

Vol. 4, No. 4

NCINSIGHT



**Federal
Budget Cuts**

N.C. Center for Public Policy Research

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A non-profit, non-partisan organization, the Center was formed in 1977 by a diverse group of private citizens "for the purposes of gathering, analyzing and disseminating information concerning North Carolina's institutions of government." It is guided by a self-electing Board of Directors, and has some 600 individual and corporate members across the state. The Center's staff of associate directors, fellows, and interns includes various scholars, students, journalists, and professionals from around the state. Several advisory boards provide members of the staff with expert guidance in specific fields such as education, publications, and fund raising. The Center is forbidden by law from lobbying or otherwise attempting to influence directly the passage of legislation.

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

N.C. Insight

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Design and Production: Joe Pfister, Ben Fewel – Southern Types, Durham, N.C.

Cover by Dwane Powell, editorial cartoonist, *The News and Observer* of Raleigh, N.C.

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- N.C. INSIGHT is a quarterly magazine published by the North Carolina Center for Public Policy Research, Inc. (a non-profit, tax-exempt corporation) at Suite 400, 219 Fayetteville Street Mall, P.O. Box 430, Raleigh, N.C. 27602. Telephone (919) 832-2839. Annual membership rates: Individual, \$15; Library or non-profit group, \$30; Corporation, \$50. Third class postage paid at Raleigh, N.C. Copyright 1981 by the North Carolina Center for Public Policy Research, Inc. Articles reprinted by permission. Printed by Theo Davis Sons, Inc., Zebulon, N.C. The Center is supported in part by grants from the the Mary Reynolds Babcock Foundation and the Z. Smith Reynolds Foundation. The views expressed in this publication are those of the authors, and are not necessarily those of the Center's Board of Directors or staff. Published December 1981.

From The Editor

High school civics teachers must be a frustrated group these days. Their only sources for explaining the changes now taking place in government are daily news reports. Standard textbooks discuss the familiar concepts of checks and balances, of federal/state/local interaction, and of taxing and spending patterns in these 50 united states. But the political events of 1981 have altered the way in which every level of government works.

Not since the New Deal has government gone through so fundamental — indeed, so revolutionary — a transformation. The federal budget cuts and the national mood which supports “less government” have precipitated a complex series of events at the state level. In reacting to the federal cuts, state and local officials have had to assume new program responsibilities but with far fewer resources. The private sector has been challenged to pick up the pieces that are falling through the federal “safety net.” And as North Carolina citizens and officials are just beginning to understand

the nature of 1981 federal actions, the specter of much larger reductions in federal funds looms large over 1982 and 1983.

To comprehend how North Carolina is responding to the federal cuts — and to a tight economy in general — one must first understand how the government itself is changing. In past issues of *N.C. Insight*, particularly our preview to the 1981 session of the General Assembly (“Breaking Ground,” Vol. 3, No. 4) and our judicial policy section in Vol. 4, No. 1, we have attempted to keep our readers up to date on the maturation process within state government.

We build on that base in this issue, right up to the latest continuing resolution that limped out of the budget deliberations in Washington just before Christmas. Serious students of government — teachers, citizens, and legislators alike — will need some guides to the events of 1981 in order to update their latest civics lessons. We hope this issue of *N.C. Insight* will serve as a primer.

— Bill Finger

Looking Ahead...

In 1982, *N.C. Insight* plans to devote two issues to thematic topics — housing and cultural arts. We welcome ideas, manuscripts, and queries on such topics as those listed below.

Housing

- * Housing Finance Agency
- * Banking and Lending Policies
- * Local Building Codes
- * Preservation and Restoration
- * Mobile Home Industry
- * Construction Industry

Cultural Arts

- * N.C. Symphony
 - * N.C. Museum of Art
 - * Music and Art in the Schools
 - * Library Outreach
 - * Dance
 - * Role in Urban Revitalization
-



Photo courtesy of *The News and Observer* of Raleigh

How Powerful is the North Carolina Governor?

by Thad L. Beyle

On January 10, 1981, Gov. James B. Hunt, Jr. stepped to the podium in front of the old state capitol without the encumbrance of top hat or overcoat. Moreover, Hunt did not face the remnants of an outgoing administration. In 1977, the voters of the state had amended the North Carolina Constitution to allow the governor to succeed himself. Beginning his second term, Hunt could depend on experienced cabinet members and budget officers, men and women he had placed in positions of power four years earlier. Hunt began a new administration with a head start on all previous chief executives of the state.

How does the position that Gov. Hunt now holds stack up with that position in the other 50 states? And how has the North Carolina governorship changed in the last 15 years? Answers to these two questions provide some important guideposts for understanding the rapidly growing business of state government. For unlike the colonial era and the 19th century, today's gover-

Gov. James B. Hunt, Jr. takes the oath for a second term.

nors sit at the top of the pecking order of political power in most states.

Formal Powers

Assessing the powers accorded a governor by state constitutions and statutes provides one means of measuring the relative strength of the 50 governors in the country. The five formal powers common to all governors are tenure, appointment, budget, organization, and veto. In the summer of 1981, I examined these five powers for all the states, using a point system for each category and

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Unlike the colonial era and the 19th century, today's governors sit at the top of the pecking order of political power.

for cumulative groupings, as a means of comparing the 50 states.

Tenure Potential. The longer a governor serves, the more likely he is to achieve his goals and have an impact on the state. The length of term and ability to succeed oneself, then, are critical determinants of a governor's power. In the original 13 states, ten governors had one-year terms, one had a two-year term, and two a three-year term. States gradually moved to either two- or four-year terms, but one-year tenures did not phase out completely until early in this century. By 1940, about the same number of states had two- and four-year terms. From 1940 to 1981, the number of states allowing the governor only a two-year term shrank drastically, from 24 to 4 (Arkansas, New Hampshire, Rhode Island, and Vermont). And from 1960 to 1981, the number restricting consecutive reelection declined from 15 to 4 (Kentucky, Mississippi, New Mexico, and Virginia).

To rank the states according to the governor's tenure potential, I gave more weight to four-year than to two-year terms and more to unlimited reelection possibilities than to restraints on reelection. North Carolina (four-year term, one reelection permitted) fell in the second strongest group of states (see Table 1 on pages 10-11).

Until 1977, the governor of North Carolina could not succeed himself. Not only did this limit his power in developing programs within the state, it also curtailed his effectiveness within intergovernmental circles. The governor serves on interstate bodies concerned with education, energy, growth policy, and other issues and works closely with his colleagues in the Southern and National Governors' Associations. He represents the state in meetings with the President, cabinet members, and members of Congress and negotiates with federal agencies regarding various issues, programs, and funds. Such complex relationships and activities take time to perform effectively. Further, leadership in some of these organizations provides a platform for making views known and having impact on policy directions.

Until succession passed, North Carolina short-changed itself. Former Gov. Robert Scott (1971-75) put it this way in 1971: "North Carolina is not very effective in shaping regional and national policy as it affects our state because our state changes the team captain and key players just about the time we get the opportunity and know-how to carry the ball and score."¹ Since his second term began in 1981, Gov. Hunt has had an advantage in intergovernmental circles that his predecessors did not enjoy. By building on the experience of a previous term, Hunt has given North Carolina a greater voice in regional and national affairs.

While succession has benefited the state, it has also helped Hunt, giving him a longer-lasting power base for developing a nationwide reputation. Of the 14 most recent states to change from one-term restriction to allowing succession, all but Pennsylvania permitted the change to apply to the incumbent governor. Put another way, the incumbent governors — including Hunt — wanted the opportunity to serve a second term. Consequently, they put their political muscle behind a succession campaign, lobbying to allow the succession amendment to include the current governor. Succession amendments proposed during previous North Carolina administrations may have failed for the very reason that they did not apply to the current governor. Hunt's insistence on having the amendment apply to himself, then, perhaps played the pivotal role in having the amendment pass. Hunt thus helped give himself the chance to serve another four years while also ensuring a stronger potential for future North Carolina governors.

The Power of Appointment. One of the first sets of decisions facing a governor-elect on the Wednesday morning in November after election is the appointment of personnel to key positions within his administration. The appointive power extends to the governor's legislative role; promises of appointments to high-level executive positions, to the state judiciary, and to more than 400

boards and commissions are often the coins spent for support of particular legislation.

To measure the governors' appointive powers, I examined the extent to which he is free to name the heads of various state agencies. Governors who can appoint officials without any other body involved are more powerful than those who must have either or both houses of the legislature confirm an appointment. And governors who only approve appointments rather than initiating them have even less appointive power. The weakest states are those in which a governor neither appoints nor approves but has a separate body do so, or where separately elected officials head agencies. Since all states have one or more officials with multiple responsibilities, and various functions or offices do not exist in some states, the actual numbers of officials considered for this analysis varied by state with a maximum of 46 offices possible.²

In appointive power, the governor of North Carolina ranked among the most powerful of the 50 chief executives, primarily because he shares this power in very few cases (see Table 1). The General Assembly appoints the members to the University of North Carolina Board of Governors and confirms the members of the Utilities Commission and the chairperson of the State Health Coordinating Council.³

Two factors kept North Carolina from ranking even higher. First, this study did not analyze the number of appointments to boards, commissions, and councils of which there are now more than 400 in the state.⁴ While the governor has to share some of these appointments with the legislature, lieutenant governor, and others, he can now appoint some 4000 people to official positions. Second, a large number of state officials are elected independently in North Carolina, and the appointments that might normally devolve to a governor in another state rest with other elected officials here.

Control Over the Budget. An executive budget, centralized under gubernatorial control, is a twentieth century response at all levels of our governmental system to the chaotic fiscal situations that existed at the turn of the century. Such a document brings together under the chief executive's control all the agency and departmental requests for legislatively appropriated funds. Sitting at the top of this process in the executive branch, a governor usually functions as chief spokesman for the budget in the legislature as well.

A governor who has full responsibility for developing the state's budget is more powerful than those who share this responsibility with others. Most states (44) do give this power solely to the governor; in only six do the governors have

to share the control over the budget.

North Carolina ranked lower than almost all other states because of the structure and function of the Advisory Budget Commission (ABC), which includes 8 legislators among its 12 members and controls the overall "executive budget" presented to the General Assembly (see Table 1).⁵ Recent moves in the General Assembly to give legislators a say over how the governor transfers appropriated funds among budget items and how federal block grants are to be administered portend even further inroads by the legislature into the governor's budgetary power.⁶ This legislative move raises legal questions concerning the constitutional power of the North Carolina governor, who under the North Carolina Constitution, "shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period."⁷

While analysis of the formal budget power places North Carolina low among the 50 states, a "real-world" view of how the ABC functions reveals a more complex equation. An intermediate stage in the budget negotiations between the governor and the legislature, the ABC usually serves the interests of the governor. Because the governor's budget staff is the source of information for the Advisory Budget Commission, the ABC tends to follow a governor's lead. And because the Commission is a small 12-member group, it is easier for a governor to work with them than with the Joint Appropriations Committee (consisting of approximately half the House and half the Senate) or with the full 170-member legislature. Thus, if a governor can get what he wants through the ABC, he can usually get about 95 percent of his budget package ratified because the General Assembly looks to the legislators on the ABC for leadership in budget matters. The other five percent of the budget package consists partly of "special appropriations bills" sponsored by legislators for their local districts.

Organizational Power. Recent reforms and changes in the executive branches of state governments have given many governors "the power to create and abolish offices and to assign and reassign purposes, authorities, and duties to these offices," as political scientist Edward Flentje puts it. Almost all the states have carried out some form of functional reorganization since 1965, and 21 — including North Carolina in 1971-75 — have undertaken a comprehensive executive-branch reorganization.

To develop a comparative measure of this gubernatorial power, I considered five indicators: governor/lieutenant governor "team" elections (where these two run on a joint ticket — i.e., a

voter must choose a pair for governor and lieutenant governor, not select them separately); the number of separately elected officials; the number of departments and agencies reporting to the governor; the number of public authorities, public corporations, licensing boards, and regulatory boards; and the extent of the governor's reorganization power. I totaled the scores in each of these into a governor's organization power rating. The underlying proposition for this method was that

the greater the organizational power, the more effectively a governor could manage state government.

The North Carolina governorship fell in the "weak" category for organization power (see Table 1). The lack of a team election of the governor and lieutenant governor — coupled with the lieutenant governor's separate power base in the state Senate — reduces the governor's organizational power. In this state, a governor cannot

Succession — Better Government or Machine Politics?

In its December cover story, Tar Heel, The Magazine of North Carolina, analyzed the impact of the succession amendment, which passed in 1977, on the changing powers of the governor and legislature. Below are excerpts from that article, written by Tar Heel Staff Writer Howard Troxler and reprinted with permission of Tar Heel.

Succession was the first radical constitutional change in the governor's role in more than a century. When Hunt proposed the amendment in 1977, North Carolina was one of only seven states that did not allow governors and lieutenant governors to serve a second consecutive term. Other members of the Council of State were allowed to seek as many consecutive terms as they pleased. Hunt argued that the national trend was with him; nine states had approved succession in the previous decade, and all but one had allowed it to apply to their incumbent governors.

As a rookie governor, Hunt used his early-term clout to convince the legislature to place a referendum on succession on the Nov. 8, 1977 ballot. A committee of Hunt supporters called Citizens for the Right to Reject or Reelect raised \$100,000 to sell succession to an apathetic public. The committee lined up celebrities such as former New York Yankees pitcher Jim "Catfish" Hunter, a native of Hertford, to appear in pro-succession television spots. The support of Jim Holshouser, Hunt's Republican predecessor, gave the drive a bipartisan flavor. Hunt opponents were not as well organized. An opposition group formed by Gene Anderson, a chief political operative during the Holshouser administration, never got off the ground. In October, a group called Carolinians Opposed to Succession was formed by several legislators more closely allied with Lieutenant Gov. Jimmy Green than with

Hunt. Green, nominal head of the conservative wing of the Democratic Party, declared that "the people of North Carolina are going to rue the day" succession won approval. Ironically, Green became the first lieutenant governor to succeed himself under Hunt's amendment.

What have been the fruits of succession? Six principal themes emerged in conversations with dozens of political and government leaders, academics, lobbyists, and journalists.

A stronger first term: The legislature passed every major piece of legislation Hunt sought during his first term: a \$25 million primary reading program for grades 1-3, a statewide high school competency test and annual achievement tests, speedy-trial and fair-sentencing acts, a Public Staff for the N.C. Utilities Commission and, of course, the succession referendum. Previous governors have complained that their influence waned in the last two years of their terms, since they were in effect "lame ducks."

Long-term government: The eight-year Hunt administration will have twice as long to pursue its programs of economic and educational development, giving it a chance to modify and develop new programs. Explained Gary Pearce, Hunt's press secretary and a chief adviser: "A lot of what he wanted to accomplish was set up during the first term. The second term will be more of an administrative one, a carrying-out of things that have already passed the legislature." At the same time, two-term governors will have to face up to long-term problems they otherwise might have been able to avoid, such as the gas tax hike to rebuild the once-robust Highway Fund.

A firmer grip on state bureaucracy: Hunt has hired his own people for the top 800 policy-making jobs in state government, and his lieutenants have say-so over hirings and firings deep into the 50,000-employee state work force. By the end of the second term, thousands of Hunt-approved workers will be firmly ensconced. The State Personnel Act protects the lower- and middle-level employees from arbitrary firings by future governors.

make the lieutenant governor part of his policy and management team. They are too often competitors. In addition, eight other officials are directly elected by the voters: secretary of state, state auditor, state treasurer, attorney general, commissioner of agriculture, commissioner of insurance, commissioner of labor, and superintendent of public instruction. Nine other cabinet secretaries do report to the governor, but these eight officials — all with independent departments

under them — function outside the governor's organizational control.

In the early 1970s, Governor Scott undertook a comprehensive reorganization of the executive branch departments under his direct control. This resulted in a fewer number of executive agencies reporting to the governor, making the administrative branch more manageable. At the same time, voters gave the N.C. governor broad constitutional powers to allocate agencies' "func-

Influence over the judiciary: Although North Carolina judges are elected, vacancies and newly created judgeships must be filled by gubernatorial appointment. In his two terms, Hunt will appoint more judges than any other governor. Already he has named a third of the state's 140 District Court judges, half of the 68 Superior Court judges, six of the 12 justices on the N.C. Court of Appeals and two of the seven justices on the N.C. Supreme Court. All but a handful have since been elected to full terms. All but one are Democrats.

Shifts in the state power structure: Succession has put the political aspirations of several candidates on hold until the incumbent leaves office. If Hunt had served only one term, both Lieutenant Gov. James C. Green and Attorney General Rufus L. Edmisten would have been likely candidates for his job in 1980. House Speaker Carl J. Stewart would have been a shoo-in for lieutenant governor in 1980. Instead, he lost to Green, who, like Hunt, was allowed to seek a second term under the succession amendment.

Candidates who once might have run for statewide office now may be more inclined to run for Congress. That might give North Carolina a more experienced, stronger representation in Washington. On the other hand, long-term incumbents could stunt the natural development of new political leadership in the ruling party — in the words of former Governor Robert Scott, put a "cap" on new leadership.

National involvement: In his second term, Hunt has become increasingly involved in national political affairs. He heads the Democratic National Committee's task force on reform of the primary election system. He has been active in the National Governors Association as chairman of its human resources committee, and he is now a ranking member of the Southern Governors Conference.

Those who believe Hunt has the best interests of the state at heart think that succession has made for better government. Those who believe Hunt only cares about his own political future think that succession has made for machine

politics.

Hunt, for his part, maintains succession allows him to apply his first-term experience towards second-term problems. "The additional experience means that you see far more clearly what the future requires of the governor," Hunt explained in an interview. "An example of that might be some of the things we dedicated ourselves to in the legislature this year — not necessarily popular kinds of things, things that a first-term governor would not normally go after." For instance, Hunt points to his successful push this year for a \$24 million appropriation for the N.C. Microelectronics Center, a facility he believes will lure the silicon chip industry to North Carolina. Hunt argues that his first-term work in economic development laid the foundation for his second-term emphasis on microelectronics.

"There's transportation as well," Hunt continued, referring to his successful drive this spring for a 3-cents-a-gallon fuel tax increase to fund highway construction. "A first-term governor wouldn't have done that. He would have put it off and let the next governor worry about it. I had enough experience in trying to build the economy of the state to know that we absolutely had to keep our transportation system strong. It was very difficult and unpopular, but it was necessary."

Holshouser, whose Republican administration was a case study in the erosion of gubernatorial power by a Democratic legislature, was so sure that Hunt could not win re-election that he flatly predicted as much during the succession debate in 1977. Succession, he pointed out, would give the GOP challenger a record to run against. Now, Holshouser says it's too early to assess all the effects of succession, since Hunt's record in office is all there is to go by.

"I think it's going to take more than one term to evaluate it, and if it doesn't work, you can always repeal it," Holshouser stated. "But it takes more than one time around to test it and see. It's going to take some getting used to, like all new things." □

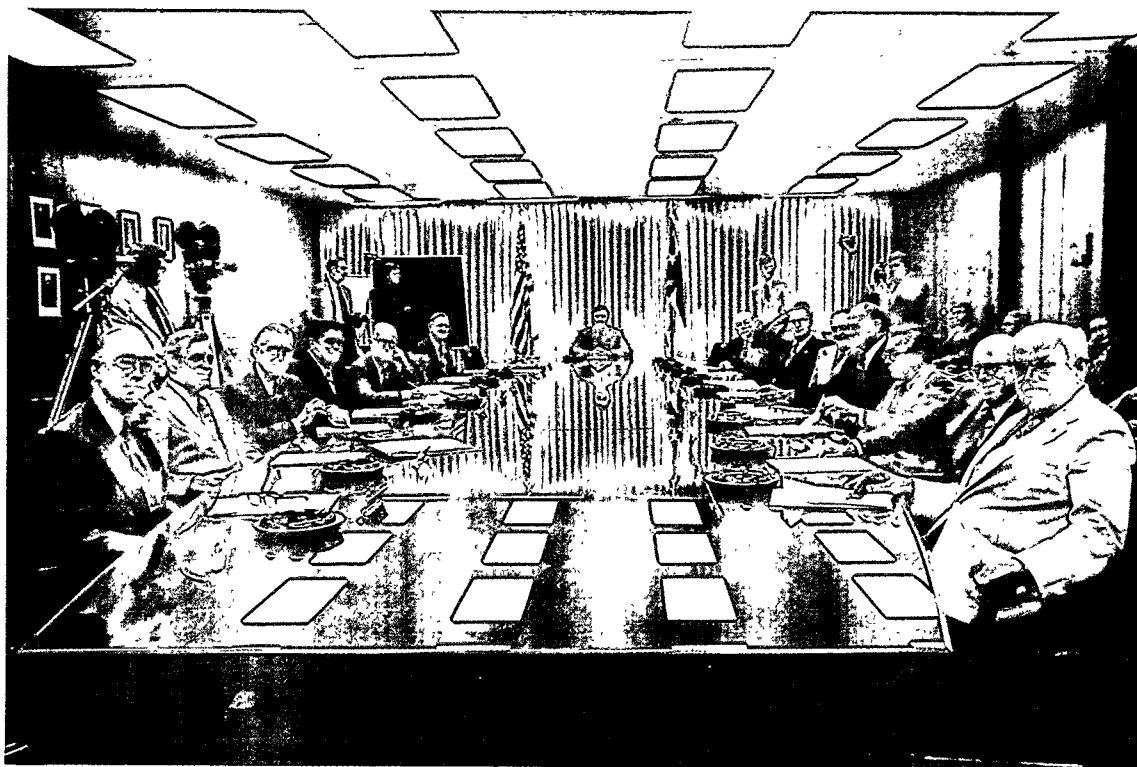


Photo courtesy of the N.C. State Archives

tions, powers, and duties . . . as . . . necessary for efficient administration.”⁸ While the number of agencies reporting to the governor has been reduced, the number of new boards, commissions, and councils has greatly increased, thereby diluting some of the control that might have been gained through reorganization. Thus, despite the broad constitutional powers of administrative reorganization, the North Carolina governor rated “weak” in this category.

