

North  
Carolina

# Insight

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## Boards, Commissions, & Councils: Pruning The Kudzu in State Government

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- The "Short" Legislative Session
- Legislative Budget Committee Powers
- Special Provisions in Budget Bills
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A non-profit, non-partisan organization, the Center was formed in 1977 by a diverse group of private citizens "for the purpose of gathering, analyzing and disseminating information concerning North Carolina's institutions of government." It is guided by a self-electing Board of Directors and has individual and corporate members across the state.

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

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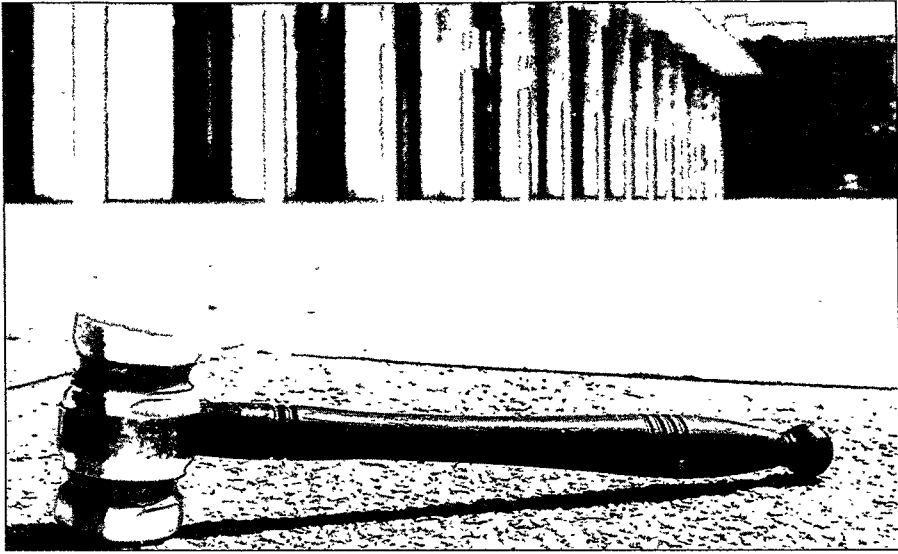
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Jack Betts

Action in the 1986 Legislature?

# *Eliminating Boards and Commissions in the Executive Branch*

by Jim Bryan

*A bill before the N.C. General Assembly (Senate Bill 726) would abolish 67 boards, commissions, or councils in the executive branch. At its best, the system of state boards enhances citizen participation in state government. At its worst, this system perpetuates inactive or ineffective boards, growing like kudzu over the process of government. In an update of its three-year study, the N.C. Center recommends that 62 of the 67 boards in SB 726 be abolished during the 1986 legislative session. The legislature should also begin to take steps to find a way to monitor the overall system of boards and commissions in the executive branch on a regular basis.*

**I**n the 1986 session of the N.C. General Assembly, lawmakers will resume a 20-year debate where, more often than not, rhetoric has won out over action. This debate has focused on reducing the size of government through the repeal of ineffective or inactive state boards and commissions. The task ought to be a matter of simply "getting rid of a bunch of dead wood," says Speaker of the House Liston B. Ramsey (D-Madison). But if cries of foul heard last year from supporters of such boards as the Alcoholism Research Authority or the Governor's Council on Physical Fitness and Health are any indication, the fight is far from over.

In 1985, Senate Bill 726 ("An Act to Abolish Certain Executive Branch Boards and to Consolidate the Functions of Other Boards") targeted 67 boards to be abolished—one of every five boards, commissions, and councils within the executive branch of state government. Sen. Anthony Rand (D-Cumberland), the bill sponsor, predicted a savings of \$2 million by eliminating these 67 boards, which he called inactive, ineffective, and duplicative. Rand, who chairs the powerful Senate Appropriations Committee on the Base Budget, guided the bill through the Senate late in the session. But the House of Representatives balked.

"By the time 30 different lobbyists had objected to particular provisions in the bill, I decided this thing needed more study," says Rep. Paul Pulley (D-Durham). Pulley chairs the House Judiciary IV Committee, where the bill went after Senate passage. Rather than kill it on the spot and raise the ire of the Senate, Pulley chose to hold it over for action in the 1986 session, which begins June 5. "My goal is to give the bill a fair hearing," says Pulley.

While not a topic at the average breakfast table, abolishing boards and commissions brings to the fore issues that strike a responsive chord in most North Carolinians—efficient use of tax dollars and citizen participation in state government. Nearly 4,000 persons serve on state boards. At their best, boards allow citizens to participate in state government and to have their advice and concerns brought into the stream of decision-making. Appointed by various state officials, these citizens help make government's rules and

regulations, advocate for various issues, and take other actions that affect the lives of every person in the state. But these boards cost money and also contribute to a growing state bureaucracy.

North Carolina's boards cost only one-tenth of one percent of the state's \$6 billion budget.<sup>1</sup> But unproductive boards have a larger ripple effect, contributing to the image—and often the reality—of a slow, inefficient bureaucracy. State employees staffing the ineffective boards must divert their attention from other pressing work. Slow-moving boards, sometimes inadvertently, tend to delay policy decisions. In recent years, trimming the number of boards and commissions has been seen as one way of saving taxpayers money. "If Gov. Jim Martin and the legislators want to find some ways to save tax money or divert it to more productive use, the myriad of boards, councils, commissions, and advisory commissions offer a fertile field," urged the *Goldsboro News-Argus* in a Jan. 29, 1985 editorial.

Cost savings, however, must be viewed in a larger context. Eliminating boards for the sake of saving tax dollars might produce less effective government. Take a technical issue like endangered plant species. The members of the N.C. Plant Conservation Scientific Committee bring a broad range of viewpoints on endangered species to the attention of Department of Agriculture staff. "This information would not be easily obtained without the assistance

of the individuals currently on the Scientific Committee," explains June Brotherton of the department's Public Affairs Division, in a letter to the N.C. Center for Public Policy Research. The N.C. Center recommended in its 1985 report, *Boards, Commissions, and Councils in The Executive Branch of North Carolina State Government*, that the functions and activities of the N.C. Plant Conservation Scientific Committee be consolidated with those of the N.C. Plant Conservation Board.

