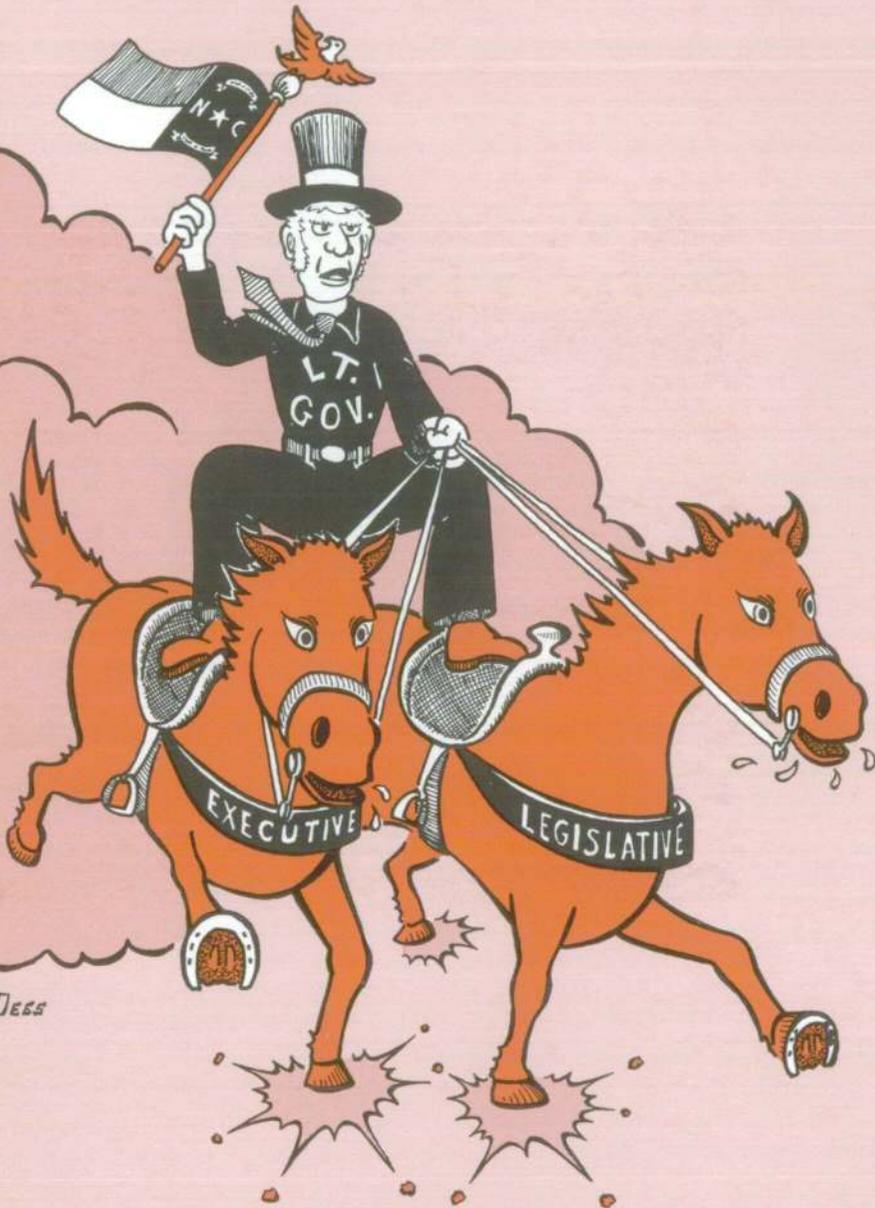


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NCINSIGHT



**Lieutenant Governor —
Executive or Legislative Official?**

- Preview of the 1983 Legislature
- Cigarette Tax Increase
- ... and more

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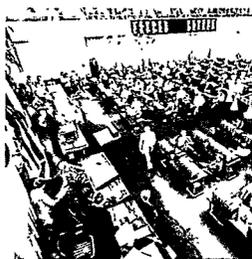
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The Lieutenant Governor — A Legislative or Executive Office?

by Steve Adams
and Richard Bostic

Fresh from a convincing victory over his Republican opponent in the 1976 elections, Lt. Gov. James C. (Jimmy) Green began flexing the muscles of his office. In 1977, as presiding officer of the state Senate, Green led the upper chamber in attempting to confer by law the chairmanship of the prestigious State Board of Education on the lieutenant governor. Some precedent for this move existed. From 1943-54, the lieutenant governor had been the state official who chaired the State Board — but then only by tradition, not by state law.

The Senate voted 42-1 with their leader, a stunning margin considering the State Board was expected to select as chairperson the *governor's* recommendation. But the Senate bill making Green chairman was voted down in the House of Representatives Education Committee, and Gov. James B. Hunt, Jr., a veteran of the lieutenant governorship himself, prevailed. The State Board of Education accepted Hunt's choice, H. David Bruton, as chairman. Despite this defeat, Green had exercised a new level of power for a lieutenant governor: a bid for the chairmanship of a highly visible and important executive-branch board through overt legislative maneuvering.

Since that clash in 1977, Hunt and Green have mostly gone their separate political ways. Elected independently — not as part of a “team” as is the case in 22 states¹ — Lt. Gov. Green and Gov. Hunt have developed distinctive agendas, power bases, and organizations. In 1980, following a

1977 amendment to the state Constitution allowing succession in both offices, Green and Hunt were elected to unprecedented second terms. But during the 1980 election, Green was careful to distinguish himself from Hunt. “If you want a yes-man as lieutenant governor, you don't want Jimmy Green,” read the Green re-election literature.

What is a “yes-man” lieutenant governor? And what makes such a phrase a potent campaign slogan? Unlike any other state official, the lieutenant governor straddles the executive and legislative branches, vested with constitutional and statutory powers in both branches. First in line of succession in the executive branch (upon the governor's death, resignation, or removal from office), the North Carolina lieutenant governor also wields extensive power over the legislative process. And in the last decade, the position has grown from a part-time office with a \$12,000 annual budget to a full-fledged power base with a \$300,000 annual budget. How has this growth in the stature of the position influenced the nature of the office? Does the lieutenant governor function primarily as a legislative leader or as an executive-branch official?

Steve Adams, a 10-year veteran of the North Carolina press corps, is a Raleigh free-lance writer. Richard Bostic, a former intern with the North Carolina Center for Public Policy Research and with the Office of the Lieutenant Governor, is working in the Illinois Governor's Fellowship Program.

The N.C. Constitution of 1868 established the office of lieutenant governor, placing it first in line of succession to the governor *and* at the head of the Senate. From the outset, then, the office had a foot firmly in two different branches of government. Even so, few controversies over the office arose for a century. As recently as the 1960s, the lieutenant governor functioned in a part-time capacity, much as did the "citizen legislators" who came to Raleigh several months out of every two-year period. The lieutenant governor presided over the Senate when it was in session and performed mostly ceremonial executive-branch duties throughout the year.

But in the 1970s, things began to change. The lieutenant governor became a member of the Council of State, acquired new influence through appointments to executive-branch boards, benefited from the election of a Republican governor, and piggy-backed the "coming of age" of the General Assembly. Collectively, these factors served to elevate the office from a part-time, low-visibility position of questionable influence to a major power base within the state.

A new state Constitution, which took effect in 1971, made the lieutenant governor a member of the Council of State,² the group of independently elected, cabinet-level, executive-branch officials.³ The Council of State controls contingency and emergency funds, coordinates state data services, serves as an advisory council to the governor, and controls the sale, purchase, and improvement of state land and buildings. In 1971, the other members of the Council of State were full-time officials but H. Patrick Taylor, Jr., then the lieutenant

governor, was not. Taylor complained about the frequent two hour trips for Council of State meetings from his home in Wadesboro to Raleigh, made during his "off" time. The job was on its way to becoming full-time. The 1971 General Assembly formalized this process by increasing the salary of the lieutenant governor from \$5,000 to \$30,000, effective in 1973.

The 1971 Constitution made the lieutenant governor a member of the Council of State, which prompted significant changes for the office, but the same Constitution failed to clarify the duties of the position. The Constitution offered only a sketchy picture of the office: He was first in line of succession to the governor, presiding officer over the Senate, and member of the Council of State and State Board of Education. The Constitution prescribes only "such additional duties as the General Assembly or the Governor may assign to him."⁴

While the governor has made little use of that constitutional provision, the legislature has relied on it extensively. Not only did the General Assembly in 1973 elevate the position from part time to full time and increase the salary of the lieutenant governor six-fold in one fell swoop, but it also began to empower the office with significant executive-branch duties, primarily through appointments to executive-branch boards.

The General Assembly, for example, granted the lieutenant governor membership, by statute, on the Council on Interstate Cooperation, the N.C. Capital Planning Commission, the Economic Development Board, and the State Board of Com-



Robert Scott (right), lieutenant governor from 1965-69, confers with his uncle, Ralph Scott, a powerful state senator for many years. Robert Scott says his most important power was committee appointments: "If the Senate leadership takes that power away, [a lieutenant governor] really doesn't do anything but preside."

Photo courtesy of the Scott family

munity Colleges.⁵ Moreover, as the legislature created many new executive-branch boards and commissions, it provided the lieutenant governor with the power to make appointments to these boards.⁶ The lieutenant governor was acquiring significant new executive-branch responsibilities, particularly on education and fiscal policies, through actions taken by the General Assembly. This acquisition of power in the executive branch stemmed, ironically, from the lieutenant governor's influence over the legislature.

In 1973, the first Republican governor in North Carolina in the 20th century, James E. Holshouser, Jr., took office together with a Democratic lieutenant governor, Jim Hunt. The Democrats, who still controlled the legislature, responded to the

partisan split in the executive branch by further strengthening the executive powers of the lieutenant governor. The legislature gave the lieutenant governor statutory control over numerous appointments, including two positions to the powerful Advisory Budget Commission (ABC). (The statute, N.C.G.S. 143-4, also designates the chairman of the Appropriations and the Finance Committees of the Senate as members of the ABC; the lieutenant governor also appoints these two chairmen.)

In the absence of a Democratic governor, the lieutenant governor took on added responsibilities both within the state Democratic Party and within the workings of the state Senate. Hunt attempted to build consensus for new legislation in the Democratic caucus and assisted in the campaigns

The N.C. Lieutenant Governor — How Powerful in a National Context

Table 1: Lieutenant Governors in the South: Power and Duties (1982)

State	Type of plan	Presides over Senate	Appoints committees	Breaks roll-call ties	Assigns bills	Authority for governor to assign duties to Lt. governor	Full time
Alabama	Legislative	*	*	*	*	—	N
Florida	Executive	—	—	—	—	*	Y
Georgia	Legislative	*	(a)	—	*	—	Y
Kentucky	Traditional	*	—	*	*	*	Y
Louisiana	Executive	—	—	—	—	*	Y
Maryland	Executive	—	—	—	—	*	Y
Mississippi	Legislative	*	(b)	*	*	—	Y
North Carolina	Legislative	*	*	*	*	*	Y
South Carolina	Legislative	*	(c)	*	*	*	Y
Tennessee	----- (d) -----						
Texas	Legislative	*	*	*	*	—	Y
Virginia	Traditional	*	—	*	—	*	N
West Virginia	----- (d) -----						

Asterisk (*) indicates the lieutenant governor has the power. Dash (—) indicates he or she does not have the power.

Notes:

- (a) The lieutenant governor is chairman of the Committee on Committees which appoints the committees.
- (b) Except rules and legislative service committees.
- (c) Appoints study committees but not standing committees.
- (d) No lieutenant governor, except in Tennessee the speaker of the senate bears the additional statutory title "Lieutenant Governor."

Source: *The Book of the States*, 1982-83, Volume 24, The Council of State Governments, and the National Conference of Lieutenant Governors, which has recently begun a new nationwide survey of this office.

of Democratic candidates. He functioned in essence, as the Democrats' leader in both the executive and legislative branches. After a Democratic landslide in the 1974 elections slashed Republican representation from 30 percent of the General Assembly to less than 6 percent, Hunt promised that the legislature would be "leading, not reacting."

This historical context of Hunt's election as lieutenant governor — the election of a Republican governor — thus had a major influence on how the office itself evolved. But in order to take advantage of the opportunities that became available to him in 1973, Hunt needed some means of controlling the legislative process. The tools for such control came primarily from the senators

themselves, not from the constitution or the statutes.

While the N.C. Constitution authorizes the lieutenant governor to preside over the Senate, the senators determine the extent of his legislative power. At the beginning of each session, the full Senate adopts, through a resolution, its rules for that session. Perhaps the most powerful tool afforded the lieutenant governor is "the exclusive right and authority to appoint all Committees, regular or select, and to appoint Committee Chairmen and Vice-Chairmen."⁷ This power has long been recognized for its critical leveraging capabilities. "If he [the lieutenant governor] doesn't have that, he doesn't have much," explains Robert Scott, lieutenant governor from 1965-69.

North Carolina has one of the most powerful and independent of the nation's lieutenant governors. The relative power of the office becomes clear through a method of analysis developed by the National Conference of Lieutenant Governors (NCLG). The NCLG divides the nation's 42 lieutenant governors into four categories, according to the powers they have and the trend toward either increased legislative or executive duties.* The four categories are:

Legislative Plan. Six states, all from the South (Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Texas), have a lieutenant governor with substantial legislative duties but few executive duties. Since North Carolina is the only state with no gubernatorial veto, the lieutenant governor leads the upper chamber of a legislature regarded as one of the most powerful in relation to the executive branch.

Executive Plan. Nine states, including Florida, Louisiana, and Maryland in the South, have a lieutenant governor with primarily executive-branch responsibilities. These states usually have competitive, two-party systems and strong governors. The lieutenant governor serves as a member of the governor's cabinet and presides over cabinet meetings in the governor's absence.

Traditional Plan. Twenty-four states, including Kentucky and Virginia from the South, fall into this middle-ground category, with a mixture of legislative and executive duties. The lieutenant governor usually has only nominal legislative powers, such as presiding over the Senate, and serves as the governor's liaison for various ministerial duties.

Administrative Plan. Three states (Alaska, Hawaii, and Utah) have a lieutenant governor with duties similar to those of a secretary of state.

Trends in the Office

The lieutenant governor in North Carolina has accumulated significant legislative powers in recent years, but an opposite trend has taken place nationwide. In 1950, 36 states had lieutenant governors with power to preside over a legislative body; by 1976 the number of states where the lieutenant governor had legislative presiding power had declined to 30.

Another important national pattern that has not yet appeared in North Carolina is reliance on team elections, where the governor and lieutenant governor are elected by a single ballot in the general election to avoid a party split. New York initiated the team election of these two positions in 1953. By 1976, this concept had spread to over one third of the states, and in four states (Florida, Kansas, Maryland, and Montana) candidates filed as a team for the primary.

For more information on trends in the lieutenant governorship and background of the office from a national perspective, see "The Lieutenant Governor: The Office and Powers," Council of State Governments (1976). □

*In three of the eight states without the office of lieutenant governor, the secretary of state succeeds the governor. In the other five, the speaker or president of the Senate is first in line of succession (in Tennessee, one of these five, the speaker of the senate has the additional statutory title of "Lieutenant Governor").



Photo courtesy of the N.C. State Archives

The swearing in of Lt. Gov. James B. Hunt, Jr., January 1973.

"If the Senate leadership takes that power away from him, he really doesn't do anything but preside."

Traditionally, the Senate has also given the lieutenant governor two other important powers through its rules: 1) the power to assign bills to committee — "announce the referral of the document," as Senate Rule 43 puts it,⁸ and 2) the power to vote "where there is a tie vote upon any question or election."⁹ Finally, as presiding officer, the lieutenant governor can also control floor debate.

These powers allow the lieutenant governor considerable leverage over the legislative process. Hunt, for example, helped to defeat legislation to abolish the death penalty by sending the bill to a conservative Judiciary Committee while making an unsuccessful bid to pass the Equal Rights Amendment by assigning it to a more liberal Judiciary Committee. In the 1982 "short" session, Jimmy Green showed how a lieutenant governor can control legislation before the critical appropriations and finance committees.

When confronted with a bill he considered bad legislation (a bill to prohibit state compliance with the Reagan Administration's Accelerated Cost Recovery System), Green assigned it to the Finance Committee where he asked Sen. Conrad Duncan (D-Rockingham) to "sit on the bill" for the remainder of the session. Green thus exercised, however indirectly, a form of legislative veto. Green also demonstrated how his power base allowed him influence on the appropriations side. For example, through a last-minute conversation with Sen. Harold Hardison (D-Lenoir), chairman of the Appropriations Committee, Green got some Indian scholarship funds included in a special appropriations bill.

In recent years, appointing committees has become a highly charged power source, dramatizing what political analysts Malcolm Jewell and Samuel Patterson call "one of the most powerful tools of leadership."¹⁰ When Bob Scott was lieutenant governor in the late 1960s, "I tried to accommodate them [the senators] as best I could. As far as chairmanships, sometimes I would have people who had supported me in the campaign," Scott remembers.

During the Jimmy Green era, this process of rewarding persons helpful in a campaign has become more formalized. Before each session, Green has asked the senators to submit a list of the top five committees on which they would like to serve or chair.

Green's administrative assistant William Franklin describes these forms as a necessary tool for making committee assignments. "We use the forms to find out what the [senators'] interests are," says Franklin. But the forms also appear to serve another purpose. On one application, for example, a Green aide wrote, ". . . feels he can do a good job and assures one of his loyalty to Green."

After submitting their forms to Green in 1980, 23 of the 50 senators received their preferred assignments. If "loyalty" proved important in awarding committee appointments, the aide to Green had some concrete source of reference. In 1978, Green established an informal "cabinet" to assess his political future. Nine Senate committee chairmen contributed \$250 each to become members. In addition, from April 1979 to December 1981, 31 senators gave a total of \$27,292 to North Carolinians to Re-elect Lt. Gov. Jimmy Green; 10 contributed \$1,000 or more. But Franklin is quick to point out that Green bent over backward in 1980 to be fair to those senators who supported Green's election opponent, former Speaker of the House Carl Stewart. Green appointed Senators Henry Frye, Helen Marvin, James M. Clarke, and others who supported Stewart to committee chairmanships for the 1981 session.