Veto Power. The most direct power a governor can exercise vis-à-vis the legislature is the threat and the use of a veto. The type of veto power extended to governors ranges from total-bill veto, to item veto, to item reduction power, to no veto. Only one state has no veto power — North Carolina.

In addition to giving a governor direct power over the legislature, a veto also provides a governor with some administrative powers. For example, it gives him the ability to stop agencies from gaining support in the legislature for an “end run” around his or his budget office’s adverse decision. This is especially true in the 43 states where the governor can veto particular items in an agency’s budget without overturning the entire bill.

To rank the states for veto power, I made two principal assumptions: 1) an item veto gives a governor more power than does a general veto; and 2) the larger the legislative vote needed to override a governor’s veto, the stronger the veto power. In

The first meeting on June 26, 1972, of Gov. Robert Scott and his cabinet after a comprehensive executive branch reorganization.

this category, North Carolina, with no veto power at all, ranked dead last of all the 50 states (see Table 1).

Summary of Formal Powers. To compare the formal powers of the 50 governors, I obtained an overall average score for each state using a two-step method. First, I gave zero to five points to each state in each of the five areas — tenure, appointment, budget, organization, and veto (see the footnotes to Table 1 for an explanation of the scoring system for each category). Second, I totaled the score for the five categories and divided by five to get overall average scores, which ranged from 4.8 (New York) to 2.0 (South Carolina). With a score of 2.8, North Carolina along with five other states, fell in the bottom group of states — “weak” governor. No state fell in the “very weak” category.

Informal Powers

These formal indicators only tell us part of the story of gubernatorial power. They emphasize the degree of control the governor has over the executive branch and his relationship with the legislature. They do not, however, measure the many informal sources of power or constraints on

a governor such as political parties, interest groups, media, money, county campaign organization, good looks, and charisma. A media-wise governor can, for example, dominate a state's political and policy agenda.

Some of the informal powers available to the N.C. governor outweigh the constraints on his formal powers. A strong media base in the state provides the governor with a major vehicle to command attention. Because no large urban area dominates the state's politics, there are no other highly-visible political leaders with which the governor has to compete. In contrast, the mayors of New York, Chicago, Los Angeles, and other large cities have a political base which can vault them into a position to vie with a governor for leadership. Moreover, in this state few other institutions provide leaders a base for political attention. Labor unions are weak; no independent citizens group has the power to challenge the governor on any sustained basis; and the dominant industries, like textiles or banking, usually work quietly behind the political scene.

Finally, a North Carolina governor, as Gov. Hunt has proved, can still forge a grassroots political organization from Manteo to Murphy. The state is not so big as to make this process impossible, yet it is large enough to make such a county-by-county structure powerful indeed. Because the North Carolina governor can appoint judges and pave highways — the power of "robes and roads" — he can attract campaign workers and financing, essential ingredients for a grassroots network of supporters.

Summary

To place this analysis in a regional perspective, Table 1 presents the comparative formal powers of governors for the states in the Southern Governors' Association. Southern governors do not generally have as much formal power as do non-southern governors. Moreover, North Carolina has not kept pace with its neighbors in enhancing its governor's powers. While the N.C. governor gained power through the major executive branch reorganization of the early 1970s and the succession amendment of 1977, he still has to share the budget power with legislators on the ABC, to contend with a large number of separately-elected state officials, and to cope with the legislature without any veto power.

The wide range of informal powers available to the North Carolina governor tends to balance the structural weaknesses in tenure, appointment, budget, organization, and veto. And the way in which the governor uses the formal powers in a day-to-day functional sense — with the Advisory

Budget Commission, for example — can determine to a large extent how powerful he really is. In the final analysis, then, the degree of power that the North Carolina governor has today depends upon the person who occupies the gingerbread mansion on Blount Street — his political skills, instincts, ideals, and ambitions. And the longer one person can maintain that residence, the greater power a governor can accumulate. So far, only one person has been able to move in for an eight-year stay. □

FOOTNOTES

¹Robert L. Farb, *Report on the Proposed Gubernatorial Succession Amendment, 1977* (Chapel Hill: Institute of Government, 1977), p. 5.

²The 46 functions and offices are: adjutant general, administration, agriculture, attorney general, banking, budget, civil rights, commerce, community affairs, consumer affairs, corrections, data processing, disaster preparedness, education (chief state school officer), higher education, elections administration, employment services, energy resources, finance, general services, health, highway patrol, highways, historic preservation, industrial development, insurance, labor and industrial relations, licensing, mental health, natural resources, parks and recreation, personnel, planning, post audit, pre audit, public library, public utility regulation, purchasing, secretary of state, social services, solid waste, taxation, tourism, transportation, treasurer, welfare. All states have one or more officials with multiple responsibilities, and some states indicate no such function or office exists. Consequently, the actual number of functions and offices vary.

³G.S. 116-6, G.S. 62-10, and P.L. 96-79, Section 124, respectively.

⁴The North Carolina Center for Public Policy Research will soon publish a comprehensive analysis of the more than 400 boards, commissions, and councils that exist.

⁵See *The Advisory Budget Commission — Not as Simple as ABC*, North Carolina Center for Public Policy Research, 1980.

⁶These provisions were passed as part of the Appropriations Act in the October 5-10 budget session of the General Assembly, Chapter 1127 of the 1981 session laws (HB 1392), Sections 62-77.

⁷Article III, Section 5(3), Constitution of North Carolina.

⁸"Administrative reorganization. The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly." Article III, Section 5(10) of the Constitution of North Carolina.

TABLE 1. FORMAL POWERS OF SOUTHERN GOVERNORS: A COMPARISON^a

	<u>Tenure Potential^b</u>		<u>Appointive Powers^c</u>	<u>Budget-Making Power^d</u>	
<u>Very Strong</u>	Texas		North Carolina	Alabama	Missouri
				Arkansas	Oklahoma
				Delaware	Tennessee
				Florida	Virginia
				Georgia	West Virginia
				Kentucky	
				Maryland	
	(18)		(9)	(44)	
<u>Strong</u>	Alabama	Oklahoma	Arkansas	Louisiana	
	Delaware	South Carolina	Delaware		
	Florida	Tennessee	Kentucky		
	Georgia	West Virginia	Louisiana		
	Louisiana		Maryland		
	Maryland		Tennessee		
	Missouri		Virginia		
	North Carolina				
	(24)		(16)	(2)	
<u>Moderate</u>	Kentucky		Alabama	North Carolina	
	Mississippi		West Virginia		
	Virginia				
	(4)		(11)	(1)	
<u>Weak</u>	Arkansas		Georgia		
			Mississippi		
			Oklahoma		
	(4)		(6)	(0)	
<u>Very Weak</u>			Florida	Mississippi	
			Missouri	South Carolina	
			South Carolina	Texas	
			Texas		
	(0)		(8)	(3)	
<u>None</u>	(0)		(0)	(0)	

FOOTNOTES TO TABLE

^a The states included in this table are members of the Southern Governors' Association. The numbers in parentheses are the number of the 50 states falling into that category. Using a point system ranging from five to zero, I grouped the states into six categories: Very Strong (VS) - five points; Strong (S) - four; Moderate (M) - three; Weak (W) - two; Very Weak (VW) - one; and None (N) - zero. Sources are *The Book of the States, 1980-81* and earlier editions; *State Government Organization* (1980); and various issues of *State Government News* - all publications of the Council of State Governments.

^b Tenure Potential.

VS - 4 year term, reelection allowed;
S - 4 year term, one reelection permitted;
M - 4 year term, no reelection permitted;
W - 2 year term, reelection allowed;
VW - 2 year term, one reelection permitted; and
N - 2 year term, no reelection permitted.

^c **Appointment Power.** I used a prorated formula for appointments of up to a maximum of 46 functions.

VS - governor appoints alone;
S - governor appoints and one house must confirm;
M - governor appoints and both houses must confirm;
W - appointment by department director with governor's approval;
VW - appointed by department director, board, legislature, or by civil service;
N - popularly elected by people.

^d Budget Making Power.

VS - governor has full responsibility;
S - governor shares responsibility with civil servant or with a person appointed by someone else;
M - governor shares responsibility with legislature;
W - governor shares responsibility with another popularly elected official;
VW - governor shares responsibility with several others with independent sources of strength.

^e **Organization Power.** A composite measure based on governor-lieutenant governor electoral relationship; the number of separately elected officials; the number of departments and agencies reporting to the governor; the number of public authorities, public corporations, licensing boards, and regulatory boards in state government; and the extent of the governor's ability to initiate executive branch reorganization.

^f Veto Power.

VS - item veto with three-fifths of legislature needed to override;
S - item veto with majority of legislature needed to override;
M - item veto with majority of members of legislature present needed to override;
W - no item veto but special majority of legislature needed to override;
VW - no item veto with simple legislative majority needed to override;
N - no veto of any kind.

^g **Overall Formal Powers.** I determined the overall ratings by averaging the scores for the five categories and grouping the states as follows: Very Strong 4.5 - 5.0; Strong 4.0 - 4.4; Moderate 3.0 - 3.9; Weak 2.0 - 2.9; Very Weak 1.0 - 1.9; and None 0. - .9.

Organization Power ^e	Veto Power ^f	Overall Formal Powers ^g
Maryland (7)	Delaware Florida Georgia Louisiana Maryland Mississippi Missouri Oklahoma (29)	Maryland (8)
Missouri Virginia (9)	Alabama Arkansas Kentucky Tennessee West Virginia (5)	Delaware Tennessee (15)
Delaware Florida Tennessee (13)	South Carolina Texas Virginia (9)	Alabama Arkansas Florida Georgia Kentucky Louisiana Missouri Oklahoma Virginia West Virginia (21)
Arkansas Georgia Kentucky North Carolina West Virginia (12)	 (5)	Mississippi North Carolina South Carolina Texas (6)
Alabama Louisiana Mississippi Oklahoma South Carolina Texas (9)	 (1)	 (0)
 (0)	North Carolina (1)	 (0)

The Coming of Age of the N.C. General Assembly

by Jack Betts



Photo by Paul Cooper

On November 21, 1978, the Democrats in the North Carolina House of Representatives kissed tradition goodbye by nominating Gastonia lawyer Carl Stewart for a second two-year term as their speaker. Before 1978, the House had usually bowed to a long-standing policy of rotating positions of leadership among its members, not only the speaker but also the major committee chairmanships. But in 1977, the voters had approved a gubernatorial succession amendment, which meant both the governor and the lieutenant governor (who presides over the Senate) could serve up to eight years. The House members quickly saw the advantages of having a multi-term speakership — such as gaining some parity with the Senate.

When the General Assembly convened in 1979 and formally elected Stewart to a second term as speaker, the legislature turned an important corner in its development. Since the governor has no veto power in North Carolina, most government analysts regard the legislature in this state as one of the nation's most powerful in its relationship to the executive branch. But despite this position of strength vis-à-vis the governor, the General Assembly as late as 1971 ranked 47th in the nation in terms of efficiency and professionalism in the view of The Citizens Conference on State Legislatures. In 1971, that group published its rankings in *The Sometime Governments: A Critical Study of the 50 American Legislatures*, and found, for example, that the N.C. legislature was operating "with a level of professional staff service below minimally acceptable standards."

As that 1971 report was being prepared, the General Assembly had already begun to address some of its most glaring weaknesses, such as the lack of fiscal and legal staff and the relative absence of year-round committee structures. The election of Stewart capped a series of structural

Rep. Al Adams (D-Wake) (right) confers with Speaker of the House Liston Ramsey (D-Madison) as he presides in the October session.

improvements and began a new era that is just beginning to unfold — an era of more centralized legislative leadership, more career-oriented legislators, and a more professional, Congressional-like structure. The speaker of the house, the major committee chairmanships, and the lieutenant governor have become important power bases in themselves, no longer positions to be rotated as a kind of reward for long party loyalty or government service.

This new-found continuity of leadership is the most obvious symbol of a process that has been slowly taking shape for a decade. The N.C. General Assembly is flexing considerable muscle in its relationship with the executive branch, and in the process is changing the way it does business and the way it relates to its constituency, the voters of the state. In a recent article called "Fifty Years of the General Assembly,"¹ longtime legislative observer Milton Heath of the Institute of Government described the trend as "the growing tendency of the contemporary legislature to build an independent base for itself."

The most obvious ways in which the General Assembly has built itself a stronger base show up in the current structure of the institution itself — its staff, its buildings, its computer system, its longevity, its frequency in meeting, and its cost. The process began in earnest in 1971 when the legislature es-

Jack Betts is Raleigh bureau chief for the Greensboro Daily News. Frank Justice, formerly the acting state budget officer and the director of the fiscal research division of the General Assembly, contributed a nine-page memorandum which served as the technical base for the article.

tablished its legislative services office. By 1978, this office included four separate divisions: fiscal research, general research, bill drafting, and administrative. These divisions gave the legislature a capability of gathering and analyzing financial data, reviewing details of specialized issues, and drafting bills independent of the executive branch. The legislature also added computers for instant location of the progress of a bill and later for recording of roll-call votes, more attorneys as staff to specific committees, and finally in 1981, a spanking-new \$8 million legislative office building next to the 20-year old Legislative Building.

As the staff capabilities increased, so did the frequency of the sessions of the General Assembly — in a dramatic fashion. Until 1973, the legislature generally met only during the odd-numbered years for about five months. The legislators passed a biennial budget, a host of local bills, general legislation, and then left the reins of government in the hands of the executive branch for about 18 months. But in 1973, Republicans took over the executive branch and the now annual and increasingly complex budget ballooned to \$3 billion. Consequently, the Democrat-controlled General Assembly decided to meet the next year for what it dubbed a “budget session.”

Since 1974 — the beginning of annual sessions — the General Assembly has met more and more frequently. In 1981, the legislature met three different times (January-July and twice in October) for its longest session ever, and it could be back in January of 1982 for another redistricting session. North Carolina has no statutory or constitutional limits on the length of sessions — as do 28 states including Virginia.² In addition, the N.C. legislature can call itself into session by a petition of three-fifths of its members. And once convened, they can continue meeting for as long as they wish thanks to the repeal in 1969 of a law that limited their pay to only 120 days per session. Moreover, the legislature's standing committees have begun to meet regularly throughout the year, as have select interim committees and study commissions.

As the longevity increased, so did the salaries, to a still-modest \$6,936 per year. But add to this sum \$50 per day in expenses during a session, including weekends, a monthly expense account of \$172, and reimbursement for a round-trip home each week. In a two-year term, an average legislator can now get about \$25,000 in total compensation.

In just a decade, from 1971 to 1981, the General Assembly has entered the modern era of computer-recorded roll-call votes, legal staff for committees, successive terms and full-time staff for legislative leaders, and year-round legislative analysis by committees and staff. In 1982,

the voters of the state could extend the growing professionalism of the legislature by approving a proposed constitutional amendment to lengthen the terms of both House and Senate members from two to four years. The legislature, which placed this proposal on the ballot through a 1981 action,³ said that running for office every two years was too expensive and tended to limit its professionalism. But various groups and newspapers have expressed concern about the four-year term. As the *Winston-Salem Journal* put it in an editorial: “How can legislators be more accountable to the people if they have to face the people only half as often as they do now?”

In flexing its muscles vis-à-vis the executive branch, in asserting its growing independence, and in responding to the higher visibility brought about by annual sessions, the legislature has already developed a power base somewhat removed from voter accountability. Through an increased presence on boards and commissions, through the powerful Advisory Budget Commission (ABC), and through unusual legislative maneuverings, members of the General Assembly are wielding more and more power in Raleigh in ways not easily discernible by the voters.

Members of the General Assembly now hold more than 200 positions on 76 boards and commissions in the executive branch; 50 of these groups have been created in the last eight years. Placing legislators on these executive-branch bodies stems from the idea that by their presence legislators would ensure that a board functioned in compliance with legislative intent and that it would have the ear of the legislative branch. Thus legislators have a new vehicle for monitoring activities within the executive branch and for influencing the hearing that recommendations from the advisory groups get before the legislature.

The most visible and most powerful of the boards and commissions on which legislators sit is the Advisory Budget Commission (ABC), a hybrid agency that sometimes seems to wrap executive and legislative functions all in one. Along with the governor, the ABC develops the state budget every two years and makes recommendations for supplemental budgets for the budget sessions of the legislature. By statute, the ABC can also make a statement of disagreement with the governor's proposals, which are the final word on recommended budgets.

Some legislators, like the veteran Sen. Julian Allsbrook (D-Halifax), believe the commission represents an unconstitutional intertwining of the legislative and executive branches and have attempted to have it repealed. And many analysts judge the ABC, by its very structure, to weaken



Photo courtesy of N.C. Division of Archives and History

Until 1963 the 120 members of the N.C. House of Representatives met in this chamber. It is now preserved for tours in the old Capitol in Raleigh.

the power of the governor to develop his own budget. Nevertheless, governors seem to like the ABC because at least 8 to 12 of its members are legislators, usually the most powerful members of the General Assembly. If a governor can convince the legislators on the ABC to support his budget, he generally has an easy time getting it through the entire 170-member legislature.

Last year the legislative membership of the ABC meant enough to Gov. James B. Hunt, Jr. for him to bypass a political ally, Charlotte Mayor Eddie Knox, for another term as chairman. Instead, Hunt picked Sen. Kenneth Royall (D-Durham), to head the ABC. Already the chairman of the Senate Ways and Means Committee and, at the time, head of the Legislative Services Commission's personnel committee, Royall has emerged as one of the most influential state senators in Tar Heel history.

The Governor and the legislative members of the ABC "have been able to work together well," says Royall. "They (the executive branch) have never tried to ram something down our throats. But I would attribute that to the fact that a majority of the members of the Advisory Budget Commission are legislators."

Royall views the General Assembly and the executive branch as on an equal footing. The way in which Royall and his colleagues approach their job is helping to keep that balance in place. Royall, owner of a furniture and home-decorating business now run by his sons, does not have to juggle his legislative duties with the pressures of a

legal practice or the worries of spring planting. And on the House side, Rep. Liston Ramsey (D-Madison), a retired merchant, may hang onto his gavel indefinitely. The citizen legislature of farmers and attorneys of years past has given way to a new breed of professional legislator, certainly at the leadership level and increasingly within the ranks as well.

The growing professionalism has bred a new level of sophistication in using the legislative process to gain more power, particularly in relationship to the executive branch. In 1981, for example, the General Assembly attempted to pass a law giving it veto power over regulatory actions taken by the executive branch. Gov. Hunt opposed the bill and was able to weaken its scope. But a law did pass that gives the Administrative Rules Review Committee broader powers in reviewing executive agency rules than the committee formerly had.⁴ When this committee finds that an executive agency has exceeded its statutory authority in promulgating a rule, it can delay the rule from going into effect. The committee does not have an outright veto over an administrative action; an agency can contest the committee's delaying of a rule and the committee decision can be reversed in some cases by the governor alone and in others by the Council of State. The standard for review in North Carolina is whether the proposed rule is thought to be outside the statutory authority granted the agency. Still, despite the active lobbying of the Hunt administration against the measure, North Carolina joined 37 other states in adopting a legislative review of administrative regulations.

The legislature has also used its growing sophistication to intrude on powers traditionally exercised by the judicial branch. In 1981, for example, the General Assembly gave the Joint Legislative Committee on Governmental Operations control over a restricted reserve fund which cannot be allocated without the committee's approval and which may affect the expenditure of funds for judicial personnel.⁵ This action may conflict with General Statute 7A-102(a) which gives the Administrative Office of the Courts authority to set the number of employees and salaries and perform other fiscal functions. In the Nov./Dec. 1981 issue of the N.C. Bar Association's *Barnotes*, N.C. Superior Court Judge Frank W. Snapp expressed alarm over such actions: "The independence and integrity [of the judicial branch] have come under increasing assaults from the General Assembly... This trend must be reversed if the separation of powers between the legislative and judicial branches of government is to be maintained."