*"My goal is to give the bill a fair hearing."*

—Rep. Paul Pulley  
(D-Durham)



*Jim Bryan has been a research analyst at the N.C. Center for Public Policy Research since 1981. He is a principal author of the N.C. Center's book, Boards, Commissions, and Councils in the Executive Branch of North Carolina State Government, published in 1985.*

At an average cost of \$14,731 per board, the price tag seems relatively cheap. "Many boards and commissions offer the only opportunity for planned input on a continuing basis by citizens with expertise," says Lucy Bode, former deputy secretary of the Department of Human Resources. "A state agency cannot afford to buy this expertise."

Many boards enhance the level and quality of citizen input into government operations. Boards often hold public hearings and promote public education efforts, which involve thousands of people in the process of government. At four public hearings across the state in the spring of 1986, for example, the Human Relations Council heard from community leaders and local officials on minority employment problems, extremist group activities, and criminal justice concerns. Through media coverage and its final report on the meetings, the council hopes to focus public and governmental attention on pressing issues.

Former Secretary of Natural Resources and Community Development Joseph Grimsley describes this kind of citizen contribution to government in a broad context. "There is a strong history of boards and commissions giving citizens access to the executive branch and keeping the bureaucracy within reach," says Grimsley. "Citizen involvement on boards and commissions is a deep psychological piece of the state's consciousness."

Perhaps the element of state boards that creates the greatest stir among North Carolinians

is politics. An appointment to a board is a well-known form of political patronage, the ol' plum. "Several governors have used these things as just a pat on the back to reward some supporters or big contributors," says Speaker Ramsey. "That's been going on for the last 40 years, since I've been around."

Take the case of the two most recent governors. Five of Gov. James G. Martin's six 1985 appointees to the State Ports Authority contributed more than \$1000 to his 1984 campaign. Similarly, at least half of former Gov. James B. Hunt Jr.'s 22 appointees to the Economic Development Board contributed to his 1976 gubernatorial campaign.

In addition to overt political patronage, citizen boards provide elected officials with a means to keep in touch with their constituents. State Auditor Edward Renfrow says that having the Board of Directors of the N.C. Firemen's and Rescue Squad Workers's Pension Fund under his guidance gives him "direct contact with a statewide constituency and an outlet to express what the State Auditor is all about."

In considering Senate Bill (SB) 726, the 1986 legislature must determine whether the 67 boards in the bill are unnecessary. Specific criteria for weighing the usefulness of the boards is important, together with an awareness of political realities. Governor Martin would lose nearly 600 appointments if all 67 boards were abolished. Since 1985, the bill has languished in the House,

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The State Health Coordinating Council, which includes citizens from around the state, listens to presentation. "Citizen involvement on boards and commissions is a deep psychological piece of the state's consciousness," says Joseph Grimsley, cabinet secretary during Gov. James B. Hunt Jr.'s administration. *Photograph by Michael Matros*





and Martin has left many of these appointments unfilled. Such appointments present an opportunity for a new governor to put his stamp on state policymaking. Even so, a governor like Martin, who has called for reduced government, might view the reduction of boards as a plus.

Speaker Ramsey is anticipating an uproar over the bill. "People are going to holler that we are taking power away from the Governor by eliminating these boards and their appointments," says Ramsey. Since Martin, a Republican, took office in 1985, tensions have existed between the executive branch and the legislature, controlled by Democrats. In addition, the legislative and executive branches have traditionally bickered over turf, even when both branches were controlled by Democrats. The bill "is a bipartisan effort," says House Republican Minority Leader Betsy Cochrane (R-Davie). "But if there are provisions in the bill to eliminate the Governor's powers intentionally, we would have problems with it."

While the fate of the 67 specific boards under SB 726 is the specific issue facing the 1986 session, a means of monitoring the system of all boards and commissions will concern the legislature for years to come. Both the executive and legislative branch need to look at state boards as a system that requires careful management. If that system is taken care of, the state will continue to benefit from what boards offer best: citizen advice, a statewide perspective, focusing attention on problems, educating the public, preventing concentrations of power, and serving as sounding boards and pressure valves.

But few mechanisms exist to keep the growth of boards in check. "We have got to continue this process or else everyone is going to want a board of their own sooner or later," says Senator Rand.

What criteria should the legislature use in considering the 67 boards in SB 726? In addition, what mechanism can the legislature use to monitor this issue on more than a case-by-case basis so that the ultimate gain of citizen participation in government is fully realized?

## Reorganization Turns To Boards

In 1968, Gov. Dan K. Moore appointed a panel to study how to consolidate and streamline a myriad of state agencies. More than 300 departments, offices, agencies, boards, commissions, and councils operated independently of one another, all demanding time from the Governor and attention (and often money) from the legislature. (Of these 300 plus groups, about 160 were executive branch boards, commissions, and councils.) The panel concluded that the executive branch was plagued with fragmentation, service duplication, and program inefficiencies.

In response to the recommendations of Moore's panel, the 1969 N.C. General Assembly approved legislation for a public referendum on a constitutional amendment to reorganize state government into no more than 25 principal administrative departments.<sup>2</sup> The public approved the amendment by a two-to-one margin. In 1971, Gov. Robert W. Scott continued the process by calling on the legislature to pass a major reorganization bill. The 1971 and 1973 legislatures passed executive reorganization acts which together placed the major state agencies into 10 departments under the governor's control and nine under the leadership of Council of State officials.<sup>3</sup> All state boards fell under this structure. During reorganization efforts from 1969 to 1975, the number of executive branch boards stayed at about 160,

though the administrative structure for those boards became more clearly defined.

