, N.C. Center for Public Policy Research, Raleigh, 1980, pages 15-215.

<sup>5</sup>*Race Versus Robe: The Dilemma of Black Judges*, Associated Faculty Press, Inc., National University Publications, Port Washington, N.Y., 1983, pp. 79-80.

<sup>6</sup>Elaine Martin, "Men and women on the bench: vive la difference?" *Judicature*, The Journal of the American Judicature Society, December-January 1990, Vol. 74, No. 4, pp. 204-208.

<sup>7</sup>Julie Emery and Alex Tizon, "More minority judges needed to end bias, say judge, prosecutor," *The Seattle Times*, October 5, 1988, page 1A.

<sup>8</sup>A constitutional amendment (Article 4, Section 22, N.C. Constitution) requiring judges to be authorized to practice law—"Only persons duly authorized to practice law in the courts of this State shall be eligible..."—was approved by the General Assembly in Chapter 638 of the 1979 Session Laws and adopted by the people on a 888,634 to 353,714 vote—72 percent for and 28 percent against—on Nov. 4, 1980.

<sup>9</sup>For more on judges in general and how they are chosen, see Jack Betts, "The Merit Selection Debate—Still Waiting in Legislative Wings," *North Carolina Insight* Vol. 9, No. 4, June 1987, pp. 14-21.

<sup>10</sup>G.S. 7A-142.



## *Former Legislators, Lawyers Dominate Lobbyist Rankings — Again*

by Mike McLaughlin

**T**he 1989-90 lobbyist rankings are in and—surprise—former legislators who are lawyers once again lead the pack. Of the 40 top lobbyists listed in the rankings, eight fit that description, including five of the top 10.

But a few lobbyists are proving you don't have to be an ex-legislator with a law degree and a long list of corporate clients to be influential with the General Assembly. Two of the top 10—including the highest ranking woman ever—are neither lawyers nor ex-legislators, and won their ratings representing associations. Another of the top 10—again a non-lawyer who has never held elected office—is a public interest lobbyist representing environmental organizations.

Still, the rankings show having a law degree and a seat in the General Assembly are the best preparation for later establishing a lucrative lobbying practice. That career path has been well beaten since the Center began conducting the lobbyist rankings during the 1981-82 session of the General Assembly by asking lobbyists, members of the N.C. House and Senate, and the capital press corps to identify the most influential lobbyists.<sup>1</sup> The 40 most influential lobbyists are selected from the more than 700 lobbyists and legislative liaisons registered with the Secretary of State's Office.

The top three spots in the 1989-90 rankings are a carbon copy of 1987-88. All are held by contract lobbyists who are lawyers and former legislators. Zebulon Alley is again the top-ranked lobbyist (see table). Alley is a former Senate

member who broke into lobbying in the 1981-82 session as the chief legislative liaison for former Gov. James B. Hunt Jr. Sam Johnson, a former House Appropriations Committee chairman, holds the second slot, and Al Adams, also a former House Appropriations Base Budget Committee chairman, ranks third.

Alley and Johnson represent a portfolio of well-heeled business interests. Adams, though he also represents business interests, says he does not fit the profile of a high-powered corporate lobbyist because he spends most of his time representing associations and nonprofit groups.

Still, Alley, Johnson, and Adams are what are known in the trade as contract lobbyists because they represent a range of clients with varied interests. Alley says contract lobbyists have two big advantages over either association or public interest lobbyists. One of them is increased visibility. "A contract lobbyist is in their hair all the time about a half a dozen things, so they get to know him, and he gets to know them," says Alley. Contract lobbyists also are able to exercise some control over which legislators get campaign contributions from corporate clients. "Legislators need money to run on and they don't have any of their own much, and so that's a help," says Alley. "It's helpful to a lobbyist if he is able to assist members of the General Assembly in races. It helps him to get his foot in the door."

*Mike McLaughlin is associate editor of North Carolina Insight.*

Alley downplays the importance of a law degree to lobbying. It is helpful, he says, mostly to the extent that a lawyer is comfortable with representing the interests of a client before a board or commission in the legislative or executive branch. But Alley says prior legislative experience is a definite plus. A former legislator generally knows the ins and outs of the legislative process and can trade on old friendships. "But if he's made enemies, they're there too," Alley adds.

Legislative experience in several cases has translated into an immediate high ranking in the Center's lobbyist rankings. Adams debuted at third when he moved from the legislature to lobbying for the 1985-86 session and has held that ranking for two subsequent sessions. Adams says trust is more important than old friendships in winning support for legislation. "My philosophy is a person is not going to vote for you because of friendship but because of your credibility and the job you do in convincing him of the necessity of

your cause," says Adams.