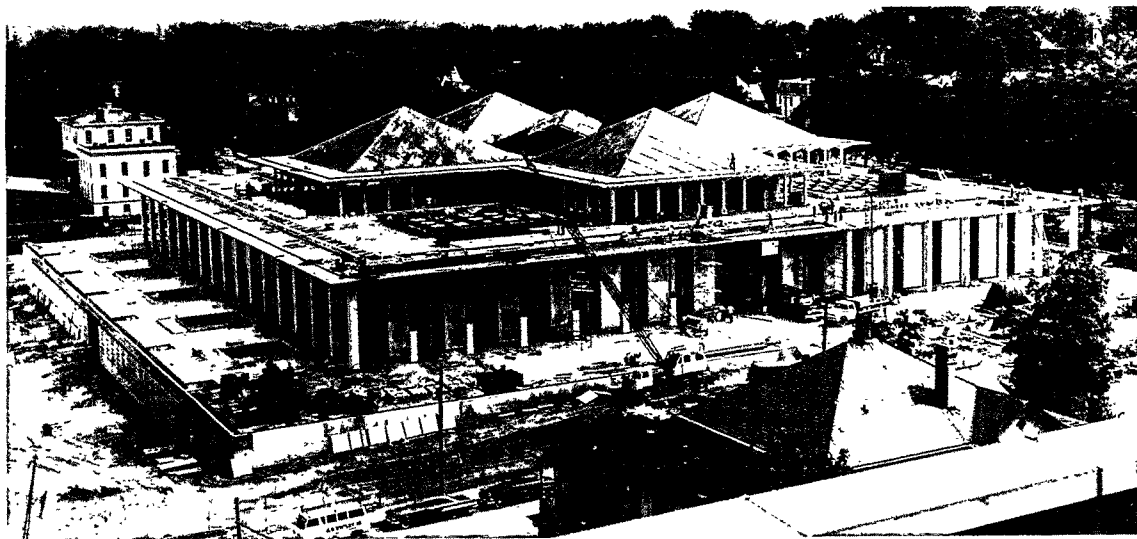
Legislators have even begun to bypass normal legislative routes to accomplish their ends. For example, during the 1981 session, the Legislative

Services Commission, which oversees operation of the General Assembly, cut off funding to the Governmental Evaluation Commission (popularly known as the Sunset Commission), a predominantly executive-appointed body with review power over certain state agencies and boards, the current usefulness of certain statutes, and other regulatory acts. Thirty-three states have a sunset law, developed usually in an effort to make government more efficient and relevant to current problems. Using a fiscal maneuver, the Legislative Services Commission cut off the Sunset Commission's ability to function and then transferred the same review powers to a special committee of the legislature and its staff.

Legislators — as well as the governor — have begun to use another avenue to power by placing important proposals before the General Assembly in the form of special provisions in the appropriations bills. These provisions often are unrelated to the budget, at least directly. Instead, they might contain major policy proposals that get approved in the same breath that legislators use to give the eye to the appropriations bill, which is seldom successfully attacked during floor action. For instance, when the legislature met in 1978 for a short session, the appropriations bill submitted by Gov. Hunt to the General Assembly, with the concurrence of the Advisory Budget Commission, contained 45 provisions, 21 of them dealing with policy. The technique had not gone unnoticed by the legislators either; if such a foray was good for the goose, it was good for the gander. Legislative leaders began putting more and more of their own policy directives in provisions within appropriations bills.

Legislative Building during construction in 1962.

Photo courtesy of N.C. Division of Archives and History



By the October 1981 "budget" session, the legislative leaders had become expert at this technique, skilled enough to ratify 84 special provisions, two of which Gov. Hunt questioned as an unconstitutional encroachment on his power. One provision in the October budget bill created a special committee to review and approve shifts of the block-grant funds that the state will get as a result of federal budget cuts. And guess who chairs that committee? The same Sen. Royall who heads the Advisory Budget Commission and the Senate Ways and Means Committee. Hunt has asked the Attorney General for an informal (and therefore not published) advisory opinion on whether this committee, as formed, infringes upon the executive's powers as defined by the N.C. Constitution (see pages 28-29 for details on the legal issues).

The other matter in question would limit the Governor's authority to transfer money within the state budget and his ability to use unspent funds for other purposes. If the Hunt administration wanted to transfer more than one-tenth of the money from one line item to another, the matter, according to this budget-bill provision, would have to go before the legislature's Governmental Operations Commission for review and approval.

At one point during the October session, the legislature reached so far with an attempted special provision that the effort backfired. Legislative staff were requested to draft a provision for the budget bill which would have effectively gutted the Coastal Area Management Act (CAMA), a controversial land-management law passed in 1974 which has had a great impact on coastal development policies. Aware of the implications of the draft provision, Secretary of Natural Resources and Community Development Joseph Grimsley, a strong CAMA advocate, pointed it out

to the press. Newspapers picked up the story — some placing it on the front page — and focused on Grimsley's linking the legislative effort to kill CAMA with the fact that Kenneth Royall owns coastal property affected by CAMA. Royall admitted owning the property and opposing some CAMA regulations but vigorously denied having anything to do with the special provision. The controversy that swirled around these two powerful political personalities effectively killed the provision. Without such a high-charged exchange between an administrative and legislative leader, the General Assembly might well have used a simple amendment to a budget bill to wipe out a major state program that has been in place for seven years — with little or no debate on the land-use policies in question.

The CAMA incident in October epitomizes the dangers of using special provisions within the budget bill to recast state policy. Legislators tend not to analyze and question such bills in the same way they do other pieces of legislation. Moreover, the Appropriations Committees, through which the special provisions are added to the budget bill, may not have the proper jurisdiction to add non-budget related items to the appropriation bills.

In the last 10 years, the legislature has centralized power into the hands of its leaders, has begun to function more like Congress and less like a band of part-time, citizen legislators, and has flexed its muscles in dealing with the executive branch. A wide range of factors have caused this process, three of the most important being: 1) the legislators' perception of the need to check the growing strength of the executive branch; 2) the return to power of the conservative faction of the Democrat party to the legislative leadership positions; and 3) a desire to curtail the effectiveness of the first Republican governor in North Carolina in this century in 1973-77.

House Speaker Liston Ramsey contends that despite the absence of a veto, the executive branch has the upper hand. "The legislative branch doesn't hire or fire anybody or appoint anybody," says Ramsey. "The governor does all the hiring and firing and spending all of the money and all of the highway money, too. I've heard that old story about the legislative branch being the most powerful in the nation because the governor doesn't have the veto, but I don't buy that."

Given such feelings, Ramsey certainly wouldn't want the governor to gain additional powers. Ramsey, along with Royall and Lt. Gov. Jimmy Green, tend to direct the legislature as if they have the duty to protect this body — and the constituents it represents — from "executive branch creep." Controlling state expenditures has been a primary

vehicle for curbing executive growth and power. Legislators usually have been able to come to some agreement with the executive branch on fiscal matters, primarily through state Budget Officer John A. Williams, Jr., Hunt's chief assistant. From the conservative wing of the party himself, Williams has tended to function in a collegial rather than a confrontational style with the legislative leaders.

The Governor has acted similarly. Even after the legislature appeared to be usurping some executive power with its recent provisions regarding the review of block grant funds and executive spending patterns, Hunt moved cautiously in challenging the legislative leadership — the very people he has courted so ardently since he took office in 1977.

Royall contends that the legislators were not trying to assume undue power through the October provisions. "It was just a matter of us trying to become informed," says Royall. "I don't think that (action) had anything to do with the balance of power."

Royall views the balance of power between the two branches as remaining stable so long as the two sides cooperate. But he said the legislature would move quickly to establish supremacy if it felt threatened. "I really believe the legislature would take over. They wouldn't let the administration run them over," says Royall. When Royall talks, people tend to listen. And if he says the legislature will flex its muscles when it sees fit, the executive branch should believe it.

Under its current leadership — which might be there for awhile — the General Assembly appears likely to retain if not expand the extent of its power in running the state. Moreover, the legislature has turned into an efficient, modern institution with computers, staff analysts, expanded office facilities, and annual sessions. It is doubtful that a national survey would now rank the North Carolina legislature near the bottom of the nation in efficiency. And if any group ever attempts the more difficult task of surveying the states to determine which legislature has the most power in relation to the other branches of state government, it might well place the North Carolina General Assembly near the top. □

FOOTNOTES

¹*Popular Government*, Winter, 1981, p. 20.

²Where comparisons to other states are made in this article, the source is *The Book of the States*, 1980-81, pp. 77-142.

³Chapter 504 of the 1981 Session Laws (SB 300).

⁴Chapter 699 of the 1981 Session Laws (SB 250), which amends G.S. 120-30.26ff.

⁵Chapter 964 of the 1981 Session Laws (HB 42), Section 20.

Can the Red Headed Orphan Survive on Leftovers?

The Budget Crunch and Capital Spending

by Vance Sanders and Jack Betts

A funny thing happened one day in July as the 134th General Assembly lurched toward adjournment. At a time when legislative leaders were moaning and groaning about paltry revenues and were preparing to put off some major spending requests until a budget session in the fall, taxpayers found out they were going to shell out more than \$4 million to build horse show arenas in Asheville (\$1.6 million) and Raleigh (\$2.5 million).

A few lawmakers, like Sen. Marshall Rauch (D-Gaston), thought the legislative horseplay excessive and in need of reining in. "That's a rich man's sport," Rauch told the Senate. "We have poor people who are not getting a raise next year. As a business proposition I just can't see spending that kind of money on horse shows."

But a majority of the legislators could see spending that kind of money on horses, for two reasons. First, politics has always been a major determinant of where capital funds are spent and 1981 was no exception: Two powerful legislators, House Speaker Liston Ramsey (D-Madison) and House Expansion Budget Committee Chairman Billy Watkins (D-Granville), took a liking to getting these horse projects out of the gates. Beyond politics, though, the horse-barn appropriation resulted from a trend in capital spending so complex and so ominous that building even a new horse barn might have actually been a fiscally prudent act by the General Assembly.

If that sounds strange, listen to Rep. Al Adams (D-Wake), chairman of the House Appropriations Committee and a legislator generally oriented more towards social services than pork-barrel

spending. "We would have funded six horse barns if we'd had proposals for them," says Adams. "I think the Advisory Budget Commission recommended only \$12 million for capital construction this year, and we doubled that. We took every [capital expenditure] we could find."*

Some might argue that spending \$4 million for another type of capital project, like a wilderness camp for emotionally disturbed adolescents or a new wing to a state office building, would help the state more than building two horse barns. But politics determined that choice. Rep. Adams is addressing a different point.

Some types of capital projects, such as horse barns, don't swell with inflation as rapidly as do those involving direct services, explains Adams. "If we put that \$4 million in an operational program," says Adams, "we have to fund it every year. If you put it into capital improvements, it's a one-time expenditure."

But some types of capital expenditures — such as a state office building — cause a ripple effect which does indeed lead to operational expenses. "Once you have a new building, new programs just seem to fill it up," observes one fiscal analyst. Sorting out the role of capital expenditures in the state budget process — whether truly one-time expenses or expenses that lead to more programs — involves first a bit of fiscal history.

The 1981 legislature appropriated a smaller percentage of the total state budget for capital improvements than any other General Assembly in

Vance Sanders, a law student at the University of North Carolina at Chapel Hill (UNC-CH), completed an undergraduate honors thesis at UNC on capital budgeting dilemmas throughout the country. Portions of his thesis were published by the National Governors Association. Jack Betts is Raleigh bureau chief of the Greensboro Daily News.

* Adams was referring to the legislature's \$24.3 million June appropriation for capital spending out of the general fund. This amount increased to \$30.0 million with the addition of various special provisions for capital projects in the appropriation bill passed in the October session. When road construction and other highway fund appropriations are included, the figure goes to \$328 million.

the last two decades. For the N.C. fiscal year 1982, the state will spend some \$328 million for all capital projects (this figure includes about \$297 million for road maintenance and construction), 5.6 percent of the state budget. If over \$320 million sounds substantial, consider the slice of history presented on pages 22-23, which shows the sources of capital funds and the amounts appropriated for capital projects from 1965 to 1982. In the 1967-68 biennial budget period, the state's capital appropriations totalled \$303 million, 11.1 percent of the budget. And remember, that was 14 years of inflation ago when money could buy a lot more bricks and mortar than it can today. In 1973-74, the year federal revenue sharing became available to the state, capital appropriations peaked at \$501 million, over 17 percent of the state budget.

Since 1974, however, the legislature has committed a declining percentage of funds to capital items. This represents a dangerous trend for North Carolina, say the people in charge of insuring that the state has adequate institutions, like mental hospitals, university buildings, and research facilities as well as sound public properties, like parks and roads. As capital spending declines, the existing physical plant of the state deteriorates. The amount of new capital projects decreases as does the attention to planning for long-term maintenance of the capital plant already in place.

In 1980, state agencies compiled a "wish list" of capital projects. The two-year price tag for what were termed immediate needs topped \$100 million. And fiscal officials within the 16-campus University of North Carolina (UNC) system say that present building plans would require \$650 million to complete. Without adequate capital spending, says UNC Vice-President for Finance Felix Joyner, the results would be devastating: "There's no telling what this figure will be in ten years, with inflation and all. We must meet these needs."

But some argue that the state doesn't need as much new capital building as these figures indicate, that "wants aren't equivalent to needs," as one fiscal analyst puts it. The state should not, for example, be spending \$650 million to expand the UNC system at a time when college enrollment appears to be on the decline, the critics contend. Moreover, when UNC officials and others insert such large figures into the budget process, they intensify the competition among programs for the sharply-declining pot of capital funds and transfer the focus of attention away from the need for long-term maintenance. Consequently, officials at the state level must concentrate more on the political exigencies of a particular budget year than on a long-range maintenance plan. And main-

tenance needs often lose out to flashy new capital projects with strong political backing (see box on page 19).

The difference between what an agency *wants* and *needs* is determined within the state budget process, perhaps the most political process in all of state government and an area extremely sensitive to changing financial trends. Capital budget items face the fiscally conservative Advisory Budget Commission (ABC), the powerful 12-member body that whittles budget requests down into an overall package for the legislature. And in recent years, the sources depended upon for capital spending, such as general revenue sharing and some types of bonds, have been drying up.

In the equation that includes a conservative ABC and a declining source of capital funds, add a growing sentiment against more government spending and the 1981 reductions in federal funding for a wide range of programs. What you get is greater pressure on state and local governments to spend money for running the government — for supporting existing services — rather than for new capital facilities. This equation has begun to operate at a time when much of the state's physical plant is getting old, particularly the roads. Meanwhile, North Carolina is expanding in population — it's now the tenth largest state — and will consequently have increasing demands placed upon its capital facilities.

In 1973 and 1974, the lawmakers had a surplus that totaled close to one-fourth of the total annual budget. While they spent much of it — particularly the newly available federal revenue sharing funds (look at the top line in the chart on pages 22-23, under years 1973-78) — for capital projects, they also put large sums into new state programs. Once these programs became part of the general operations of state government, their fiscal needs were closely tied to inflation rates and to energy costs, both of which began rising sharply in the mid-1970s.

From 1974 to 1982, the state budget more than doubled, from \$2.9 to \$5.9 billion. Maintaining the programs put into place during the "fat" years of 1973-74, perhaps more than any other factor, propelled this rise. And as the cost of running state government zoomed, general revenue sharing — a source of funds that legislators had become accustomed to using for capital projects — ended (see chart, under 1980). Meanwhile, legislators had begun to use funds once reserved for capital projects as a kind of "safety cushion" to meet general operating expenses. As a result of all these political and fiscal trends, legislators have recently made capital expenditures one of their lowest priorities, like a red-headed orphan waiting for the leftovers at the end of the session.

"When things are hard economically, capital improvements are the first to suffer," explains Robert Powell, state budget analyst in the Office of Management and Budget. "If you don't realize your revenues [for operating costs], you can cancel these capital projects at any time." State revenues have increased in recent years, but the operating budget has also grown enormously. And traditional sources of funds for the capital budget "cushion" — which has allowed the state to close the gap between operating revenues and expenses — are drying up.

"We are receiving \$70 million more per year in personal income tax revenue as a result of inflation — what's known as bracket creep," says David Crotts, senior fiscal analyst for the General Assembly. "But we're losing at least \$180 million per year — \$60 million once available in revenue sharing, \$60 million from lost bond-financing potential, and another \$60 million from a five-year highway bond issue that's been depleted." Meanwhile, the overall state budget keeps getting larger and larger.

Examining each of the traditional sources of capital funds provides a way to project what kind of future trends to expect with capital spending.

Revenue Sharing. Often described as former President Richard Nixon's favorite program (he began it in 1972), general revenue sharing pumped billions of dollars into state and local governments for eight years — including \$500 million to North Carolina's state government. Nearly half of that — \$232 million — went straight into capital spending. Alas, Congress cut out revenue sharing to state governments in 1980, and there went \$60 million per year in one fell swoop.

Highway Fund. This account, separate from the general operating fund, has financed much of the state's highways and bridges and paid for other transportation improvements. Since 1973, the amount spent on roads from this fund has hovered at around \$260 million per year, even as the state budget has more than doubled and the cost of building roads has risen with inflation.* The amount jumped to \$297 million for fiscal year 1982 when the legislature approved a three-cent per gallon tax increase and a package of license and fee increases to replenish the fund. But the increase in revenues will barely keep up with necessary road maintenance. Even this three-cent boost — a 25 percent increase in the highway fund base, passed at considerable political carnage —

Lag-Time: The Hidden Escalator For Capital Projects

Does delaying capital spending have any real effect? You bet it does, even on relatively small projects like roof repairs. In fact, just clearing the paperwork through the normal process for capital improvement costs the taxpayers millions of dollars.

Take, for example, a simple roof-repair job in which delays cost taxpayers a 66 percent increase in the tab. In August 1976, the Eastern North Carolina School for the Deaf in Wilson formally requested \$300,000 from the state to put up a new roof. When the 1977 General Assembly got to town in January, the project had been approved by the Department of Human Resources, the Office of State Budget, and the Advisory Budget Commission." But the legislature denied the funding request.

The Department of Human Resources didn't give up, however. It kept the project on its list of priorities and asked for it again in the 1979 General Assembly. This time, it got approval — but inflation drove the price tag up to \$501,000.

A few weeks after the legislature approved the request on July 1, 1979, an architect was employed. Eight months later, in March 1980, the construction contract was awarded. The reroofing was finally completed on June 2, 1981 — nearly five years after it was first proposed.

Inflation, running at over 10 percent in the construction business during this period, raised the cost of the contract substantially. And because this capital improvement was not funded earlier, part of the capital funds finally voted for reroofing had to be diverted to repair water damage, including \$10,000 to replace acoustical ceiling tiles.

"Legislators may not be convinced of the need for a capital request the first time they see it, particularly if it is a repair item which has little glamour," says DHR Budget Officer Jim Woodall. "If the ABC members did not visit that institution on their biennial tour, it aggravates the problem."

DHR has had to request some items for as many as eight years before they were funded. As a television car maintenance ad puts it: "You can pay me now or you can pay me later." □

* The figure swelled to \$281 million in FY 1979 and dropped to \$225 million in FY 1981.

isn't going to be enough for very long. The legislature may be faced with proposals for more tax increases for this fund within a year or two. "The loss of \$30 million to the highway fund as a result of President Reagan's budget cuts will definitely hurt," says Jim Newlin, a senior fiscal analyst at the General Assembly. "The three-cent gas tax increase will not be adequate to meet needs." Indeed, Gov. Hunt recently announced that few, if any, new miles of road will be built in 1982. In the inflationary economy, the highway fund revenues cannot even meet all the road maintenance needs.

Bond Issues. In the last 20 years, nearly \$1

billion worth of bond issues have helped finance almost two of every five dollars spent on capital improvements in North Carolina. In the summer of 1981, several state officials expressed doubt that North Carolina could continue to rely so extensively on bond issues for capital funds. Deputy State Treasurer J.D. Foust pointed to the high level of interest rates: "People don't want to invest in long-term bonds when inflation far outstrips their bond earnings." Fiscal Analyst Crotts worried that the state could rely too much on bonds: "North Carolina's bond rating is currently a high triple-A — the best in the bond market. We don't want to endanger that rating." And State Sen.

Financing With Bonds — Delaying Costs ...Increasing Debts

by Jim Newlin

As one means of financing capital projects, North Carolina issues bonds, a long-term debt instrument which the state pays back with interest over the bond's life. The rationale for bond financing is that it passes on some of the cost of the project to future users. The state issues two major types of bonds, "revenue" bonds and "general obligation" bonds.

Revenue bonds, used for such projects as parking decks or university dormitories, generate income which is used to repay the bonds. Revenue bonds pledge only the revenue generated from the project, not the full faith and credit of the state. Tax funds cannot be used to repay revenue bonds because they have not been approved by the voters.

Certain state agencies or commissions have the authority to issue revenue bonds, usually subject to the approval of the state treasurer and the Local Government Commission and to a feasibility study by a nationally reputable firm that shows that projected revenues will be sufficient to retire the bonds. State institutions or authorities owe some \$602 million in revenue bonds.

The University of North Carolina system, the Housing Finance Agency, and the Medical Care Commission owe most of the debt.

General Obligation bonds are the type of bond to which Sanders and Betts refer in the accompanying article and the type discussed in the rest of this box. These bonds pledge the full faith and credit of the state that they will be repaid. The General Assembly must first approve such a bond issuance. If the amount is greater than two-thirds of the state's indebtedness paid off during the preceding biennium, the voters must then approve the bond issue as well.

Major bond issues requiring voter approval usually have a schedule of issuance, allowing the bond sales to be spread over a period of time, such as five years. This time period is intended to approximate the need for cash for the specific purpose, so the state does not have to pay interest on funds that cannot be spent for several years.

After legislative and, if necessary, voter approval of a bond issue, the state treasurer begins work with bond counsel and underwriters to prepare a prospectus to offer to potential investors. Once the prospectus is offered, bonds are then sold on the market at interest rates which vary with economic conditions and the rating given the bonds. North Carolina general obligation bonds carry the highest rating [Aaa/AAA] offered by rating services, which holds down interest rates charged to the state.

Bonds from any particular issue have varying dates of maturity so that both principal and interest are repaid over the entire issuance period. As soon as the bonds are sold, the state begins interest payments; principal payments usually

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Kenneth Royall (D-Durham), chairman of the Senate Ways and Means Committee, gauged the political mood at that time: "With the interest rates and the debt service we'd have to pay, it just makes [new bond issues] out of the question."