During the administration of Governor Hunt (1977-85), however, the number of boards doubled. In 1977 alone, the Hunt administration created 19 boards while the legislature enacted 21, according to new N.C. Center research. The climb continued until 1983, when the number of boards was about twice the 1977 total, some 320 compared to 160. Since 1983, the total number has stayed at about 320, with some new boards being created and some abolished (see Table 1). The legislature created 17 boards in 1983, four in 1984, and 12 in 1985, for a total of 33 new boards. It abolished 11 in 1983,

*"(The bill) is a bipartisan effort. But if there are provisions in the bill to eliminate the Governor's powers intentionally, we would have problems with it."*

—Rep. Betsy Cochrane  
(R-Davie)



**Table 1. Boards Abolished or Created by  
the N.C. General Assembly, 1983-85**

<b>ABOLISHED</b>	<b>CREATED</b>
<b>1983</b>	<b>1983</b>
1. Community Colleges Advisory Council	1. Administrative Rules Review Commission, Governor's
2. Earth Resources Council	2. Agricultural Facilities Finance Agency, N.C. Board of Directors
3. Human Resources, Board of	3. Alarm Systems Licensing Board
4-10. Inmate Labor Commission	4. Computer Commission
- Eastern Area	5. Contract Appeals, Board of State
- North Central Area	6. Crime Victims Compensation Commission
- North Piedmont Area	7. Energy Board, Southern States
- South Central Area	8. Energy Development Authority
- South Piedmont Area	9. Farmworker Council, N.C.
- Western Area	10. Housing Commission, N.C.
- Statewide	11. Institute of Medicine, N.C., Board of Directors
11. Standardization Committee	12. Low-Level Radioactive Waste Management Compact Commission, Advisory Committee to the N.C. Members of the Southeast Interstate
<b>1984</b>	13. Low-Level Radioactive Waste Management Compact Commission, Southeast Interstate
12. Chowan River Regional Task Force	14. Management Council, Governor's
13. Commercial and Sports Fisheries Advisory Committee	15. Roanoke Voyages Corridor Commission
14. Crime Prevention and Public Information Committee	16. Sheriffs' Education and Training Standards Commission, N.C.
15. Disabled Persons, Task Force on the International Year of	17. Technological Development Authority Board, N.C.
16-20. Education and Training Advisory Committees	
- Statewide	<b>1984</b>
- Eastern Region	18. Bicentennial of the United States Constitution, Commission on the
- North Central Region	19. Cherokee, N.C. Advisory Council on the Eastern Band of the
- South Central Region	
- Western Region	
21. Employment Security Commission Advisory Council*	
22. Future of North Carolina, Commission on the	

*—table continued next page*

26 in 1984, and five in 1985, for a total of 42. Governor Hunt continued to create new boards through executive orders, launching three new groups in 1984, his last year in office. Governor Martin began four new groups during his first year while abolishing nine (see Table 2, page 13).

The doubling in the number of boards from 160 in 1977 to about 320 in 1983 reflected the

growth in state government in general. New boards advised and made policy on everything from economic development, a science and mathematics school, public broadcasting, and ethics, to disabled persons, Indians, domestic violence, and waste management. Boards tackled problems of housing, testing of students in public schools, highway safety, and recognition of state employees. More-



**Table 1. Boards Abolished or Created by  
the N.C. General Assembly, 1983-85, *continued***

**ABOLISHED**

**1984, cont.**

23. Highway Contract Oversight Commission, N.C.
24. Incentive Pay for State Employees, Committee for
25. Land Conservancy Corporation, N.C., Board of Trustees
26. New Horizons Task Force
27. Occupational Education Research Services Advisory Council
28. Oil Re-refining Facility, N.C., Board of Directors
29. Private Schools Advisory Committee
30. Retired Senior Executives Advisory Committee
31. Sudden Infant Death Syndrome Project Council
32. Theatre Project, Edwin Gill, Selection Committee
33. Triad Park Commission
34. Water Policy Advisory Committee to Sec. 208 of Clean Water Act
35. Water Quality Council
36. Water Safety Council, N.C.
37. Roanoke Voyages Corridor Commission

**1985**

38. Child Day Care Licensing Commission
39. Employment and Training Council, Community
40. Employment and Training Council, North Carolina
41. Marine Resources Center Administrative Board, N.C.
42. Private Industry Council, Balance of State

**CREATED**

**1984, cont.**

20. Hazardous Waste Treatment Commission
21. Roanoke Voyages and Elizabeth II Commission

**1985**

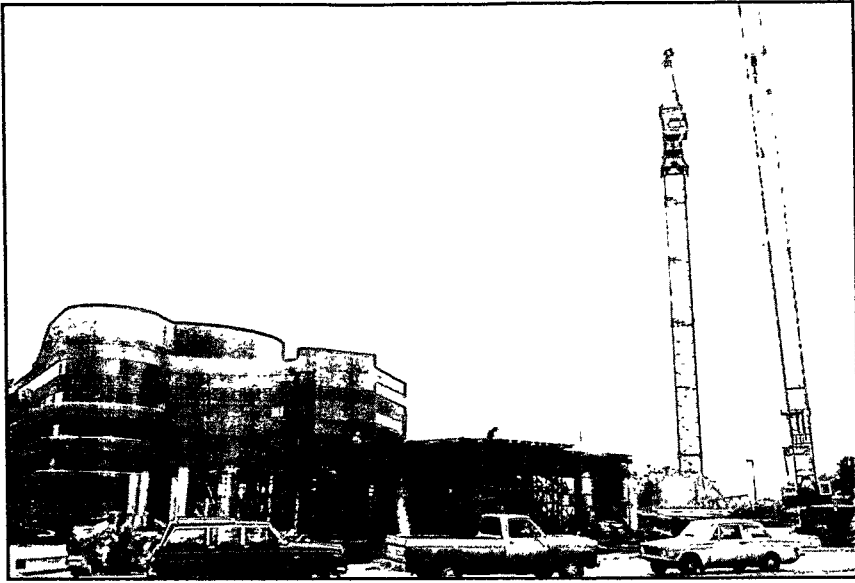
22. Adolescent Pregnancy and Prematurity Prevention, Advisory Board for
23. Andrew Jackson Historic Memorial Committee
24. Child Day Care Commission
25. Employment Security Commission Advisory Council
26. Holocaust, N.C. Council on
27. Jobs and Economic Growth, N.C. Commission on
28. Job Training Coordinating Council, N.C. State
29. Medical DataBase Commission, N.C.
30. Natural Areas, Advisory Committee on Voluntary Registration and Dedication of
31. Teachers' and State Employees' Advisory Committee of Plan Participants
32. Teachers' and State Employees' Advisory Committee of Plan Providers
33. Teaching, N.C. Center for Advancement of, Board of Trustees

\* This board was eliminated in 1984 and recreated in 1985.

over, federal law provided the incentive for state government to set up more groups for public transportation, day care, and employment and training, to name a few. "The number of boards keeps growing like kudzu," said N.C. Center for Public Policy Research Executive Director Ran Coble in 1985, when the N.C. Center released its boards and commissions report. "Too much kudzu will choke

off useful citizen participation."