Senators are not the only persons attempting to have some legislative leverage through contributions to the campaigns of lieutenant governors. Political action committees (PACs) have become major sources of campaign contributions, especially in an era of rapidly escalating campaign costs. In 1980, the Jimmy Green campaign spent \$634,467 in the process of winning re-election. Of this amount, 58 PACs contributed \$70,120, including \$6,000 from utilities and \$5,000 from manufactured housing groups.

As the office of lieutenant governor gained increased powers in its own right, the General Assembly had been "coming of age" on a number of fronts (see "The Coming of Age in the N.C. General Assembly," *N.C. Insight*, December 1981). Until 1973, the legislature generally met in only

odd-numbered years. Since then, it has met at least annually and the length of sessions has increased dramatically. The legislature also established its own legal and fiscal staff, voted funds for a new building and computer system, raised the pay of its members and developed sophisticated new means of power ranging from extensive appointments to boards and commissions to control over fiscal matters once reserved for the executive branch. The legislature had been gradually abandoning the tradition of rotating committee chairmanships, and when the governor and lieutenant governor were re-elected to office in 1976, the legislature responded by electing the first two-term speaker of the House. As the legislature grew more sophisticated and seasoned in acquiring and exercising power, so did the lieutenant governor, who sat at the head of the legislature's upper chamber.

A decade ago, the lieutenant governor's office was a part-time job, limited to one four-year term, with an annual salary of \$5,000 and a budget of \$12,000. Today, a full time lieutenant governor serves up to eight years, commands a salary of \$45,000 (plus \$11,500 for expenses), oversees an annual budget of \$305,606, and draws on the fiscal analysts, bill drafters, and research assistants in the Legislative Services Office. As of May 1982, the legislature had granted the lieutenant governor 70 appointments (of citizens or legislators) to 42 executive-branch commissions, giving him access to virtually every state department. The office had become a full-time, highly visible presence in Raleigh.

North Carolina has one of the most powerful and independent lieutenant governors in the country. (See box on pages 4-5 for a comparative description of the lieutenant governors throughout the country.) Past efforts at stripping the lieutenant governor of his power have generally failed and legal maneuverings during 1982 on complex separation-of-powers questions have thus far skirted issues involving the dual nature — in the legislative and executive branches — of the lieutenant governor's powers.

In 1971, 1973, and again in 1975, the Senate attempted, but failed, to strip the lieutenant governor of his power to appoint committee membership. Then on the last day of the 1976 session, the Senate successfully voted (34-9) to eliminate the lieutenant governor's appointive power. Two months later, however, the Democratic caucus voted to reverse this action (the full Senate made this reversal formal at the opening of the new session). Strong sentiments for retaining significant legislative powers for the office had emerged. No yawning gap in the executive branch existed for the lieutenant governor to fill. As McNeill Smith, then a Democratic senator from Guilford County, put it at the time: "If we strip the lieutenant governor of whatever [legislative] influence he might have, then people will be electing somebody to be lieutenant governor who is going to be all dressed up with absolutely no place to go. Who would run for such an office?"

Concern over the evolution of the lieutenant governorship emerged again in 1977 when the General Assembly passed a joint resolution "directing the Legislative Research Commission to study the duties of Lieutenant Governor of North Carolina, and if appropriate, the commission shall recommend legislation expanding or modifying the present duties."¹¹ The Legislative Research Commission (LRC), then chaired by Speaker of the House Carl Stewart (D-Gaston) and President Pro Tempore of the Senate John T. Henley (D-Cumberland), reported to the 1979 legislature but failed to suggest how the office might evolve.

It balked at the idea of increasing the lieutenant governor's executive duties without stripping him of his legislative authority. Increasing the lieutenant governor's executive duties would tend to exacerbate an already fragmented executive branch, the LRC noted, where eight other officials are also elected independently of the governor (see footnote 2 for these eight offices, which together with the lieutenant governor form the Council of State). Furthermore, the Commission noted, "If the lieutenant governor is to have a major [executive-branch] role, it is essential that he be an arm of, and not an obstacle to, the governor."¹²

The 1979 LRC report also raised an important

Lt. Gov. James C. (Jimmy) Green (center) confers with the Senate power structure (from left): Sen. Kenneth Royall, Green, Sen. Craig Lawing, and Sen. Harold Hardison.

Photo by Paul Cooper



question regarding the appointive powers of the lieutenant governor, an issue that was not to surface in full force until 1982. "The issue as to whether or not the appointment of legislative committees by an ostensibly executive officer violates the separation-of-powers doctrine has not been litigated because the Lieutenant Governor has been in fact, if not in law, a legislative officer. If he becomes increasingly a part of the Executive Branch, especially if he becomes an integral part of the Governor's office, the constitutional issue will become more pressing."¹³

The LRC seemed to be foreseeing the handwriting on the wall. In January of 1982, the N.C. Supreme Court in *Wallace v. Bone* ruled that the legislature could not appoint its own members to

the "delegation" issue (the power of the full General Assembly to delegate its appointive power to certain legislative leaders), which was prompted by the separation-of-powers concerns. But neither the General Assembly nor the courts have thus far focused on other issues, including the lieutenant governor's appointive powers. Does the lieutenant governor, whether making appointments directly or recommending appointments for the approval of the General Assembly or of the governor, function as a member of the legislative or executive branch?

As the legal controversy surrounding the complex separation-of-powers questions continues, the dual nature of the lieutenant governor's office will eventually have to be addressed. The N.C. Consti-

"It is essential that (the lieutenant governor) be an arm of, and not an obstacle to, the governor."

— Legislative Research Commission Report (1979)

the Environmental Management Commission, a regulatory body in the executive branch, because such appointments violate the separation of powers provision of the N.C. Constitution. A series of legal memoranda, opinions, and findings followed that raised numerous questions concerning the interrelationship of the executive and legislative branches (see "Separation of Powers: An Old Doctrine Triggers a New Crisis," *N.C. Insight*, May 1982).

To address the separation-of-powers questions, Speaker of the House Liston Ramsey (D-Madison) and President Pro Tempore of the Senate Craig Lawing (D-Mecklenburg) established a Committee on Separation of Powers under the Legislative Research Commission. During the short "budget" session in June of 1982, the General Assembly addressed the separation-of-powers issues primarily through a catch-all act "to make omnibus amendments to the General Statutes."¹⁴ This "Separation of Powers Act of 1982" gave appointive power for membership on 25 executive-branch boards and commissions to the entire General Assembly, in most cases upon the recommendation of various legislative leaders, including the lieutenant governor. As a practical matter, the speaker of the House, the lieutenant governor, and other leaders retained their powers of appointment through this new recommendation process; the legislature in 1982 virtually always approved the legislative leaders' choices.

The Separation of Powers Act of 1982 addressed

tution places this office firmly in both the executive and legislative branches. And as a practical matter, the lieutenant governor derives his powers from the legislature and the governor. Only the highest court in the state can decide to what extent the lieutenant governor can "have it both ways" — as a member of both the legislative and executive branches.

There now appears to be little sentiment among Senate leaders to change the lieutenant governor's duties, at least before Green presides over his last session in 1984. Inevitably, changes in the office stem from the personalities involved. Since Green took office in 1977, little controversy over the scope of the lieutenant governor's duties has surfaced. Even the 1979 LRC report ended inconclusively, leaving the General Assembly with little guidance for action. The lack of attention to the nature of the office may be due in part to the fact that Green served eight terms in the legislature before becoming lieutenant governor and thus was well-entrenched with the Senate leadership (see box on page 9). In addition, the General Assembly has been extremely busy mastering the art of "special provisions" to the budget bill, coping with the new federal block grant funding mechanisms, and generally upgrading its entire operation.

But the respite for the lieutenant governor may be nearing an end. Two important factors have

Characteristics of Lieutenant Governors

What kind of people tend to be elected lieutenant governor? What are their backgrounds and their aspirations? Their age and their schooling? Are distinctive trends emerging regarding these characteristics?

No simple method exists for answering these questions. "Systematic research on the office of state lieutenant governor is quite rare," explain Eugene Declercq and John Kaminski in the *Public Administration Review* ("A New Look at the Office of Lieutenant Governor," May/June 1978). But available data do suggest some trends.

The chart below points out the most dramat-

ic development among lieutenant governors in the last 30 years: Lieutenant governors, more often than in the past, come directly to the office from the state legislature. Only one in five moved from the legislature directly into the lieutenant governorship in 1950; by 1966 almost two of every five came from the legislature; in 1974, and again in 1982, three out of five followed this political path into office. Another interesting trend is the declining number of lieutenant governors who are attorneys, from 67 percent in 1950 to 53 percent in 1966 to 32 percent in 1978. □

Table 2. Trends in Lieutenant Governors' Characteristics, 1950-1982

	United States						North Carolina			
	1950	1958	1966	1974	1978	1982	1966 (Scott)	1974 (Hunt)	1978 (Green)	1982
Sample Size ¹	21	29	31	32	28	29				
Personal Characteristics										
Percent Lawyers	67%	50%	53%	50%	32%	38%	no	yes	no	no
Percent with B.A. or higher degree	83%	69%	89%	81%	93%	96%	yes	yes	no	no
Average Age	48	51	48	45	53	50	37	37	57	61
Public Experience										
Percent directly from state legislature	20%	30%	38%	59%	43%	59%	no	no	8 terms (including Speaker of the House) in legislature	
Percent directly from other public service ²	30%	23%	16%	22%	25%	14%	yes (Party officer)	yes (Party officer)		
Percent with no public service background	15%	12%	13%	9%	18%	17%	—	—	—	

¹ The date samples are incomplete because information on all the lieutenant governors does not exist in printed sources. A personalized survey of all 42 states which have lieutenant governors would be required to develop a complete data base, a task beyond the scope of this magazine article.

² "Public Service" is defined as service in elective or appointed administrative office on the federal, state, or local level, or serving as party chairman on the state or county level.

Sources: Who's Who in American Politics, Who's Who in America, The Book of the States, and reports of the National Conference of Lieutenant Governors. The U.S. data for the years 1950-1974 were reported in "A New Look at the Office of Lieutenant Governor," Eugene Declercq and John Kaminski, *Public Administration Review* (May/June 1978). The U.S. data for 1978 and 1982 were gathered by David Cecelski, for the N.C. Center for Public Policy Research. The N.C. data come from the *North Carolina Manual*.

caused the lieutenant governorship to develop a higher profile in recent years: the structure of the office and the 10-year tenure (1973-1982) of two assertive political practitioners (Hunt and Green). In North Carolina, the lieutenant governor and governor are not elected as a team. As the lieutenant governor has gained new influence in both the legislative and executive branches, a new level of competition between the lieutenant governor and governor has surfaced. Historically, the lieutenant governorship has been a potential stepping stone into the governorship, particularly in periods of greatest calm between, and within, parties. Robert Scott and Jim Hunt, for example, moved from lieutenant governor to governor in such periods (1968 and 1976, respectively).

The passage of a constitutional amendment to allow succession in both of these offices has altered the stepping-stone pattern somewhat. For example, in 1980, Jimmy Green chose not to run against Jim Hunt for governor and instead to run for re-election. Similarly, a person aspiring to be governor might now have to anticipate eight years as lieutenant governor rather than the traditional four. This expectation of a longer tenure reinforces the desire to build the independence of the office. By picking a few highly visible issues on which to differ with the governor, especially within the legislature with its built-in power base, recent lieutenant governors have brought a new level of attention to the office.

While the structure of the office and personalities have thus dominated its recent transitions, other types of issues could result in the duties of the lieutenant governor coming under still more scrutiny. The separation-of-powers controversy may force new attention on the role of the lieutenant governor. If a Republican were elected to office, a Democratic-controlled Senate would surely attempt to reduce the powers of its presiding officer. If candidates for lieutenant governor and governor got elected as a "team," the lieutenant governor would in fact be the governor's lieutenant, giving the office a much different complexion. If the lieutenant governor were delegated significant new executive authority, the office's legislative powers might also be adjusted. Finally, as the Senate appears to be moving toward full-time status, it might want to elect its own presiding officer, such as the president pro tempore,¹⁵ instead of working under the lieutenant governor.

But in the meantime, the lieutenant governor remains neither fish nor fowl. The name retains an executive-branch ring, but the real powers have more and more stemmed from the legislative side. The lieutenant governor, in 1982, has a foot in both branches of government, but it's the legislative foot that leads the way for this powerful office. □

FOOTNOTES:

¹ See "How Powerful is the North Carolina Governor?" by Thad Beyle, *N.C. Insight*, Vol. 4, No. 4, December 1981, particularly pp. 5-8.

² N.C. Constitution, Article III, Sec. 8.

³ The Council of State consists of the secretary of state, state auditor, state treasurer, attorney general, commissioner of agriculture, commissioner of insurance, commissioner of labor, superintendent of public instruction, lieutenant governor, and governor.

⁴ N.C. Constitution, Article III, Sec. 6.

⁵ Commission on Interstate Cooperation, N.C.G.S. 143B-380(1)(1975); N.C. Capitol Planning Commission, N.C.G.S. 143B-374(1975); Economic Development Board, N.C.G.S. 143B-434(a)(1977); and State Board of Community Colleges, N.C.G.S. 115D-2.1(b)(1)(1979). It is interesting to note that these statutes sometimes named the office "Lieutenant Governor" and sometimes "President of the Senate," a linguistic reflection of the dual nature of the office.

⁶ The N.C. Center for Public Policy Research will soon publish a comprehensive analysis of the more than 400 boards, commissions, and councils that exist. As of May 1982, the lieutenant governor had 70 appointments to 42 different executive-branch boards or commissions. Some of the most prominent of these 42 groups are the N.C. Milk Commission, the Child Day Care Licensing Commission, the Governor's Crime Commission, the Local Government Commission, and the Council on Educational Services for Exceptional Children. In June 1982, the General Assembly altered some appointive powers; for more detail, see the last two sections of the article text and footnote number 14.

⁷ Senate Rules, 1981 Session, Rule 31, p. 15.

⁸ Senate Rules, 1981 Session, Rule 43, p. 22.

⁹ Senate Rules, 1981 Session, Rule 11, p. 8.

¹⁰ Malcolm Jewell and Samuel Patterson, *The Legislative Process in The United States*, 3rd edition (Random House, 1977), p. 139.

¹¹ Ratified Resolution 93, 1977 Session of the General Assembly.

¹² Legislative Research Commission, "Report to the 1979 General Assembly of North Carolina - Lieutenant Governor," p. 10.

¹³ *Ibid.*

¹⁴ Separation of Powers Act of 1982, Chapter 1191 of the 1981 Session Laws (Reg. Sess., 1982).

¹⁵ The full Senate elects from its membership a president pro tempore (N.C. Constitution, Art. II, Sec. 14). This officer of the Senate serves as president of the Senate if that office is vacant or if the president is incapacitated (N.C. Constitution, Art. II, Sec. 14); convenes and presides over the Senate in the absence of the president of the Senate (Senate Rules, 1981 Session, Rule 4, p. 6); serves, along with the speaker of the House, as co-chairman of the Legislative Research Commission (N.C.G.S. 120-30.13); and serves as chairman of the Legislative Services Commission in odd-numbered years (N.C.G.S. 120-31). If the General Assembly chose to exert greater control over the functions of the Senate, it could grant some appointive powers now held by the lieutenant governor to the president pro tempore.

Governors and Lieutenant Governors Clash

by Thad L. Beyle

Structural relationships between the lieutenant governor and governor can lead to conflicts between the persons holding those offices, particularly where the two are not part of a team election and where the lieutenant governor has extensive legislative powers. In recent years, several examples of conflicts have arisen, best summarized in "The Governors and the Executive Branch" by Thad L. Beyle (The Book of the States 1982-83, Volume 24, The Council of State Governments). The section of Beyle's article addressing conflicts between the governor and lieutenant governor appears below, with the permission of the Council of State Governments.

During the 1980-81 biennium at least five governors came into conflict with lieutenant governors. The governor of Montana was defeated by his lieutenant governor in the primary fight for the Democratic nomination for governor in 1980. In New Mexico, the conflict was over personnel matters, pardons and control over the National Guard when the governor was out of state.¹ In Missouri, the conflict concerned the state's constitutional provision giving all the powers and salary of the governor to the lieutenant governor when the governor is out of state unless he is accompanied by the lieutenant governor.² Even then the power and salary devolve to the next in line: the president pro tem of the senate. In effect, the governor became a captive in his own state. In Nebraska, the two actors were caught in a constitutional question over the lieutenant governor's right to break a tie vote in the unicameral legislature on a banking bill and then signing the bill into law as acting governor when the governor was out of state.³

The most well-known situation was in California where the governor had to go to court to determine the limits of the lieutenant governor's gubernatorial power while the governor was out of state. The specific issue was an appointment

of a judge by the lieutenant governor, which the governor later withdrew upon return to the state. The California Supreme Court ruled in December 1979 the lieutenant governor could exercise this power under the circumstances but that the governor could withdraw the appointment until it was confirmed by the legislature.

Separate elections had much to do with these problems. In California and Missouri, both officers were separately elected and from opposite parties. In Nebraska and New Mexico, while they were jointly elected in the general election, they won the party's nomination separately. Only in Montana were governor and lieutenant governor jointly elected in both the primary and general elections.

Another area of conflict between these two offices is based on the extent of legislative powers and duties assigned some lieutenant governors by their constitutions. The greater the lieutenant governor's legislative powers, the greater the potential for a power base separate from the governor. While 28 states call on the lieutenant governor to preside over the senate, 10 provide some committee appointment power and 16 give bill assignment power.⁴ Michigan voters in 1980 rejected a constitutional amendment to remove the presiding powers from their lieutenant governor or to allow the governor to fill a vacancy in the office subject to approval of both houses of the legislature. □

FOOTNOTES:

¹ Janet Clark, "Conflict between Governor and Lieutenant Governor in New Mexico," *Comparative State Politics Newsletter*, Vol. 1, No. 2, January 1980, p. 11.

² Phill Brooks, "Missouri's Captive Governor," *Comparative State Politics Newsletter*, Vol. 1, No. 6, October 1980, pp. 12-13.