Despite these doubts, the legislature in the October session passed a \$300 million clean water bond, which will have to be approved by the voters before the state can issue the bonds. When federal funds for water and sewer improvements were reduced sharply in the summer of 1981 as a part of President Reagan's budget cutting campaign, Gov. Hunt lobbied hard for the clean water bond in the October session.

begin after two or three years, depending on maturity dates of the bonds.

The Mounting Debt Service

The General Assembly appropriates funds for debt service, which include principal and interest, and the state treasurer is responsible for keeping a schedule of debt service due. In October 1981, General Fund bond indebtedness (principal) amounted to \$589.2 million. Another \$161 million has been authorized, but has not been issued by the state treasurer. Because the state is also paying off bonds each year, the peak indebtedness is only estimated at \$637.2 million in 1984, based on current authorizations. Current General Fund indebtedness dates back to the Public School Facilities Bonds authorized in 1963, which have \$15.2 million outstanding from a \$100 million authorization.

General Fund debt service (principal and interest) on current indebtedness (principal only), is \$61.9 million during the current 1981-82 fiscal year and goes up to \$69.5 million during 1982-83. The state treasurer estimates that issuance of currently authorized bonds will increase debt service to \$80 million in 1982-83, with a peak payment of \$85.8 million in 1984-85.

The General Assembly in October 1981 authorized the issuance of another \$300 million in Clean Water Bonds, subject to the approval of the voters. The state treasurer estimates that issuance of these bonds would increase debt service requirements to \$107.8 million in 1983-84 with a peak payment of \$122.6 million in 1986-87, assuming a 12 percent interest rate on all new bonds. If more bonds are authorized in future years, the peak payment could increase even more.

Highway Fund bonds are general obligation

Hunt's efforts and the legislature's desire to respond to the cuts in some way helped to pass the bond.

Several bond issues have recently expired (see footnotes 7 and 9 in chart on pages 22-23), leaving the state with a major gap in revenue sources for new capital projects. Generating new capital funds through a bond issue is a far easier step politically than a direct appropriation or new gas tax. But a continued reliance on bonds tends to increase the debt service for the state, a growing part of the annual state budget and an expense that is not as visible as a direct appropriation. Using long-term, interest bearing bonds, the state

bonds backed by the taxing power of the state. Since 1949, highway bonds have had an additional backup of a special one cent per gallon motor fuel tax dedicated to debt service; this has led to slightly lower interest rates on highway bonds. Total Highway Fund bond indebtedness (principal only) was \$216 million in June 1981, with an additional \$120 million authorized but unissued.

Legislators face certain tradeoffs when deciding whether or not to use bonds for financing capital projects. In 1977 Gov. Hunt, rather than requesting a gas tax increase, asked the legislature to approve a \$300 million highway bond issue. The bonds would provide \$60 million a year for five years for road construction at a time when inflation was high and Highway Fund revenues were not growing enough to keep up with rising costs. Preventive maintenance of roads was declining.

The choice faced by the legislature was to fund a \$300 million bond issue, at a cost of an estimated \$190 million in interest, or to levy a two cents per gallon gasoline tax for five years, which would have provided a slightly higher amount of funding, but at the political cost of voting for a tax increase. At Hunt's urging, the General Assembly passed the bond legislation, and it was subsequently approved by the voters. In 1981, as the revenue generated by the bond issue was running out, the General Assembly had to levy a three cents per gallon motor fuel tax increase, along with other fee increases, in order to keep road maintenance funded.

Not only did the legislators have to follow the 1977 bond bill with a 1981 tax increase, they also had to appropriate funds in 1981 to pay for the interest and principal of those 1977 bonds. And the debt service on the bonds authorized in 1977 will continue to cost the taxpayers for many years to come. □

defers paying for capital projects. In the long run, this process usually costs the state more than would appropriations from the general or highway fund. (See box on pages 20-21 for an explanation of bonds and their effect on the debt service.)

General Fund. This fund, the main purse of state government, has financed most of the capital improvements over the years. The money comes

from every imaginable tax, but it goes for every imaginable program that state government runs, especially now that legislators use funds once reserved for capital spending as a kind of safety cushion to meet operating expenses. By the time operating expenses are met, there's little left over in this fund for capital improvements — like \$30.0 million for 1981-82, less than one-half of one

Funding for Capital Improvements in North

Biennial Budgets					
A. State Appropriated Funds for Capital Improvements	1965-66	1967-68	1969-70	1971-72	1973-74
1. Federal Revenue Sharing	—	—	—	—	\$105,200,000
2. General Fund	\$ 41,639,578	\$ 112,356,788	\$ 75,588,603	\$ 64,891,192	86,622,446
3. Highway Fund (non-roads)	3,192,800	4,344,600	1,080,000	4,097,293	4,044,500
4. Wildlife Fund	341,254	901,127	140,000	805,986	243,486
5. Federal Funds	3,782,160	19,048,597	11,628,579	1,398,770	3,720,300
6. Self Liquidating	34,074,000	36,023,000	16,731,000	24,000,000	41,589,100
7. Other	—	—	—	—	733,875
8. Highway Fund — Road Construction ¹					
a. State construction and Maintenance	97,000,000	100,000,000	168,000,000	185,000,000	220,000,000
b. State Matching Funds Matched with Federal Aid	34,006,864	30,797,332	35,307,645	67,460,595	38,785,605
TOTAL APPROPRIATIONS FOR CAPITAL IMPROVEMENTS	214,036,656	303,471,444	308,475,827	347,653,836	500,939,312
Total Authorized State Budget²	2,217,400,000	2,746,600,000	3,589,000,000	4,455,400,000	2,877,900,000
TOTAL APPROPRIATIONS FOR CAPITAL IMPROVEMENTS AS PERCENTAGE OF TOTAL AUTHORIZED STATE BUDGET	9.7%	11.0%	8.6%	7.8%	17.4%
B. Other Capital Improvements Funded by Federal Aid & Bond Issues					
1. Road Construction Funds ¹					
a. Federal Aid	—	60,823,831	74,772,211	110,661,742	96,904,376
b. Road Bonds	—	—	—	—	—
2. Statewide Bond Issues ³	60,000,000 ⁴	40,000,000 ⁴	—	45,995,000 ⁶	—
	17,970,000 ⁵	—	—	—	45,000,000 ⁷
	—	—	—	—	—
	—	—	—	—	—
	—	—	—	—	—
TOTAL BONDS SOLD	77,970,000	40,000,000	-0-	45,995,000	45,000,000
TOTAL BONDS SOLD AS PERCENTAGE OF TOTAL AUTHORIZED STATE BUDGET	3.5%	1.5%	0%	1.0%	1.6%

FOOTNOTES:

¹ Source: Fiscal Section, Dept. of Transportation.

² Summary of the Recommended State Budget, 1981-83, p. 75.

³ Source: Annual Report for FY Ending 6/30/80, Dept. of State Auditor. Amounts are for end of fiscal year. No figures appear for 1981-82 because fiscal year has not ended. Amounts are for bonds *issued*, not *authorized*.

⁴ Issued under \$100 million Public School Facilities Bond of 1963.

⁵ Issued under \$17.98 million Capital Improvements for State Institutions Bond of 1965.

⁶ Issued under \$45.99 million Capital Improvement Legislative Bond of 1971.

⁷ Issued under \$300 million Public School Facilities Bond of 1973.

⁸ Issued under \$2 million Zoo Bond of 1971.

percent of the state budget. (This fund does not pay for road construction.)

Those who argue that current levels of capital spending are far too low point to five possible solutions to the problem: tax increases, new sources of revenue, new bond issues, diverting

general funds, and setting a fixed percentage of the budget for capital funds.

Tax Increases. Political death, right? Maybe so, but be prepared. There are probably more in the offing. There are those who have suggested that an income-tax increase might be forthcoming, but few political observers think that would wash in the legislature — particularly with Congress trying

Carolina by Source of Funds, 1965-82

Annual Budgets

1974-75	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82
\$ 47,200,000	\$ 4,713,789	\$ 16,126,358	\$ 26,583,626	\$ 32,230,000	—	—	—
36,165,337	23,948,648	28,969,937	4,749,000	93,778,818	\$ 84,378,719	\$ 99,913,212	\$ 26,848,727
370,000	1,804,500	—	1,625,600	1,533,995	2,707,282	2,767,142	1,200,000
—	—	—	—	—	—	—	—
803,750	1,778,250	5,473,750	2,603,932	1,744,537	2,065,675	2,638,200	—
2,225,000	9,668,000	4,270,000	39,730,000	—	64,446,000	—	—
640,000	32,625	205,625	294,750	780,000	247,600	767,024	3,157,000 ¹³
217,000,000	222,680,022	189,515,053	202,526,769	239,085,854	220,546,132	202,469,807	283,829,644
46,993,248	35,750,287	62,740,266	53,770,401	42,729,448	52,622,297	12,777,486	12,714,934
351,397,335	300,376,121	307,300,989	331,884,078	411,882,652	427,013,705	321,332,871	327,750,305
3,080,900,000	3,247,600,000	3,462,600,000	3,977,300,000	4,410,900,000	5,032,300,000	5,443,100,000	5,864,000,000
11.4%	9.2%	8.9%	8.3%	9.3%	8.5%	5.9%	5.6%
208,630,694	104,143,939	189,477,549	224,500,698	197,827,840	206,058,766	166,141,122	—
—	—	—	60,000,000	60,000,000	60,000,000	45,000,000	—
1,500,000 ⁸	—	—	—	—	—	—	— ³
29,500,000 ⁹	15,000,000 ⁹	35,000,000 ⁹	30,000,000 ⁹	4,000,000 ⁹	28,000,000 ⁹	—	—
105,000,000 ⁷	90,000,000 ⁷	25,000,000 ⁷	16,250,000 ⁷	18,750,000 ⁷	—	—	—
—	—	25,000,000 ¹⁰	18,250,000 ¹⁰	—	—	—	—
—	—	—	—	20,500,000 ¹¹	—	45,000,000 ¹¹	—
—	—	—	—	—	—	—	— ¹²
136,000,000	105,000,000	85,000,000	124,500,000	103,250,000	88,000,000	90,000,000	—
4.4%	3.2%	2.5%	3.1%	2.3%	1.7%	1.7%	—

⁹ Issued under \$150 million Clean Water Bond of 1971.

¹⁰ Issued under \$43.27 million Capital Improvements for Higher Education Bond of 1975.

¹¹ Issued under \$230 million Clean Water Bond of 1977. (More bonds could be issued in the future.)

¹² No bonds have been approved by the voters at this writing under the \$300 million Clean Water Bond authorized by the General Assembly in 1981. Bond issues in notes 4-11 were first authorized by the legislature and then approved by the voters.

¹³ Special appropriation bills approved in fall 1981 session.

This chart was designed and compiled by Vance Sanders, an author of this article, and Center Director Ran Coble. Glenn Kiger and Cathy Garrett, Center interns, assisted with research and computations.

to cut taxes in Washington. Other types of tax increases could also be proposed, such as adding one cent to the local sales tax and increasing the gas tax.

New sources of revenue could help meet some capital budget requirements, but probably not a major share. For instance, imposing a severance tax on minerals mined in North Carolina could produce some \$14 million per year. Another potential source is the acceleration of corporate income tax payments. An idea floating around the legislature since 1971, this change in method of state revenue collections would put corporate income tax payments on the same schedule as federal payments. The one-shot injection could be worth as much as \$100 million, and the legislature could allocate it all to capital projects.

New Bond Issues. As mentioned above, the legislators recently authorized a new \$300 million Clean Water Bond. Submitting this new bond issue to the voters could portend a preference by legislators to go the bond route rather than a tax increase or another route as a way to fund capital improvements. If so, various agencies are already in line with their proposals. The Supt. of Public Instruction and a legislative study commission have proposed a school bond issue to the legislature.*

Diverting general funds, the money currently budgeted for operating costs, could improve the capital improvements picture. Whether based on each agency's budget or on the full operating budget, this approach would meet opposition from many quarters because it would cut into funding for current operations of other programs.

A fixed percentage of each annual budget — say two percent — could be allocated exclusively for capital improvements. Any funds not used immediately could be put into a reserve fund for similar use later. That reserve also could serve as the highly-valued safety cushion which legislators like to fall back upon in lean years. Legislative leaders think this would work but they're leery of being tied to a fixed figure.

"I would not go with any sort of statutory mandate on what the figure ought to be," says Sen. Harold Hardison (D-Lenoir). "But yes, I think there should be some understanding that some substantial amount would be set aside."

Royall, the chairman of the Advisory Budget Commission, agrees: "We've got to have more capital spending, no question about it. With the budget as high as it is now, a percentage figure to shoot for would be as good a way to do it as any."

And on the House side, Rep. Adams concurs:

"I've heard as much as two or three percent talked about. Certainly it should not be less than one percent. Then if you have a short year, you can delay your capital expenditures and get by."

Until one of these alternative solutions, or some combination of them, is adopted, the portion of the state budget allocated for capital projects is likely to continue declining. Some state officials argue for a large increase in capital appropriations as the only way to reverse the decline. Other fiscal analysts contend that this situation calls for more sophisticated long-term maintenance planning at top policy levels and for some rational means of distinguishing between wants and needs. The state has made a good first step towards this long-term planning process by completing "Proposed Six Year Capital Improvement Plans by Departments (Excluding the Board of Governors — University of North Carolina)" for the 1981-83 biennium.* This plan needs to be submitted to further review at the state level as well as within the various agencies so as to make clear distinctions between wants and needs and to distinguish between maintenance needs and new projects. And, legislators need to follow this plan during the appropriation process rather than reacting primarily to the political exigencies of a particular year. Having such a plan available allows legislators to make the tough choices regarding maintenance needs versus new projects in the lean years when there are not enough funds left for capital expenditures.

Regardless of one's position as to the best way to protect the state's physical plant, two important trends are likely to continue eroding the portion of the budget going to capital projects: the drying up of traditional sources for capital projects and the safety-cushion method of using funds once reserved for capital spending to meet operating expenses.

Adding these two trends to such fiscal developments as the federal budget cuts of 1981 (and projected cuts for 1982 and 1983) yields an inescapable conclusion. Only a small amount of funds remain for capital projects at the end of a legislative session. With such small reserves left, politics come into play in a disproportionately high way. After all, if there's barely enough left for horse barns, then what's to become of a leaky roof at a mental hospital? Without a long-term maintenance plan, the state has to make choices based more on politics than on needs. And, all the time, the pot of money is shrinking. □

* Bills to submit a public school bond referendum to the voters were introduced in the 1981 General Assembly (HB 104 and SB 71) but did not pass.

* *Summary of the Recommended State Budget 1981-83 Biennium*, Appendix Table 9, pages 83-106.

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Is the Federal "Branch Office" Ready for a Promotion? Managing Budget Cuts at the State Level

by Ferrel Guillory



In his campaign to reduce federal domestic spending, President Reagan has ridden on the coattail of a myth — that the enormous growth in social programs in the past two decades has been accompanied by an equally enormous expansion of the federal bureaucracy. In fact, the creation of hundreds of federal programs contributed to a substantial growth in bureaucracy in state and local governments, not in the federal bureaucracy. "Although federal programs, budgets, and regulations have grown markedly over the past 20 years, federal domestic employment — perhaps the best single indicator of the direct national role — has held almost steady," said a recent report of the Advisory Commission on Intergovernmental Relations (ACIR).¹

In 1962, the federal government had 160 grant-in-aid programs, costing about \$7 billion. The number of these programs had doubled by 1967 and tripled by 1978, with the cost rising to \$85 billion. Federal civilian employment rose from 2.5 million in 1962 to a peak of 3.0 million in 1967. During the 1970s the number went down, ending that decade at 2.9 million. The number of federal civilian employees actually declined during the 1970s.²

If the number of federal programs and dollars has increased, why hasn't federal civilian employment grown commensurately? "The federal government has sought to exert its increasing influence indirectly, through the carrot-and-stick of subsidy and regulation" explains the ACIR report. "State and local governments remain the dominant service providers in every domestic field — except social security, the postal service, money and banking, and certain regulatory areas." Consequently, the number of state and local government employees has more than doubled in the last 20 years, the period during which the number of federal grant-in-aid programs has exploded. In North Carolina in the last 15 years, the number of teachers and state employees grew by 69 percent, from 108,000 to 181,000.³

For 20 years, then, North Carolina and other states increasingly served as branch offices of the federal government. Policymaking centered more

and more in Washington, as the federal government sought to fight poverty and hunger, clean up the environment, train people for employment, and stimulate community development. State governments accepted federal money, matched it with their own, and operated federal programs according to federal directives.

But now the Reagan administration, with the assistance of Congress, has begun to change things. Most visibly, they have sent less money down the pipeline from Washington, which will adversely affect the everyday lives of millions of North Carolinians. As important as the amount of money, however, is the way the federal budget cuts are taking place. Using sweeping fiscal techniques — grouping individually-funded programs into "block grants" and changing eligibility requirements in social services programs — Reagan and the Congress have turned over to the states more responsibility for setting policy and priorities. In addition, they have simply ended the financing of programs like the public service jobs component of the Comprehensive Employment and Training Act (CETA). These federal actions have forced states to face a choice of no longer having a program or using state monies to carry on a particular task or service.

State governments, which had been happily handing out benefits paid for primarily by federal dollars, now have to hand out the news that benefits are being cut. Moreover, the promise of "federalism" — where states administer programs once run according to federal guidelines and mandates — is proving to be largely illusory. The major cuts are not in block grants, which the states can choose to administer, but in individually-funded programs — water and sewer construction, CETA jobs, university research grants, Medicaid — which cannot be administered at the state level with as much flexibility as can block grants. (See article on pages 36-42 for a full explanation of the

Since 1972, Ferrel Guillory has been a political reporter for the Raleigh News and Observer, as the chief capital correspondent and head of the Washington bureau. Now associate editor, he is responsible for the editorial page.

main budget cuts in North Carolina and the method used for each cut.) State officials must now cope with the difficult task of determining new policy priorities and of meeting human needs with less money. "We're all sort of off balance," said an aide to Gov. James B. Hunt, Jr.

In August, President Reagan signed into law the Omnibus Budget Reconciliation Act, which set the maximum amount of money that Congress could appropriate for the 1981-82 federal fiscal year (Oct. 1, 1981–Sept. 30, 1982). This far-reaching piece of legislation grouped over 50 individually-funded programs into nine block grants, put federal budget ceilings on other programs not in block grants, and changed eligibility requirements and reimbursement mechanisms for "entitlement" programs such as Aid to Families with Dependent Children (AFDC) and Medicaid. While the Reconciliation Act is only an authorization bill and thus did not include final appropriation figures and provisions for many programs (these are to come late in 1981 and early 1982), it did indicate roughly how many federal dollars the state would lose.

The federal budget cuts hit North Carolina particularly hard in two areas that Gov. Hunt has set as high state priorities — economic growth and human development. Major grant reductions came in funds for water and sewer facilities and for job-training, areas which affect North Carolina's drive for economic diversification. Substantial federal cutbacks also came in AFDC, child nutrition, the Title XX grants that pay for child day care and other social services, and Medicaid — all significant in a state where about 15 percent of the population lives below the poverty level. Among the 860,000 North Carolinians who live in poverty, females head 58 percent of those households, and the heads of 30 percent of the households work but do not earn sufficient wages to raise the household above the poverty line. "They are hitting us in the very areas where we can't afford to lose if we are to grow," said Hunt, in an interview for this article.

State government has only just begun regaining its balance and looking ahead to the time when it must make some fundamental choices in response to the federal budget cuts. As a preliminary step, North Carolina has already informed the federal government that it would accept administration of six of the nine block grants: maternal and child health, social services, low income energy assistance, community services, preventive health, and alcohol, drug abuse and mental health.⁴ Hence, the state will decide how to distribute the federal funds available for programs in these

blocks. About 75 percent of the total formerly allocated for the individual programs grouped in the block grants are available to the states for the 1981-82 fiscal year.

A recent survey by the National Governors' Association found that, like North Carolina, most states were moving immediately to assume control of the block grants that were available for state takeover. If a state does not accept a block grant, the federal government will continue to administer the programs as categorical grants but at the reduced budget levels.

When the General Assembly returned to Raleigh in October for a "budget session," neither Gov. Hunt nor legislative leaders had developed a programmatic reaction to the federal cuts. Hunt said that his administration had not had time to make decisions about which programs to pick up: "It was a question of the time required to do it in a fair way." In addition, the Governor and legislators had a major political hurdle to surmount in enacting a salary increase for teachers and state employees. Legislators focused their attention on establishing future state revenues so as to permit the pay raise and finance special local projects rather than concentrating on how to provide a state cushioning of federal cuts. Consequently, during the October session, the Governor and the General Assembly took a hodge-podge of actions, mostly of a stop-gap nature:

1) In most cases, cuts were simply "passed

The Senate power structure huddles during the October budget session. From left: Sen. Kenneth Royall, Lt. Gov. Jimmy Green, Sen. Craig Lawing, and Sen. Harold Hardison.

Photo by Paul Cooper



through." Programs administered at the state level were scaled back by the approximate amount of money reduced in Washington. If the federal government cut a program by 25 percent, the legislature passed on that 25 percent cut at the state and local levels. The General Assembly did not offset the reductions, either by appropriating additional state funds or by raising taxes.

2) The legislature took some remedial action. In a variety of small, yet important, ways, it managed to help ease the transition to a slowed flow of federal funds. The legislature raised the standard of need for welfare, thus allowing some 450 families to keep AFDC, Medicaid, and Title XX social services.⁵ It also raised the payment for foster care and extended Medicaid to unborn children so that a poor woman with her first pregnancy could qualify for prenatal care. But the General Assembly did not appropriate an additional \$8 million for the Medicaid program, an amount which would have avoided some \$25 million in total Medicaid program cutbacks resulting from the new state-federal funding formula under the Reconciliation Act (see article on pages 43-48 for a full explanation of the Medicaid issue).