Ironically, as the number of boards grew, the N.C. General Assembly was trying to curb the growth of state government. In 1977, the legislature created the Governmental Evaluation, or "Sunset," Commission, to review and make recommendations on about 100 state agencies, mostly occupational licensing boards.<sup>4</sup> The sunset law



Development projects—their location and the jobs they offer—form part of the agenda of the state Economic Development Board. At least half of former Gov. James B. Hunt Jr.'s 22 appointees to this board contributed to his 1976 gubernatorial campaign. *Photograph by Jack Betts*

provided for automatic termination of these agencies on a certain date unless continued by the General Assembly. The eight-member Sunset Commission, which included gubernatorial appointees and legislative members, would first examine the licensing boards and certain regulatory groups, such as the controversial Coastal Resources Commission and Environmental Management Commission.<sup>5</sup> If all went well, so the plan went, the commission would later tackle the remaining hundreds of boards, commissions, and agencies.

After four years of work, the commission had written a spotty record. It succeeded in convincing the legislature to examine the statutory authority of many agencies, to increase fees to keep certain boards self-supporting, and to add more public members to other boards. In addition, the spirit of evaluating government took hold outside the Sunset Commission's purview. Other legislative committees unearthed eight unnecessary boards in 1977 and 17 in 1979; the legislature abolished all 25.<sup>6</sup> Casualties included the Sir Walter Raleigh Commission and the Secondary Roads Council.

The legislature had a tougher time accepting the recommendations of the Sunset Commission to abolish certain occupational licensing boards. Licensed professionals did "not want to lose the benefits and status that licensing confers," concluded the Institute of Government in its summary of the 1979 session.<sup>7</sup> Lobbied hard by these licensing groups, the legislature abolished just five

licensing boards, only two of which were active at the time—the watchmakers and water well contractors boards. The Sunset Commission's annual appropriation of \$200,000 prompted some members of the General Assembly to wonder if its costs outweighed its benefits.

In 1981, North Carolina became the first state to abolish its Sunset Commission;<sup>8</sup> 35 states had such commissions by then. (As of June 1985, 38 states have sunset commissions, according to Francis Berry at the Council of State Governments.) But the General Assembly stayed in the "sunset" business by creating a new Legislative Committee on Agency Review.<sup>9</sup> Composed solely of legislators, the committee reviewed many of the regulatory laws in the original charge to the old Sunset Commission. The Committee on Agency Review made its final report to the 1983 legislature and did not recommend the abolition of any boards; the committee itself then ended.<sup>10</sup> But by 1983, the word on inactive and ineffective boards and commissions had gotten around.

During the 1983 session, Speaker Ramsey called for a review of inactive boards through the House committee structure. Ramsey was willing to terminate those groups that were obviously dormant, such as the Board of Human Resources and the Earth Resources Council. But he stopped short of a more wholesale cutback on the number of boards or of establishing a monitoring process for the creation of new boards. Instead, the Speaker

and others pushed legislation to authorize the Legislative Research Commission (LRC) to establish a Study Committee on Executive Branch Boards, Commissions, and Councils. With both the Sunset Commission and the Committee on Agency Review now abolished, this new study committee became the main legislative forum for evaluating questionable boards.

The Legislative Research Commission, however, provided the study committee with only a \$5,000 budget—hardly the kind of resources necessary for a full-fledged study.

The committee was able to consider only inactive boards in its three meetings, but its work resulted in the 1984 legislature abolishing 25 inactive boards.<sup>11</sup>

In every case, the agency officials who had worked with the executive branch boards agreed to the action, so little controversy emerged. The Hunt administration, for example, acknowledged that the N.C. Land Conservancy Corporation Board of Directors could be eliminated because it hadn't met since the late 1970s and because of the successful land stewardship efforts of the N.C. Nature Conservancy, Inc., a private non-profit organization. In letting the Edwin Gill Theater Project Selection Committee die, the Department of Public Instruction felt that in-house staff could better select theatrical groups for performances at public schools.

The 1984 legislature also expanded a sunset law passed in 1983 concerning *non-statutory* boards. Non-statutory boards are those created by the governor through executive order and by department heads through directives. Nearly one-third of all boards are non-statutory. The 1983 legislature had imposed a two-year limit, or sunset date, on boards created by the governor.<sup>12</sup> The 1984 law extended the sunset provision to include boards created by all other executive officials.<sup>13</sup>

In both the 1983 and 1984 acts, the legislature allowed the Governor, in creating a board, to set an expiration date for the board. However, the legislation was unclear on whether there was a two-year ceiling on a board's life or whether the Governor could establish any future termination date.<sup>14</sup> For example, in a 1985 executive order

reauthorizing the Juvenile Justice Planning Committee, Governor Martin set the expiration date at June 30, 1989. This lack of legislative clarity needs to be resolved. Despite this technical problem, the 1983 and 1984 acts represented the first legislative effort to develop a system of monitoring these boards.

During 1983 and 1984, legislative leaders depended in large part for their research upon materials being gathered by the N.C. Center for Public Policy Research (see sidebar on page 10).

*Having served on various committees, I have drawn up a list of rules: Never arrive on time; this stamps you as a beginner. Don't say anything until the meeting is half over; this stamps you as being wise. Be as vague as possible; this avoids irritating the others. When in doubt, suggest that a sub-committee be appointed. Be the first to move for adjournment; this will make you popular; it's what everyone is waiting for.*

— Harry Chapman,  
Greater Kansas City  
Medical Bulletin,  
1963 issue.

No organization within or outside of state government had ever attempted to evaluate the effectiveness of all the boards and commissions that existed in the state.<sup>15</sup> Even Governor Hunt's office, which had to fill appointments to most boards, did not have a complete list. No single repository of information existed on the current boards, much less who served on them, how often they met, and what they did.