The latest example of a quick transition from lawmaker to high-powered lobbyist is Paul Pulley, a former House member from Durham. Pulley left the legislature after the 1985-86 session and tallied a seventh-place ranking for his lobbying efforts during the 1987-1988 session and again in the 1989-1990 session.

At least one lawmaker believes former legislators wield *too much* influence with the General Assembly, or at least lend the appearance of having too much influence. Rep. Walter Jones Jr. (D-Pitt) introduced an unsuccessful bill during the 1989 session that would have prohibited legislators from lobbying for two years after leaving the General Assembly.<sup>2</sup> When members leave the General Assembly and immediately turn to lobbying for private interests, Jones says they give the appearance that they are cashing in on their legislative experience and hurt the image of the body.

—continued on page 55

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*Zebulon Alley and Ward Purrington, both in private practice after serving as chief lobbyists to governors, chat outside the legislative chambers.*



Karen Tam



## Rankings of the Most Influential Lobbyists in the 1989 General Assembly

1989-90 Ranking	Previous Rankings (Where Applicable)				Lobbyist	Former Legislator	Law- yer
	1987-88	1985-86	1983-84	1981-82			
1	1	4	3	5	<b>Zebulon D. Alley</b> of the Raleigh law office of the Waynesville law firm of Alley, Killian, Kersten and Davis, representing 15 business and industry clients, including R.J. Reynolds Tobacco USA, Vulcan Materials Company, Control Data Corporation, Duke Power Company, Carolina Power & Light Corporation, Thomasville Furniture Industries, Inc., Southern Bell, Kaiser Foundation Health Plan of N.C., Microelectronics Center of N.C., and the N.C. Vending Association.	yes	yes
2	2	1	2	2	<b>Samuel H. Johnson</b> of the Raleigh law firm of Johnson, Gamble, Mercer, Hearn, & Vinegar, representing 19 clients with business/industry interests, including N.C. Associated Industries, N.C. Automobile Dealers Association, N.C. Association of Certified Public Accountants, the N.C. Chapter of the American Institute of Architects, and Waste Management, Inc.	yes	yes
3	3	3			<b>J. Allen Adams</b> of the Raleigh law firm of Adams, McCullough, & Beard, representing 15 clients with business/industry, arts, and health care interests, including Arts Advocates of N.C., N.C. Cemetery Association, N.C. Association of Electric Cooperatives, and the N.C. Retired Governmental Employees Association.	yes	yes
4	6	8			<b>William C. Rustin Jr.</b> of the N.C. Retail Merchants Association.	no	no
5	5	6	10 (tie)		<b>William E. Holman</b> , representing the N.C. Chapter of the Sierra Club, the Conservation Council of N.C., the N.C. Chapter of the American Planning Association, and the N.C. Public Transportation Association.	no	no
6					<b>Alice D. Garland</b> , then of the State Employees Association of N.C., and now with ElectriCities Corp. of N.C.	no	no

*—continued*

## Rankings of the Most Influential Lobbyists in the 1989 General Assembly

1989-90 Ranking	Previous Rankings (Where Applicable)				Lobbyist	Former Legislator	Law- yer
	1987-88	1985-86	1983-84	1981-82			
7	7				<b>W. Paul Pulley Jr.</b> of the Durham law firm of Pulley, Watson, King, & Hofler, representing business/industry, government, and health care interests, including Consolidated Coin Caterers Corporation, the N.C. Association of Life Underwriters, and the N.C. Association of Educators.	yes	yes
8	4	2	1	1	<b>John R. Jordan Jr.</b> of the Raleigh law firm of Jordan, Price, Wall, Gray, & Jones, representing 16 clients with business/industry and health care interests, including the N.C. Bankers Association, the N.C. Day Care Association, the American Express Company, and the N.C. Association of ABC Boards.	yes	yes
9	18				<b>John T. Bode</b> of the Raleigh law firm of Bode, Call & Green, which represents 14 corporate clients including Carolina Power & Light Company, Independent Insurance Agents of N.C., Masco, Inc., Southern Bell, Thomasville Furniture Industries, and Vulcan Industries.	no	yes
10	14				<b>Roger W. Bone</b> of the Raleigh lobbying firm of Bone & Associates, representing the N.C. Automobile Dealers Association, Blue Cross and Blue Shield of N.C., Chem-Nuclear Systems, the N.C. Association of Long Term Care Facilities, and The Tobacco Institute. Bone is also a part-time legislative liaison for the N.C. Department of Community Colleges.	yes	no
11	10				<b>Jay Robinson</b> , representing the University of North Carolina system.	no	no
12	8	5	4	4	<b>J. Ruffin Bailey</b> of the Raleigh law firm of Bailey & Dixon, representing the N.C. Credit Union League and the American Insurance Association.	yes	yes
13	23 (tie)				<b>Bryan Houck</b> of Southern Bell.	no	no
14	9	17	15		<b>C. Ronald Aycock</b> of the N.C. Association of County Commissioners.	no	yes