³ "Nebraska: Bankers and State Officials Battle over New Regulations," *Congressional Quarterly Weekly Report*, August 29, 1981, p. 1622.

⁴ For discussion of this relationship see Thad L. Beyle and Nelson C. Dometrius, "Governors and Lieutenant Governors," *State Governments*, Vol. 52, No. 4, Autumn 1979, pp. 187-95.

Thad L. Beyle is professor of political science at the University of North Carolina at Chapel Hill and chairman of the Board of Directors of the N.C. Center for Public Policy Research.

Cigarette Tax Increases —

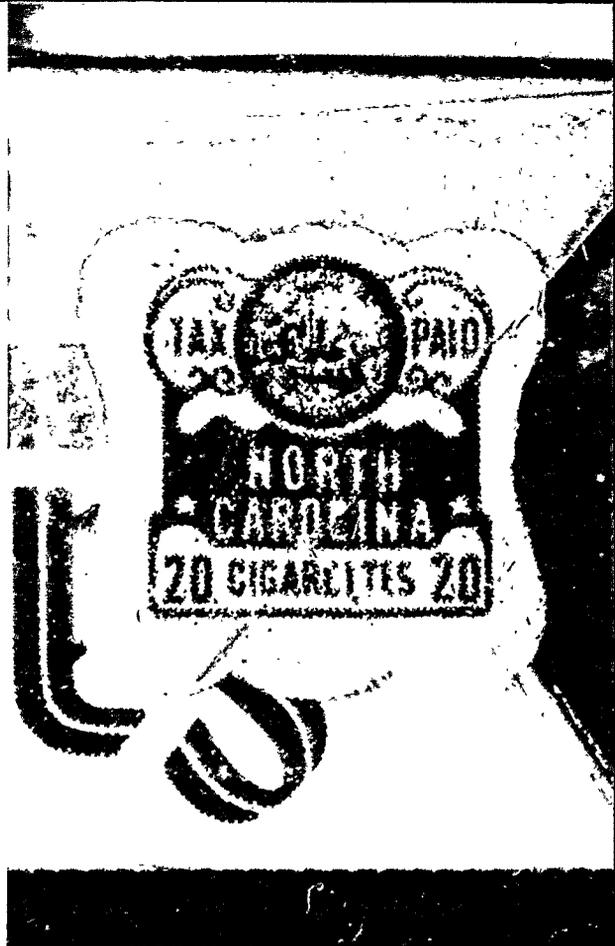
Do They Hurt North Carolina's Tobacco Economy?

by Bill Finger

Of all the sacred cows in North Carolina, few have more sanctity than the state cigarette tax. Until 1969, North Carolina was the only state that didn't tap the excise tax on cigarettes as a source of revenue. And then, only a spirited effort by Gov. Robert Scott to obtain new revenue sources for public kindergartens provided a noble context — free education for young children — in which a two-cent-per-pack tax could be placed on North Carolina's most cherished product.

But the new cigarette tax came back to haunt Scott. In 1980, Scott ran against the incumbent James B. Hunt, Jr. for governor. In a four-page campaign flier sent to 23,000 tobacco farmers, Hunt reminded these voters that Scott had proposed the cigarette tax. The Hunt flier quoted Scott's defense, made during the 1969 debate: "It's time to destroy the myth that tobacco is king in North Carolina." Since winning the re-election in 1980, Hunt has maintained his firm stance against any increase in cigarette taxes — at the state and federal levels — even as the revenue landscape has darkened.

In 1981, the surplus state budgets of the early 1970s were only a pleasant memory. The state's revenue picture was bleak, especially regarding the Highway Fund. To increase revenues, the General Assembly considered raising several kinds



of taxes, including those on cigarettes and gasoline. The cigarette tax emerged as a possibility, particularly among the urban delegations, because as Rep. Joe Hackney (D-Orange) put it, "It's a source of income that hasn't been tapped."

Rep. Ruth Easterling (D-Mecklenburg) and Rep. D.R. Mauney (D-Gaston) introduced a bill to increase the cigarette tax, but the House Finance Committee defeated it on a roll-call vote (15-37).¹ Four days later, a minority report on the bill came before the full House. The House refused to consider the minority report — an action which did not amount to a vote on the merits of the bill itself — by a 75-41 vote. Meanwhile, to bolster the Highway Fund, Gov. Hunt chose the gasoline tax route, unpopular enough itself, and engineered a major public campaign to gain support for raising the gas tax three cents per gallon, an action eventually taken by the General Assembly in June 1981.

Bill Finger, editor of N.C. Insight, edited The Tobacco Industry in Transition, a N.C. Center for Public Policy Research Book (Lexington Books, 1981). Lynne Thomson, a journalism student at the University of North Carolina at Chapel Hill, served as a research assistant for this article. Linda Kay Smith and Marvin Overby, interns at the N.C. Center, also assisted with research. Photos by Gene Dees.

Soon after the General Assembly defeated the cigarette tax proposal in 1981, a tax increase perceived by tobacco-industry forces as far more serious surfaced. In 1982, as federal deficits reached record levels, the Reagan administration and the Congress began searching for ways to increase federal revenues. A bipartisan coalition emerged in Congress to support some tax increases, especially excise taxes, and to close some tax loopholes. The Senate Finance Committee, chaired by Sen. Robert Dole (R-Ka.), carved out a "tax equity" package that included a doubling of the cigarette tax from 8 to 16 cents per pack. A series of complex votes in the Senate followed, including a crucial 50-47 vote in favor of the package, where the two North Carolina senators, Republicans Jesse Helms and John East, both switched to an affirmative vote at the last minute. After a House-Senate conference committee ironed out the details, in August 1982 Congress passed the final package, which doubled the federal tax on cigarettes, effective from January 1, 1983, to September 30, 1985.

Tobacco spokespersons called the boost "devastating" to North Carolina. For example, Reggie Lester, head of the Tobacco Growers Information Committee, estimated that nationwide cigarette consumption would drop 5 to 10 percent, causing a significant reduction in demand for North Carolina tobacco. "Obviously, we think that's not a good idea because tobacco growers are in the business to produce leaf for smoking," Lester said.

Democratic Party officials, led by Gov. Hunt,

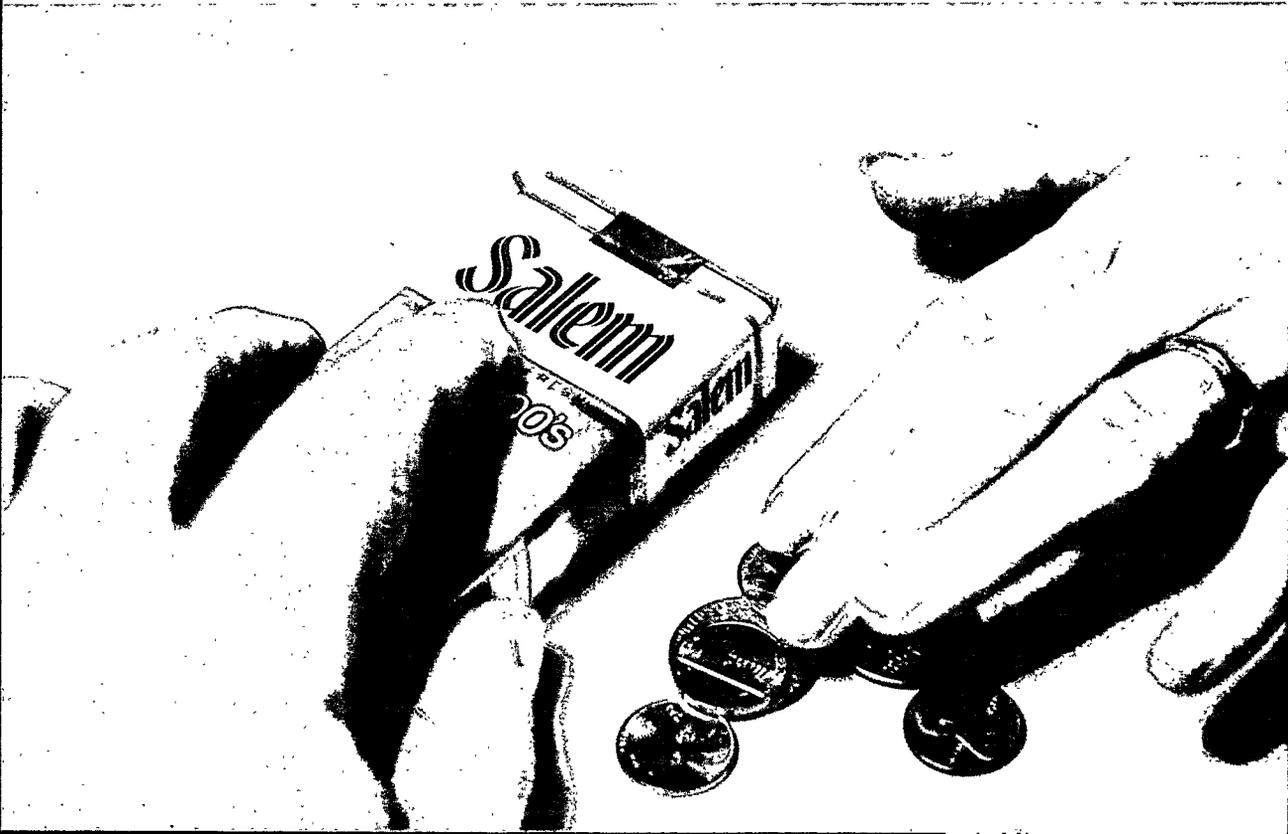
RJR

R.J.Reynolds Industries, Inc.

Winston-Salem, N.C. 27102

labeled the tax "catastrophic." To highlight the votes by Helms and East, the Democrats purchased full-page advertisements in several state papers, dubbing the two Republicans the "Tobacco Tax Twins." At a press conference held by Democratic Party officials, state Rep. William T. (Billy) Watkins (D-Granville) summarized the tobacco-issuing philosophy this way: "When you do something to harm tobacco in North Carolina, it's almost like harming your own child."

Child abuse and partisan politics aside, how damaging in fact is a cigarette tax increase — state or federal — to North Carolina? This is really a two-part question. First, when cigarette costs increase, specifically those caused by state or federal taxes, does cigarette consumption decline? Second, does reduced cigarette consumption have a negative impact on the North Carolina tobacco economy — manufacturing jobs, tobacco farmers, and related businesses (warehouses, auctioneers,





etc.)? Finally, if the impact is negative, what choices do policymakers have regarding future consideration of cigarette taxes?

Cigarette Prices and Consumption Patterns

Since 1951, the federal excise tax has remained constant at eight cents per pack. Meanwhile, state taxes have increased from an average of 2.8 cents per pack in 1951 to 13.4 cents per pack in 1981. (See chart on pages 16-17 for tax levels in each state.) During this 30-year period, combined federal and state excise taxes on cigarettes approximately doubled, from 10.8 to 21.4 cents per pack. The recent federal tax jump and new state tax increases will raise the combined average tax to 30.4 cents per pack by 1983, according to the U.S. Department of Treasury. "Even including the recent tax changes," explains Eric Toder, financial economist for the Treasury Department, "the combined tax per pack of cigarettes is still lower in real terms than it was 30 years ago."²

Because the federal tax remained unchanged for so long, no basis for analyzing the new federal tax increase in relationship to consumption patterns exists. But analysts generally agree that sharp increases in state taxes have caused some decline in consumption. "A review of historical data shows that most states experienced a drop in tax-paid sales when a sizable hike occurred in state cigarette excise taxes," says U.S. Department of Agriculture (USDA) economist Robert Miller.³

The Tobacco Institute, which publishes annual estimates on average cigarette prices for each state, reports that in November 1982 the average price nationwide was about 81 cents per pack. Thus the eight-cent-per-pack federal tax increase would result in a 10 percent price increase nationwide (8 cents ÷ 81 cents).⁴ How much will a 10 percent price increase cause cigarette consumption to decline?

To determine shifts in consumption caused by price changes, economists measure the ratio of change in quantity demanded (bought) to change in price. This calculation, called price elasticity, varies among products and even among different types of cigarette smokers. The price elasticity figure used is of critical importance in estimating consumption patterns. In the recent debate over the federal tax increase, virtually all viewpoints conceded some negative price elasticity — i.e., a decline in consumption with an increase in price. But the estimated level of elasticity varied a great deal.

At the low end of the scale, at a -.4 price elasticity, were Eric Toder of the U.S. Treasury Department and Peter Enderlin of the Smith Barney investment firm. "The price elasticity of demand for cigarettes is very low," Enderlin told *Forbes* magazine. "Generally a 1 percent increase in price will reduce demand by 0.4 percent, all other things being equal." Toder used the -.4 figure in his report to the National Tobacco Tax Association, "Impact of 1982 Tax Law Change on State Cigarette Tax Revenues."⁵



Researchers Eugene Lewit and Douglas Coate, whose study, "The Potential for Using Excise Taxes to Reduce Smoking," became a basic reference during the recent tax debate, found a -.45 price elasticity for *adult* smokers.⁶ But Lewit and Choate reported a much higher level for *teenage* smokers, as Sen. Robert Dole explained in quoting their research on the Senate floor: "The study indicates that a 10 percent increase in the per-pack price, that is about 8 cents, would reduce the teenage smoking participation rate by 12 percent [-1.2 elasticity] and reduce the number of cigarettes smoked by teenagers by 14 percent [-1.4 elasticity]."⁷

USDA economist Robert Miller, a long-time tobacco analyst and former editor of *Tobacco Situation*, in a paper for the Third World Conference on Smoking and Health in 1975, used a -.5 elasticity in calculating various price and tax changes.⁸ Finally, at the high end of the scale, at a -.7 price elasticity, was The Tobacco Institute, the cigarette manufacturers' trade association, which lobbied against the tax increase in Congress. (The -.7 figure was the group's "high-range" estimate.) The Tobacco Institute estimated that the 10 percent price increase would cause at most a 7 percent (-.7 price elasticity) decline in 1983 consumption.⁹

Even the highest estimate indicates the relative "inelasticity" of cigarette demand as a function of price. The most dramatic example of price *inelasticity* is a "necessity" product like salt; if the price of salt increases significantly, say 30 percent, consumption might only decline 3 percent (-.1 elasticity). At the other extreme, with very high *elasticity* is a product one can do without, like hand calculators. When the price of calculators plummeted, say by 100 percent, the quantity demanded skyrocketed as much as 10 times that price drop (+10.0 price elasticity). In terms of price elasticity, cigarettes are much more like salt than like calculators.

Within these various price-elasticity calculations, some significant findings stand out. The Lewit and Coate study, published by the National Bureau of Economic Research, represents the most

revealing effort. Utilizing the recently released 1976 Health Interview Survey, which gathered data on 28,033 individuals between the ages of 20 and 74 from 430 sites nationwide, Lewit and Coate found "that price has its greatest effect on the smoking behavior of young males and that it operates primarily on the decision to begin smoking... rather than via adjustments in the quantity of cigarettes smoked by smokers."

In the short run, these analysts concluded, an excise tax would have a relatively small impact on cigarette consumption. But the tax increase could have a major impact in the long run, "if maintained in real terms," they said, because within successive new generations of teenagers, fewer would begin smoking. (Researchers generally agree that lifelong smoking patterns are usually established in the teens and early 20s.)¹⁰

To answer the first question posed in this article, then: A cigarette tax increase will indeed cause some decline in consumption. But the amount of consumption decline can only be measured in the abstract, using price elasticity figures, which vary significantly among economists. Moreover, the extent of the consumption drop remains an abstract concept unless viewed in the context of other complex variables — international cigarette

Table 1. Cigarette Taxes in the South: Rates and Revenues

State	1982 State Tax Rate (cents per pack)	1981 Net State Cigarette Tax Collections (1000 of \$)
Alabama	16 cents	\$ 67,460
Arkansas	17.75	50,232
Florida	21	266,186
Georgia	12	82,983
Kentucky	3	21,726
Louisiana	11	62,594
Maryland	13	72,711
Mississippi	11	31,625
North Carolina	2	17,997
South Carolina	7	28,264
Tennessee	13	75,346
Texas	18.5	325,392
Virginia	2.5	17,866
West Virginia	17	38,349
Highest States		
Wisconsin (tax rate)	25	88,219
New York (tax collections)	15	338,421
Southern Average	11.77	82,767
U.S. Average	14.23 cents	\$75,503

Source: *The Tax Burden on Tobacco*, Tobacco Tax Council, Vol. 16, 1981, and updates from Tobacco Tax Council.

sales by the American companies, the exporting of high-grade American tobacco, the diversified nature of the tobacco companies themselves, and many other factors. Considering these additional variables brings us to the second question: Will a decline in consumption of cigarettes in the United States — however uncertain the level — in turn cause a hardship on the tobacco industry in North Carolina?

Does Reduced Consumption Hurt North Carolina?

The polar views on this question come, ironically, from within the financial community. The Tobacco Institute contends the increase in the federal tax could have an adverse effect in North Carolina in 1983 totaling \$370 million in revenue losses (i.e., not lost profits), including \$168 mil-

lion to manufacturers, \$130 million to in- and out-of-state supporting businesses (warehouses, etc.), \$58 million to tobacco growers, and \$2 million in lost state revenues from the state cigarette tax.

Forbes magazine and E.F. Hutton take the opposite view — that the tax won't hurt the companies' profits at all. "The proposed tax would at most reduce demand by four percent or so," *Forbes* reported on January 4, 1982. "That's not deadly in an industry where operating profit margins run as high as 25 percent. And, of course, since a fair amount of the industry is highly diversified, the effect on overall profits might be hard to discern. Even Philip Morris, the least diversified of the group, wouldn't be hurt much. Its unit growth should more than make up for the slight dislocation of a new excise tax."