In 1983, the N.C. Center released its preliminary research. Then in December 1983, N.C. Center staff made a formal presentation to the LRC Study Committee on Executive Branch Boards, Commissions, and Councils, at this committee's request. In 1985, when the final report came out, Governor Martin had just been sworn into office. And Martin was looking for an opportunity to come through on a campaign promise—to make government more efficient, especially with savings to the taxpayers.

## A Bipartisan Approach to Trimming the Fat

**I**n his first month in office, Martin created a Special Counsel for State Boards, Commissions, and Agencies to review current boards and recommend consolidation and elimination wherever appropriate. The Governor named J. Arthur Pope to the special counsel's position.<sup>16</sup> Pope surveyed the executive branch for information on boards, paying particular attention to non-statutory boards created by former Governor Hunt and his agency heads. Pope realized he had a new and valuable tool in the 1984 sunset provision limiting all such boards to a life of two years without reauthorization.

"I want to compliment the General Assembly on passing that sunset provision," says Pope. "It has forced many boards to reconsider whether they are necessary."

Acting on Pope's recommendations, Martin terminated nine boards created through executive order by Hunt, including the Governor's Advisory Committee on Agriculture, Forestry, and Seafood Industry (see Table 2, page 13). Martin reauthorized 13 other Hunt boards through executive order, including four mandated by federal law. These 13 boards passed Martin's test for efficiency: They served a worthwhile government function. For example, the N.C. Small Business Advocacy Council addressed an area important to the Governor's economic development priorities. The Martin administration also reviewed boards created by the legislature by state statute. Martin recommended that 21 statutory boards be abolished and enlisted Senate Minority Leader William W. Redman (R-Iredell) to sponsor legislation to accomplish such action.

But Martin wasn't alone in his abolitionist movement. After the N.C. Center released its

## *N.C. Center Evaluates Boards*

**I**n 1981, the N.C. Center for Public Policy Research began what became a long, tedious, even overwhelming evaluation of every board, commission, and council in the executive branch of state government. Because no organization had ever attempted such an in-depth review of the entire executive branch, the baked clay landscape was indeed difficult to till.

In January 1985, the N.C. Center released the results of its study in a 618-page volume, analyzing 320 boards. The N.C. Center included a board in the report if it was based in the executive branch, had citizen appointments, and permanent stature. Certain types of boards were excluded from the study. Among the more common were short-term task forces (Task Force on Drunken Driving), legislative study commissions (Mental Health Study Commission), and commissions whose appointees are full-time, salaried state employees (N.C. Utilities Commission). Of the 320 included, the N.C. Center found 222 worth their weight but recommended the abolishment of 98.

The study concentrated on four areas, which relate to the overall system of boards and to each individual board as well: appointments of

women, blacks, and Indians, separation of powers questions, cost concerns, and board powers. In making recommendations for abolishing 98 boards, the N.C. Center also considered how active each board was, whether agency policymakers used the board, and whether it duplicated work done by another board.

Regarding appointments, the Center found that boards did not represent the cross-section of N.C.'s population in terms of women, blacks, and Indians. Gov. James B. Hunt Jr. (1977-85), for example, had 2,882 board seats to which he could make appointments. As of June 30, 1982, 28.1 percent of these appointments were women, 13 percent black, and 1.4 percent Indians. But 51.4 percent of the N.C. population are women and 22.4 percent are black. Only Indians were appointed in proportion to their representation in the population (1.1 percent in N.C.) by Governor Hunt, but they were underrepresented on numerous powerful boards.

Abolishing these 98 boards would save the state at least \$1.4 million, the N.C. Center

—continued next page

report, Lt. Gov. Robert B. Jordan III also urged the quick repeal of *non-controversial* boards, and Speaker Ramsey called some boards a "waste of taxpayers' money." The legislature had created two-thirds of the 320 boards in the executive branch. How many would it be willing to abolish?

Early in the 1985 session, Senate Base Budget Committee Chairman Tony Rand of Fayetteville instructed legislative staff to draft a bill along the lines of N.C. Center recommendations. Twenty-five of the N.C. Center's 98 targeted boards had already been repealed by the 1984 legislature. Sixty-two of those remaining plus five others were put in Senate Bill 726. Of these 67 boards in the bill, 30 were statutory; almost all of the remaining boards were created by executive order or by department secretaries' directives.

The leading abolitionists—Martin, Redman, Rand, Ramsey, and Rep. Bobby Etheridge (D-

Harnett)—had planned a strategy of working together in a spirit of bipartisanship. Unfortunately, a mixup occurred which got the legislative initiative off on the wrong foot. Governor Martin asked Sen. Redman to introduce the administration's bill. Redman then introduced what he thought was Martin's bill. In actuality, Redman filed a draft version of Rand's bill. The Democrats then accused Redman of trying to upstage their work. Governor Martin apologized for the mistake, admitting having "egg on our face," but urged cooperation nonetheless on the issue.

But once ownership was established, the legislature seemed to go about business as usual—mostly *creating*, not abolishing boards. In 1985, the legislature established 12 new boards, including the N.C. Medical DataBase Commission<sup>17</sup> and the Advisory Board for Adolescent Pregnancy and Prematurity Prevention.<sup>18</sup> Reversing a

reported. All 320 boards cost the state a total of \$4.7 million a year, three-quarters of which is for staff support and one-fourth for board member expenses. The cost of a single board varied from \$332,482 to \$0 (58 of the 320), according to the agency officials who completed the surveys sent out by the N.C. Center. The \$0 figure is misleading, however, for two reasons. All boards are staffed by agency employees (even nominally for those boards that didn't meet); this staff time costs the state's taxpayers. Second, every time board appointments need filling, state officials spend time screening potential appointees, often a laborious process juggling patronage, expertise, geographical distribution, and other factors.

In reviewing the impact of separation of powers issues, the report found that as of August 1984, legislators held 142 positions on 56 executive branch boards. These appointments remained despite the language of the N.C. Constitution: "The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct."

In early 1986, Governor Martin took the position that legislators should not serve on executive branch boards and contemplated legal action to remedy the situation. The Martin administration asked the N.C. Supreme Court for

an advisory opinion on whether legislators can serve on advisory boards and commissions, but the Court rejected the request May 21.