—continued

## Rankings of the Most Influential Lobbyists in the 1989 General Assembly

1989-90 Ranking	Previous Rankings (Where Applicable)				Lobbyist	Former Legislator	Law- yer
	1987-88	1985-86	1983-84	1981-82			
15 (tie)	30				<b>William A. Pully</b> of the North Carolina Hospital Association.	no	yes
15 (tie)	19				<b>Roslyn S. Savitt</b> , representing the State Council for Social Legislation and the N.C. Chapter of the National Association of Social Workers.	no	no
17	16	15	14		<b>Robert Harris</b> of Carolina Power & Light Company.	no	no
18	17				<b>Margot Saunders</b> of the N.C. Legal Services Resource Center.	no	yes
19	27				<b>Fran Preston</b> of the N.C. Retail Merchants Association.	no	no
20	29	16	7		<b>Virgil L. McBride</b> , representing the N.C. Pharmaceutical Association, R.J. Reynolds Tobacco Company, the N.C. Telephone Association, and the N.C. Trucking Association.	no	no
21	20				<b>Roy M. Wall</b> of Duke Power Company.	no	no
22	12				<b>James B. Hunt Jr.</b> , former governor and now attorney in the Raleigh law firm of Poyner & Spruill, representing Avis, Hertz, and Pepsico.	no*	yes
23					<b>James E. Harrington</b> , then N.C. Secretary of Transportation, and now with the Raleigh consulting firm of Harrington & Webster.	no	no
24					<b>B. Wade Isaacs</b> , representing the N.C. Automobile Dealers Association.	no	no
25					<b>Eugene E. Causby</b> of the N.C. School Boards Association.	no	no
26	21	10			<b>John T. Henley</b> of the N.C. Association of Independent Colleges and Universities.	yes	no

*—continued*

\*Hunt was an N.C. Senate officer when he was Lt. Governor.

## Rankings of the Most Influential Lobbyists in the 1989 General Assembly

1989-90 Ranking	Previous Rankings (Where Applicable)				Lobbyist	Former Legislator	Law- yer
	1987-88	1985-86	1983-84	1981-82			
27					Donald M. Saunders of the N.C. Legal Services Resource Center.	no	yes
28					George T. Pate, representing Carolina Telephone & Telegraph Company.	no	no
29					Ellis S. Hankins, representing the N.C. League of Municipalities.	no	yes
30					Marvin D. Musselwhite Jr. of the Raleigh law firm of Poyner & Spruill, representing 11 clients with business/industry interests, including N.C. Amateur Sports, ElectriCities Corp. of N.C., the N.C. Association of Textile Services, and U.S. Sprint Communications Company.	yes	yes
31					Chris A. Valauri of the N.C. Beer Wholesalers Association.	no	no
32					Davis B. Horne, representing the N.C. Bar Association.	no	yes
33			9		Gordon P. Allen, representing the N.C. League of Savings Institutions.	yes	no
34					Susan R. Valauri of the National Federation of Independent Business.	no	no
35					Wesley D. Webster, then a legislative liaison for the N.C. Department of Transportation, and now with the Raleigh consulting firm of Harrington & Webster.	yes	no
36					J. Ward Purrington, then legislative counsel to Governor Martin, and now in private law practice and representing the Office of the Governor.	yes	yes
37					Pam C. Silberman, representing the N.C. Legal Services Resource Center.	no	yes
38	31	18			Jo Ann P. Norris of the Public School Forum of North Carolina.	no	no
39					Anne T. Griffith of N.C. Citizens for Business and Industry.	no	no
40					J. Marc Finlayson of the N.C. Textile Manufacturers Association.	no	no