George Thompson, writing for the July 30, 1982, issue of E.F. Hutton's "Investment Sum-

Table 2. Impact of Eight-Cent-Per-Pack Federal Cigarette Tax Increase:

State	Weighted Average Price Per Pack (Nov. 1981) ¹	1982 State Tax Rate (cents per pack) ²	Calendar Year 1984 — Impact of Federal Increase ³	
			Loss in Cig. Sales (mil. packs)	Loss in Cig. Tax Revenues (mil. \$)
1. Alabama	73.1* cents	16 cents	-18.7	\$ -3.0
2. Alaska	72.8	8	- 2.2	-0.2
3. Arizona	73.3	13	-12.4	-1.6
4. Arkansas	72.1	17.75	-12.7	-2.3
5. California	72.8	10	-114.3	-11.4
6. Colorado	61.4	10	-23.2	-2.3
7. Connecticut	85.6	21	- 9.4	-2.0
8. Delaware	74.1	14	- 3.6	-0.5
9. District of Columbia	74.8	13	- 3.2	-0.4
10. Florida	79.0	21	-44.7	-9.4
11. Georgia	67.8	12	-36.2	-4.3
12. Hawaii	75.5	19.5	- 2.9	-0.6
13. Idaho	67.6	9.1	- 5.2	-0.5
14. Illinois	69.6*	12	-67.9	-8.1
15. Indiana	65.1	10.5	-43.1	-4.5
16. Iowa	72.8	18	-16.3	-2.9
17. Kansas	65.1	11	-16.8	-1.8
18. Kentucky	56.3	3	-52.6	-1.6
19. Louisiana	70.3	11	-27.1	-3.0
20. Maine	69.7	16	- 7.4	-1.2
21. Maryland	65.4	13	-31.1	-4.0
22. Massachusetts	78.1	21	-25.2	-5.3
23. Michigan	68.0	21	-41.4	-8.7
24. Minnesota	71.7	18	-21.1	-3.8
25. Mississippi	69.2	11	-14.8	-1.6

FOOTNOTES TO TABLE 2:

¹ Weighted average price per pack includes the excise state tax. The average price does not, however, include cigarette taxes that are imposed by one or more municipalities in the six states identified in this column by an asterisk. The source for this column is *The Tax Burden on Tobacco*, Tobacco Tax Council, Vol. 16, 1981, p. 81.

² Nine of the states increased their cigarette tax this year: Michigan, Missouri, Nebraska, New Jersey, Rhode Island, Oregon, Utah, Washington, and Wisconsin. The Tobacco Institute provided the latest state-by-state tax-rate data.

³ Source for these two columns is "Impact of 1982 Tax Law Change on State Cigarette Tax Revenues" by

mary," analyzes the changes for potential investors like this: "Although excise tax increases on cigarettes have tended to affect unit volume in international markets, domestic price increases averaging 8.5 percent annually over the last three years appear to have had little or no effect on cigarette demand" (emphasis added). In the E.F. Hutton summary prognostication, the typeface changes to bold: "Because of the pricing flexibility that exists in the cigarette industry, we believe that cigarette companies will be able to pass along to the consumers the excise tax increase without materially impacting unit volume; therefore, we are not changing any of our earnings estimates."

In its estimates, The Tobacco Institute focuses exclusively on North Carolina and on revenue losses, and hence does not parallel precisely the national financial prognostications of *Forbes* and E.F. Hutton. Even so, the comparison is telling in

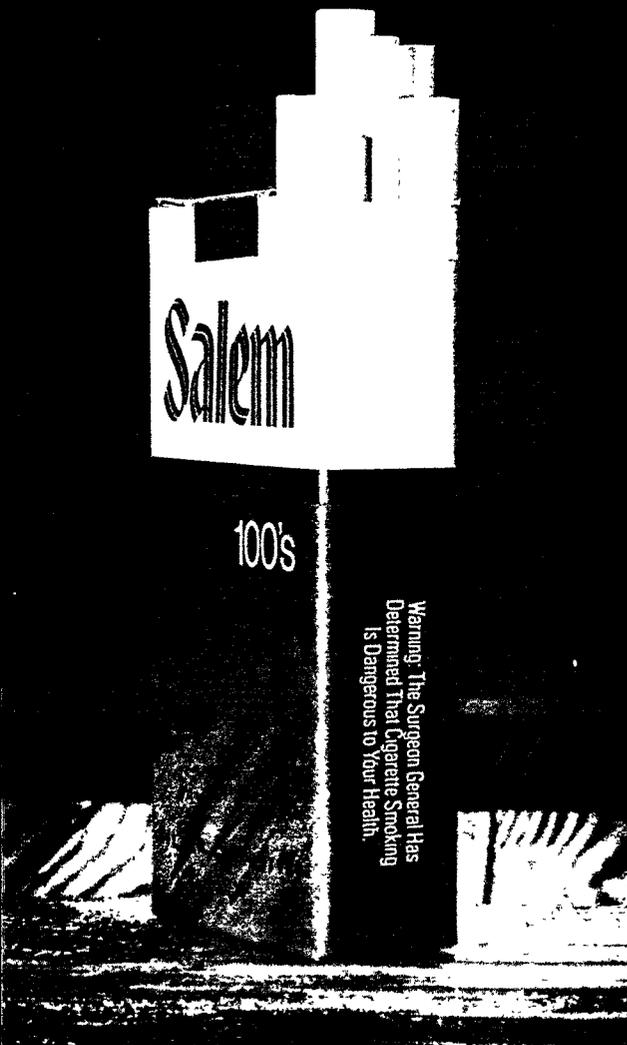
at least three ways. First, Reynolds and Philip Morris, with almost two-thirds of the domestic cigarette market, are also the major manufacturers based in North Carolina; thus, the trends in the overall domestic market generally parallel the fate of the tobacco manufacturing concerns most important to this state. Second, The Tobacco Institute, as the manufacturers' trade association, has a professional obligation to present data in a way most supportive of the industry's opposition to any tax increase; *Forbes* and E.F. Hutton, on the other hand, owe their readers and investors a prognostication that is as objective as possible. Finally, the *Forbes* and E.F. Hutton estimates take into account the many variables involved, from domestic and international growth patterns to product diversification within the company. The Tobacco Institute estimates do not take into account such factors as projected growth in

U.S. Treasury Department Estimates

State	Weighted Average Price Per Pack (Nov. 1981) ¹	1982 State Tax Rate (cents per pack) ²	Calendar Year 1984 – Impact of Federal Increase ³	
			Loss in Cig. Sales (mil. packs)	Loss in Cig. Tax Revenues (mil. \$)
26. Missouri	64.7* cents	13 cents	-28.9	-\$3.8
27. Montana	65.7	12	- 4.9	-0.6
28. Nebraska	69.7	18	- 7.1	1.3
29. Nevada	71.6	10	- 5.9	-0.6
30. New Hampshire	67.0	12	-11.4	-1.4
31. New Jersey	76.2	24	-28.1	-6.7
32. New Mexico	69.4	12	- 6.2	-0.7
33. New York	72.5*	15	-88.1	-13.2
34. North Carolina	55.5	2	-74.0	-1.5
35. North Dakota	67.8	12	- 4.1	-0.4
36. Ohio	68.3	14	-69.0	-9.7
37. Oklahoma	71.7	18	-19.0	-3.4
38. Oregon	62.4	19	-10.5	-2.0
39. Pennsylvania	69.8	18	-69.5	-12.5
40. Rhode Island	71.6	23	- 4.9	-1.1
41. South Carolina	61.9	7	-24.7	-1.7
42. South Dakota	68.0	15	- 3.9	-0.6
43. Tennessee	68.3*	13	-29.0	-3.8
44. Texas	73.8	18.5	-75.6	-14.0
45. Utah	68.1	12	- 5.3	-0.6
46. Vermont	66.8	12	- 4.3	-0.5
47. Virginia	56.4*	2.5	-51.1	-1.3
48. Washington	80.3	23	-15.1	-3.5
49. West Virginia	75.1	17	- 9.3	-1.6
50. Wisconsin	75.0	25	-17.3	-4.3
51. Wyoming	64.3	8	- 4.1	-0.3

Eric Toder of the U.S. Department of the Treasury, paper for National Tobacco Tax Association annual meeting, August 31, 1982. In estimating the impact of the federal tax increase on cigarette sales, the U.S. Treasury Department assumed a -.4 price elasticity of demand (see article text, "Cigarette Prices and Consumption Patterns" section, for discussion of the concept of elasticity). On

page 4 of the Treasury Department report, Toder explains that he used calendar year 1984 for these calculations "to avoid the complexities resulting from transitional effects (such as advance purchases to avoid the higher tax) in the first year of the higher rate." The amount of lost revenues is derived by multiplying the state tax rate (per pack) x the loss in cigarette sales (per pack).



foreign markets and diversification, says Tobacco Institute economist E.J. Battison.

The comparisons above address only the extent to which the *manufacturers* themselves would be hurt. Calculating the impact of the federal tax increase on the N.C. *tobacco farmers* and the related businesses (warehouses, etc.) is a more difficult task. A number of interrelated factors are currently affecting the tobacco farmer's situation in North Carolina. The impact of the cigarette tax increase cannot be isolated from three important trends.

1. The quantity of tobacco held in inventories by the Flue-Cured Tobacco Cooperative Stabilization Corporation — tobacco which has not sold on the open market — is increasing. By the end of 1980, Stabilization will be holding some 660 mil-

lion pounds of tobacco, the highest total since the early 1970s. Under the federal price support program, when a grade of tobacco does not sell on the open market at the federal price support level or higher, the Stabilization Cooperative, using federal loan funds, *must acquire* the farmer's tobacco at the price support level. Before 1982, the federal government absorbed any losses that the Stabilization Cooperative suffered from selling its inventories at prices below what the Cooperative had to pay farmers. But the farmers benefited from any gains. The farmers had a built-in, no-risk market. But all that has changed.

Just a month before the tax increase passed Congress, Congress approved a major overhaul of the federal price-support system, "The No Net Cost Tobacco Program Act of 1982."¹¹ As a result, tobacco farmers in 1982 had to market their product under a modified system that included new farmer assessments to the "no-net-cost" fund and a scaling down of price support increases below the inflation rate. Under this new system, one-fourth of the 1982 tobacco crop went to the Stabilization Cooperative — the highest percentage of any year's crop in history — rather than being bought by the private sector.

Most importantly, perhaps, under the no-net-cost program, the federal government will not absorb any losses the Stabilization Cooperative may incur in selling inventories. "If there are any losses, the cost must be borne ultimately by the farmers through the assessments mandated by the no-net-cost program," explains Dr. Charles Pugh, extension economist at North Carolina State University. Even so, the federal government may minimize the risk of any loan defaults from Stabilization by reducing the amount of leaf that can be grown in future years — i.e., by reducing quotas. Growers, as well as governmental and manufacturing officials, are now speculating, therefore, that the large amount of 1982 crop in Stabilization, waiting to be sold on a future year's market, could well result in sharply reduced tobacco quotas for 1983. If reduced, N.C. tobacco farmers would be hurt.

Even such knowledgeable experts as Pugh confess confusion over what caused the poor open-market sales in 1982. Pugh speculates that any or all of four separate developments could have resulted in the poor 1982 sales: a) a banner 1981 crop year, which allowed companies to warehouse tobacco for use in future years; b) tobacco buyers using Stabilization as "a storage reservoir," as Pugh puts it, where they can always turn for tobacco, rather than tying up funds now, when money is tight; c) an anticipation of even further administrative or legislative changes in the tobacco program; and d) the increased federal tax.

2. International tobacco is now competitive

with American leaf. Tobacco from Zimbabwe, Brazil, the Philippines, and other countries is fast approaching the quality of the U.S. leaf but is much cheaper than the American leaf. Domestic cigarette manufacturers have increased the percentage of foreign tobacco in U.S. cigarettes from 11 percent in 1965 to 30 percent in 1980.¹² As the portion of foreign leaf in domestic cigarettes increases, American companies depend less and less on N.C. tobacco.

3. **The composition of the American cigarette is rapidly changing.** In the early 1960s, U.S. flue-cured tobacco — and North Carolina is the leading producer — accounted for more than half the content of U.S. cigarettes. By 1979, that portion had dropped to 39 percent.¹³ This reduction is due to two main factors: the growing use of foreign tobacco and the growing popularity of low-tar cigarettes, which use lower quantities of tobacco (foreign or domestic) than the traditional cigarettes.

Tobacco farmers do indeed face some uncertain years ahead, but an increased cigarette tax is only one of many factors affecting their livelihood. Moreover, fewer and fewer North Carolinians benefit from the sale of N.C. tobacco. "In North Carolina, the small farm gave way to 'agri-business' during the 1970s, and even tobacco, the last major cash crop still grown on small farms, was affected," writes Barlow Herget in *The Tobacco Industry in Transition*.¹⁴ From 1978 to 1979, Herget points out, the number of North Carolinians growing tobacco declined by 12 percent, from 52,000 to 49,000. And this drop was part of a much larger scale displacement of tobacco workers.

The USDA reported in 1981 that the number

of flue-cured harvest workers throughout the tobacco belt declined from 325,000 in 1972 to 211,000 in 1979, an average drop of over 16,000 workers per year. "The greatest harvest labor reduction occurred in the Coastal Plain of North Carolina — the most concentrated production region," reported USDA economist Verner Grise. "The decline occurred because of the adoption of labor-saving harvest technology."¹⁵

How will declining cigarette consumption, caused by a tax increase, affect the tobacco economy in North Carolina? Financial analysts cannot agree on the effects of the tax on the manufacturing companies. And regarding its effect on the farmer, the array of forces sweeping through the tobacco belt — from as far away as Zimbabwe and as near to home as the new no-net-cost farmer assessments — make even estimates, much less precise calculations, speculative at best.

But even if skilled financiers disagree and complex farm-related variables defy simple breakdowns, policymakers must make judgments regarding cigarette tax increases. In 1985, the eight-cents-per-pack federal tax increase is scheduled to expire. A new Congressional debate will decide the future level of the tax. Meanwhile, North Carolina has not raised its cigarette tax for 13 years, despite a growing revenue pinch and periodic complaints from the northeast that the low N.C. tax encourages cigarette smuggling.

Beyond Tobacco Politics

In June of 1982, the N.C. Office of State Budget and Management released the results of its North Carolina Citizen Survey, a telephone poll of



800 adults across the state. The survey asked, among other questions, which taxes a person would be willing to raise if state revenues had to be increased. Seventy-eight percent had no objection to an increased cigarette tax. Among the six taxes on which the citizens were questioned, only taxes on alcoholic beverages received a higher rate of response (87 percent).

If more than three of every four North Carolinians are willing to increase the state cigarette tax, why is the General Assembly so reluctant to consider increasing the tax? In 1981, when Rep. Easterling and Rep. Mauney proposed a cigarette tax increase, they first linked their proposal to the state's most pressing and visible fiscal need — revenues for highway construction and maintenance — and required in the bill that 75 percent of the revenues go to the Highway Fund. By June 11, when the bill was considered by the House Finance Committee, the gasoline tax increase (targeted for the Highway Fund) had already passed the Senate and appeared to be headed for approval in the House. Rep. Mauney then amended the bill in committee, omitting the sections that linked the cigarette tax increase to the Highway Fund and making the bill instead a straight three-cent-per-pack increase. Committee action on the bill, then, provides a clear measurement of the degree of support for a cigarette tax increase itself, not diluted by concerns for the ailing Highway Fund.

In the committee debate, two people spoke to the merits of the bill. Tom White — a prominent political figure in the state and in 1981 a lobbyist for the Tobacco Tax Council — spoke against the increase. White, a state representative for many years from the tobacco-belt Lenoir County and former chairman of the Advisory Budget Commission, ranked as the third most influential lobbyist in the 1981 General Assembly.¹⁶ Rep. Ben Tison, (D-Mecklenburg), like Easterling and Mauney, from an urban district with little interest in tobacco, spoke in favor of the bill. The committee, whether persuaded by White's remarks or merely aware of the sanctity of this sacred cow, voted the cigarette tax increase down, 37-15. Of the 15 legislators voting for the increase, 11 came from urban areas. Even the urban delegates were split though — 9 of 20 voted against the increase. Because the full House never voted on the tax increase itself — the House voted 75-41 against putting the committee's minority report on the House calendar — the committee vote provides the clearest indication of voting patterns on this issue.

Despite the doubling of the federal tax in January 1983, the state cigarette tax might come up again for review in 1983. Since 1969, when the tax was born, the percent of state revenues from the state cigarette tax have dropped from 1.3 percent to 0.6 percent. At the same time, the

state needs to find new sources of revenue. Why shouldn't the state turn to the cigarette tax, the 15 legislators on the House Finance Committee and many of the 41 on the House floor seemed to be asking in 1981, especially since the tax hasn't changed since 1969?

The state's national image might also prompt a review of the two-cent-per-pack tax. In the middle and late 1970s, cigarette smuggling became a highly publicized national problem. In news reports and in Congressional hearings, most analysts laid the blame for the smuggling on law enforcement procedures and the large tax differentials between the low-tax states, especially North Carolina and Virginia, and the high-tax states, like New York and Connecticut. In 1978, Congress passed the Contraband Cigarette Act, which made smuggling cigarettes across state lines to avoid paying taxes in high-tax states a felony. Smuggling has since declined sharply.

But enforcement of the 1978 law has recently become a matter of concern. The U.S. Bureau of Alcohol, Tobacco, and Firearms, which enforces the smuggling act, suffered sharp budget cuts in 1981-82. "We have cut down on the enforcement of the smuggling act some," says Melvin Bruce, tobacco advisor of this U.S. Bureau, a part of the Treasury Department. Despite the cutbacks, Bruce says he expects the agency "to remain in the program sufficiently to contain smuggling." But if smuggling does begin to increase, other states will again call for an increase in cigarette taxes in states like North Carolina.

How will state legislators respond to a proposal to increase the state cigarette tax? And how will the state's representatives in Washington respond to proposals to renew the federal tax increase? Quoting facts and figures — while an essential step in diffusing the emotionalism on this issue — remains an uncertain enterprise. An increase in cigarette taxes will probably reduce domestic consumption, but the extent of the reduced consumption is uncertain. More importantly, the degree to which reduced consumption (caused by tax increases) would damage the N.C. tobacco economy is even more difficult to determine.