Overall, the N.C. Center portrayed a state system of boards that needed attention. News accounts in 48 papers and 28 supporting editorials from across the state highlighted the problems discussed in the report. "Too many boards and commissions clutter state government," concluded an editorial in *The Sentinel* of Winston-Salem. "Few have anything really significant to do, other than to boost the egos of those chosen to serve on them. Reducing the number would serve both efficiency and economy."

Other newspapers raised additional points after reviewing the N.C. Center's report. "When Gov. Jim Martin was on the campaign trail, he made a point of an efficiency study," begins the January 30 editorial in *The Enquirer-Journal* of Monroe. "Among the places the Governor can look for improved efficiency is the executive branch—a bastion with a healthy belief in establishing boards."

In the final analysis, the issues raised in the report remain with the N.C. General Assembly. As *The News and Observer* of Raleigh summed it up, "The N.C. Center for Public Policy Research has dropped another issue in the lap of the General Assembly."

1984 termination, the honorables reenacted the Employment Security Commission Advisory Council, presumably to comply with a federal mandate.<sup>19</sup> And hidden in an appropriations bill was a special provision to give statutory authority to a board which previously existed by virtue of an executive order—the non-statutory Andrew Jackson Historic Memorial Committee. This committee had received an unfavorable review by Martin and hence was scheduled for termination until the legislature came to the rescue.<sup>20</sup> The N.C. Council on the Holocaust, previously established by executive order, also was given statutory authority in 1985.<sup>21</sup>

The 1985 legislature did formally abolish three boards already defunct in practice, all of which were part of the federal Comprehensive Employment and Training Act (CETA) structure. The CETA structure had been replaced by the Job Training Partnership Act. But—you guessed it—the legislature had to *create* a new board to advise the governor on job training, the N.C. State Job Training Coordinating Council.<sup>22</sup>

But give credit where it is due. The 1985 deliberations resulted in a new and perhaps model approach for reviewing and dealing with the issue of duplication. The legislature *abolished* the N.C. Marine Resources Center Administrative Board *and consolidated its functions* under the Marine Science Council.<sup>23</sup>

Despite all these actions, Senator Rand's bill still lay on hardened soil, like unwatered seed, while the kudzu kept poking its way through the Carolina clay. When the Senate finally turned its attention to the issue on July 12, the bill seemed to sprout quickly. At the time, the Senate perceived an immediate need to reduce the state's budget. Governor Martin was pushing a multi-million-dollar tax cut while President Ronald Reagan continued his efforts to cut federal funding of domestic programs. Seeing a \$2 million savings in his bill, Rand recalls, "We looked at the broader picture."

But the finer points within the legislation required some tough decisions the House was not ready to make in the last week of the 1985 session. "The problem arises when a legislator is

dealing with constituents who firmly believe a particular board does extremely good work," explains Representative Pulley.

## Consideration of Future State Policies on Citizen Advisory Boards

Senate Bill 726 contains difficult policy choices. At first glance, each board slated for repeal may have merit. Who could deny, for example, the importance of public radio or veterans' affairs? On the other hand, does the state need both a Public Radio Advisory Committee and a Board of Telecommunications Commissioners? Likewise, does the state need a Veterans' Affairs Advisory Committee, a Governor's Jobs for

Veterans Committee, and a Veterans Affairs Commission? Having more than one board addressing very similar problems is not the only issue. Determining how government programs can be administered for the least cost is also important. But in the final analysis, the question becomes one of need. Does every worthy program within state government deserve or need its own advisory group? In other words, to get the job done, do executive officials need so many citizen advisory councils?

The bill examines and makes recommendations on a case-by-case method. It contains no sections addressing the need

*"First we ought to abolish unnecessary boards. Then we ought to put a ceiling on the number."*

—House Speaker Liston  
B. Ramsey (D-Madison)



for a continuous monitoring effort or for some sort of means for limiting the growth of boards. Currently, no comprehensive executive or legislative oversight system exists for such boards and commissions. The Sunset Commission could have provided the proper oversight had it not been abolished in 1981, as could the Legislative Committee on Agency Review. The LRC Study Committee on Executive Branch Boards, Commissions, and Councils stuck to debating only non-controversial proposals to abolish boards and left the tough decisions for another day. To make 1986 that "other day," SB 726 would have to be amended. Or a brand-new bill would have to be introduced in either chamber on a suspension of rules and sent along the normal course of legislative action.

Controlling the size of the state board system could occur by placing a ceiling on the number of boards that can exist within each executive branch department, as suggested in the N.C. Center's 1985 report.<sup>24</sup> Three factors would come into play in determining the proper numbers: the number of existing boards in executive branch departments, the relative size of departmental budgets and number of state employees in each, and the general principle of no more than one board per division within a department. Department heads would still need some flexibility to establish a few groups to address problems of statewide significance.

A second approach for controlling the number of boards would be for the legislature to place a ceiling on the number of boards that could exist for all 10 departments under the control of the governor. Concurrently, the General Assembly

might limit the number of boards that could exist in the nine departments headed by other elected officials. This alternative allows department heads to decide which boards are useful and effective yet still limits the overall number of boards. In its 1985 report, the N.C. Center offered this approach with the following recommended ceilings (number of boards): governor (150), superintendent of public instruction (20), commissioner of agriculture (10), commissioner of labor (5), state treasurer (5), attorney general (5), commissioner of insurance (5), state auditor (1), secretary of state (0), and lieutenant governor (0). This approach would reduce the number of boards in state government by 135.

Speaker Ramsey strongly supports a ceiling. "First we ought to abolish unnecessary boards," says Ramsey. "Then we ought to put a ceiling on the number."