He says he found some lawmakers sympathetic to the intent of the measure but reluctant to support it because it might limit their own options when they left the legislature. "I had some members come up to me and say, 'That's really a good bill you've got, but I can't support it because I might want to lobby,'" says Jones. "I think it's wrong to serve one day and the next day be out here getting paid thousands of dollars to represent special interests. I think a cooling off period of two, three, or four years would be good." Jones says he will try his bill again in a future session, and likely will add a prohibition against executive branch cabinet members moving directly into private sector lobbying. He says he would not want to prohibit lawmakers from moving directly into executive branch positions that involve lobbying, the career path most recently followed by former Rep. Charles Cromer (R-Davidson), and former Rep. Ann Duncan (R-Forsyth). Cromer is now Martin's top lobbyist. Duncan has lobbied for the Department of Environment, Health, and Natural Resources and now heads the Employment Security Commission.

Alley, however, says he sees little need for a law forcing a break before lobbying. Lawmakers, he says, earn little enough while in the legislature, and if they can earn a living trading on their past legislative experience after leaving, so be it. "Of course you are cashing in on your legislative experience," says Alley, "[but] the ones who decide to lobby, I think they are entitled to whatever they can get out of it."

"That gives the impression that former legislators are getting rich off lobbying," said Adams of Jones' proposal. "Actually, the fees are no better than those of a general law practice."

A number of lobbyists are showing that while a law degree and legislative experience provide an edge, they are not prerequisites for effectiveness. North Carolina Retail Merchants Association President Bill Rustin is listed fourth in the latest rankings, the highest place to date for a lobbyist with neither a law degree nor legislative experience. Rustin attributes his high ranking to hard work. "People who are former legislators and attorneys, they are already part of the process," says Rustin. "Someone who hasn't served prior to that has to run harder to become part of the process."

Rustin is followed in the rankings by two other lobbyists with neither a law degree nor legislative experience. Bill Holman, who represents the North Carolina Chapter of the Sierra Club, the

Conservation Council of North Carolina, the N.C. Chapter of the American Planning Association, and the N.C. Public Transportation Association, holds the fifth position, the same as his 1987-88 ranking. Alice Garland, chief lobbyist of the State Employees Association of North Carolina for much of the 1989 session, ranks sixth.

Rustin and Holman had already established themselves as regulars in the top 10. But the sixth-place finish by Garland was her first appearance in the rankings and eclipsed any previous performance by a woman. A 1987-88 ranking of 17th by Margot Saunders of the North Carolina Legal Services Resource Center had been the previous high.

Garland, now director of government affairs for ElectriCities Corp., lobbied the legislature for several months in 1989 after learning she would not be promoted to director of the State Employees Association. Garland was passed over when the association hired a male for the job, and she eventually resigned, but not before she made her mark with the General Assembly. "I like to think one thing that affected my ranking is that I continued to work as hard as I had been working for state employees, despite what happened with the job," says Garland.

But if Garland was disappointed about losing the opportunity, association members may be even more disappointed to have lost her as their lobbyist. Her ranking was seven places better than the ranking her predecessor had attained during the 1987-88 session. Durwood F. "Butch" Gunnells, now president of the North Carolina Soft Drink Association, managed a 13th-place ranking while lobbying for state employees during the 1987-1988 session but dropped out of the top 40 in 1990.

Garland says there are definite disadvantages when a woman works the halls of the General Assembly, but they are not insurmountable. "I can't go into the men's bathroom, and I don't play golf," she says, "[But] I think if a woman establishes a reputation for knowing the facts and knowing the issues, she can hold her own." The rankings seem to bear Garland out. There are seven other women in the Center's top 40.

Garland also says it doesn't take a law degree to lobby, despite the presence of 17 lawyers among the 40. "I've drafted a number of bills myself that have been just fine," Garland says. "I don't know why people think that's necessary. It's frustrating."

Aside from Garland's dramatic debut, a



*Lobbyist Roslyn Savitt of the State Council for Social Legislation and the N.C. Chapter of the National Association of Social Workers gets the ear of Sen. Frank Block (D-New Hanover).*

number of lobbyists made major advances over their 1987-88 rankings. John Bode of the Raleigh law firm of Bode, Call, & Green moved from 18th to ninth representing corporate clients like Carolina Power & Light Company, Southern Bell, and Thomasville Furniture Industries. Roger Bone of the lobbying firm of Bone & Associates moved up four places to 10th. Bone, a former legislator, represents corporate clients as well as the N.C. Department of Community Colleges. Bryan Houck of Southern Bell jumped 10 places to 13th, William Pully of the North Carolina Hospital Association moved up 15 places into a tie for 15th, and Fran Preston, who with Rustin represents the N.C. Retail Merchants Association, improved her ranking to 19th from a 1987-88 ranking of 27th.