The new federal price support program that took effect in 1982 might well result in reduced quotas for N.C. farmers. Meanwhile, international buying and price trends have already caused reduced dependence on N.C. tobacco. A research base of information simply does not exist for determining to what extent the cigarette price increase — apart from such factors as these — will hurt the state's tobacco economy. This important area of research desperately needs to be tackled, especially before 1985, when the federal increase will again be under debate.

In the 1984 U.S. Senate race, both Jesse Helms



American Brands, Inc.

Headquarters: 245 Park Avenue, New York, NY 10017

and Jim Hunt may continue to stump the tobacco-king platform. The political exigencies of that high-profile and highly charged race will be extreme indeed. But political advisors, even where the stakes are high, are beginning to admit that the tobacco issue demands some candor as well as pragmatism. "Of course in North Carolina tobacco is sacrosanct and we recognize the importance of it," Helms' administrative aide Clint Fuller explained following the controversial Helms vote on the federal tax increase. "You can't say anything against tobacco or do anything against tobacco without bringing the house down. It's like Social

Security on a national level." But Fuller, downplaying any damage the Helms vote might have caused, went on to say, "I can't see this being any real problem for the Senator. We hope the people will understand it."

Perhaps "the people" can indeed understand. When it comes to sacred cows — like the cigarette tax — politicians can do well to listen to what the citizenry is saying. Three out of four North Carolinians do not oppose a state cigarette tax increase. The time just might have come to turn a long and valued sacred cow into the pastures to fend for itself. □

FOOTNOTES:

¹ House Bill 128 (1981 Session of the N.C. General Assembly), as amended. House Finance Committee minutes, June 12, 1981.

² Eric Toder, U.S. Department of the Treasury, "Impact of 1982 Tax Law Change on State Cigarette Tax Revenues," paper prepared for 56th Annual Meeting of National Tobacco Tax Association, August 31, 1982, p. 2.

³ Robert H. Miller, U.S. Department of Agriculture, "Cigarettes: Consumption Situation and Outlook," paper prepared for 56th Annual Meeting, National Tobacco Tax Association, August 31, 1982, p.7.

⁴ The federal tax increase goes into effect on January 1, 1983. The average price as of January 1983 provides the base price from which to determine the percent increase, but making such an estimate is difficult. The November 1981 average price, published by The Tobacco Institute, was the best figure available during the Congressional debate from which estimates could be made. The November 1982 average price was available before *N.C. Insight* went to press. R.J. Reynolds, Philip Morris, and Lorillard raised their prices three-to-four cents per pack in October 1982 in an effort to make the price increase caused by the new tax "more gradual," as Reynolds spokesman T. Nat Walker put it. During the Congressional debate and at this writing, then, the exact percentage increase caused by the new federal tax could not be determined. But researchers and the various sides in the tax-increase controversy generally agreed that the tax increase would cause approximately a 10-percent price increase. (See text, three paragraphs following the paragraph referenced here, for statement by U.S. Sen. Robert Dole on the Senate floor.)

⁵ Toder, op. cit., p. 3.

⁶ Eugene M. Lewit and Douglas Coate, "The Potential for Using Excise Taxes to Reduce Smoking," National Bureau of Economic Research, Inc., Working Paper No. 764, February 1982, Abstract.

⁷ *Congressional Record — Senate*, July 21, 1982, Vol. 128, No. 95, p. S 8814.

⁸ Robert H. Miller, "Pricing Out Tobacco: Price as a

Factor in Cigarette Consumption" in *Health Consequences, Education, Cessation Activities, and Governmental Action*, the Proceedings of the 3rd World Conference on Smoking and Health, June 1975, p. 825.

⁹ Telephone interview with E.J. Battison, economist at The Tobacco Institute, August 23, 1982.

¹⁰ "Not surprisingly, the acquisition of the smoking habit typically occurs during adolescence, and early experimentation with tobacco occurs within the context of the peer group," wrote E.L. Wynder and D. Hoffman in *The New England Journal of Medicine*, April 19, 1979, p. 894. See also: A. McKennell, "Implications for Health Education of Social Influences on Smoking," *American Journal of Public Health*, Vol. 59, 1969, pp. 1998-2004; and A.B. Palmer, "Some Variables Contributing to the Onset of Cigarette Smoking Among Junior High School Students," *Social Science and Medicine*, Vol. 4, 1970, pp. 359-366.

¹¹ P.L. 97-218, "The No Net Cost Tobacco Program Act of 1982," signed into law on July 20, 1982.

¹² Joseph A. Kinney, "Tobacco's Global Economy: Is North Carolina Losing?" in *The Tobacco Industry in Transition*, A N.C. Center for Public Policy Research Book, Lexington Books, 1981, p. 119. (To order a copy of this book, send a check for \$23.95 to the N.C. Center, P.O. Box 430, Raleigh, N.C. 27602.)

¹³ Hugh C. Kiger, "Open Trade and Modernized Tobacco Program: The Keys to an Expanded U.S. Flue-Cured World Market" in *The Tobacco Industry in Transition*, p. 133.

¹⁴ Barlow Herget, "Industrial Growth: An Alternative for North Carolina's Tobacco Farmers," in *The Tobacco Industry in Transition*, p. 103.

¹⁵ Verner N. Grise, U.S. Department of Agriculture, "Flue-Cured Tobacco Farming: Structural Characteristics, Labor Use, and Mechanization," presented at the 29th Tobacco Workers Conference, Lexington, Ky., January 21, 1981.

¹⁶ *Article II: A Guide to the N.C. Legislature 1981-1982*, N.C. Center for Public Policy Research, June 1982, p. 214.



Revenue Shortfall and Fiscal Needs

A Preview of the 1983 General Assembly

by Paul O'Connor

Children who grow up in large families learn to assert themselves at the dinner table. Grab the food early or face an empty bowl and spend the night hungry.

Special interests planning to seek money from the North Carolina General Assembly in 1983 might be advised to hire lobbyists who grew up in large families — people experienced at grabbing what they can get before the money runs out.

The state faces a revenue picture more bleak than any in recent memory. Sen. Harold Hardison (D-Lenoir), chairman of the Senate Appropriations Committee, says this is the tightest budget he's seen in his 12 years in the legislature. Even the recession year of 1975, when the state was forced to cut \$380 million out of its budget, wasn't as bad as 1983 is going to be, Hardison says. When asked the major issue facing the 1983 assembly, the legislative leadership is unanimous. As Lt. Gov. James C. Green says, "The budget will be the whole ballgame."

There's bad news for the legislature at every corner of the budgetary map. Because of the recession, state tax collections are falling short of projections and there appears to be no clear sign of improvement soon. Federal money, the other major funding source for the state budget, is being cut.

But a shortage of revenues doesn't mean the need for new expenditures also declines. State employees and teachers want a pay raise, and they also have a new, expensive health insurance plan which must be funded. The Highway Fund is still in trouble even after a three-cent-per-gallon motor fuels tax increase in 1981. The state's physical plant is deteriorating, badly in need of repairs and renovations. And the list goes on. Everybody and his lobbyist seems to have an urgent need that costs a million dollars. In fact, the total amount of *new spending* requests considered in November by

the Advisory Budget Commission (ABC) — the 12-member group that works with the governor to shape a proposed budget for the legislature — topped *one billion dollars*.

In addition to coping with budgets and revenues, the new session of the legislature may also tackle such major policy issues as drunk driving penalties, housing needs, coastal management and utility regulations. Meanwhile, the new legislature will have both an old and a new face. Nearly one-third of the 170 lawmakers will be freshmen, but at the same time, the power structure of both the House and Senate remains essentially unchanged from the 1981 session. Meanwhile, the state leaders with the highest profiles are inching toward major political races in 1984.

The story of next year's budget troubles begins with this year's tax collections. When the legislators drew up the \$5.85 billion 1982-83 budget (i.e., July 1, 1982-June 30, 1983), they assumed that tax revenues during the new fiscal year would increase by 8.9 percent over the previous fiscal year. That assumption translates into almost \$270 million in increased state revenues (\$30 million for each percentage point of projected growth). But collections haven't come close to that projection. For the first quarter of this fiscal year (July 1-September 30, 1982), collections increased by only 5.5 percent. If that trend continues, the state will come up \$102 million short in its 1982-83 budget.

The N.C. governor has the job — an unenviable task in such fiscal circumstances — to monitor

Paul O'Connor, columnist for the N.C. Association of Afternoon Newspapers, has been covering politics in the state since 1977.

revenue collections and make sure the budget is balanced by the end of the fiscal year, a requirement of the state constitution. In the current fiscal year, Gov. James B. Hunt, Jr. cut allocations to all departments by six percent, attempting to save \$204 million. While budget officials believe the savings will be enough to balance the budget for the year, they concede that the savings will probably fall short of the \$204 million mark. Consequently, at the beginning of the 1983-84 fiscal year, the state will have its coffers emptied — without the surplus needed to pay for a salary increase or any other new spending.

“The problem with all this,” says Rep. J. Allen Adams (D-Wake), chairman of the House Base Budget Appropriations Committee, “is that in order to finish up this (fiscal) year with a balanced budget, we are going to have to use up our credit balance. So we don’t have the cushion left that we usually have.”

Other ways exist to pay for a teachers’ salary increase besides a previous year’s cushion. The General Assembly could raise taxes. But that’s not likely. Or the economy could perk up and bring more tax revenue. But the economy is so shaky now, no one in his or her right fiscal mind is willing to count on any appreciable improvement.

If there’s to be any new spending done by the 1983 assembly, the solons will have to find some money by cutting the “base budget” — the budget that provides for the continuation of all current programs. Adams foresees the session opening with an extensive base budget review similar to that which he and Sen. Robert Jordan (D-Montgomery) directed in 1981. That year the legislators looked for \$200 million to cut. This year, they’ll need more, says Adams.

Calculations vary as to just how much money Adams and his colleagues need to find, but the requests add up quickly. Gov. Hunt, for example, has said that the first priority of the budget he proposes in January will be a state employee pay raise. But the price tag for a raise will be staggering. For each one percentage point of an across-the-board raise, the state will need almost \$30 million. State employees and teachers did not get a raise in 1981, had their 1982 raise limited to five percent, and had their merit raise pay scale frozen in June of this year. Consequently, considerable pressure for a sizeable raise is already building from the major teacher and state employee associations.

But \$30 million for each percentage point increase is steep. Moreover, if Hunt follows through on his promise to reinstate the merit scale, he’ll need another \$95 million. John A. Williams, Jr., the state budget officer, put the matter in perspective after the November 5 meeting of the ABC: “I’m not nearly as optimistic as the Govern-

nor that we’re going to be able to find the money to (lift the freeze).” Williams also said the chances of an additional raise in the 1983-84 budget were “very slight” unless the economy improved dramatically.

In the 1982 budget session, state workers did get a new health insurance plan that went into effect on October 1, 1982. To fund that new plan with its current benefits for a full year in 1983-84, the state will need an additional \$40 to \$60 million, says Williams. State fiscal woes don’t end with its employees. Some of the most pressing needs include:

• **Highway Fund.** In July 1983, the state will run out of money to match federal road construction funds. The legislature will have to find \$40 million to put into construction projects if it hopes to continue in a federal program that brought \$192 million to the state last year. When the gas tax increase was approved in 1981, the legislature ordered that the state undertake a vigorous program of road resurfacing rather than road building. Facing the loss of all that federal money, will the legislature transfer \$40 million out of road maintenance and into construction? Such a step would seriously undermine the state’s 3,000-mile-a-year repaving program. But if the legislature doesn’t make the transfer, it would have to turn to another solution such as an increase on alcohol taxes or the transfer of funding for the Highway Patrol out of the Department of Transportation.

• **Capital Projects.** For years the legislature has been ignoring its responsibility to maintain the state’s investment in buildings. The buildings have deteriorated to the point that one budget officer expects \$100 million worth of new maintenance requests this year.

• **Social Service and Education Programs.** Adams says the federal government is “transferring funding responsibility (for social service and education programs) to the states.” Changes in the federal matching formulas for social programs will cost the state \$83 million. In education, the cost will be \$40 million, he says.

• **Other Needs.** Private colleges want an increase in the yearly per-student-stipend they receive from the state. The Attorney General says his crime lab is woefully overworked and under-equipped. The Division of Youth Services needs money to build juvenile detention centers so youngsters won’t have to be held in adult jails.

Outside of the budget, the most important legislation headed for the 1983 legislature will most likely be Hunt’s drunk driving package (see box on page 24). For almost a year, a special study committee has been seeking ways to fight drunk driving and Hunt has promised “tough new measures.” He apparently has the public behind

him, but any proposal would have to get past the close scrutiny of lawyer-legislators who are often paid to defend drunk drivers in court.

Hardison predicts strong legislative support for a program that would get tougher with drunk drivers — harsher sentences and fines, less chance for plea bargaining. But if Hunt tries to raise the drinking age from 18 to 21, he'll be in for a scrap, Hardison says.

Other items likely to come before the legislature include:

- **Sales Tax.** Local government officials want the authority to increase the local sales tax by a penny. The State Board of Education also favors a statewide penny increase in the sales tax as a way of paying for the \$1.8 billion worth of school construction needs it says the state has.

- **Inventory Tax.** Businessmen want the inven-

Drunk Driving Proposals Go Before the 1983 Legislature

by Paul
O'Connor

A year ago, Gov. James B. Hunt, Jr. sniffed the political winds and detected a strong odor of alcohol — as in drunk driving. In 1981, 96,404 drunk driving arrests were made in North Carolina alone — enough arrests to account for 1 of every 60 people in the state. And the estimated damage caused by drunk driving ran from \$235 to \$250 million. Spurred by such dramatic statistics in North Carolina and by a national movement to get drunks off the road, Hunt established a study committee to formulate a tough new policy he could present to the 1983 session of the General Assembly. The committee has reported out a package of proposals which should form the basis for a major 1983 legislative debate.

At the heart of the committee's proposals is a new structure for drunk driving offenses. "Driving Under the Influence" (DUI) and related offenses would be replaced by a single offense known as "Impaired Driving." Under the proposal, defendants would no longer be able to get a drunk driving charge reduced to either a ".10 violation" or to "reckless driving," as happens quite often now. They would be tried on charges of impaired driving and could receive any of five different mandatory sentences.

The first two mandatory sentences are determined by the presence of a "grossly aggravating" factor: second drunk driving offense in 10 years, speeding to elude arrest, speeding 30 miles per hour over the speed limit, driving with license revoked for previous drunk driving conviction, or causing an accident in which someone is seriously hurt. Anyone convicted of impaired driving with one of these five factors would be jailed for at least seven days — and maybe for as long as a year — and would face a maximum possible fine of \$1000. If two of the factors are present, the jail term is 14 days

to two years with a maximum fine of \$2,000.*

The three other mandatory sentences involve a number of aggravating and mitigating factors which, when added up by a judge, will determine whether the drunk spends one, two, or three days in jail and pays a fine of \$100, \$250, or \$500. These sentences allow an option of license revocation and community service.

Other proposals in the drunk driving package include:

- Anyone under 18 caught driving with any alcohol in his or her blood will face a \$100 fine, up to six months in jail, and automatic loss of license until his or her 18th birthday.

- Failure to submit to a breathalyzer test or willful failure to complete drunk driving school would mean an automatic one year suspension of license. Anyone blowing .10 on the breathalyzer would immediately and automatically lose his or her license for 10 days.

- Drivers convicted of impaired driving while their license is revoked could have their license plates and car impounded or ownership of their car taken by the state.

- Raise the drinking age for beer and wine from age 18 to age 19.

- Those who sell alcohol to people who are drunk would be liable for damages in civil actions brought by those injured either physically or financially by a drunk driver. □

* Currently, first offense DUI is punishable by a fine of from \$100 to \$500 and by a jail sentence of 30 days to six months. For second offense DUI, the fines range from \$200 to \$500 and the jail terms from two months to six months. For third offense DUI, the fine is \$500 and the prison term can be as much as two years. Under the current plea bargain system, however, few first-time drunk drivers face DUI charges and those convicted of first offense DUI rarely receive active sentences.

When shortfalls are topping the \$100 million mark, competition for any new spending is intense.

tory tax phased out over the next several years. But with the tight budget, any tax cut seems unlikely.

• **Utilities.** Duke Power Company Chairman William Lee has spent the summer and fall lobbying members of the General Assembly on the plight of the utilities. The 1982 budget session reflected a public sentiment against the utilities by changing the fuel adjustment clause and repealing provisions of the law that gave the utilities immediate reimbursement for Construction Work in Progress (CWIP) expenses. While Lee says his company has no specific legislative package in mind, consumer advocates suspect the power companies to seek repeal of the 1982 CWIP changes.

• **Land-Use Legislation.** The Coastal Area Management Act (CAMA) comes up for re-evaluation in 1983 and will have to face strong opposition in the Senate. The state will also need \$1 million to make up for lost federal funds for this program.

• **Science and Math Teacher Shortage.** Hunt plans to make a number of recommendations on this subject in his State of the State address. Possibilities include a salary increment for science and math teachers, an 11-month salary year, and a program of hiring scientists from private industry on a part-time basis.

• **Housing Policy.** The Housing Study Commission is expected to bring a comprehensive housing package to the 1983 legislature, a package which has attracted close scrutiny from builders, lending institutions, and consumer groups.

How will the 1983 legislature reconcile a budget crunch with pressing fiscal demands and at the same time give careful consideration to such weighty matters as new drunk driving laws and coastal management? The freshmen legislators will have a great deal to learn about the complex workings of the base budget, not to mention the means to greater power through committee work and access to the inner circles of the House and Senate leaders. (See article on page 26 for a list of the new legislators.)

Despite the many new faces, the political workings in the House chamber should be somewhat predictable. Rep. Liston Ramsey (D-Madison) returns for his 12th term, his second as Speaker

of the House. Adams, a close Ramsey aide, will no doubt again guide the Appropriations Base Budget Committee. Ramsey, who appears to have reached his plateau in politics and may be settling into the speakership for a long stay, will probably call on his well-proven allies.

But the Senate side offers a new twist or two. Both Sen. Hardison and Sen. Jordan are running for lieutenant governor. It will be interesting to watch how they work together on the budget and whether Green tends to favor either. There's been some talk that Jordan might run for governor, which would put him head to head with candidate Green.