**Table 2. Boards Terminated, Reauthorized, or Created by Governor James G. Martin, 1985**

Terminated	Reauthorized
1. Agriculture, Forestry, and Seafood Industry, Governor's Advisory Committee on	1. Domestic Violence, Governor's Task Force on
2. Capital Area Visitor Services Committee	2. Ethics Board, N.C.
3. Citizen Affairs Advisory Council	3. Family Planning Advisory Council, State
4. Data Processing and Information Systems Committee	4. Health Coordinating Council, State
5. Governmental Productivity, Governor's Commission on	5. Highway Safety Commission, Governor's
6. Judicial Nominating Committee for Superior Court Judges	6. Holocaust, N.C. Council on the
7. Labor Market Information, Governor's Oversight Committee for Official	7. Juvenile Justice Planning Committee
8. Non-Public Education, Special Advisory Committee on	8. Military Affairs, Governor's Commission on
9. Public Management Program, Advisory Board for	9. Public Transportation Advisory Council, N.C.
	10. Small Business Council, N.C.
	11. State Employees, Governor's Commission on Recognition of
	12. Travel and Tourism, Governor's Advisory Committee on
	13. Vocational Education, N.C. Advisory Council on
	<b>Created New Groups</b>
	14. Child Victimization, Governor's Commission on
	15. Education Selection Committee, Governor's Program of Excellence in
	16. Minority Executives, Governor's Council on
	17. Women's Economic Development Council



Others are skeptical of the idea. "If there is a legitimate need for a board," says Representative Pulley, "what do you do if you have reached your limit?" Analysts generally doubt that either executive officials or lawmakers would be willing to take tough stands when it came time to abolish one board in order to create another.

Systems of caps on the number of boards are not the only ways to monitor the overall number of boards and commissions. A third alternative is for the legislature to place an automatic sunset provision on *statutory* boards, just as it did in 1984 on all *non-statutory* boards. A sunset system of some sort "would weed out boards that are inactive and should improve efficiency and ultimately reduce the number of boards," says Art Pope. This may be accomplished by creating a permanent oversight commission not too different from the now-defunct Sunset Commission or simply requiring reauthorization within a certain number of years whether the board is reviewed or not. If no group is established to review specifically a board's contributions and costs, however, the General Assembly would no doubt reauthorize many boards in a pro forma way, without considering abolishing them.

Even if the legislature does not address the systemic problems with the expanding number of boards and commissions, it will have to make case-by-case decisions on the 67 groups in SB 726. In its three-year study, the N.C. Center decided which boards should be abolished by using four criteria:

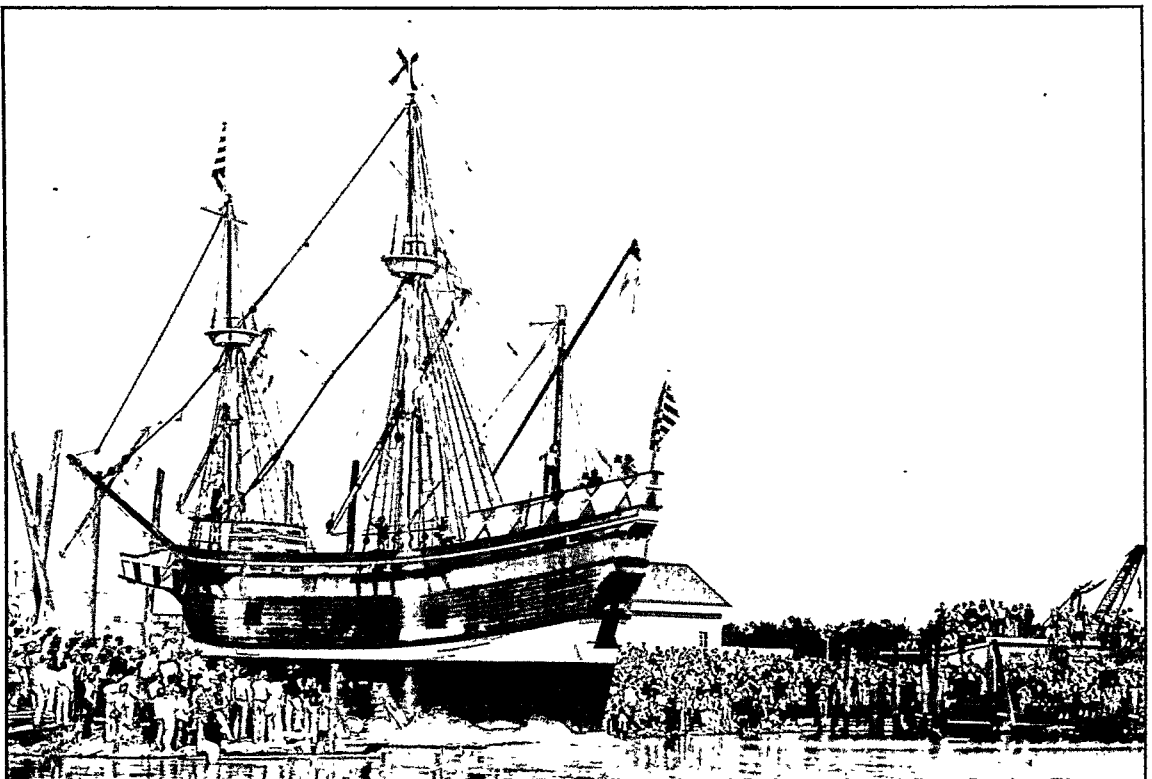
- whether boards have met infrequently and become inactive;
- whether boards have duplicated the functions of other boards;
- whether boards have local, not statewide emphasis; and
- whether state programs and agency staff can function effectively without a citizen board.

### Boards Have Met Infrequently or Become Inactive

**G**enerally, boards that meet infrequently or not at all represent the kind of board that could easily be abolished. "They're not harming anybody and ought to be wiped from the books," says Ramsey. Such boards, while at first instrumental in getting a program off the ground, soon find themselves without work to do. The N.C. Center found that 10 of the 67 boards targeted by SB 726

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Elizabeth II, launched July 1984 in Manteo, inspired the creation of the Roanoke Voyages and Elizabeth II Commission, a citizen board targeted in Senate Bill 726 for a 1987 sunset date. *Courtesy N.C. Department of Cultural Resources*



were inactive (see Table 3, pages 16-19).