3) An expanded clean water bond issue was authorized. The legislature took this action in part to offset a \$34 million federal reduction in construction grants for water and sewer facilities and in part because the Governor promoted the issue as part of his campaign to recruit new industry. In early 1981, before the federal cuts, Hunt had sought a \$220 million bond issue, but he enlarged his proposal to \$300 million in response to the federal action. Before general obligation bonds can be issued in North Carolina, they must be approved in a statewide referendum. Even if voters approve the action, the uncertain condition of the national bond market may make it difficult to raise capital through bond sales. Although the bond legislation did not require an immediate outlay of state money, by authorizing the water and sewer bonds, the legislature made its first large step toward offsetting a substantial federal cut-back.

4) The legislature sought to give itself some power over block grants. Legislative leaders established a special mechanism for coping with the block grants with the intent to give itself added leverage in the priority-setting process. In

Legislators and Governor Clash over Budget Provisions

— The Legal Issues at Stake

by Ran Coble

"The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other."

— Article I, Section 6, the N.C. Constitution

"The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor. . . ."

— Article III, Section 5(3), the N.C. Constitution

When the voters of North Carolina ratified Article III, Section 5 of the Constitution of 1971, neither they nor the legislature had any way of

knowing that only 10 years later federal block grant funds would be a part of subsequent state budgets. The budget administered by the governor in 1971 consisted of mostly state funds, and the federal funds that were available were tightly targeted by Congress. By 1981, the "Reagan revolution" had occurred, bringing with it a new system of federal funding.

In response to the federal initiatives, the 1981 General Assembly in its October session took two actions in House Bill 1392 that raise constitutional questions. First, it created a new Joint Legislative Committee to Review Federal Block Grant Funds (G.S. 120-80). Second, it gave the Joint Legislative Commission on Governmental Operations the power to review and approve any executive branch transfer of more than 10 percent of the money from one budget line to another (G.S. 143-23[b]). Various legal experts, as well as the Hunt administration, have questioned these provisions, thinking they may violate both the separation-of-powers clause of the state Constitution and the clause giving the governor the responsibility for administering the budget. Hunt has gotten an informal (and hence unavailable for publication) opinion from the Attorney General's Office on the issue, and he may eventually ask the N.C. Supreme Court for an advisory opinion.

The new provisions passed by the legislature

the revised appropriations legislation enacted in October, the General Assembly established a Joint Legislative Committee to Review Federal Block Grant Funds, with six House members appointed by the Speaker and six senators appointed by the Lieutenant Governor. The legislation gives the committee power to "review all aspects of the acceptance and use of federal block grant funds" and prohibited the executive branch from taking certain actions with regard to block grants without the prior approval of this committee of the General Assembly.

Gov. Hunt expressed concern about this special provision of the appropriations bill, along with another provision that requires the approval of the Legislative Commission on Governmental Operations for the executive branch to transfer funds over a certain amount from one line item to another. Although Hunt kept his objections low-key, the question arose as to whether these provisions violated the constitutional separation of the executive and legislative branches. One fallout of the Reagan budget cuts, therefore, may be a test of the constitutional balance between the legislature and the governor in North Carolina. (See box

on this page for an explanation of the legal issues involved.)

Whatever the outcome of this constitutional issue, the question remains: Are the General Assembly and the Governor prepared to cope with the new demands imposed by the federal cutbacks? There is hardly any doubt that state governments, including North Carolina's, are more sensitive to human needs and better prepared bureaucratically to run programs than they were when the federal government stepped in with its expansion of grants-in-aid 20 years ago. The state bureaucracy has ballooned in the last two decades and so has its ability to handle new administrative demands. But many federal social programs came about for the very reason that state legislatures failed to respond to human needs, so people turned to Washington. Having modernized itself with staff, computers, and new facilities, the N.C. General Assembly must now demonstrate its creativity and sensitivity — and its maturity as an institution — in reacting to federal cutbacks. Because the political-legislative process demands leadership in order to function well, the Governor,

raise two primary legal questions. Is the General Assembly interfering with the governor's power to administer the budget? And, can the General Assembly delegate budgetary review and approval powers to an interim committee for final action? The answers to these questions lie in the legal interpretations of G.S. 143-23(b), the restriction of funds provision, and the four subsections of G.S. 120-84(b) regarding block grants cited below, which forbid the executive branch from taking the following actions without prior legislative approval:

- "(4) transfer of funds between block grants,
- (5) intradepartmental transfer of block grant funds,

...
(7) adoption of departmental rules relating to federal block grant funds,

- (8) contracting between State departments involving block grant funds,

...
The North Carolina courts have interpreted the state Constitution to give the legislature the power both to appropriate funds for the public health, safety, and welfare and to oversee and review the executive branch. But in the new provisions enacted in 1981, the functions claimed by the legislature may clash with the constitutional power of the governor to *administer* the budget. Moreover, the legislature has vested

these extensive new budgetary powers in the hands of a few of its members — the 12 on the Joint Legislative Committee to Review Federal Block Grant Funds and the 13 on the Joint Legislative Commission on Governmental Operations.

While the legislative actions may appear to be an attempt to gain control of the new fiscal powers available to the states under "Reagan's revolution," political realities may prevent the constitutional questions from ever reaching a court of law. What matters ultimately is not what the new laws say but what the legislature and Gov. Hunt actually do. The Governor may refuse to comply with the new provisions which could force the legislators to sue him. Conversely, if the General Assembly exercises its new budgetary powers, the Governor may have to sue the legislators. But resorting to legal avenues for a resolution of the issues outlined above is not palatable to either side. "We really don't want to fight about it," an aide to Hunt told *The News and Observer*. "They're Democrats like us and they're friends we need to work with." Friends or not, the tension between the legislative and executive branches has increased, clouding the clear separation of powers called for by the Constitution.

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too, faces a critical challenge. As he seeks to show that a second term can be fruitful (Hunt is the first N.C. governor allowed to succeed himself) and as he looks ahead to a possible 1984 campaign against U.S. Senator Jesse Helms, will Hunt be a strong enough leader to get state government to ease some of the human pain enacted by the federal budget cuts?

Actually, state officials are not completely to blame for the heavy burden they are now forced to bear. To be sure, Gov. Hunt and the legislature once, by formal resolution, called upon the federal government to operate within a balanced budget. So they share some of the responsibility for fostering the political sentiment that led to budget-cutting. But this is Ronald Reagan's revolution. It is his agenda of budget cuts — not the state's agenda — which was finally enacted.

Further, economic and political circumstances are working against a state's being able to pick up a substantial part of the federal cutbacks. The nation has fallen into a recession, and an economic downturn causes a fall-off in state revenue collections. As the Reagan administration has pointed out, states could raise their own taxes, but the President, through his own tax-cut package, has stirred an anti-tax psychology that makes it politically difficult for legislators and county commissioners to increase taxes at the state and county levels.

The legislature, moreover, has already passed a biennial budget effective through September 1983. To alter significantly an already-enacted budget could require not only a strong push from the Governor's office but also an enormous, well-orchestrated lobbying effort by an array of interest groups. But the people most affected by the budget cuts — the poor and working people with modest incomes — have the least organized lobbies.

So far, state officials have made few specific commitments for long-term responses to federal cuts. But if Gov. Hunt genuinely believes what he has been saying about how much state government has improved itself in the past 20 years, he can hardly brush the whole thing off and blame Reagan. Similarly, if Hunt is moved by his own words about the extent of poverty in North Carolina and its consequences for children, he cannot long let budget cuts simply be passed through, across-the-board.

The Governor has said he planned to develop proposals to offset federal actions according to his priorities of economic growth and development programs for people, especially children. For instance, he said, "I can easily see us putting less funds into maintenance type things and putting more into day care." But Hunt doesn't foresee

fundamental budget changes for several years. "We probably won't see the full redirection of some of these funds until the next biennial (1983-85) budget."

No one expects the state to offset everything cut in the federal budget. Private actions by businesses, churches, and civic organizations can help fill some gaps, but non-governmental agencies do not have the capacity to take up all the slack created by more than \$200 million in federal cuts. Government action is essential.

The benefits of the Medicaid program, for example, will have to be measured against the need for a new government building or a tax measure. It may not be necessary to continue a program precisely as the federal government has been having it run, but certain tasks remain to be accomplished by some method. If the federal government is going to reduce Title XX funds available for day care, then what other options should there be for working mothers who want to see that their young children are adequately cared for? If there are to be no federal grants for the CETA program, then what other job-training arrangement could be designed by state officials?

In human terms, the burden of the federal cutbacks falls particularly on the working poor. In governmental terms, the budget-cutting does not strike principally at the Washington bureaucracy, even though the perception of a "bloated federal bureaucracy" has helped the President get his program through Congress. Budget-cutting places the burdens of trying to manage the program reductions on the state bureaucracy. After a generation of serving as a conduit for federal social programs, the state and its bureaucracy now have to soften the blow of federal budget cuts on the low and middle income people of North Carolina. □

FOOTNOTES

¹*An Agenda for American Federalism: Restoring Confidence and Competence*, Advisory Commission on Intergovernmental Relations, June 1981, p. 34.

²*A Crisis in Confidence and Competence*, Advisory Commission on Intergovernmental Relations, July 1980, Table on p. 149.

³*Summary of the Recommended State Budget 1981-83 Biennium*, Submitted by the Governor and the Advisory Budget Commission to the General Assembly, p. 79.

⁴Primary care and education block grants are not available for state takeover until FY 1983. North Carolina has not picked up the community development block grant at this writing.

⁵Welfare eligibility is now limited to families with incomes not exceeding 150 percent of "standard of need." When the standard was raised, an income level which had not fallen under the old standards did fall under the new standard. Therefore, the increase in the standard of need resulted in fewer persons losing their eligibility for AFDC.

Coping with Federal Cuts at the County Level

The Trickle-Down Theory of Government...

by Durward Gunnells and Patrice Roesler



For the last seven years, John Link has gone through the laborious process of getting a budget approved for the agency which he directs, the Stanly County Department of Social Services (DSS). Every spring since the midseventies, Link has presented a projected budget to the Stanly County Board of Social Services, an independent body that oversees the operation of the county DSS. After approving Link's figures, this board then has sent them to the N.C. Department of Human Resources for that agency's okay. Finally, each year the Stanly County Board of Commissioners has incorporated the DSS needs into the overall county budget, which by state law has to be in operation by July 1, the beginning of the state and county fiscal year.

In the spring of 1981, when it came time to start the budget process, even an experienced administrator like John Link had to begin a guessing game that continues to this day. President Reagan had just announced his intention to cut federal funding for a wide range of social service and education programs administered at the county level. "Last April, all of us (DSS directors) based our budget on cuts of 15-20 percent in federal funding," explained Link. But since the spring, Reagan has asked Congress for increased cuts in domestic programs. As the end of 1981 approached — already three months through the federal fiscal year that began October 1 — Reagan and Congress had still not agreed on the level of spending for services for this federal fiscal year, services which are ultimately delivered by people like John Link.

"The President and Congress are still acting on programs for this fiscal year, even though we're already into the year," says Link. "That puts a great burden on county and municipal government." In recent years, over three-quarters of county budgets in North Carolina have gone to fund federal and state prescribed programs, particularly in the education and human resources areas. The county budget which took effect last July 1 must accommodate the federally-mandated

programs still under debate. "If there are additional cuts made," Link pondered in a late November interview, "I and most of my colleagues would face a shortfall. We would have insufficient county funds."

Since the President began his campaign to cut federal spending and reduce federal controls over states and localities — the "new federalism" — most analysis and attention have focused on the macroeconomic questions being debated in Washington and on the politics of this fiscal "revolution" at the federal and state levels. But while the "trickle-down" theory of economics may lie behind the Reagan economic goals, there is a "trickle-down" reality to how government operates as well — from the federal to the state and finally to the county level. Consequently, the results of the federal actions hit the counties last.

"The full impact of the cuts isn't known yet," said Grover C. Lancaster, Craven County commissioner and president of the N.C. Association of County Commissioners (NCACC), in a December interview. "Most commissioners realize the cuts had to be made, that the spending levels couldn't continue. But we don't know yet what the consequences will be when we get to next July and the 1982 budgets."

In Washington, Congress and the Reagan administration are still negotiating the budget for a fiscal year already one-fourth gone. And in Raleigh, the legislative leaders and the Hunt administration are only beginning to hammer out new mechanisms for coping with block grants and other new fiscal measures. Down in Albemarle, the Stanly County seat, how can John Link and other county officials even begin to cope with the realities of paying the bills? How can they keep enough social workers on staff — paid for out of that county budget approved back in July — to administer new and complex welfare requirements? "We're faced with reacting to those cuts while still trying to run a program on

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a day-to-day basis," said Link.

What will happen if Congress passes additional food stamp cuts, for example, and Stanly County runs out of money in the spring for the food stamp program? How will Link and his staff cope? And what lies down the road? "Another critical point is next July 1," warned Link. "Reagan's budget proposals are going to hit us hard next year."

The Best Federal Programs . . . and the Worst? Looking Through the Commissioners' Eyes

In May of 1980, the N.C. Association of County Commissioners surveyed commissioners throughout the state regarding the programs that they felt could be cut in funding at the federal level. The survey was conducted at a time when reductions in federal revenue sharing were under active consideration by Congress. These responses reflect the commissioners' mood at that time, before Ronald Reagan was elected.

Below is a summary of the responses, ranked according to the most important and the least important federal programs. In the most important list, the percentage indicates the portion of the respondents who indicated "no reduction" in funding for a particular program. In the least important list, the percentage indicates the portion who indicated "reduce" or "eliminate" a particular program.

These responses are printed with permission of the N.C. Association of County Commissioners.

Most Important Program	"No Reduction" (% Response)	
1. General Revenue Sharing	92	
2. Child Support Enforcement	80	
3. Elementary/Secondary Education	69	
4. Vocational Education	61	
5. Highway Construction	60	
6. Medicaid	57	
7. Public Health	54	
8. Drug Abuse	53	
9. Aging Grants	53	
10. Maternal/Child Health	52	
Least Important Program	"Reduce"	"Eliminate"
	(% Response)	
1. CETA Grants	33	63
2. Community Action Agencies	40	52
3. Law Enforcement (LEAA) Grants	29	42
4. Work Incentive Program	26	36
5. Personnel Act (IPA) Grants	36	30
6. Women, Infants, Children Nutrition	39	27
7. Health Planning	54	26
8. Section 8 Housing	52	21
9. Outdoor Recreation Grants	52	19
10. Community Development Grants	58	14

Reacting at the County Level

County officials, particularly county commissioners, are generally of a conservative fiscal bent. By state law, the county budget must be balanced, and each year the commissioners in every county levy a property tax — a highly visible and unpopular tax — just high enough to meet its annual budget. In North Carolina, revenues from the property tax amount to about 80 cents of every dollar collected by the county for locally-assessed taxes (the one-cent, local-option sales tax amounts to another 15 cents of each dollar). In May of 1980, even before Ronald Reagan was elected, NCACC surveyed the commissioners throughout the state regarding potential federal budget reductions. "Commissioners favored cuts in most existing physical development assistance grants and loans, some of the smaller human service programs, and those programs in which there is noticeable waste, red tape, or inefficiency," the NCACC reported in its newspaper, *County Lines*, on May 14, 1980. "In general, commissioners did not favor major reductions in programs that allow a high level of local control, those that are important to the main service functions of counties, or are useful in reducing welfare costs." Commissioners particularly favored continuation of federal revenue sharing with state and local governments, a program which has allowed counties in North Carolina to receive "non-earmarked" federal dollars and has been used mainly for financing one-time capital expenditures such as jails, courtroom facilities, and schools. (See box on this page for a summary of the survey results.)

In responding to the NCACC survey, most commissioners not only identified potential cuts but also felt that a "reduction in funding for certain programs should be accompanied by a reduction in federal and state-mandated activities. Without a reduction of mandates, any cutbacks in appropriations may simply shift additional costs to the states and counties." Commissioners singled out Title XX social services, food stamps, and Aid to Families with Dependent Children (AFDC) as programs where mandated services should be reduced.

Since President Reagan took office, the commissioners have gotten far more cuts than they wanted. At the federal level, funds for mandated programs like Medicaid, AFDC, and food stamps are being reduced to a greater extent than are the services. Consequently, counties or states have to either find new funds to cover mandated services or cut the existing level of services. In addition, the reduction of one service may actually cause an increase in another; as AFDC eligibility standards are tightened, for example, some additional people are qualifying for food stamps. (See article



Photo courtesy of the N.C. Assn. of County Commissioners

The N.C. Association of County Commissioners' 1981 annual meeting.

on page 36 for details on specifics on federal actions.)

The vast reductions in federal funds and the apparent shifts in program responsibility away from Washington have precipitated a greatly increased role for the states, counties, and municipalities. In some cases, services are already being cut at the state level to accommodate the federal cuts, such as the reductions in Medicaid services passed by the General Assembly in October (see pages 43-48). The October "budget" session provided an early glimpse of how state officials will cope with changes in programs caused by federal actions. More federal cuts are coming, particularly in the second year of Reagan's economic program.

The Washington-based National Association of Counties (NACo), in the October 5 issue of its *County News*, identified the central transition taking place: "In a few short months, the federal government has dumped responsibilities on state and local governments... (which it) had assumed gradually in the half century since the depression. State and local governments will not have 50 years, or maybe even 50 weeks, to adjust to 'going it alone.' For counties, the changes come cold turkey." The tone of the NACo report marks a shift from the early county-level support for federal cuts, expressed to some extent in the NCACC survey results in 1980. And the NACo bulletin sounded an alarm without speculating on the precise changes ahead.

In September 1981, the U.S. Advisory Commission on Intergovernmental Relations identified an important arena where county officials might have to adjust their way of doing business: "One of the most significant features of block grants is the designation of the state as primary recipient and decision maker. Many of the superseded categoricals involved a federal-local relationship, but all nine of the new (block grant) programs are directed to the state level. . . . In the future, the states will be responsible for administering more programs and with fewer federal dollars."

The state's role has increased suddenly and dramatically to that of primary actor in distributing funds and making programmatic decisions for most intergovernmentally-funded programs. Consequently — and quite naturally — legislative leaders and the Hunt administration have begun a tug-of-war to gain control over as many federal funds as possible (see box on page 28 for a summary of the legal issues in one dispute). While Congress and the President haggle in Washington and state officials vie for increased power in Raleigh, county administrators must go about the day-to-day business of certifying families for AFDC, delivering meals to the elderly, and subsidizing day care for low-income, working mothers.

The state of flux in the Washington-Raleigh corridor accentuates the hazy lines of responsibility that stretch from Raleigh into Albemarle and the other 99 county seats. The principal actors at the county level range from the board of county commissioners to the county manager, from the local social services and mental health boards to the directors of the local social services and mental health agencies. As funding and program decisions filter through the intergovernmental strainer down to the county seat, these various actors — along with their municipal counterparts — must somehow determine who has the power and discretion either to cut services or find more county money. "In North Carolina, we have a county-administered, state-supervised (social services) set up," explained Link. "The crux is going to be: How much can we do at the county level?"

County officials have begun the important task of defining the legitimate boundaries of responsibility between the various local actors. And they have begun to develop new working relationships with state officials as well.

Last summer, for example, John Link and three other county officials joined with two division directors in the state Department of Human Resources (DHR) as an Ad Hoc Block Grant Committee to plan for changes resulting from federal cuts.* A week before the legislature convened for its October session, this Committee, sponsored jointly by NCACC and DHR, released its report. The Committee recommended specific ways to cope with the block grants in the health and human service areas and with changes in AFDC and Medicaid. It also endorsed four gen-

* The other five members of the Committee were: Henry E. Dick, Craven County manager; Larry Thompson, director, Blue Ridge Mental Health Center and president of the Area Mental Health Directors Assn.; Hugh Young, health director, Edgecombe County; Barbara Matula, director, Division of Medical Assistance, DHR; and Robert Fitzgerald, director, Division of Plans and Operations, DHR.

eral principles: 1) joint planning between local agencies and the state; 2) minimizing administrative overhead so as to maximize services; 3) in the first year, keeping funding allocations to the counties as they are now rather than shifting program funds as a result of the cuts; and 4) cutting all programs within block grants on an equal basis for the first year rather than transferring funds from one program to another.

Recent events in Stanly and Edgecombe Counties illustrate how officials have decided that certain administrative functions are within their power and have acted accordingly. In Stanly, John Link has made several administrative changes to reduce the workload of the DSS social workers. For example, with the approval of the county board of social services, he changed the way the county determined eligibility for Title XX funds from a "verification" to a "declaration" method, from verifying a client's income sources to taking the client's word on income. Consequently, Link has neither had to fill positions open because of attrition nor hire new staff at a time when strict new AFDC regulations from Washington are causing social workers to spend substantially more administrative time per client. Since Link does not have enough funds in the budget passed by Stanly County Commissioners last July to hire more social workers, such streamlining of workload is extremely important.

In Edgecombe, as in many other North Carolina counties, the commissioners passed a resolution saying that the county would not pick up any reductions resulting from federal cuts. "This (resolution) was a signal to me not to go to them for extra money," said Hobart Freeman, the director of the Edgecombe DSS. When the federal fiscal year began October 1, Freeman knew he didn't have the funds to maintain all the services of the previous year. Consequently, with the approval of his board of social services, he has quit funding a group home for pre-delinquent girls and has reduced day care services. While services have been reduced somewhat, no staff have been laid off; four positions, however, have been terminated through attrition.