The most difficult political assignment for the 1983 session may rest with Gov. Hunt. Traditionally, governors lose much of their clout in their final two years. As Hunt press aide Gary Pearce explains, a governor in his final two years has used up a lot of his bargaining power — "appointments, jobs, judgeships, and roads. It's also psychological," says Pearce. "(The legislators) are thinking, 'I don't have to deal with this guy any longer.' They're beginning to focus on the next race."

But Hunt approaches the 1983 session unlike any previous governor. The first governor in the state's history to succeed himself, Hunt has pushed a budget package through six previous legislative sessions. And before the governorship, Hunt was lieutenant governor (1973-77). The betting is that the stature he's built over the past 10 years as Democratic Party leader, and the very good chance that he'll be on the 1984 ticket, will keep his influence strong.

For his part, Hunt apparently does not think he needs to take on many issues in the 1983 session. "I don't need a big legislative agenda this year," says Hunt. But one or two major issues might keep his hands full enough. If Hunt indeed tries to follow through on his promise to reinstate the merit pay scale for state employees, he will have to come up with \$95 million somewhere.

When state government is working in the red and the shortfalls are topping the \$100 million mark, competition for any new spending is intense. If the Governor — or any other lobbyist — is to get his personal priority into the 1983-84 budget, he will have to grab quickly before the money runs out. □

The New Legislature Takes Shape

by Lacy Maddox

On November 2, 1982, the citizens of North Carolina elected 17 new state senators (out of 50) and 33 new state representatives (out of 120). Thus when the 1983 General Assembly convenes in January, nearly one-third of the members will be in their seats for the first time. Seven of the 50 moved from the House to the Senate and are thus not total newcomers to Raleigh, but even they must move into an entirely different power structure in the Senate.

For an "off-year" election (i.e., no elections were held for President, governor, or Council of State positions), the new General Assembly reflects more change than usual. In addition to the anticipated turnover from the 1982 elections, there was a redrawing of the state House and Senate districts, which caused a variety of conflicts. In Guilford County, for example, four

Lacy Maddox is research coordinator for the N.C. Center for Public Policy Research.

SENATE

DEPARTURES

Name (listed alphabetically)	No. of Terms Served in Senate (House)	Name (listed alphabetically)	No. of Terms Served in Senate (House)	Name (listed alphabetically)	No. of Terms Served in Senate (House)
Harold A. Baker	1	Henry E. Frye	1 (6)	Joe H. Palmer	4 (1)
Gilbert Lee Boger	1 (3)	James B. Garrison	6	Joe B. Raynor, Jr.	4 (4)
John J. Cavanagh, Jr.	1	James D. McDuffie	3	Paul S. Smith	1
James McClure Clarke	1 (2)	Carolyn W. Mathis	3 (2)	Charles E. Vickery	4
Walter C. Cockerham, Jr.	2	William D. Mills	5 (2)	Robert W. Wynne	3 (2)
William A. Creech	2 (1)	Samuel R. Noble	3		

ARRIVALS

Name (listed by district number, ascending order)	District No.	Name (listed by district number, ascending order)	District No.	Name (listed by district number, ascending order)	District No.
Alexander Duke Guy	4	Elton Edwards	19	James H. Edwards	27
Lura S. Tally	12	Richard W. Barnes	20	Dennis Jay Winner	28
William W. Staton	14	Kenneth Harris	22	Charles Hipps	29
Wilma C. Woodard	14	Benjamin T. Tison, III	22	David Russell Parnell	30
Wanda Hunt	16	Jack Childers	23	William N. Martin	31
Aaron W. Plyler	17	Robert M. Davis	23		

incumbent legislators competed against one another for three seats. Three of the four were re-elected; Rep. Ralph Edwards (D-Guilford) lost out. Other incumbent legislators faced tough challenges in newly-carved geographical districts. These new districts resulted from the reapportionment required at the beginning of each decade to adjust legislative districts to the new U.S. Census.

The article first lists departures from, and arrivals to, the state Senate and the state House of Representatives. Following this is a three-part description of the new legislative districts: a map of the new districts, an index of counties in each district, and an index of senators and House members in each new district.

The first list is a scorecard of the changes in players. The members leaving the General Assembly (for whatever reason) are listed in alphabetical order on the top along with the number of terms served in each chamber. On the bottom is a listing of members entering each chamber in January (along with the number of the district he or she represents), including seven 1981-82 House members newly elected to the Senate. The redistricting makes it impossible to track who is leaving and entering each seat.

Next, on pages 28-31, is a description of the Senate and House districts themselves. After four tries in 1981 and 1982, the outgoing legislature adopted a redistricting configuration acceptable to

HOUSE OF REPRESENTATIVES

DEPARTURES

Name (listed alphabetically)	No. of Terms Served in House	Name (listed alphabetically)	No. of Terms Served in House	Name (listed alphabetically)	No. of Terms Served in House (Senate)
P. Ellis Almond	2	William Davis Harrison	1	Edd Nye	3 (1)
Richard W. Barnes *	2	Byron A. Haworth	2	David Russell Parnell *	4
E. Graham Bell	5	Joe H. Hege, Jr.	5	Aaron W. Plyler *	4
Roger W. Bone	2	William S. Hiatt	2	John M. Radford	1
Douglas A. Clark	2	Charles Holt	4	Frank E. Rhodes	1
James Millard Craven	1	Thomas B. Hunter	1	Ned R. Smith	3
Ralph P. Edwards	2	George Austin Hux	3	Melvin Lindsay Stamey	1
Thomas W. Ellis, Jr.	4	Nancy Jones	1	Lura S. Tally *	5
William C. Gay	1	Ted Kaplan	3	George Ronald Taylor	3
Richard R. Grady	3	Horace Locklear	3	Benjamin T. Tison, III *	5
Alexander Duke Guy *	2	James F. Morgan	3	Wilma C. Woodard *	2

* Indicates members of the 1981-82 House of Representatives who ran for the Senate and were elected (see list of Senate arrivals).

ARRIVALS

Name (listed by district number, ascending order)	District No.	Name (listed by district number, ascending order)	District No.	Name (listed by district number, ascending order)	District No.
James P. Tyndall	4	Luther R. Jerals	17	Phillip O. Berry	36
Frank Winston Ballance, Jr.	7	Barney Paul Woodard	20	James Erwin Lambeth	37
Tom H. Matthews	8	Margaret Ann Stamey	21	John W. Varner	37
Wendell Holmes Murphy	10	James W. Crawford, Jr.	22	R. J. Childress	39
Charles Woodard	11	Herman C. Gist	26	Charlie Brady Hauser	39
Edward C. Bowen	12	Mary Jarrell	28	Annie Brown Kennedy	39
Murray Pool	12	William Tull Grimsley	29	Tom Carlyle Womble	39
Daniel H. DeVane	16	T. Clyde Auman	31	James Worth Gentry	40
John Calvin Hasty	16	Hugh Lee	32	Joseph B. Roberts, III	44
Sidney A. Locks	16	Joe R. Hudson	34	Ray C. Fletcher	47
Chancy Rudolph Edwards	17	Robert Lanier Slaughter	34	Charles Owens	48

both the General Assembly and the U.S. Department of Justice. The Justice Department, which had power of approval of the new plans, declared a N.C. constitutional provision prohibiting the crossing of county lines in setting legislative districts to be in violation of the Voting Rights Act of 1965. For the first time ever, districts do not neatly follow county lines.

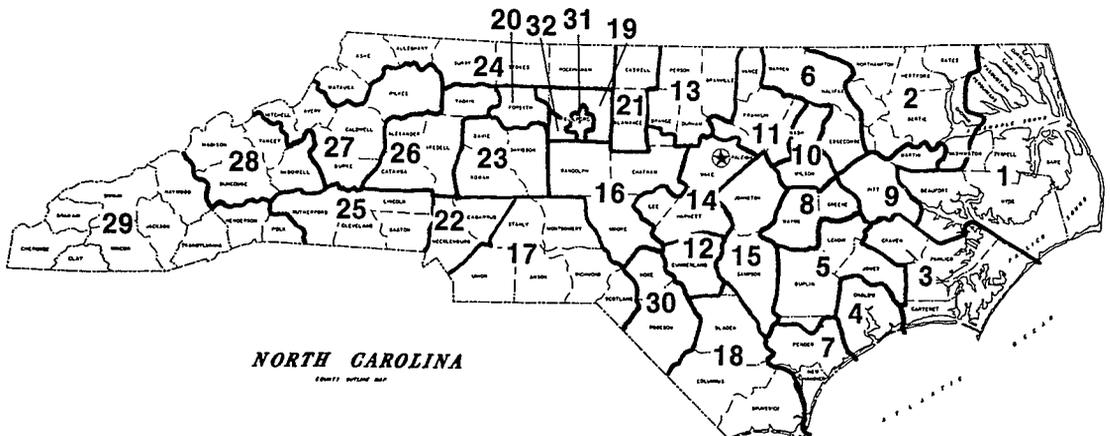
Though the make-up of the new General Assembly has changed somewhat in terms of experience, race, and gender, the leadership remains stable. There was no race for the lieutenant governorship, so Lt. Gov. James C. Green will continue his tenure as president of the Senate. On the House side, Rep. Liston B. Ramsey (D-Madison) will return as Speaker. In the fall of 1981, the N.C. Center for Public Policy Research conducted a survey to determine who the legislators, capital correspondents, and registered lobbyists thought were the "most effective" members of the General Assembly. Of the 20 members (10 in each chamber) found most effective in the 1981-82 legislature, 17 chose to run for re-election. All 17 won and will return in 1983. Of the 1981-82 leadership in the Senate, President Pro Tempore Craig Lawing (D-Mecklenburg), Majority Leader Kenneth Royall (D-Durham), and Minority Leader Donald Kincaid (R-Caldwell) will be returning. Also re-elected were Sen. Harold Hardison (D-Lenoir), chairman of the Appropriations Committee, and Sen. Robert Jordan (D-Montgomery), chairman of the Base Budget Committee. Members of the 1981-82 House leadership returning are: Speaker Pro Tempore Allen Barbee (D-Nash), Minority Leader Harold Brubaker (R-Randolph),

Appropriations Base Budget Chairman Al Adams (D-Wake), and Appropriations Expansion Budget Chairman William T. Watkins (D-Granville).

Along party lines, the Senate will have 6 Republican members, down from 10 in the last legislature; the House will have 18 Republicans, down from 23 in 1981-82. The Senate will have one black member, William N. Martin (D-Guilford), as it did in 1981-82; Sen. Henry Frye (D-Guilford) retired. The number of black members in the House jumped from 3 to 11, 10 men and 1 woman — Rep. Annie Kennedy (D-Forsyth). The new Senate will have five women, up from three in 1981-82, even though Sen. Carolyn Mathis (D-Mecklenburg) decided not to seek re-election. In the House, the number of women will decrease from a total of 19 to 18 in 1983-84. Reps. Lura Tally and Wilma Woodard will move to the Senate. The 15 incumbent House women will be joined by first-tenners Kennedy, Margaret (Peggy) Stamey (D-Wake), and Mary Jarrell (D-Guilford).

The article below can be used on its own and also as a supplement to *Article II: A Guide to the N.C. Legislature, 1981-82*, the publication of the N.C. Center for Public Policy Research which contains the effectiveness survey ratings mentioned above. (The maps, index of counties in each Senate and House district, and index of Senate and House members by new district may be photocopied and inserted into a copy of *Article II* for easy reference; see pages 12-14 for the Senate and pages 68-70 for the House.) To order a copy of *Article II*, send a check for \$6.00 to the N.C. Center for Public Policy Research, P.O. Box 430, Raleigh, N.C. 27602. □

SENATE



COUNTIES INDEXED BY DISTRICTS — SENATE

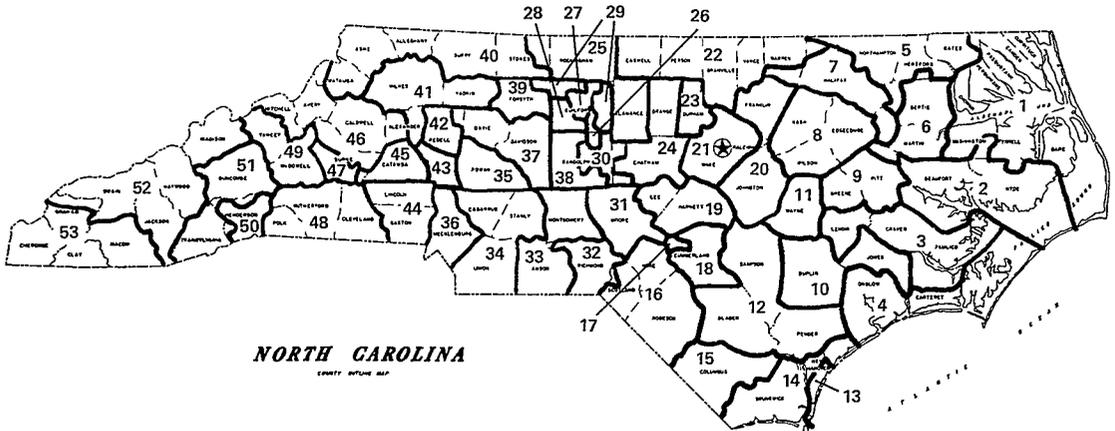
1st Camden Currituck Dare Hyde Pasquotank Perquimans Tyrrell Beaufort (part) Washington (part)	8th Greene Wayne 9th Pitt Beaufort (part) Martin (part) 10th Wilson Nash (part)	Scotland Stanly Union 18th Bladen Brunswick Columbus Cumberland (part)	26th Alexander Catawba Iredell Yadkin 27th Avery Burke Caldwell Mitchell Wilkes
2nd Bertie Chowan Gates Hertford Northampton Edgecombe (part) Halifax (part) Martin (part) Washington (part)	11th Franklin Vance Nash (part) Wake (part) 12th Cumberland (part) 13th Durham Granville Person Orange (part)	19th Forsyth (part) Guilford (part) 20th Forsyth (part) 21st Alamance Caswell 22nd Cabarrus Mecklenburg	28th Buncombe McDowell Madison Yancey 29th Cherokee Clay Graham Haywood Henderson Jackson Macon Polk Swain Transylvania
3rd Carteret Craven Pamlico	14th Harnett Lee Wake (part)	23rd Davidson Davie Rowan	30th Hoke Robeson
4th Onslow	15th Johnston Sampson	24th Alleghany Ashe Rockingham Stokes Surry Watauga	31st Guilford (part)
5th Duplin Jones Lenoir Pender (part)	16th Chatham Moore Randolph Orange (part)	25th Cleveland Gaston Lincoln Rutherford	32nd Guilford (part)
6th Warren Edgecombe (part) Halifax (part)	17th Anson Montgomery Richmond		
7th New Hanover Pender (part)			

SENATORS INDEXED BY DISTRICT *

1st Daniels	11th Speed	18th Soles	25th Harris, O. Marvin Rauch
2nd Harrington	12th Rand Tally	19th Edwards, E.	26th Ballenger Redman
3rd Thomas, J.	13th Hancock Royall	20th Barnes, R. Ward	27th Edwards, J. Kincaid
4th Guy	14th Johnson Staton Woodard	21st Allred	28th Swain Winner
5th Hardison	15th Warren, Robt.	22nd Harris, K. Jenkins Lawing Tison	29th Higgs Thomas, R.
6th Allsbrook	16th Hunt Walker	23rd Childers Davis	30th Parnell
7th Wright, J.	17th Jordan Plyler	24th Duncan Marion	31st Martin
8th Barnes, H.			32nd Gray
9th White			
10th Alford			

*Those persons in boldface type are new members of the state Senate.

HOUSE OF REPRESENTATIVES



REPRESENTATIVES INDEXED BY DISTRICT *

1st Evans James	Hasty Locks	28th Burnley Jarrell	40th Diamont Gentry Hayden
2nd Chapin	17th Edwards, C. Jeralds	29th Grimsley	41st Brown Holmes
3rd Anderson Barker Lilley	18th Beard Clark Tyson	30th Redding	42nd Huskins
4th Ethridge, Bruce Fulcher Tyndall	19th Etheridge, Bobby Wicker	31st Auman	43rd Brawley
5th Creecy	20th Brannan Woodard, B.	32nd Lee	44th Beam Bumgardner Mauney Roberts
6th Gillam	21st Adams Blue Cook Fussell Musselwhite Stamey	33rd Hightower	45th Allran Poovey
7th Ballance	22nd Church Crawford, J. Watkins	34th Hudson Quinn Slaughter Thomas	46th Hughes, J. Lacey Robinson
8th Barbee Fenner Matthews Mavretic	23rd Miller Pulley Spaulding	35th Ligon Nash	47th Fletcher
9th Bundy Warren, Ed	24th Barnes, A. Hackney	36th Berry Black Brennan Easterling Economos Foster Helms Spoon	48th Hunt Lutz Owens
10th Murphy	25th Holt, B. Jordan, J. McAlister McDowell	37th Cochrane Lambeth Varner	49th Hunter
11th Lancaster Woodard, C.	26th Gist	38th Brubaker	50th Hughes, C.
12th Bowen Poole	27th Coble Keesee-Forrester Seymour	39th Childress Hauser Kennedy Tennille Womble	51st Colton Crawford, N. Greenwood Nesbitt
13th Payne Rhodes, T.			52nd Beall Ramsey
14th Rabon			53rd Enloe

*Those persons in boldface type are new members of the state House of Representatives.