But for every rising lobbyist, another lobbyist must fall. Those who dropped in the rankings included John Jordan of the Raleigh law firm of Jordan, Price, Wall, Gray, & Jones, and former Gov. James B. Hunt Jr. Jordan dropped from

fourth to eighth in the rankings while representing business and health care interests. Hunt, who debuted at 12th in the rankings in the 1987-88 session, fell to 22nd. Observers say Hunt, now with the Raleigh law firm of Poyner & Spruill, spent little time at the legislature during the 1989-90 session. And Chris Scott, director of the AFL-CIO of North Carolina, fell out of the top 40 entirely after placing 22nd for the 1987-1988 session.

Aside from business interests, groups showing clout in the lobbyist rankings included higher education and local government. Bone's 10th-place ranking led the list, although he works only part-time for the Department of Community Colleges. Jay Robinson, representing the University of North Carolina system, ranks 11th, and John Henley of the N.C. Association of Independent Colleges and Universities ranks 26th. Ronald Aycock of the N.C. Association of County Commissioners leads the local government lobbyists, although he fell from ninth in the 1987-88 rank-

ings to 14th. Appearing for the first time in the rankings are Eugene Causby of the N.C. School Boards Association at 25th and Ellis Hankins of the N.C. League of Municipalities at 29th.

The rankings also reflect Republican Gov. Jim Martin's difficulties with the predominantly Democratic General Assembly. Ward Purrington, who served as Martin's chief lobbyist for the 1989 session and represented the Office of the Governor on prison issues in 1990, made his first appearance in the rankings at 36th. The governor's lobbyist didn't fare nearly so well as former Democratic Gov. Hunt's lobbyist did, although Alley says that's a function of Martin's minority party status, rather than Purrington's lobbying skills. Alley finished in the top five the two times he was ranked while lobbying for Hunt's administration. "A Democratic General Assembly is more responsive to a Democratic governor than a Republican governor, in my experience," says Purrington, himself a former legislator. "The relationship is better when both are of the same party . . . . On the other hand, Zeb Alley is a very good lobbyist."

Public interest lobbyists are another group with a built-in disadvantage. They can't afford to wine and dine legislators, their abilities to make campaign contributions are minimal, and they don't underwrite fundraisers. Yet these lobbyists, defined by the Center as pursuing a broad collective good rather than the interests of an association or industry,<sup>3</sup> held their own in the 1989-90 rankings after first breaking into the rankings in significant numbers in 1987-88. For example, three lobbyists from the North Carolina Legal Services Resource Center made the top 40. Margot Saunders, who focuses on consumer interests, led the list at No. 18, and her spouse, Donald Saunders, specializing in housing issues, tallied a 27th place ranking. Pam Silberman, who lobbies on health care and public benefits issues, placed 37th. And there were others. Roslyn Savitt, representing the State Council for Social Legislation and the N.C. Chapter of the National Association of Social Workers, tied for 15th in the rankings, and in the area of education reform, Jo Ann P. Norris of the Public School Forum of North Carolina ranked 38th.

Environmental lobbyist Holman, however, with his fifth-place finish, remains the reigning public interest lobbyist with a ranking 10 places higher than the rest of the pack. That ranking reflects both the strength of the environmental movement and the respect he commands as a lob-

byist. "Holman is really remarkable because he almost consistently has the opposite position of business and industry," says Garland, adding that the ranking "really speaks very highly of him."

That brings up the bottomline observation. Despite the gains of the public interest lobby, the rankings are one indicator that business interests still predominate in the General Assembly. Of the 40 ranked lobbyists, more than half primarily represent business interests—ranging from traditional industries like textiles (Marvin Musselwhite and Marc Finlayson), tobacco (Alley, Virgil McBride, and Bone), and furniture (Bode and Alley) to newcomers like hazardous and radioactive waste handlers (Johnson and Bone) and the distributors of equipment for games used in state lotteries (Alley, Bode, and Pulley). And some of these lobbyists made the rankings with little or no attention from the media, meaning they are quietly and effectively working behind the scenes to influence legislation.