1982 and Beyond

In the immediate future, county officials must live with the uncertainties that remain both in Washington and in Raleigh. For example, county officials throughout the state have been taking applications for low-income energy assistance through a process that ended December 11. But as of this writing, Congress had not yet determined the amount of the appropriation for low-income energy assistance, now contained in a new block grant. "We're administering it on faith," said an official at a recent gathering of county commissioners.

Counties face a similar situation under Medicaid. In October, the legislature limited some optional services and put a lid on the rate at which hospitals could increase reimbursement fees, estimating that such actions would save enough money to make up for the federal reduction in the Medicaid reimbursement formula. But if the estimates upon which the October actions were taken are too low, Medicaid provider groups might well come to county commissioners asking for additional funds. Or county-supported hospitals will have to absorb losses in Medicaid revenues and then recover those losses from the county general fund.

In the 1983 and 1984 fiscal years, much deeper budget cuts are forecast at the federal level. While county-level officials have to juggle uncertainties today, they may have to face wide-scale hardship in the not too distant future. Truly needy people will feel the effects of the cuts at the local level. And county and municipal officials will be under tremendous pressure to heal the wounds.

County commissioners, however, lack the flexible financial resources for the most part to make up for cuts that have already come, much less for those that lie ahead. County commissioners have to adopt a balanced budget and levy a property tax every year. Increasing county budgets to make up for cuts at the federal or state level means raising the property tax, a step which hardly any county commissioner favors. In addition, commissioners have little flexibility to transfer funds between programs within the year. Finally,

"Commissioners are skeptical of picking up anything else (by using) the property tax."

Grover Lancaster

commissioners control only about 25 cents of every county dollar they appropriate. In North Carolina, about 75 cents of each county dollar funds services prescribed by federal or state law.

Grover Lancaster, NCACC president, identifies the catch-22 that county commissioners feel. "Most of the commissioners I've talked with are supportive of the cuts, but there's always a proviso: 'If it doesn't impact on me — if the state doesn't say (to me) to pick up the cuts.' Commissioners are skeptical of picking up anything else (by using) the property tax."

County commissioners have two principal avenues of action available to help them with their funding dilemma: 1) mount a sophisticated lobbying effort at the state level; and 2) institute major innovations at the county level. Using both these means together may help minimize the coming hardships.

Raleigh will become a far more important power center than it has been in the past, especially during meetings of legislative and executive branch bodies like the newly created Joint Legislative Committee to Review Federal Block Grant Funds. Under the new federalism, state legislators and administrators have extended powers and responsibilities by:

- appropriating and allocating funds that previously had been distributed from Washington;
- shaping program design in Title XX, Medicaid, and other social services areas;
- directing counties in how to determine eligible recipients, keep records, and meet other administrative requirements originating in Washington; and
- deciding the county share of funding formulas (i.e., how many county dollars must be spent in support of state-mandated programs).

To have a voice at the "front-end" of policy-making, county officials must direct their attention to Raleigh. The Ad Hoc Block Grant Committee demonstrates one means of state and county cooperative planning. The report from that committee is already serving as a lobbying tool. In addition, individual boards of county commissioners must develop closer working relationships with their own legislators and other state officials. Finally, there are collective ways to voice local concerns in Raleigh, through groups like the N.C. Association of County Commissioners and the N.C. League of Municipalities.

While efforts to influence policies in Raleigh are important, county officials ultimately must cope with budget cuts at home. If food stamp funding runs out, county officials must find a way to keep people from going hungry. Trimming services and streamlining administrative costs will help, but counties may have to take the difficult



Photo courtesy of the N.C. Assn. of County Commissioners

Grover Lancaster, president of the N.C. Association of County Commissioners.

step of beginning to charge fees for services that have been free, from adoption to day care to mental health. "Next year will be extremely difficult," cautioned John Link. "There's a lot of talk about fees. How much can we do that's free versus how much that may require a fee? That's the crucial question."

The federal cuts have been felt at the local level, even before Congress completes the 1981 budget. Social workers have to follow more stringent rules in certifying a person eligible to receive AFDC. Counties can no longer afford to provide subsidized day care to some low-income, working mothers. The trickle-down reality of how government operates is at work. And the trickle is just beginning. As John Link and his counterparts across the state begin to shape their budgets this spring, they anticipate the trickle turning into a torrent.

When hardship hits at the county level, the people who holler the loudest or twist arms the hardest will be the ones who soften the blow of the cuts. County commissioners may, in fact, be moving into an era ruled not by federal rules and regulations but by that age-old political philosophy: "The squeaky wheel gets the oil." But it's becoming clearer every day that there won't be enough oil to go around. Some wheels will keep on squeaking. □

Federal Budget Reconciliation Act Slices Into North Carolina

by Robin Hudson



When President Reagan signed the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) on August 13, 1981, he signaled the beginning of far-reaching changes in the nature and extent of federally-funded programs. Using a variety of fiscal techniques such as block grants, funding ceilings, elimination of entire programs, and altered eligibility standards, the Reconciliation Act set the maximum amount of money that Congress could appropriate for a wide range of programs. It is an "authorization" bill, which only sets limits on the amount of federal dollars potentially available for programs administered at the state and local level. Congress must then pass appropriation bills which set the actual amount of money available for each program; this process was still in progress as of this writing in mid-December. Consequently, the actual amount appropriated could be much less than the limits set in the Reconciliation Act. The numbers in this article represent the best estimate of cuts that will result in the next fiscal year from the passage of the Reconciliation Act.

The President heralded the Reconciliation Act as a great step towards the dream of "federalism," where states would gain much of the authority, responsibility, and money now based in Washington. Just two months later, however, government analysts had discovered that this Act triggered a set of events quite different from the one Reagan had promised. "In practice...state and local governments thus far have received a lot more responsibility, a little more authority, and much less money," summarized Ross Evans in the Con-

gressional Quarterly News Service on October 27, 1981.

As governors, mayors, and other major policy-makers at the state and local level began to understand what the Reconciliation Act meant for their areas, Reagan returned to Congress with a new round of proposed domestic budget cuts. This time, even Republican supporters of the President began to balk. The growing resistance to the extent of federal cuts (plus other Congressional actions such as the attachment of a school-prayer bill as a "rider" to an appropriation bill) tended to slow the progress of the appropriation bills through Congress. Consequently, when the federal government began its 1982 fiscal year (FY) on October 1, 1981, it had to operate primarily through a series of "continuing resolutions," a stop-gap legislative technique that keeps the government in business. In mid-December, a

Robin Hudson is research coordinator at the N.C. Center for Public Policy Research. Jim Bryan, a Center staff researcher/writer, assisted with this article, particularly in compiling the charts. Based on a report released by the Center on October 20, 1981, this article must rely on data estimates because the federal appropriation process for FY 82 had not been completed as this issue of N.C. Insight went to press. But these estimates did provide a data base from which the Center was able to construct a department-by-department analysis of the effect of the federal cuts. This analysis details the extent of the cuts on each major program within a department and the consequence of the cut on the program. Such a resource is not available to the public in any other place. Copies of the 60-page report, "Federal Budget Cuts in North Carolina," are available for \$2.50 from the Center.

compromise between Reagan and Congress was reached. This compromise will result in a \$4 billion reduction in federally funded programs.

The fiscal maneuverings in Washington have a major impact on the day-to-day life of North Carolinians. In the last two decades, literally hundreds of federally-funded, grant-in-aid programs have sprung up, programs administered and implemented at the state and local levels. And state and municipal bureaucracies have grown up around

these federal programs and dollars. Now major new responsibilities for implementing these programs are being placed squarely on the shoulders of state and local officials, even as the amount of money available for the programs is being cut, in some cases drastically.

The way in which government operates has not gone through such a dramatic change since the New Deal. The sweep of federal funding changes and their effects on North Carolina demand a multi-level analysis of both the fiscal process and

Ten Largest Federal Budget Cuts to State Run Programs Resulting from Omnibus Budget Reconciliation Act of 1981

Federal Program ^a	Congressional Action in Reconciliation Act	State Division/ Department	Amount of Cut (FY 82) (millions of dollars) ^b
1. Construction Grants (water & sewer facilities)	set low ceiling on funding (possible zero)	Environmental Management, Natural Resources and Community Development	34.4 ^c
2. CETA Title IID (public service employment)	set zero funding ceiling eliminated program	Employment and Training, Natural Resources and Community Development	26.0
3. Research Contract Grants	set low ceiling on funding	University of North Carolina System	20.0
4. Medicaid (entitlement program)	altered funding formula and eligibility standards	Medical Assistance, Human Resources	16.9 ^d
5. Aid to Families with Dependent Children (entitlement program)	altered eligibility standards	Social Services, Human Resources	15.1
6. Title XX (Social Services Block Grant)	set funding ceiling on programs consolidated in block	Social Services, Human Resources	14.3
7. Food Stamps (entitlement program)	altered eligibility standards	Social Services, Human Resources	10.4
8. CETA Title VI (public service employment)	set zero funding ceiling eliminated program	Employment and Training, Natural Resources and Community Development	10.0
9. Child Nutrition (National School Lunch Program)	set low ceiling on funding	Public Instruction	9.9
10. CETA Title IVA (youth training and work experience)	set low ceiling on funding	Employment and Training, Natural Resources and Community Development	8.0

^aAlthough transportation-related cuts were not part of the Reconciliation Act, budget reductions in transportation bills still being considered by Congress are likely to place in this top-ten list such programs as Interstate Construction and Federal Primary (highway) Aid.

^bThese are the minimum cuts and, depending on Congressional deliberations still in progress, could be much higher.

^cMinimum cut; could be as much as \$80 million depending on Congressional action.

^dThis figure for reduction in federal funds refers to the last three quarters of state FY 82, and is derived by taking 65.8% (the new required share) of \$24.6 million and does not include administrative costs.

the program content. Examining the financial dimensions of the changes — both the techniques used and the amount of the budget cuts — provides an overview of the scope of the transitions taking place.

The Federal Ax — Swinging Through the Budget Bill

The Reconciliation Act reduced the amount of federal dollars available to the state through three basic techniques: 1) by consolidating into nine *block grants* some federal programs which had been funded individually; 2) by changing funding formulas and various legal requirements for public assistance (“*entitlement*”) programs; and 3) by placing a *ceiling* on the amount of money that Congress could appropriate for a program (in some cases the “ceiling” was zero, which effectively eliminated the program entirely).

Block Grants. The Reconciliation Act combined into nine block grants some 50 “categorical” programs for which federal money had previously been specifically earmarked. These new block grants contain groups of programs that the Reagan administration had determined to be related in purpose. The Act also passed the responsibility for

administering these block grants to the states, seven of them as of FY 82 and the other two in FY 83. A state does not have to administer a block grant; it can choose to have one or more blocks administered from Washington, a choice that in most cases would mean a loss of money to the state. In its appropriation bills, Congress is in the process of voting a specified amount of money directly to each block, an amount which the appropriate federal agency will then divide among the states. For those states that have chosen to administer the blocks, the entire sum will be sent directly to the state, which can then distribute it to the local level according to federal and state guidelines.

The guidelines and timetables for administration vary from block to block, but several common threads run throughout. Most importantly, the amount of money available to most block areas will be approximately 25 percent less than the total amount formerly available for the consolidated categorical programs within each block.* Thus the states now have the authority and discretion to decide how to apportion the money

* Community Development increases slightly, and Primary Care does not decrease until FY 83.

Who Controls the Block Grants in North Carolina?

The first meeting of the Joint Legislative Block Grant Oversight Committee — as the 12 members refer to themselves — did not resolve the differences between the General Assembly and the Governor over who has ultimate control over the new block grants. Held in the Legislative Building on the morning of December 3, the meeting provided a setting for the legislative fiscal research staff to give the members a very basic education on the fundamentals of the nine block grants. The staff also briefed the committee members on recent developments in the ongoing federal appropriations process, specifically, the final funding levels expected to pass Congress.

After these presentations, the legislators sparred in a polite — if not chummy — fashion with John A. Williams, Jr., state budget officer and one of Gov. Hunt’s chief aides. The committee members and the fiscal research staff expressed concern that the Governor’s budget office and

some program administrators had taken actions regarding block grants without input from the oversight committee. The block grant provisions of the budget bill passed by the legislature in October require that any action taken before October 10, 1981 (the effective date of the bill), is subject to review by the committee and that any action taken since October 10 must have prior approval of the committee.

When Williams rose to explain the executive branch’s point of view, he prefaced his remarks with a caveat that symbolizes the current state of debate over block-grant control. “Anything I say [in working with this committee] shall not be construed as a waiver of our [the Hunt administration’s] legal right to challenge the constitutionality of this committee,” said Williams. With that, Rep. Allen Adams (D-Wake), co-chairman of the oversight committee, promptly moved that the committee pass a resolution approving what Williams said.

With both sides recognizing that what each said was okay with the other, they proceeded to go through a cautious first round of “who can tell whom what to do.” The committee, for example, asked Williams why the administration

among the categoricals within each block, but must do so with much less money. The chart on page 42 lists the nine block grants, the programs which were consolidated, the estimated amount available to North Carolina under each block in federal FY 82, and the federal allocations during federal FY 81.

The Reconciliation Act required the states to notify the appropriate federal departments of their intent regarding the block grant administration. In September, Gov. Hunt and Secretary of Human Resources Sarah Morrow wrote the Secretary of the U.S. Department of Health and Human Services (HHS), Richard Schweiker, that North Carolina intended to administer the six block grants available through HHS for FY 82. The seventh block which the states can administer in FY 82 — community development, to be run through the U.S. Department of Housing and Urban Development (HUD) — had not been picked up by North Carolina as of December 1. After HUD releases the regulations on the administration of this block, North Carolina will most likely assume it as well.

While the theory behind block grants is to give the states more control over federal money, the reality of administering the blocks put a great deal of pressure on the states. As Neal R. Pearce put

it in a column syndicated by *The Washington Post* in late October 1981: "Are the states ready to handle the new responsibilities being handed them? And will needy program beneficiaries — especially poor people — be harmed in the process? . . . The public will view this [process] as a direct, unambiguous test of the states."

The first public test of North Carolina officials came in October when the General Assembly convened for a budget session. With very little time to study the federal actions regarding the block grants, the legislature generally did not attempt to appropriate money to make up for the reductions. Nor did it allocate funds among the various programs within the blocks. Instead, it "passed the cuts on" to state programs at the level set in Washington.

The General Assembly did, however, take an important action in creating a 12-member Joint Legislative Committee to Review Federal Block Grant Funds, composed of leaders of both the House and Senate. According to the block-grant provisions in the budget bill passed by the legislature, this committee must give prior approval before a state agency can devise a formula for distribution of funds, transfer funds between block grants or between departments, or take "any other final action affecting acceptance or use of

cancelled Title XX funding to the Children's Home Society, a private, nonprofit agency which places children in adoptive homes. The administration cut off *all Title XX* funding projected for the Children's Home for the remainder of the state fiscal year, some \$97,000.* But the Title XX social services program, the source of the Children's Home funds, was placed in the Social Services block grant, which will receive an approximate 25 percent reduction in federal funds. The General Assembly had decided early in the fall to reduce the various programs within a block grant at roughly the same proportion that the whole block grant was reduced in Washington. Why, then, did Williams' office cancel this program entirely, the committee asked. "[The action] was not that big of a deal," Williams responded, since the Children's Home Society knew it was coming. Williams added that he hoped the review committee would approve the action to cancel the Children's Home Society's contract. "It's easier to ask forgiveness [of the committee] than to get permission," he said

with a chuckle.

While both Williams and the legislators relied on a casual, lighthearted tone to express their differences, both sides indicated that the dispute between them was quite serious. Some legislators, for example, expressed concern that actions such as the Children's Home's funding cancellation might well have violated the proper method of administering the block grant funds as well as the amount of program reduction that should have taken place.

Throughout the meeting, both the committee and Williams urged cooperation with the other. Williams invited the committee to send a staff member to meetings of the Interagency Task Force on Block Grants, a group working through Williams' office to help agencies comply with the block grant regulations. At the end of the session, Sen. Kenneth Royall, co-chairman of the committee, emphasized the cooperative spirit by endorsing a point Williams made early in his remarks. The public should keep in mind, Williams said, that "the problem is not between this committee and state government. The problem is in Washington, D.C." □

* A state grant-in-aid of \$50,000, a different source of money, was not affected.



Photo by Paul Cooper

federal block grant funds.”* The Governor and legislative analysts viewed this action as a possible unconstitutional encroachment into the gubernatorial power to administer the budget (see box on pages 28-29 for a discussion of the legal issues involved.) On December 3, the legislative review committee held its first meeting, providing a preview of future controversies in administration of the blocks (see box on pages 38-39).

The federal block grant regulations require a state to hold hearings on the proposed uses of the block grant money after the first year for all but the social services, maternal and child health, and education blocks (the education block is exempt from most block grant regulations). While the procedure and scope for these hearings has not yet been determined, the hearings will certainly create additional responsibilities and duties for state officials.

While administrative demands and legislative maneuvers have captured much of the initial attention concerning the block grants, the most difficult long-term task facing all those concerned with block grants is how to divide up the limited funds among the programs within the blocks. In FY 82, the impact of the reductions will be softened slightly because many programs have money left over from FY 81. In FY 83, however, further cuts in federal money — plus a lack of carry-over money from FY 82 — will exacerbate existing hardships. These factors, combined with continuing inflation, mean that the true test of the creativity

Budget officials confer during the first meeting of the Joint Legislative Block Grant Oversight Committee on Dec. 3, 1981. From Left: State Budget Officer John A. Williams, Jr., Rep. Al Adams (D-Wake), Fiscal Research Analyst Jim Johnson, and Sen. Kenneth Royall (D-Durham).

of the legislature, the Governor, and program administrators will come in preparing for the days after July 1, 1982, the beginning of the state and county FY 83.

Entitlement Programs. This term refers to those programs under which a person must be provided the program's benefits if the person meets proper eligibility standards. While entitlement programs operate in very different ways, all are designed to help the needy — the poor, elderly, ill, blind, and disabled. The largest entitlement programs affected by the federal actions are Medicaid, Aid to Families with Dependent Children (AFDC), food stamps, and some of the Title XX (social services) programs under the Social Security Act. The techniques used to cut these programs are primarily new federal and state regulations which reduce the number of people entitled to benefits.

The Medicaid program uses federal, state, and local appropriations to reimburse health care providers for medical services performed for eligible persons. The Reconciliation Act reduced the federal percentage of the reimbursement and thereby increased the share required from state and local governments. In October, the General Assembly passed regulations limiting the kind and number of services covered by the program. This gave the legislature a way to avoid increasing state and local payments for Medicaid above the amount in the biennial budget passed in June. The

* G.S. 120-84, as enacted in Chapter 1127 of the 1981 Session Laws (HB 1392).

federal and state actions together meant that the Medicaid reductions were the fourth highest of any federal funding cut for FY 82 (see chart on page 37 for the top ten cuts). The article on pages 43-48 explains why Medicaid cuts totalled as high as they did.

The AFDC and food stamp programs both give benefits directly to eligible low-income persons. The cuts in these programs were made by tightening eligibility standards so as to eliminate people from the program. Some counties have thus far not experienced as deep a reduction as expected in the number of people eligible for AFDC and food stamps. In Lee County, for example, Director of Social Services Donn Gunderson reported in early November that out of 1,584 eligible households, 16 had been terminated and 134 had had benefits reduced. In October the General Assembly softened the impact of federal cuts somewhat for AFDC recipients by raising the standard of need (see footnote 5 on page 30 for an explanation of how such an action effectively results in fewer persons losing their eligibility). The changes in eligibility standards also affect some Title XX programs because people receiving certain entitlement-program benefits also qualify for some Title XX programs. Thus, the eligibility standards for some Title XX benefits were also changed.

Funding Ceilings. The funding ceilings put on various federal programs resulted in the largest money losses to North Carolina. As the chart of the ten largest federal cuts shows, the top three came as a result of funding ceilings. One of these, the CETA Title II public service employment program, was totally eliminated through this fiscal technique. Water and sewer construction funds and research grants for the University of North Carolina system were greatly reduced through the placing of funding ceilings on these programs.

Through these three methods — block grants, changes in entitlements, and ceilings — Congress and the Reagan administration have reduced the amount of federal dollars available for North Carolina to spend through the state budget process. These fiscal techniques, and others, have also reduced the federal funds available to North Carolinians through programs that are not part of the state budget. For example, the Reconciliation Act increased the interest rates on loans to farmers, students, and others who have depended upon low-interest federal loans for business ventures and higher education. These increased interest rates, while not an actual federal reduction in dollars to the state, will have a very real impact on potential borrowers.

Other types of federal reductions which involve specific programmatic cuts will take place as a result of federal actions that are independent of

the Reconciliation Act. A major budget cut to North Carolina will come, for example, from two federal transportation acts, one of which passed in mid-December. In addition, reductions are under consideration for such programs as Medicare, Social Security and the Legal Services Corporation (the principal source of funds for the legal aid programs in the state), all of which are outside the state budget.

What Kind of Safety Net for North Carolina?

Through the use of fiscal techniques, the Reagan administration and Congress have dramatically altered, and will continue to transform, domestic policy. By focusing on macro-economic issues — “supply-side” economics, a balanced budget, tax cuts, and a “trickle-down” economic philosophy — the Reagan camp in Washington has in one fell swoop recast 50 years of federal domestic policy. And they have managed this with only minimal debate on the relative merits of each of the programs affected by the cuts. The “balance-the-budget” mentality has resulted in sweeping changes through fiscal measures. If a policy debate is to resume on the relative merits of various affected programs, it must now come at the state and local levels.