COUNTIES INDEXED BY DISTRICT – HOUSE OF REPRESENTATIVES

1st Camden Chowan Currituck Dare Pasquotank Perquimans Tyrrell Gates (part) Washington (part)	17th Cumberland (part)	38th Randolph (part)
2nd Beaufort Hyde Washington (part)	18th Cumberland (part)	39th Forsyth (part)
3rd Craven Lenoir Pamlico	19th Harnett Lee	40th Alleghany Ashe Surry Stokes (part) Watauga (part)
4th Carteret Onslow	20th Franklin Johnston	41st Wilkes Yadkin Alexander (part)
5th Northampton Bertie (part) Gates (part) Hertford (part)	21st Wake	42nd Iredell (part)
6th Bertie (part) Hertford (part) Martin (part) Pitt (part)	22nd Caswell Granville Person Vance Halifax (part) Warren (part)	43rd Alexander (part) Catawba (part) Iredell (part)
7th Halifax (part) Martin (part) Warren (part)	23rd Durham	44th Gaston Lincoln
8th Edgecombe Nash Wilson	24th Orange Chatham (part)	45th Burke (part) Catawba (part)
9th Greene Pitt (part)	25th Alamance Rockingham Stokes (part)	46th Avery Caldwell Mitchell Alexander (part) Burke (part) Watauga (part)
10th Duplin Jones	26th Guilford (part) Randolph (part)	47th Burke (part)
11th Wayne	27th Guilford (part)	48th Cleveland Polk Rutherford
12th Bladen Sampson Pender (part)	28th Guilford (part)	49th McDowell Yancey
13th New Hanover (part)	29th Forsyth (part) Guilford (part)	50th Henderson (part)
14th Brunswick New Hanover (part) Pender (part)	30th Chatham (part) Randolph (part)	51st Buncombe Transylvania Henderson (part)
15th Columbus	31st Moore	52nd Haywood Jackson Madison Swain Graham (part)
16th Hoke Robeson Scotland (part)	32nd Richmond Scotland (part)	53rd Cherokee Clay Macon Graham (part)
	33rd Anson Montgomery	
	34th Cabarrus Stanly Union	
	35th Rowan	
	36th Mecklenburg	
	37th Davidson Davie Iredell (part)	

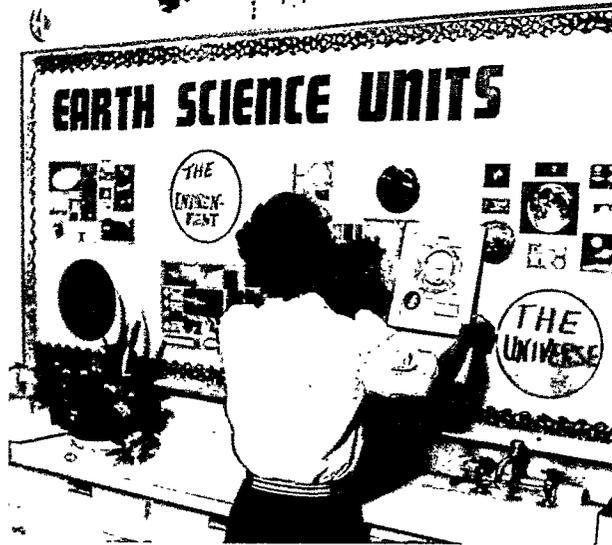
Out-of-Field Teaching Update — In-State and Nationwide

by Alison Gray

In November of 1981, the N.C. Center for Public Policy Research released a report, "Teacher Certification: Out-of-Field Teaching in Grades 7-12." The study, which included statewide data broken down into local school districts, revealed extensive out-of-field teaching throughout the state in eight subjects — reading (60 percent of the teachers, statewide, not certified for reading), math (37 percent), science (30 percent), health (24 percent), English (23 percent), social studies (17 percent), physical education (16 percent), and foreign languages (9 percent). These findings triggered a full-scale investigation by the daily press. Fifty-six different papers covered the Center's report in 133 articles and 24 editorials and columns. "Out-of-field" teaching was fast becoming a household term.

Despite the Center's report and the press attention that followed, the problem has persisted. In the late summer of 1981, the Division of Certification within the Department of Public Instruction (DPI) proposed new certification standards for North Carolina teachers. At a hearing on the Division's tentative proposals, held on August 28, 1981, N.C. Center Director Ran Coble released the preliminary findings of the Center's report in an effort to support the need for rules prohibiting out-of-field teaching and to highlight some of the strengths and weaknesses in the DPI proposals. A summary of the Center's recommendations to DPI appeared in the December 1981 issue of N.C. Insight (Vol. 4, No. 4).

State regulations regarding teacher certification must be approved by the State Board of Education, which functions closely with, but independent of, the Department of Public Instruction. During its fall 1981 meetings, the State Board did not approve regulations that prohibited out-of-field teaching. This delay gave the DPI's Division of Certification a chance to revise its proposals three times and incorporate some of the Center's recommendations. But the holdup also meant that



out-of-field rules were not in place during the 1982-83 school year.

Aware of the delays and of other findings of extensive out-of-field teaching in math and science — made by the Advisory Committee on Science and Mathematics Education of the Board of Science and Technology, the Division of Science within DPI, and by Robert Williams of the North Carolina State University's School of Education — the N.C. Center for Public Policy Research took its efforts one step further. In the summer of 1982, the Center undertook a survey and review of the teacher certification statutes and rules in all 50 states.

The article and sidebar below update the out-of-field teaching controversy and summarize the results of the Center's national survey. This year, the Center will release a full report on teacher certification, which will include the statewide and local district data released in late 1981 and the newly available nationwide data. To order copies of this full report, use the enclosed card (cost is \$8.00).

Quality education requires competent teachers who are prepared specifically for the courses they are teaching. Thirty-five states, including 10 in the South, reflect this fundamental principle through statutes and/or regulations that prohibit out-of-field teaching. North Carolina, like 14 other states, has neither a statute nor an administrative regulation prohibiting teachers from being assigned to a subject in which they have no training. (See box on pages 34-35 for more information on certification in the other 49 states.)

North Carolina, like every other state, does require that a person be certified before teaching

Alison Gray, a law student at the University of North Carolina at Chapel Hill, was an intern at the N.C. Center for Public Policy Research during the summer of 1982. Photos by Gene Dees.

A Bill to be Entitled AN ACT TO PROHIBIT OUT-OF-FIELD TEACHING IN NORTH CAROLINA

Whereas, studies by the Advisory Committee on Science and Mathematics Education of the Board of Science and Technology, the Division of Science within the Department of Public Instruction, and the North Carolina Center for Public Policy Research have shown that teachers in grades 7-12 of North Carolina's schools are teaching subjects in which they are not certified; and

Whereas, thirty-five states in the United States have statutes or administrative regulations prohibiting out-of-field teaching and North Carolina is one of only fifteen states without such protections; and

Whereas, the Department of Public Instruction proposed rules for adoption by the State Board of Education in September 1981 that would address the out-of field teaching problem and the Board has failed to act in the last fourteen months; Now, therefore, The General Assembly of North Carolina enacts:

Section 1. Chapter 115C of the General Statutes is amended by adding new sections to read as follows:

“§115C-297.1. Teachers Required to Teach Subjects In Which Certified. —

(a) Superintendents of local school administrative units shall assign teachers at the levels and in the subjects for which the certificates of the teachers are endorsed.

(b) The State Superintendent of Public Instruction may permit a district to assign a teacher to part-time duties for which he or she is not properly certified or endorsed without penalty, provided all of the following conditions are met:

(1) The duties may comprise no more than 1/5 of the teacher's full-time daily class schedule;

(2) The misassigned persons must have a minimum of six semester hours of college credit in each subject area in which service is rendered;

(3) The persons misassigned must comprise no more than five percent of the total number of district's certified full-time teachers, or five teachers, whichever is greater;

(4) The district must demonstrate that it has made a good faith effort to employ properly certified teachers for those duties and that a good faith effort is being made to remedy each specific assignment problem; and

(5) No teacher may be allowed to teach at a grade level or in a subject for which he or she is not certified for more than one school year.

(c) The State Board of Education shall have the authority to promulgate rules and regulations to enforce this provision.

§115C-297.2. Local Superintendents to Report to State Department. — Each superintendent of local school administrative units shall have a duty to report by December 1 of each school year to the State Superintendent the number of teachers who are teaching subjects in which they have no certification. The State Superintendent shall collect this data in an annual statewide report and make it available to the public.

§115C-297.3. Penalty for Violation of In-Field Assignment Provision. — Local school districts which are found to have more than five percent or five teachers, whichever is greater, teaching subjects in which they are not certified shall be placed on probation for one year by the State Board of Education. School districts which violate this provision for two consecutive years shall have their allotments from the State Public School Fund reduced in the following manner: Every child in a class taught by a misassigned teacher will not be counted in the district's overall average daily membership figures for the purpose of obtaining state money under the State Public School Fund.”

Section 2. This act shall become effective August 1, 1983. ■

in the public schools. However, the state does not require that an individual be certified in a particular subject in order to teach it. As a result, principals and superintendents have routinely assigned teachers outside their certificate areas and, in many cases, have left teachers in those out-of-field assignments permanently. While certification in the subject being taught cannot alone ensure competent instruction, it can at least provide some method of upgrading the quality of public education.

Each year, some 12,000 school personnel in the state are certified or recertified. Certification

usually comes from completing an approved teacher training program at one of the 15 public or 29 private institutions in the state with teacher training programs. Recertification comes through completing six semester hours or nine quarter hours of college credit or its equivalent (through in-service programs) every five years. Certification or recertification is awarded in specific areas of specialization such as early childhood, intermediate education (grades 4-9), special areas (speech therapy, occupational, etc.), and secondary areas (math, science, reading, etc.).

Before 1968, the N.C. Department of Public

In Nationwide Survey — North Carolina Ranks in Bottom Third in Prohibiting Out-of-Field Teaching

During the summer of 1982, the N.C. Center for Public Policy Research sought to determine the extent of out-of-field teaching allowed in other states. The Center developed a written survey and sent it to education officials in all 50 states. The survey contained four questions:

1) Does your state have a *law* requiring teachers to be certified?

2) Does your state have *rules and regulations* regarding teacher certification?

3) Does your state have a *law* requiring teachers to teach only in the fields in which they are certified? and

4) Does your state have *rules and regulations* requiring teachers to teach only in fields in which they are certified?

Once the surveys were returned, the Center reviewed the responses for accuracy by examining the actual language of the state statutes and/or regulations. The results of the Center's survey, broken down on a regional basis, are contained on page 35.

States most aware of the out-of-field teaching issue have incorporated a high ideal into their statutes: The best means of achieving quality education is through well-trained persons certified in the field they are teaching. States whose provisions are notable for their clarity include Louisiana, Oklahoma, and West Virginia.

Louisiana state law requires that the certi-

fication process reflect the "ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned."¹ Louisiana regulations allow temporary certificates to be issued to a person not certified in a particular subject but only upon the condition that the superintendent certifies that there is no properly certified or qualified teacher available. If the teacher expects to continue in the position for longer than one year, s/he must earn six hours of credit in the subject area. This type of provision provides flexibility for emergency situations while limiting the out-of-field teaching to a maximum length of one year.

Oklahoma's statutes² require a teacher to hold a valid certificate authorizing the instructor to teach the grades or subject matter for which the person is employed. Oklahoma's certification statutes place the blame for out-of-field teaching on the members of the local board of education who allow a person to teach out-of-field, as opposed to the instructor who may have little control over his/her assignment.

The West Virginia Board of Education has established a number of program objectives which seek to "provide a basis for identifying the specified competencies needed by teachers."³ The list of objectives includes the need for a field-centered orientation. West Virginia's statutes support this goal by requiring the instructor to teach in specialized areas and grade levels.

The West Virginia statutes and rules, promulgated by the state board of education, represent a particularly clear and useful way to deal with emergency staffing needs while minimizing the problem of out-of-field teaching. Using fixed-time limits and requirements for further education, that state has defined two acceptable methods for meeting emergency shortages of qualified personnel. First, teachers who have not fully met the Professional Certificate

Instruction (DPI) monitored the rate of out-of-field teaching — that is, the number of persons teaching in areas for which they were not certified — and fined persons \$10 per month if they were teaching more than 50 percent of their classes out-of-field. But this system proved unfair. “The burden was falling on the wrong individual because teachers have little control over their assignments,” says J. Arthur Taylor, director of DPI’s Division of Certification. “It is the principals and superintendents who decide where to assign teachers.”

In 1968, the fine system was dropped and a new method of penalizing out-of-field teaching

was adopted. Theoretically, this method shifted the burden from the teacher to the school system. “Excessive assigning of teachers in out-of-field situations will affect the accreditation of the school,” read the new rules adopted in 1968.¹ But despite a continuing prevalence of out-of-field teaching — highlighted by the findings released by the N.C. Center for Public Policy Research in 1981 — no public school in North Carolina has ever lost its accreditation over this issue. Furthermore, no penalty is imposed on a school for being non-accredited.

In October 1981, DPI proposed new out-of-

requirements to teach in approved areas can obtain temporary permits for teaching those subjects where a shortage of fully qualified personnel exists. Persons employed on permits, however, must enroll in an approved teacher education program in pursuit of professional certification. Second, out-of-field authorizations may be issued in specific areas (behavioral disorders, hearing impaired, gifted, physically handicapped, etc.), upon the recommendation of the county superintendent, for one year to an instructor who holds a valid Professional Certificate. For renewal of the authorization,

the teacher must enroll in an approved education program in the area. □

FOOTNOTES:

¹ Louisiana R.S. 17:7 and accompanying rules published in Bulletin 746, “Louisiana Standards for State Certification of School Personnel.”

² Oklahoma Statutes, Section 91 and accompanying rules.

³ West Virginia Statutes 18A-3-1 and memorandum entitled “State Board Actions Related to Permits/Out of Field Authorizations . . .” (July 16, 1981).

Out-of-Field Teaching Policies in the 50 States, by Region (1982)

REGION	NO PROVISIONS	HAS BOTH RULES AND LAWS PROHIBITING OUT-OF-FIELD TEACHING	HAS RULES PROHIBITING OUT-OF-FIELD TEACHING
SOUTH (15 states)	Alabama Maryland North Carolina Texas Virginia	Arkansas Louisiana Oklahoma West Virginia	Florida Georgia Kentucky Mississippi South Carolina Tennessee
NORTHEAST (10 states)	Maine New Hampshire New Jersey Rhode Island	Connecticut Massachusetts Pennsylvania	Delaware New York Vermont
NORTH CENTRAL (12 states)	Missouri	Kansas Michigan Minnesota North Dakota Ohio South Dakota Wisconsin	Illinois Indiana Iowa Nebraska
WEST (13 states)	Alaska Arizona Colorado Hawaii Utah	Idaho Nevada Oregon	California Montana New Mexico Washington Wyoming
TOTAL (50 states)	15	17	18

field teaching regulations to the State Board of Education, but the State Board took no action. Meanwhile, DPI held workshops on the proposed regulations with school personnel administrators, school principals, and each of the eight regional superintendent councils. The overall reaction among these different interest groups has been positive, reports Arthur Taylor. The main concern of those consulted, says Taylor, is "a time-line they can live with."

To address criticisms made by the Center and by school personnel, DPI revised and broadened its proposed regulations. The new proposals contain a total "in-field" requirement and a temporary means of coping with emergency staffing needs. The regulations now before the State Board for consideration require that a person teaching a subject have one of four types of certification in that subject — certificate, provisional certificate, endorsement, or provisional endorsement.² The type of certificate required depends on the percentage of time a teacher spends on a particular subject during the day. Taylor admits that ideally a person teaching a subject less than half a day should be as fully certified as a person teaching a subject more than half a day. However, given the nature of the school system and such factors as geography, population, and school organization, full certification of every teacher for every subject is not feasible, says Taylor. It is better to require lower levels of expertise than no level at all, the DPI seems to be saying. And in fact, certification through "endorsement" will at least help minimize the problem of out-of-field teaching by establishing a minimal level of expertise required for teaching a particular subject.

In addition to the four types of certification discussed above, DPI has added a "temporarily out-of-field" certificate, valid for one year and granted by the local superintendent only if there is no fully certified teacher available. To avoid the possibility that a round robin effect will be created by continually shifting different teachers every year to the temporary position, Taylor says that neither the same *teacher* nor the same *subject* may be designated as temporary beyond one year. This allows school personnel administrators one year to find a qualified or properly certified person for each position designated as temporary.

The Department of Public Instruction has in a commendable fashion refined its certification proposals. An "in-field" philosophy can now be implemented in North Carolina schools, to the satisfaction of superintendents, principals, and teachers — and to the benefit of the students. But after nearly a year's delay, the State Board of Education has not implemented the Department of Public Instruction's recommendations.

"The State Board of Education shall supervise

and administer the free public school system . . . and shall make all needed rules and regulations," charges the N.C. Constitution.³ The time has come for the State Board to move towards the "field-centered" emphasis in certification procedures contained in the DPI proposals. Such an emphasis reflects an awareness that the best possible collegiate level education program is of little use if teachers are placed outside their area of interest and training.

North Carolina lags behind much of the country, including 10 Southern states, in adopting statutes or regulations that prohibit out-of-field teaching. One of two possible avenues should be taken to remedy this shortcoming. The State Board should act on the rules proposed by DPI or the General Assembly must pass a law prohibiting out-of-field teaching. Either route would represent an important step towards ensuring that children attending public schools in North Carolina are provided with the best possible education. □

FOOTNOTES:

¹ 16 NCAC 2H .0203(d)(1).

² These four types of certification are progressively less difficult to obtain, from "certificate" (most difficult) to "provisional endorsement" (least difficult). For a full description of what DPI proposes as requirements for each type of certification, see the proposed "In-Field Assignment Policies" (January 11, 1982), available from J. Arthur Taylor, Division of Certification, Department of Public Instruction, 114 W. Edenton Street, Raleigh, N.C. 27611. For the proposals made by the N.C. Center for Public Policy Research, see *Teacher Certification: Out-of-Field Teaching in Grades 7-12 in North Carolina*, Chapter Three (1982).

³ N.C. Constitution, Article IX, Section 5.





FROM THE CENTER OUT

The last two issues of N.C. Insight, the quarterly magazine of the N.C. Center for Public Policy Research, have stimulated a lively debate on two important and timely issues for North Carolina — land-use planning in the coastal area and the state's housing needs.