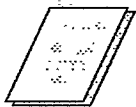
Lobbyists representing utilities (Adams, Alley, Bode, Bob Harris, Houck, Roy Wall, and George Pate), financial institutions (Jordan and Ruffin Bailey), retail merchants (Rustin and Preston), health care concerns (Adams, Pulley, and Bill Pully), and insurance (Bailey and Bode) generally fared well in the rankings. Whether that's because the industries themselves wield clout or because they have the wherewithal to hire the best lobbyists is a difficult question to answer. "A lot of it has to do with the climate of the legislature," says Garland. "The legislature is a little more conservative and business-oriented to begin with, so they are going to be inclined to listen to business anyway." ☐

## FOOTNOTES

<sup>1</sup> Respondents were asked to list the 10 most influential lobbyists and legislative liaisons of the 1989 North Carolina General Assembly session. The results of previous rankings were published in *Article II: A Guide to the N.C. Legislature*, page 214 in the 1981-82 edition; pages 214-215 in the 1983-84 edition; pages 212-213 in the 1985-86 edition; pages 209-211 in the 1987-88 edition; and pages 226-228 in the 1989-90 edition.

<sup>2</sup> H.B. 511, 1989 General Assembly, was defeated on May 9, 1989, on its second reading. G.S. 108A-65(2) imposes a similar two-year waiting period before lobbying government bodies for private interests on matters related to the state Medicaid program for state or county employees who handle substantial amounts of money under the program.

<sup>3</sup> The Center defines a public interest lobby as one which seeks a public good, the achievement of which will not selectively and materially benefit the membership of the organization. This definition excludes groups which engage in some public interest lobbying but have as their primary purpose the benefit and protection of their membership.



# MEMORABLE MEMO

June 4, 1990

To: Center Staff  
From: Pat Jackson *Pat*

The energy efficient windows we have here in the Bryan Center may crack if the sun gets too hot on them. This can occur, in particular, if the window blinds are closed all the way. To help alleviate this problem to some degree, we are going to install a device called a limiter (actually a small gear that is different from the one now in your blind adjustment mechanism) that will keep the blinds from closing all the way. (The limiter will leave a  $\frac{1}{4}$ " gap).

We will inform you when this will take place. In the meantime, please do not close the blinds totally-leave a  $\frac{1}{4}$ " gap when you close them with the adjustment rod.

Thank you. By the way, the windows cost approximately \$1000 each if they have to be replaced. It is imperative this not happen!

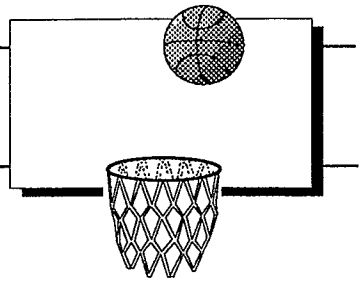
cc:  
D. Bullock  
J. Dunlop  
L. Owen

*What a pain for folks at the UNC Center for Public Television's Bryan Center. Windows that crack in the sun. But the people who run public television have been in hot pursuit of a solution to this problem, and now they've found one. Limiters. Is there no limit to the ingenuity of these people? And no cracks about another crack problem, please. We're certain the staff can stick to the quarter of an inch rule until those limiters are installed.*

*Call it blind trust. Anybody got a ruler? And when you're done with the blinds, take the measure of a memorable memo candidate. We'll let the sun shine on it. Anonymity guaranteed.*



# PARTING SHOT



GEORGE BUSH

September 10, 1988

The Honorable James G. Martin  
Governor  
Post Office Box 12377  
Raleigh, North Carolina 27605

Dear Jim:

Thank you for giving me this opportunity to restate my stand against tax increases.

As you know, I have long believed that tax increases would damage our economic recovery. Throughout this campaign, I have been consistent. I will not raise taxes, period. There have been over 17 million new jobs in America since 1982, but tax increases would put those jobs at risk.

Therefore, I am strongly opposed to any increase in excise taxes, including those on tobacco or cigarettes. This would harm North Carolina and be inflationary for the nation's economy as a whole.

As you know, this issue is one of many on which I stand in sharp contrast to my opponent, who raised taxes, including cigarette taxes, by over \$100 million this year alone. Let me say it again, Jim: I will not raise taxes, period.

With best wishes,

Sincerely,

  
George Bush

You have my word on it. And Jim, I don't think you should raise taxes either. Forget that balanced budget nonsense. Float a bond, run a debt. It works for me.

One more thing. See if you can shake loose a memorable memo or two for *North Carolina Insight*. The S & Ls are bankrupt. The banks are on the brink. We could all use a laugh. And read my lips, Jim. Anonymity guaranteed.

— George

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