As a result of the federal actions, many people are losing their jobs and many needy people are losing services they once received, even as the country is moving into a recession. Can long-term planning and priority-setting at the state and local levels avoid some of the serious consequences of the federal actions? In a recent interview, a reporter asked President Reagan how he felt about the federal cuts resulting in varying standards of services from state to state. President Reagan answered that if a person doesn't like where he lives, he can respond to the changes “with his feet.”

North Carolina officials place great pride in this state as a good place to live. But the federal budget cuts have caused the quality of life for many North Carolinians to decline. State and local officials must not be limited by an instinctive desire to lay blame in Washington and to compete over control of the federal funds that remain. It may not be possible for the state to weave a safety net of its own, to catch those programs and people who have fallen through the holes in the federal net. The sweep of the federal fiscal process reaches so far and wide that even determining the extent of the effects on people's lives is difficult at this point. The challenge for officials in North Carolina is both to understand the process as it unfolds and to react with creativity and sensitivity to the hardships the federal actions have spawned. □

Block Grants

Block Grant ^a	N.C. Dept. That Will Administer the Block ^b	Amt. of Funding for FY 81 under Categorical System	Estimated Amt. of Funding for FY 82 under Block Grant System ^c
— (millions) —			
1. Social Services Title XX Social Services, Day Care, and Training	DHR	\$76.2	\$61.9
2. Maternal and Child Health (MCH) MCH Crippled Children, Sudden Infant Death Syndrome, SSI-Disabled Children, Adolescent Pregnancy, Hemophilia, Genetic Disease, and Lead-based Paint Poisoning ^d	DHR	\$10.8	\$ 8.8
3. Health Prevention Services Hypertension Control, 314(d) Health Incentive Grants, Health Education Risk Reduction, Fluoridation, Emergency Medical Services, Rodent Control, Rape Crisis, and Home Health	DHR	\$ 3.2	\$ 2.4
4. Primary Care Community Health Centers	DHR	\$10.1	\$7.6 (FY 83)
5. Alcohol, Drug Abuse & Mental Health Hughes Funds (community services), Decriminalization/Alcoholism, Community- based Alcohol Program, State Drug Abuse Prevention, 409 Funds (crisis intervention and prevention), 410 Funds (drug abuse treatment), Occupational Alcohol Program, and Community Mental Health Centers	DHR	\$12.0	\$ 9.0
6. Low Income Energy Assistance Low Income Energy Assistance, Crisis Intervention, and Weatherization	DHR	\$38.6	\$33.2
7. Community Services Community Action Agencies	NRCD	\$13.0	\$10.8
8. Education Title IV-B (libraries & learning resources), Title IV-C (support and innovation), Title V-B (state education agencies), Title II (basic skills), Career Education, Federal Teacher Centers, National Diffusion Network (information dissemination), Gifted and Talented, Emergency School Aid, Arts in Education, Pre-college Science Teacher Training, Teacher Corps, Community Education, Metric Education, and Law- Related Education	DPI	\$15.4	13.5
9. Community Development Existing Community Development Program	NRCD	\$41.0	\$45.0 (small cities share)

NOTES:

^aBlock grant numbers 1-7 are administered by the U.S. Dept. of Health and Human Services, number 8 by the U.S. Dept. of Education, and number 9 by the U.S. Dept. of HUD. Under each block grant heading are listed the programs consolidated into that block. All of the blocks are available for state administration in FY 1982 except Primary Care and Education, which are available in FY 1983.

^bAll block grants are administered through a state department — either the Department of Human Resources (DHR), the Department of Natural Resources and Community Development (NRCD), or the Department of Public Instruction (DPI).

^cSource: Office of State Budget and Management. These figures do *not* include the money that goes directly to local programs (i.e., not through the state budget). These are the minimum cuts and, depending on congressional deliberations still in progress, could be much higher.

^dThe last four programs are not in the state budget. If funded in North Carolina, these funds go directly to the local program.

Focus on Medicaid Axing Entitlement Programs

by Leslie Winner



The first phase of President Reagan's new economic policies has caused significant reductions in North Carolina's Medicaid program. Given the escalating cost of health care and the additional cuts which will be implemented by the federal government in subsequent years, North Carolina legislators are faced with a problem of major dimensions. They must either find new ways of funding health care or they must bring spiraling health care costs under control. If they can do neither, a bleak alternative lies ahead: a decrease in health care services for the poor — children, elderly, and others who in fact are North Carolina's "truly needy."

Anticipating the problems ahead for Medicaid, Gov. James B. Hunt, Jr. testified on March 10, 1981, before the U.S. House of Representatives Subcommittee on Health in his capacity as chairman of the Committee on Human Resources of the National Governor's Association (NGA). He pleaded with Congress not to make absolute and insensitive cuts in the Medicaid budget but rather to make substantive reforms in the program which would save as much or more federal dollars:

We [the NGA] sincerely believe we can offer you an interim solution to the problem of rapidly escalating Medicaid costs without sacrificing essential health care services or denying care to the elderly poor and the needy children of this nation. . . . The need for health care will not disappear along with the dollars to fund it. Someone will have to meet those needs, and I fear that it will fall to our community and state institutions to care for those people perhaps in a setting or at a level that is both costly and inappropriate, but the only one available to them. My concern, then, is that we reduce Medicaid program costs, but that we do so in a way that will preserve a balanced health care package for our poorest citizens at the least cost to the taxpayer.

Despite Gov. Hunt's statement, and similar pleas by others, Congress took a sizable bite out of the Medicaid program. In the Omnibus Budget Reconciliation Act of 1981, Congress reduced by three percent the portion of the states' Medicaid programs paid for by the federal government for

federal fiscal year (FY) 1982, which began on October 1, 1981. This action would then cause North Carolina to lose over the nine affected months of the state FY 82 (October 1981 to June 1982, the end of the state's fiscal year) an estimated \$8.7 to \$24.6 million in Medicaid funds, depending on the action taken by the General Assembly. And the losses would get larger in future years as the federal percentage declined further (4 percent in federal FY 83 and 4.5 percent in FY 84).

This cut hit the state during what was already one of the worst budget crises in years. Revenue estimates were low, the highway funds and transportation budgets were in desperate straits, and there was not enough money to give teachers and other state employees a decent cost of living raise. Given the political difficulty encountered increasing the gasoline tax in the spring of 1981, no legislator wanted to raise other taxes. And because the federal budget cuts affected many programs, Medicaid was competing with other programs for additional appropriations.

Thus, President Reagan and the U.S. Congress had saddled the General Assembly with a sizable problem — one not of its own choosing or making. The N.C. legislature, in its October budget session, had to decide whether to appropriate new *state funds* of some \$8.7 million and avoid any reductions in services or to reduce the program and absorb a total cut resulting from *federal actions* of \$24.6 million (see box on pages 46-47 for an explanation of these figures).

The General Assembly did not respond by increasing the state's Medicaid appropriation; instead it limited services, changed reimbursement rates, and limited the number of recipients eligible to participate in the program. In the Medicaid portion of the Appropriations Act,* the legislature included seven provisions, which for the first time:

* Chapter 1127 of the 1981 Session Laws (HB 1392), Section 22.

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1) limited the number of physician, clinic, and out-patient visits to 18 per recipient per year, with very few exceptions;

2) limited the number of mental-health clinic visits to 18 per recipient per year;

3) limited the number of drug prescriptions to four per recipient per month;

4) eliminated 19 and 20 year-old students from AFDC-related Medicaid coverage;

5) froze reimbursement rates for doctors, optometrists, clinics, and other practitioners at June 30, 1981, payment levels;

6) changed the system for setting hospital reimbursement rates from a cost basis to a flat rate, effective November 1, 1981; and

7) froze the number of authorized new nursing home beds in the state.

These new provisions will cause severe hardships on both Medicaid recipients and other North Carolinians. A person who is dependent on receiving weekly psychiatric help at a mental health clinic, for example, can now make only 18 such visits a year. And if the person denied access to a mental clinic ends up in an institution, the cost to the state will be more than the savings netted by the change in the Medicaid coverage. For another type of hardship, consider the revenues lost from decreased reimbursements for public and non-profit hospitals. These hospitals must make up the losses in Medicaid reimbursements through either increased rates charged other patients or additional appropriations from the taxpayers or charities supporting the hospital.

What made the state take these dramatic actions instead of other alternatives? Why did doctors, institutions, and recipients let these actions happen? What are the implications of future federal budget cuts and rising health care costs for North Carolina's Medicaid program?

Answering these questions requires first an understanding of the basic structure of Medicaid. A federally regulated, medical assistance program for the poor, Medicaid is paid for by federal, state, and local funds, according to a formula established by Congress. Each year, the Division of Medical Assistance in the Department of Human Resources, which administers Medicaid in North Carolina, estimates what each aspect of the program — from nursing home care to dental needs — will cost. Then, the General Assembly sets the amount for the whole program, according to the projected costs for the upcoming state fiscal year.

Federal law requires the state to provide funds for some services (such as hospital care), but the state has the power to determine the availability of other services (such as dental care). Similarly,



Photo by Paul Cooper

Rep. Billy Watkins (l) talks with Lt. Gov. Jimmy Green and Rep. George Hux (r) during October 1981 session.

some groups of persons (such as those receiving Aid to Families with Dependent Children) automatically receive all Medicaid services, but the state can choose whether to include others (such as Social Security recipients with very high medical bills). Once persons are determined to be eligible for Medicaid, they are guaranteed — i.e., entitled to receive — all the approved services, regardless of cost; that is why Medicaid is called an “entitlement” program. Since the legislature can never know to what extent Medicaid recipients will use their “entitled” benefits during a fiscal year, the General Assembly approves an appropriation which is only an estimate of what the state will spend. The federal government reimburses the state for about two-thirds of its Medicaid costs. Thus, for every dollar the state appropriates and spends of its own money, the federal government matches that with about two more dollars of federal money.

The move to cut the federal Medicaid budget resulted in part from President Reagan's general effort to balance the federal budget at the expense of social programs and in part because Medicaid is one of the fastest increasing items in both the state and federal budgets. The elderly, who are increasing in number faster than any other segment of the population, account for the largest part of the Medicaid budget. Almost one-third of the program in North Carolina pays for long-term care in nursing homes alone, and this does not include the cost of long-term care for the mentally retarded Medicaid recipients, which is also very expensive. In addition, the reimbursement rates to Medicaid providers — doctors, hospitals, dentists, nursing homes, etc. — are tied to the accelerating rates of health care costs in general.

Faced with a federally-initiated, funding-versus-services crisis, the state had several options. In June, the General Assembly had approved \$580.6 million for the total Medicaid budget for state FY 82. This amount included the federal, state, and local share, and provided the basis from which

to compute the federal share of the funds. After the reduction in the federal share, signed into law in August, the General Assembly had three choices. It could:

- 1) appropriate an additional \$8.7 million in state funds and hold the program at its current level of services;

- 2) vote no additional state money and reduce services by \$24.6 million; or

- 3) vote some additional money and reduce services by an amount less than \$24.6 million.

Why did the legislature decide to cut services by an estimated \$27.6 million when the state could have kept the loss resulting from federal actions to only \$8.7 million?*

Barbara Matula, director of the Division of Medical Assistance for the state, agreed, in an interview for this article, that the legislators had these three options. "But I was not asked as to whether the state could make up [the cuts with] appropriations or absorb the cuts," she said. "The [state] decision was made in the spring. I was asked to present all the possible options to cut costs. At no point did they say to me, 'How much money do we need to bail out the feds?'"

As early as February 1981, Deputy State Budget Officer Marvin Dorman wrote a memorandum to the Lt. Governor, Speaker of the House, and other legislative leaders informing them that Gov. Hunt's position was that "federal cuts cannot be picked up with state funds."

The Governor's position fit in well with the partisan attitude prevailing in the legislature. The legislative leadership decided that the Democrats in Raleigh would not bail out the Republicans in Washington. As many legislators said in private, "The people need to feel the effect of the Republican cut."

In addition, there was a considerable amount of confusion about exactly what the state had to do to avoid cutting back the Medicaid program. On Thursday of the week-long October session, the legislature was debating the Appropriations Act. The Joint Appropriations Committee had responded to the federal budget cut by recommending the service and reimbursement cuts listed above. For the first time the proposal was presented to the full House of Representatives. One of the recommended cuts — limiting the number of prescriptions available to four per recipient per month — upset some members, and an amendment was offered to change the limitation from four to six.

When the chairman of the House Appropriations Expansion Budget Committee, Rep. Billy Watkins (D-Granville), rose to defend the committee's action on prescription drugs, the confusion about the Medicaid budget cut was apparent, even among the most knowledgeable and powerful of the legislators. A persuasive member of the House leadership, Watkins had to respond on the spur of the moment to an amendment which involved the complex calculations of the Medicaid appropriation. Faced with this immediate and difficult task, he mistakenly said the amendment would cost the state an extra \$2.3 million, an amount the legislature would have to delete from some other budget item, if the amendment passed. While the overall cost of increasing the number of prescriptions would have been about \$2.3 million, in fact, the state's share would have been only about \$800,000. In other words, if the General Assembly appropriated an extra \$800,000, the prescription limit could have been increased. The rest would be paid by the federal government. Told that the amendment would cost \$2.3 million by the influential Watkins — who even in good faith had his figures wrong — the House defeated the amendment.

Representative Watkins' error was typical of the confusion which prevailed. Part of that confusion resulted from the complexity of the Medicaid program, which few legislators other than those involved in the human resources appropriation process understand very well. For example, during a January 1981 meeting of the House Health Committee, the members were debating some amendments to the North Carolina statute affecting Medicaid. One committee member asked quietly what the difference between Medicaid and Medicare is.**

Contributing to the general lack of knowledge about the program was confusion over an early Reagan proposal for cutting the Medicaid budget. In his initial attack on Medicaid costs, Reagan proposed to limit the growth of the federal reimbursement to five percent per year, a federal "cap" for a program increasing at nearly a 20 percent annual rate. Since Medicaid is an entitlement program, total Medicaid payments cannot be limited; the covered health care treatment of all eligible people must be reimbursed. Consequently, if Reagan's proposed cap had been enacted, the state would have had to pay 100 percent of the cost increases over the federal five-percent ceiling. During the spring 1981 session of the General

* The \$27.6 million reduction exceeded even the worst option of a \$24.6 million cut. Legislative sources attribute this fact to the fear that the original savings estimated for each of the program reductions were too high, and thus the total cuts needed to be higher than the \$24.6 million. Also, costs were increasing faster than originally projected, especially for hospitals.

** These two programs have similar origins and names, but they operate in entirely different fashions for very different groups of people. Medicare provides major health care services for people eligible for Social Security, as a private insurance plan does, under a premium/cost-payment/deductible system. Medicaid functions as an entitlement program for needy people.

Assembly, legislators grappled with the question of how to deal with a federal cap if it were enacted by Congress, an action that would have resulted in a loss to North Carolina of some \$39 million. Adding the state and local match to the loss would have meant reductions in services of some \$58 million. The proposed cap would have absolutely limited federal reimbursement, and anything above that cap would have had to be paid totally out of state and local funds. This proposed cap proved to be politically unacceptable to hospitals, doctors, nursing home operators, and state governments, and Congress rejected it. But the memory of the proposed cap was still fresh in October and added another layer of misunderstanding to the Medicaid debate.

All these sources of confusion contributed substantially to the final Medicaid appropriation that cut services in three areas and reimbursement rates in three others, effectively reducing the program in North Carolina by \$27.6 million for the state FY 82, from an estimated \$580.6 million to \$553.0 million. Few legislators understood that an appropriation of only \$8.7 million in state funds would have avoided any cuts in services at all.

In addition to partisanship and confusion, other forces contributed to the legislature's choice of the most drastic option. Legislators saw the Medicaid cuts as a chance to start controlling reimbursements to nursing homes, doctors, and hospitals — the parts of the program that legislators fear are

How Medicaid Cuts are Calculated

To understand the way in which the figures used in this article are calculated, follow the explanation below, step by step. The figures are estimates because no one knows the exact extent to which this entitlement program will be used by eligible recipients during the year. Unlike a direct appropriation, Medicaid budgets are approximations of the cumulative reimbursements to be paid for services rendered during the upcoming year.

1. Prior to any federal cuts, and prior to the beginning of state FY 82, the state Division of Medical Assistance and the General Assembly compiled the Medicaid costs to be incurred in North Carolina during the state FY 82. The state fiscal year starts on July 1; the federal fiscal year on October 1. The federal cuts became effective on October 1, 1981, the beginning of federal FY 82. Therefore, only the last nine months — i.e., three quarters of state FY 82 (Oct.-Dec., Jan.-March, and April-June) — are affected by the federal cuts. This three-quarter period, then, becomes the basis for calculating the effective federal cut for N.C. FY 82.

Source of Medicaid Funds Prior to Federal Budget Cuts

		Full Year	Three Quarters ^b
		(in million dollars)	
Projected federal share	(66.6%) ^a	386.6	290.1
Projected non-federal (state and county) share	(33.4%) ^a	194.0	145.5
Projected total costs for the N.C. Medicaid program before any federal cuts	(100.0%)	580.6	435.6

2. The Omnibus Budget Reconciliation Act of 1981, signed into law by President Reagan in August 1981, reduced the federal reimbursement for federal FY 82 by three percent. This action reduced the federal reimbursement rate of Medicaid costs in North Carolina by two percent, and at

Notes:

^aBefore federal action in 1981, the federal share of the state FY 82 projected cost was 66.6 percent and the state/local share was 33.4 percent.

^bThese figures result from rounding.

getting out of control. Limiting the cost of in-patient treatment in hospitals and the number of long-term care beds available in nursing homes gave the legislature a foot in the door. Prior to October a combination of federal regulations and political pressure from the health care establishment had prevented the General Assembly from enacting significant controls on health care costs. The threat of even more drastic cuts in future years gave the state new leverage with these groups. Moreover, no significant pressure came from recipients, who are neither well organized nor politically powerful, to protest the limitations on services. Legal Services of North Carolina represented its clients in the October session but had little help from other groups. Since no powerful

pro-Medicaid lobby was functioning in October, the legislative leaders were able to make the stringent cuts.

But even in cutting services worth \$27.6 million, the legislature demonstrated some sensitivity. It chose to reduce services rather than to limit substantially the group of people eligible to receive Medicaid. Those persons receiving Aid to Families with Dependent Children (AFDC) or Supplemental Security Income (SSI) must be included in the North Carolina Medicaid program. But the "medically needy" — often retired or disabled persons whose only income is Social Security and whose medical bills are very high — could have been eliminated entirely from the program by the General Assembly but were not.

the same time increased the state and local share by two percent.

Federal reimbursement rate prior to reduction	66.6%
Multiplied by percent reduction from federal action	<u>x 3%</u>
Equals decrease in federal reimbursement	1.99 or 2.0%

Consequently, the federal reimbursement rate declined from 66.6 percent to 64.6 percent:

Federal reimbursement rate prior to reduction	66.6%
Minus decrease in federal reimbursement rate	<u>- 2.0%</u>
Equals reduced federal reimbursement rate	64.6%

And, the state/local share increased from 33.4 percent to 35.4 percent:

Non-federal (state/local) rate prior to federal reduction	33.4%
Plus increased state/local share resulting from federal action	<u>+2.0%</u>
Equals increased state/local payment rate	35.4%

3. The federal action would cause North Carolina to lose over the three-quarter period in state FY 82 an estimated \$8.7 to \$24.6 million in Medicaid funds, depending on the action of the General Assembly. The calculations of these figures follow. Both calculations are for three quarters of the state fiscal year.

a. \$290.1 million	federal reimbursement before federal cuts
<u>x 3%</u>	amount of reduction in federal reimbursement
\$ 8.7 million	decrease in federal reimbursement

Thus, one option was for the legislature to appropriate an additional \$8.7 million in state funds to make up for the decreased federal reimbursement.

b. The other option was not to increase the state appropriation but to limit the program to the existing state and local appropriations. To do that, the existing non-federal share had to cover 35.4 percent of the program costs instead of 33.4 percent (see step 2 above).

Existing non-federal share = \$145.5 million.

Non-federal portion of costs after the cut = 35.4%.

$$\begin{aligned}
 \$145.5 \text{ million} &= 35.4\% (x) \\
 x &= \$145.5 \div 35.4\% \\
 x &= \$411.0 \text{ million} - \text{size of Medicaid program after cut if} \\
 &\quad \text{no additional state appropriation is} \\
 &\quad \text{made}
 \end{aligned}$$

\$435.6 million - size of Medicaid program before cut

- 411.0 million - size of Medicaid program after cut

\$ 24.6 million - reduction in size of Medicaid program

Thus, this option required cutting the Medicaid program by \$24.6 million.

This was the option chosen by the General Assembly in its October 1981 budget session.

Under the current federal legislation, the federal share of the formula decreases again next year, even as Medicaid costs keep increasing. In its budget session this June, just before the state's FY 83 begins on July 1, 1982, the General Assembly must again cope with the federal cuts. If the legislature chooses the same action it did last October — appropriate no additional money to cover the decreasing federal share — services must be reduced by some \$48 million, almost twice as much as this year. And the federal reductions could get even worse.