Coastal Management

The May 1982 issue of *N.C. Insight* (Vol. V, No. 1) featured a historical analysis of the eight-year-old Coastal Area Management Act (CAMA), "Coastal Management — A Planning Beachhead in North Carolina" by Bill Finger and Barry Jacobs. Both a force for orderly change and a lightning rod for controversy, CAMA is now under scrutiny by a Legislative Research Commission study committee, which is scheduled to report to the 1983 General Assembly. On October 8, 1982, the Center for Public Policy Research formally submitted the *N.C. Insight* article to the study committee. In a cover letter to the committee's co-chairmen, Sen. Melvin Daniels (D-Pasquotank) and Rep. Charles Evans (D-Dare), *N.C. Insight* Editor Bill Finger summarized the Center's findings: "Our research on CAMA, which spanned nearly 10 months, indicated that this law has been a major benefit to the coastal counties."

Excerpts from some of the editorials prompted by the CAMA article appear below.

Look to the Hills

Although frequently the subject of controversy, the Coastal Area Management Act gets good reviews from just about everybody except the occasional 1,000-percenters who want no restrictions, no limits whatever on their right to build anything on any site on the coast of North Carolina. . . .

In the most recent favorable "review" of the act, the Center for Public Policy Research notes in its magazine *N.C. Insight* that from mid-1980 to the end of 1981, more than 97 percent of all requests for permits were approved.

And yet, as Secretary Joe Grimsley of the Department of Natural Resources and Community Development said recently, "I view CAMA as being responsible for seeing that the coast survives."

The coast has a very good chance of surviving, certainly if the federal government ceases soon to subsidize development with dirt-cheap flood insurance.

But what about that other great natural resource, our western mountains? . . .

Some years ago Gov. Jim Holshouser, who strongly supported the Coastal Area Management Act, also pushed for enactment of a Mountain Area Management Act, but it never got through.

Unless North Carolina wants to run the risk of losing

great chunks of those lovely mountains to ticky-tacky commercial development, some resourceful (and courageous) governor or legislator had better dust off the mountain legislation and have another go at getting it passed.

Fayetteville Observer
July 27, 1982

All Should Be Fed Out of Same Spoon

There is no such thing as a law being good for 20 counties in this North Carolina of ours.

Yet, that is exactly what we have in the Coastal Area Management Act (CAMA), because it applies only to 20 coastal counties and not to the other 80 counties of North Carolina.

Recently two researchers for the North Carolina Center for Public Policy Research had high praise for the act and both said that complaints that the law is too restrictive are without foundation. Both say it has been successful.

Without trying to start any argument, let us say that these two fellows are being paid to reap success in CAMA and whether it is successful or not, these two fellows would be offering high praise. . . .

Maybe somehow we could muzzle the paid workers who tell how successful it is. It had better be successful or those paid workers offering praise might lose their jobs.

Washington Daily News
June 10, 1982

Editorial Note: To correct an error in the above editorial, N.C. Insight Editor Bill Finger wrote the Washington Daily News, which printed the letter in its entirety on June 17, 1982. The excerpts from the letter below refer to the last two paragraphs of the above editorial.

You apparently misunderstood the structure of the North Carolina Center for Public Policy Research, Inc. We are not a state agency but a private non-profit, non-partisan organization. We receive our funding primarily from the Z. Smith Reynolds and Mary Reynolds Babcock Foundations (the state's two largest and most prestigious foundations), membership dues, corporate contributions, and other sources. We are paid to find neither successes nor failures but to undertake research tasks on how well state government works with an independent view. You seem to have confused us "two fellows" for employees of the state office administering the Coastal Area Management Act. The magazine issue containing the CAMA story explains the purpose and background of the North Caro-

lina Center on the inside front cover and includes a clear description of the two authors.

I'm glad that you believe the "intent (of the article) is good," as you put it, but I was disturbed by such sentences as: "Maybe we could somehow muzzle the paid workers who tell how successful it (CAMA) is."

We view ourselves as your colleagues in the North Carolina press corps, and would hope you agree that muzzling the open-minded examination of ideas is not our mutual goal. Instead, we — like you — want to do good research on how state government programs like the Coastal Area Management Act are performing and then publish that research. Thank you for allowing me to correct the possible misunderstanding of the Center's purpose and funding sources.

CAMA Has Taken a Bum Rap

Is CAMA really as restrictive and intolerable as its critics charge? According to a recent study conducted by researchers from the North Carolina Center for Public Policy Research, the answer appears to be a resounding "no." . . .

Finger found that more than 95 percent of all permit requests made under the strictures of CAMA have been approved. The public policy research center discovered that of 335 major permits requested, 322 were granted. The center also found that 1,203 of 1,227 minor permits had been granted. . . .

The public policy research center's findings seem to indicate that CAMA has taken a bum rap. The controversial law simply hasn't had the effects that its critics claim to see. But CAMA has had some positive effects that have been conveniently ignored by its opponents.

Winston-Salem Journal
June 9, 1982

Housing Needs

The August 1982 issue of *N.C. Insight* focused entirely on the state's housing policies and programs ("Mortgage Overdue — The State Enters the Housing Market," Vol V., No. 2). The Center devoted an issue of *N.C. Insight* to housing for

three main reasons: 1) a large number of North Carolinians still live in substandard housing units; 2) a large and growing number of North Carolinians cannot afford to buy a house at today's high interest rates; and 3) federal budget cuts are reducing the federal government's role in housing.

In 1981 the General Assembly established a Housing Study Commission, chaired by Rep. Ruth Cook (D-Wake). The N.C. Center presented the special housing issue of *N.C. Insight* to the members of the Study Commission as they were beginning to formulate their recommendations for the 1983 legislative session. Based on the letters we have received on the issue, the information should be useful to the Commission. For example, Gary Paul Kane, the executive director of the N.C. Housing Finance Agency, wrote: "Your publication was remarkably objective in dealing with an issue where opinions are so polarized. And I think your coverage of the issue was quite thorough, even picking up most of the political and financial subtleties. Congratulations on an exceptionally well done piece of research and writing."

Excerpts from some of the editorials prompted by the housing issue appear below.

Group Cites Need for Housing Chief

High prices and mortgage interest rates are only two of many problems facing the North Carolina housing industry. But the biggest problem of all is that there is "no one person (who) has responsibility for housing issues," according to the N.C. Center for Public Policy Research. . . .

To streamline responsibility in the housing field, the center offered three possible options:

- Establish a department of housing that would centralize the existing housing-related functions under one roof.
- Develop a central coordinating mechanism — perhaps through the governor's office — to channel all housing recommendations.



• Split the Department of Natural Resources and Community Development into a department of housing and community development and a department of natural resources. The center suggested this could be part of a larger movement to reorganize NRCD.

Wilmington Star
September 16, 1982

Federal Retreat Challenges N.C.

... North Carolina has experienced a 63-percent decline in five federal programs for low-income housing. In the latest issue of its magazine, *N.C. Insight*, the N.C. Center for Public Policy Research reports that the Department of Housing and Urban Development's subsidies for construction of low-income housing in North Carolina have dropped from \$110.2 million in fiscal year 1981 to \$40.6 million in 1982. In addition, the magazine reports an informed estimate that Farmers Home Administration housing assistance, which has been the principal form of aid to rural North Carolinians, may decline by as much as 70 percent, from \$198 million to \$59 million. ...

Ferrel Guillory column
The News and Observer of Raleigh
September 10, 1982

Mortgage Overdue

The sorry state of the housing industry in North Carolina is no secret to anyone, especially those people in Lexington who depend on furniture — which depends largely on housing — for their jobs. An extremely low level of housing starts and high interest rates that have kept prospective homebuyers out of the market have characterized the housing industry for a dangerously long period.

The issue of housing in this state is much broader, however, than those current conditions indicate, according to a thorough new report by the North Carolina Center for Public Policy Research. ...

Unless the State of North Carolina takes a more active role in seeing that the citizens of this state have decent shelter, the outlook is bleak.

The Center for Public Policy makes some recommendations that are worth serious consideration by Governor Hunt and the state legislature. Among them are these:

- Establish a state housing policy. Then the state could specify housing goals the state would pursue, according to their priority.
- Make certain the Small Cities Community Development Block Grant program serves at least as many low- and moderate-income people as the program served in the past.
- Make certain the Housing Finance Agency continues to assist low-income people and not become entirely moderate-income programs.
- Establish a Neighborhood Housing Services agency to make match grants to local NHS programs and offer tax credits for contributions to NHS and other non-profit housing organizations.
- Consider taxing mobile homes as real rather than personal property.

That is an ambitious agenda offered by the Center for Public Policy, but it does an excellent job of focusing attention on housing in North Carolina, an issue that is certain to grow in importance in the next few years. The state must take some sort of role, but it must be a cautious and planned role to be most effective.

Lexington Dispatch
September 16, 1982

Let Builders Build

The thought of buying a house is a pretty dismal one for the poor, and for first-time buyers of even moderate circumstances. Having well-intentioned elected leaders jump in to alleviate some of the misery is only making matters worse.

That's the conclusion of a new book, *Resolving the Housing Crisis*. The thick volume represents the cumulative opinion of 15 housing authorities, primarily university economists. The public introduction of the book this week ironically came the same day a North Carolina public interest group recommended *more* government involvement in housing. ...

The Center essentially recommends that the scattered housing bureaucracies be combined, that the state identify housing problems, and that the state then rewrite regulations and funding schemes to meet the identified needs. What the Center proposes, in other words, is pretty much what has been done for the last several decades.

In contrast, the tack taken by the book, which was a product of California research, is to do less. The conclusion reached by the researchers is that increased subsidy, zoning and manipulation of land and housing has produced, or at least aggravated, the crisis. ...

The recommended rule change, in this case, would let building and insurance industries regulate construction. The more cheaply a house was built, the higher the insurance premium would be on the homeowner's policy. The construction savings could be expected to offset the premium increase, and a new homeowner would be in his home. ...

Still the arguments against more regulation are universal. The lead time for development of housing units lengthens year by year and housing costs soar across the nation, thanks in part to federal, state, and local intrusions upon the building process.

Greensboro Record
September 10, 1982

A Job for Raleigh?

The North Carolina Center for Public Policy Research, in its quarterly magazine, recommends that the state play a greater role in helping its citizens find housing. Federal budget cuts and jurisdictional realities dictate that the Hunt administration take that recommendation seriously, if indeed such aid is to continue. ...

Jurisdictional realities place the ball in Raleigh's court. Shifting housing programs to county governments would likely create a messy checkerboard effect, with some counties opting to take on the new responsibilities and others shunning the tasks. And to pass the onus even further down, to the cities, would be to leave rural areas of the state in the lurch.

But state officials must first determine if Raleigh — which hardly has money to burn — wants to inherit the federal government's role in the housing business. ...

But should the Hunt administration answer 'Yes' and take on new housing responsibilities, it should look into some specific recommendations presented in the research center's article. ...

Such efforts would cost a lot of money and tie up funds that could be used elsewhere, but if anyone is to inherit Washington's housing responsibilities, the state government is the proper inheritor.

High Point Enterprise
September 10, 1982

Memorable Memos

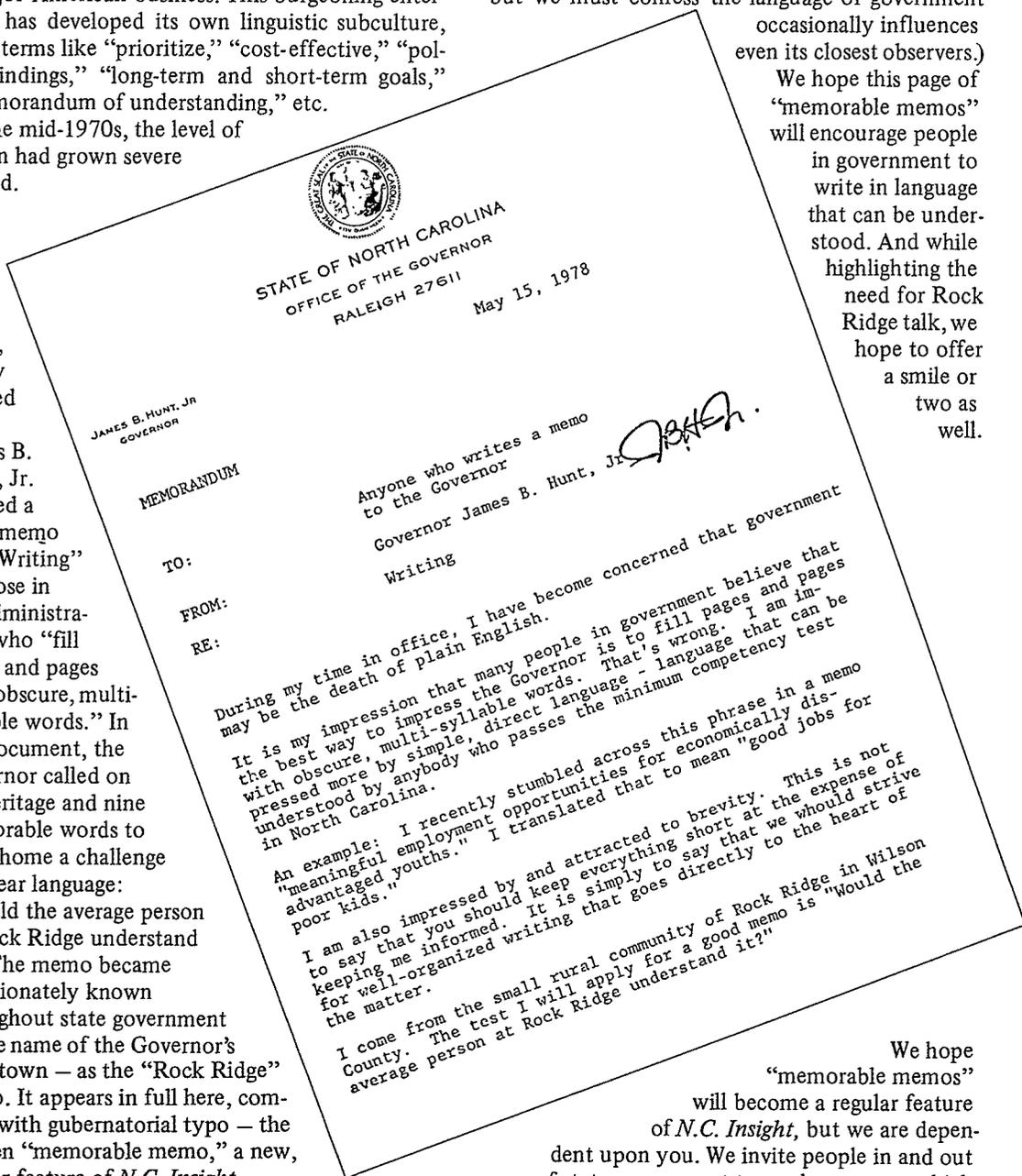
In the last 20 years, government — at the federal, state, and local levels — has ballooned into a major American business. This burgeoning enterprise has developed its own linguistic subculture, with terms like “prioritize,” “cost-effective,” “policy findings,” “long-term and short-term goals,” “memorandum of understanding,” etc. By the mid-1970s, the level of jargon had grown severe indeed.

In 1977, newly elected Gov. James B. Hunt, Jr. penned a terse memo “Re: Writing” to those in his administration who “fill pages and pages with obscure, multi-syllable words.” In the document, the Governor called on his heritage and nine memorable words to drive home a challenge for clear language: “Would the average person at Rock Ridge understand it?” The memo became affectionately known throughout state government by the name of the Governor’s hometown — as the “Rock Ridge” memo. It appears in full here, complete with gubernatorial typo — the maiden “memorable memo,” a new, regular feature of *N.C. Insight*.

Unfortunately for Gov. Hunt’s reading eyes and for his friends back in Rock Ridge, the memo does not seem to have halted the spread of “bureau-

cratese.” (Forgive us for using the very jargon which has made this feature of *Insight* necessary, but we must confess the language of government occasionally influences even its closest observers.)

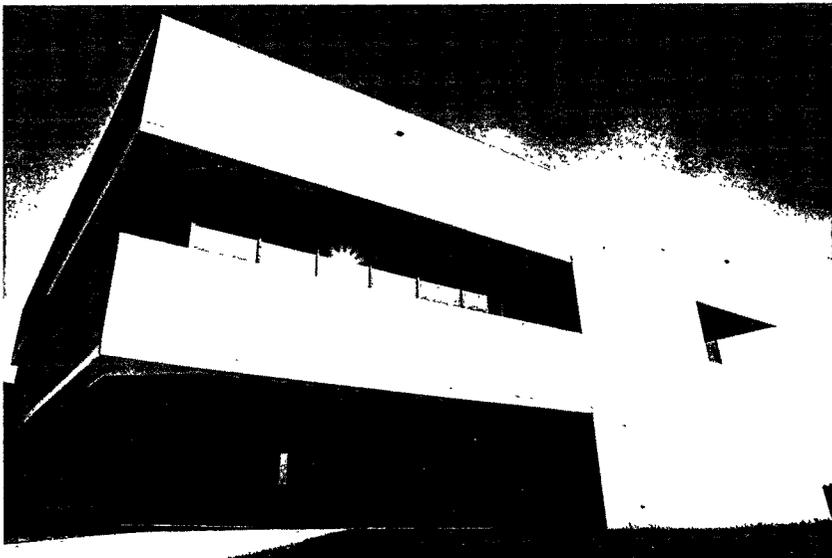
We hope this page of “memorable memos” will encourage people in government to write in language that can be understood. And while highlighting the need for Rock Ridge talk, we hope to offer a smile or two as well.



We hope “memorable memos” will become a regular feature of *N.C. Insight*, but we are dependent upon you. We invite people in and out of state government to send us memos which might qualify for publication here, because of the quality of humor, the degree of jargon, or simply a unique style — or lack of style. □

Next time, an **INSIGHT** look at

The Arts & North Carolina



The North Carolina Museum of Art, opening April 1983

Join Wallace Kaufman, Mary Duke Biddle Trent Semans, Ferrel Guillory, Bill Finger, Sara Hodgkins, Michael Matros, George Holt, Maud Gatewood and others for an N.C. Insight examination of public policy questions affecting the arts in North Carolina. This special issue will open the door at the new Museum of Art, gaze into the future of the North Carolina Symphony, discuss the nature of folk art, and visit artists, patrons and government officials for answers to questions other publications don't think to ask. Next time, in N.C. Insight.

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N.C. Center for Public Policy Research
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