The Secretary of the U.S. Department of Health and Human Services, Richard S. Schweiker, in a recent letter to David A. Stockman, director of the Office of Management and Budget, said that an interagency study group had approved a proposal to finance long-term institutional care, now paid for under Medicaid, through a block grant. If this proposal is accepted by Congress, long-term care would no longer be reimbursed by the federal government as an entitlement service. Instead of the federal government reimbursing the state a percentage of the expenditures for this service, it would appropriate a fixed sum to each state. The effect is the same as a Medicaid cap. The entire amount spent above the federal allocation must be paid for by the state. Thus, if long-term care is placed under a block grant, the state may have to cope with budget cuts for Medicaid services even larger than the currently estimated \$48 million.

The state has traditionally considered four methods for cutting costs in the Medicaid program:

1) *Limit administrative costs and fraud.* Several minor changes were enacted by the legislature in July 1981, but no one has come up with any way to save substantial amounts by this method.

2) *Limit the services which are covered by Medicaid.* Although eliminating dentures and glasses from coverage probably will not kill anyone, growing old without them is humiliating and painful. Limitations in other services, such as the number of days in the hospital which are compensable, will undoubtedly deprive people of necessary health care or will simply shift the cost to local governments or other patients.

3) *Cut the reimbursement rate paid to Medicaid providers.* This will work only to a limited extent. At some point doctors and hospitals will opt not to participate in the program, risking a separate health care system for the poor. And, to the extent that treatment is provided by county hospitals, clinics, or mental health centers, the lost Medicaid reimbursement must be replaced by county funds. Finally, physicians, nursing homes, and hospitals have powerful lobbyists who will, as a matter of political reality, limit this option.

4) *Limit the group of people eligible to receive Medicaid.* The only group that can be cut is the

medically needy, including those people who worked for a living but in retirement have high medical bills and little income. Depriving them of health care is a drastic measure.

Using a variety of budget mechanisms — from changing eligibility standards to reducing the federal share of a funding formula to considering putting some portions of an entitlement program into a block grant — the Reagan administration and Congress are slowly but surely whittling away those programs on which the poor depend for survival. State officials from throughout the country, even from traditionally conservative areas, have protested these federal actions. In a joint U.S. House Subcommittee field hearing held in Memphis on November 9, 1981, representatives from Mississippi, Tennessee, and Arkansas explained their dilemma as a choice between cutting welfare and Medicaid benefits for the poor or increasing state taxes. And, as the director of the Arkansas Department of Human Services put it: "There is simply no sentiment of any kind for a tax increase."*

If the federal government continues on its current path of eroding basic social programs, then the state will either have to pick up some additional part of the cost or it will have to commence serious efforts to create new cost saving options that do not fit into the traditional list of cost saving solutions.

Last October, the legislature instructed the Division of Medical Assistance to study some dramatic changes in health care delivery to the poor. These included increased home-based and community-based care, prepaid contracts for medical services, and statewide fee schedules for physicians, dentists, and others.

Alternatives such as these must be taken seriously. Others must be developed. Future cost raising factors must be identified and brought under control early. For example, what effect will the increasing prevalence of for-profit, proprietary hospitals have on Medicaid costs? Changes in health care delivery must be examined before it is too late to influence them.

Unless the state takes the advice Gov. Hunt gave to Congress and breaks out of its traditional mold, it will have only two choices: Appropriate substantially more money for Medicaid or deny necessary health care treatment to people who have no other way to get it. □

* Joint Field Hearing of the U.S. House Ways and Means Subcommittee on Public Assistance and Unemployment Compensation, House Ways and Means Subcommittee on Oversight, and House Energy and Commerce Subcommittee on Health and the Environment. The chairman of the Public Assistance Subcommittee, Rep. Harold Ford (D-Tn), from Memphis, chaired this hearing.

Teacher Certification: Out-of-Field Teaching in Grades 7-12

by James E. Woolford and Susan M. Presti

In the fall of 1981, the North Carolina Center for Public Policy Research released a report called Teacher Certification: Out-of-Field Teaching in Grades 7-12. Based on data from the Department of Public Instruction's Division of Certification, the report found a high number of instructors in North Carolina teaching subjects in which they had no previous training.

The Division of Certification, which cooperated fully with the Center's investigation, also evaluated certification problems in 1981. In the summer, the Division proposed regulations on certification standards and on August 28 held a public hearing on these proposals. At that hearing Center Director Ran Coble released the preliminary findings of the Center's report. In his testimony, Coble revealed the high rate of out-of-field teaching in grades 7-12, highlighted shortcomings in the proposed regulations, and offered recommendations for improving the new rules. The State Board of Education, the body that establishes standards for public schools in North Carolina, did not take action on the certification proposals at its September 2, October 8, or December 3 meetings. The proposed rules on teacher certification are part of a package of teacher

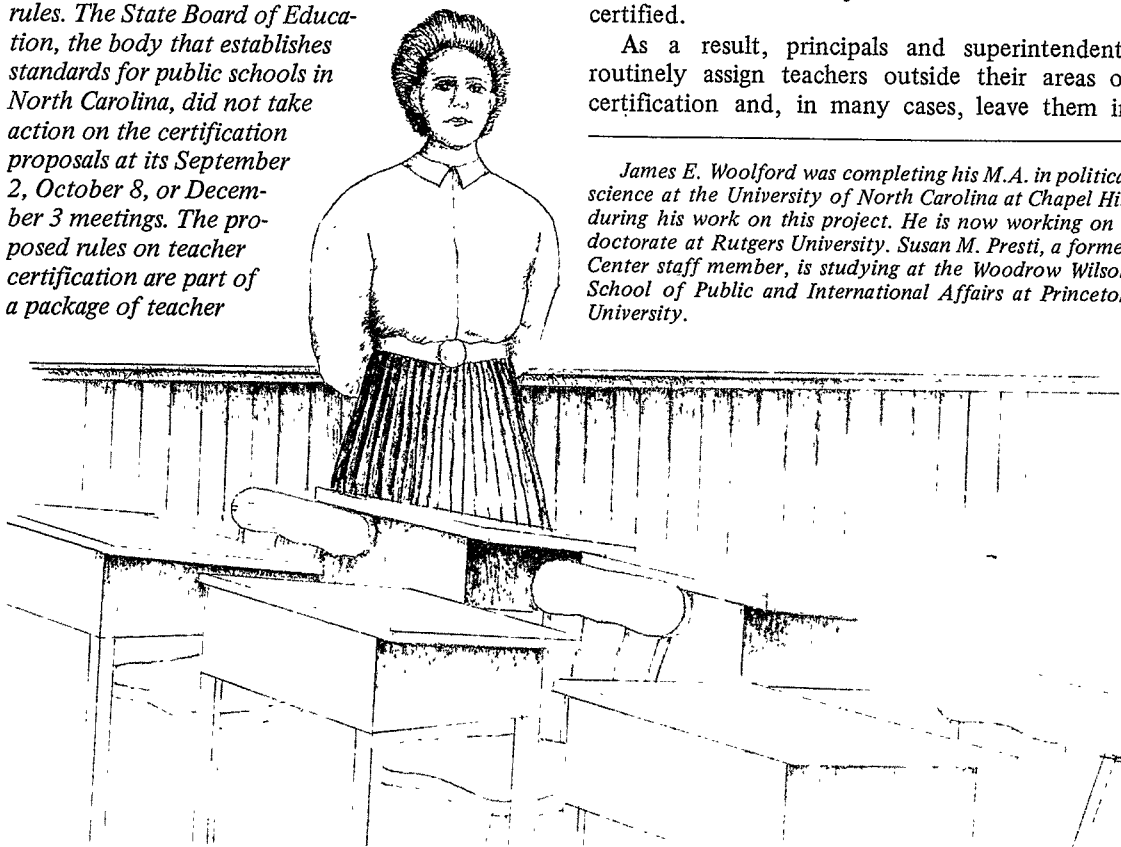
improvement plans called the Quality Assurance Program. The Board plans to consider these proposals at its February meeting.

The article below is excerpted from the Center's 60-page report. The box on pages 50-51 contains the recommendations presented at the August 28 hearing. To order copies of the full report, which includes statewide data broken down into local school districts, use the enclosed card (cost is \$4.00).

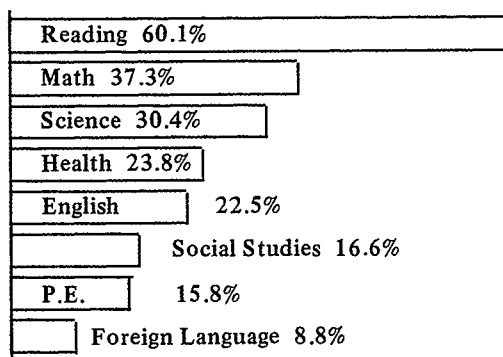
Teacher certification is the principal mechanism a state uses to assure the public that teachers have received the minimal training necessary to teach in a subject area. North Carolina, like all other states, requires that a person must be certified in a specific subject area before teaching in the public schools. The state does not, however, demand that a person teach the subject for which he or she is certified.

As a result, principals and superintendents routinely assign teachers outside their areas of certification and, in many cases, leave them in

James E. Woolford was completing his M.A. in political science at the University of North Carolina at Chapel Hill during his work on this project. He is now working on a doctorate at Rutgers University. Susan M. Presti, a former Center staff member, is studying at the Woodrow Wilson School of Public and International Affairs at Princeton University.



Percent of N.C. Teachers Out-of-Field in Grades 7-12



Source: N.C. Center for Public Policy Research

“out-of-field” assignments permanently — a process that causes the mental and physical well-being of students to suffer. While not guaranteeing high-quality teaching, a certificate does ensure that a teacher has some background, training, and knowledge in a particular area. Without that training, a teacher is much more likely to be

ineffective in the classroom. And untrained teachers in a physical education or science class may even precipitate or aggravate a physical injury.

Out-of-field teaching for grades 7-12 is a widespread problem in North Carolina. An analysis of the 1980-81 teacher certification records maintained by the state Department of Public Instruction and the Professional Personnel Activities Report (PPAR) submitted by local school districts revealed the following:

- Over 60 percent of those teaching *reading* classes did not hold reading certificates.
- Over 37 percent of those teaching *math* did not have a math certificate. Most of the out-of-field math teachers were certified in science or social studies.
- Three out of ten *science* teachers lacked the proper certification for the classes they were teaching. Out-of-field teaching was most prevalent in grades seven through nine.
- One out of five health instructors did not have *health* education certification. For health, sex education, and family education classes (i.e., excluding joint health education-physical educa-

Recommendations

The North Carolina Center for Public Policy Research recommends the following policies to decrease the rate of out-of-field teaching in North Carolina, to make post-graduate teacher training programs more meaningful, and to improve the Professional Personnel Activity Report:

Decrease the rate of out-of-field teaching:

- 1) Teachers should be certified or provisionally certified in all subjects they teach.
- 2) When a teacher is assigned to an area in which s/he does not have a certificate, the teacher and the local superintendent must jointly file for a provisional certification. The application must be sent to the Division of Standards and Certification.
- 3) a) While holding a provisional certification, a teacher must complete the equivalent of six college credit hours a year in course matter related to the subject in which s/he has been assigned until the minimum requirements for certification in that subject have been met. A minimum of 24 semester hours, including at least one teaching methods course in that subject, should be required for a certification.
- b) If no college within 60 miles of a teacher's workplace has an approved program in

his/her area of provisional certification, the teacher may work with the superintendent, officials in the Division of Standards and Certification, and representatives from colleges with approved programs in the subject area to design an in-service/home study program that will meet the minimum guidelines outlined in (a).

- 4) If necessary, superintendents and teachers may jointly file for an emergency certification from the Division of Standards and Certification. This will be granted only if the Division decides the school system has an emergency personnel problem that cannot be met in any other way. Emergency certifications are temporary and will expire at the end of the school year in which they are issued. They cannot be reissued in consecutive years to the same teacher or to a different instructor teaching the same course schedule that was covered by the previous emergency certification.
- 5) The current DPI provision allowing occupational education certificate holders (16 NCAC 2H .0217) to teach out-of-field will be deleted from the administrative code so that occupational education certificate holders will abide by the rules outlined above.
- 6) If a school system is in violation of these guidelines, the state shall take the following actions:
 - a) First year — issue a warning to the

tion classes), two out of three teachers were out-of-field.

- Although there is a reported surplus of *English* teachers, more than one out of every five instructors teaching English was not certified in English.

- Overall, persons certified in *social studies* taught out-of-field more often than any other group. (Persons holding social studies certificates were the primary out-of-field teachers in four areas: math, English, physical education, and health. They were second in the remaining areas: science, foreign languages, and reading.) Despite this, there was a high level of out-of-field teaching in social studies classes: One out of six social studies instructors did not hold the proper certification.

- *Physical education* is another area of reported oversupply, yet almost 16 percent of physical education instructors lacked the proper certification.

- Approximately nine percent of *foreign language* instructors were out-of-field. This was the lowest percentage of any subject area surveyed.

Federal budget cuts in education could exacerbate the out-of-field teaching problem. If reduc-

tions must be made in the number of school personnel, the most recently hired teachers will be the most likely to lose their jobs. Laying off first, second, or third year teachers may deplete the low supply of teachers certified in reading, math, science, and health — the subjects that now have the poorest record in out-of-field teaching. The reading and health areas could be hit the hardest since the state has issued these certificates for less than ten years.

In August, the Department of Public Instruction (DPI) proposed new regulations that attempt to address the problem of out-of-field teaching. The proposed regulations require that any person teaching a subject for more than half of the school day have either certification or provisional certification in that subject. Any person teaching a subject less than 50 percent of the time must have what DPI calls an "endorsement" or "provisional endorsement."

Although a step in the right direction, the proposed regulations have at least five weaknesses (see box on pages 50-51 for recommendations regarding these problems).

- 1) They do not define what will constitute a

superintendent and school principal.

- b) Second year (if the school is still in violation) — issue a reprimand to the superintendent and principal. These reprimands will be included in the administrators' personnel files.

- c) Third year — withhold state money from the local school system based on the following formula: Every child in a class taught by an out-of-field teacher will not be counted in the school's overall average daily membership figures for the purpose of obtaining state money under the State Public School Fund.

- 7) a) The state should increase its appropriations for staff development; LEAs should be required to use the increased appropriations to help defray the costs to the teacher of pursuing an additional certification.

- b) If additional staff development monies are not appropriated, the teacher shall be granted administrative leave with pay so that s/he can complete the necessary coursework to obtain certification. Such administrative leave shall not be counted against the annual leave, sick leave, or vacation days due that teacher, and the school system shall be responsible for securing substitute teachers for those days.

Make post-graduate teacher training programs more meaningful:

- 8) College teacher education programs should work more closely with nearby LEAs to develop

more effective teacher training programs and to improve job counseling of prospective teachers. In addition, colleges and LEAs should develop two-way in-service programs in which professors come to the schools to give in-service classes for teachers and also to spend time in the teacher's classrooms so that they become more familiar with the needs of the instructor in teaching particular subjects.

Improve the Professional Personnel Activity Report:

- 9) The PPAR should be modified with the following changes:

- a) The form should include a section for teachers to list their areas of certification.

- b) The certification codes for seventh and eighth grade science courses should be separated (currently they are coded by the same number, even though seventh grade science is life science and eighth grade science is earth science).

- c) The form should have a section in which teachers in team-teaching situations (e.g. a language arts-math course) identify which subject they are teaching.

- d) The form should ask teachers whether or not they have tenure.

- 10) DPI should use the PPAR form to monitor annually the rate of out-of-field teaching, and the results of that monitoring effort should be published and made available to the public.

provisional certification, an endorsement, or a provisional endorsement.

2) They do not provide adequately for local school superintendents to cope with short-term emergency personnel situations.

3) Under the proposed guidelines, a superintendent or principal could rotate teachers into different slots each year, thus never addressing a school's need for having staff qualified to teach a particular subject. Because of this pattern, the regulations could result in a teacher continuously working towards endorsements and certifications for subjects that s/he will teach for only one year.

4) The regulations institute unequal educational standards by requiring endorsements rather than certifications of persons teaching subjects less than 50 percent of the day. Such a standard implies that a person needs different qualifications to teach a subject two times a day than to teach it four times a day.

5) Worst of all, the new regulations place the onus for rectifying the out-of-field problem on

the teacher — who often has little say about class assignments — rather than on the superintendent or principal, who actually makes class assignments.

Out-of-field teaching is but one part of the overall problem of teacher quality (an issue currently being studied by the Department of Public Instruction in their Quality Assurance Program). To assume that eliminating all out-of-field teaching would solve the teacher-quality problem is to oversimplify a complex issue. A certificate does not guarantee that a person will be a good teacher but it does ensure that a person has displayed certain minimal competencies identified by the state as being important for good teaching. By doing so, certification establishes the education standards of the state.

If these educational standards are to have any meaning, the state must use its power to certify teachers in a positive, active manner and ensure that its educational standards are upheld. To do this, the state must adopt out-of-field teaching policies that are both fair and consistent. □

Who's Teaching Science?

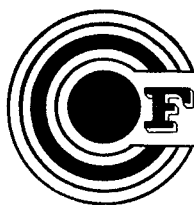
by Alfred W. Stuart

After reviewing "Teacher Certification: Out-of-Field Teaching in Grades 7-12," Center board member Alfred W. Stuart wrote that "the out-of-field problem is probably worse than the article indicates." From his perspective as chairman of the Department of Geography and Earth Sciences at the University of North Carolina at Charlotte, Dr. Stuart views with particular alarm the certification process for science teachers and the way in which teachers correct certification deficiencies. Dr. Stuart's additional critique is reprinted below with his permission.

For science certification, the great majority or all of the coursework may be taken in one science. Here at UNCC, for example, a student can receive an Intermediate Certificate (grades 4-9) to teach science by taking 18 semester hours of "Science" — not distinguished between biology, physics, chemistry, earth science, or others. That is, all of that science coursework could be taken in biology and the teacher assigned to teach earth science. That, in fact, is a common tendency in the eighth grade where earth science is required. There is some overlap between the various sciences, of course, but the differences are greater. I suspect that the biology teacher who is asked to teach earth science will give it a

strong biological thrust while omitting important, non-biological materials. The geologist who is assigned to teach biology would probably do just the reverse but that is not a very likely possibility. There are some science teachers who are well trained in several of the disciplines but they, unfortunately, are rare and they are more likely to teach at the senior high school level.

A second problem is that there seems to be a strong tendency for teachers to attempt to correct deficiencies in their training or to remain current by taking courses (workshops) offered by the school system itself rather than by taking the proper courses at a college or university. Some of these in-house workshops are quite effective but from what I know about them they are typically watered-down versions of university work. The more capable or motivated teachers tend to regard these workshops with disdain, preferring to take the more rigorous university courses. Thus there is the probability that weak teachers meet re-certification requirements by taking weak courses. There is a financial side to this since the school systems pay most or all of the cost of the workshops and, consequently, are reluctant to subsidize tuition at a college or university. The systems could have special courses offered by colleges or universities for their teachers for what it costs them to put their own together but generally they do not even attempt to do this. This problem takes on added significance with budget cuts since schools are going to be shifting present teachers around rather than hiring new ones. □



FROM THE CENTER OUT

In our last issue of N.C. Insight, Susan M. Presti and Blanche Glimps examined the type of educational opportunities available to pregnant teenagers in North Carolina ("Pregnant Teenagers - Their Education is Suffering," Vol. 4, No. 3). Presti and Glimps cited a September 30, 1980, opinion by the N.C. Attorney General's Office that said a pregnant teenager does not have to be pregnant and handicapped in order to be eligible for education and related services, but that pregnancy alone gives the student the same right to educational programs as any other person defined by state law as a "child with special needs." A request for clarification of the opinion by the director of the Division for Exceptional Children in the Department of Public Instruction resulted in a further memorandum from the Attorney General's Office. This June 25, 1981, memorandum, published for the first time below, reaffirms the conclusions reached by Presti and Glimps.

TO: Theodore R. Drain, Director
Division for Exceptional Children

FROM: Edwin M. Speas, Jr.
Special Deputy Attorney General

Kaye R. Webb
Assistant Attorney General

DATE: June 25, 1981

RE: Public School Responsibility to Pregnant
Students

You have requested a clarification or reconsideration of an earlier opinion issued by this office. On September 30, 1980, a letter signed by Kaye Webb was sent to Ruby Milgrom, Chairman, Governor's Advocacy Council on Children and Youth. That letter briefly outlined the public school's responsibility toward pregnant students. You have expressed concern that the position taken in that letter would cause additional "fiscal stress" on school systems who will receive less funds during the 1981-82 school year to provide special education and/or related services to children with special needs.

As you know, G.S. 115-366 provides that the term "children with special needs" includes, without limitation, all children between the ages of 5 and 18 who because of permanent or temporary mental, physical or emotional handicaps need special education or related services, or are unable to have all their needs met in a regular class without special education or related services, or are unable to be educated adequately in the public schools. This term specifically includes pregnant students. There is no requirement that pregnant

students have a handicapping condition over and beyond pregnancy in order to be a child with special needs. To reach such a conclusion would contravene the clear language of the statute.

It remains the opinion of this office that a local school system has the *same legal responsibility to a pregnant student as to any other child defined by law as a child with special needs.* * Pregnancy is defined as a special need and it need not be associated with another special need before special education and related services must be provided to pregnant students. If after evaluation, it is determined that a pregnant student does not have special needs that cannot be met in a regular classroom, the school system has complied with the requirements of law. On the other hand, if a pregnant student has special needs, because of the pregnancy, that can not be met in a regular program, then the school system should develop an IEP [Individualized Education Program] which will provide a basis for meeting the student's need for special education and related services.

* Emphasis added.



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