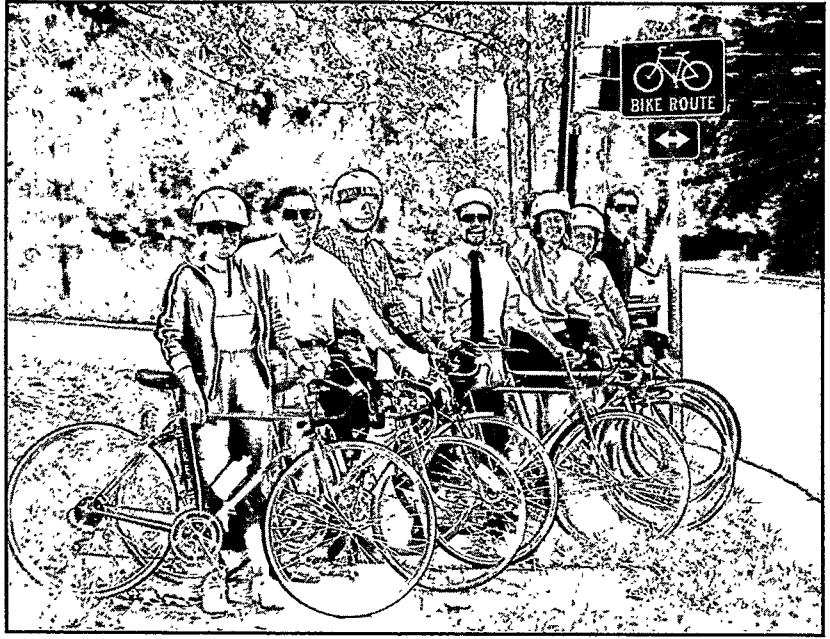
In the case of the Wanchese Harbor Citizens Advisory Council, one of those found inactive, chairman Randy O'Neal felt having local people involved in the initial stages of the harbor development was absolutely necessary, "but afterwards the council was not worth continuing." The federal funding of a key component of the Wanchese industrial park project—the Oregon Inlet jetties—has been held up in Congress for several years. Consequently, the council has not met in several years. For all intents and purposes, it does not plan to reactivate.

Despite such logic, some inactive boards have strong advocates. In 1984, Department of Natural Resources and Community Development (NRCD) officials defended the continuation of the Lake Phelps Advisory Committee. "Although the committee has been inactive, NRCD wants to reserve the flexibility of calling the committee back into place if issues emerge." Another state official, who disagrees with the assumption that inactivity always means a board is worthless, likens the logic to "taking out the hotel sprinklers because there is not a regularly scheduled fire."

## Boards Have Duplicated the Functions of Other Boards

An even tougher decision on whether a board is necessary involves the area of duplication. Senate Bill 726 takes the approach of consolidating the functions of some boards into those of another board with related functions or duties. The N.C. Center found that 38 of the 67 groups overlap or duplicate functions.

Most people agree, in theory, with the notion that two boards need not do the work of one. "When you have five or six boards giving ideas to staff on similar subjects, I am not convinced the state needs to pay reimbursement to (the board) members, much less pay for staff time," says Representative Cochrane. Until recently, Cochrane served on a board targeted in SB 726, the N.C.



N.C. Bicycle Committee and agency staff use a "field trip" to review the agencies' program. *Photograph by Ellen Holding*

Advisory Council on Teacher Education. In addition to this group, there is a State Selection Committee for Teacher of the Year and a State Evaluation Committee on Teacher Education, as well as the State Board of Education.

Another possible case of duplication exists with the N.C. Commission on Jobs and Economic Growth. Created by the 1985 legislature and placed under the supervision of the Office of Lieutenant Governor Jordan, the commission is charged with identifying major economic challenges facing the state and developing practical proposals for both executive and legislative branches.<sup>25</sup> However, this mission happens to track closely the effort and functions of Governor Martin's Economic Development Board and the Department of Commerce.

"This group is an example of clear duplication of effort and functions," says Alan V. Pugh, Governor Martin's chief political aide. "With its own full-time staff, this duplication becomes expensive."

Lieutenant Governor Jordan disagrees. "I sit on the Economic Development Board. That is a very worthwhile group which oversees the day-to-day operations of the Department of Commerce," says Jordan. "The Commission on Jobs and Economic Growth was established to recommend long-range policies and innovative initiatives for improving North Carolina's overall economy."

— continued page 20

**Table 3. Boards Scheduled for Abolition  
in Senate Bill 726, By Type of Board  
and Reason(s) Board Should be Abolished**

I. Statutory Boards	Section in Bill	Inac- tive	Dupli- cates	Not State- wide	Can Func- tion w/out Board
1. Agricultural Hall of Fame, N.C., Board of Directors	61				X
2. Alcoholism Research Authority, N.C.	48		X		
3. Anatomy, Commission of	78				X
4. Archaeological Advisory Committee	15		X		X
5. Arthritis Program Committee, N.C.	43				X
6. Art Museum Building Commission	28	X	X		
7. Blind, Professional Advisory Committee to the Commission for the	83		X		
8. Governor Morehead School for the Blind, Board of Directors	84		X		
9. Deaf, Board of Directors of North Carolina School for the	87		X		
10. Executive Mansion Fine Arts Committee	76			X	X
11. Highway Historical Marker Committee, North Carolina	20		X		
12. Historic Murfreesboro Commission	69			X	
13. Historic Bath Commission	74			X	
14. Historical Commission, Edenton	73			X	
15. Indian Housing Authority, N.C. State	5	X			
16. John Motley Morehead Memorial Commission	70			X	
17. National Park, Parkway, and Forests Development Council, N.C.	65		X		
18. Physical Fitness and Health, Governor's Council on	47		X		X

**KEY:** Inactive — have met infrequently and become inactive.  
 Duplicates — have duplicated the functions of other boards.  
 Not Statewide — have local, not statewide, emphasis.  
 Can Function w/out Board — state programs and agency staff  
 can function effectively without a citizen board.

Table 3, continued

I. Statutory Boards <i>continued</i>	Section in Bill	Inac- tive	Dupli- cates	Not State- wide	Can Func- tion w/out Board
19. Plant Conservation Scientific Committee, N.C.	58		X		
20. Public Radio Advisory Committee	53		X		
21. Reservoir Committee, John H. Kerr	93			X	
22. Roanoke Voyages and Elizabeth II Commission	77 <sup>1</sup>			X	X
23. Rural Electrification Authority, N.C.	68				X
24. Tryon Palace Commission	72			X	
25. Veterans' Affairs Advisory Committee	55		X		
26. Veterans Committee, Governor's Jobs for	56		X		
27. Wanchese Harbor Citizens Advisory Council	13	X			
II. Non-Statutory Boards (established by Governor's executive order)					
28. Capital Area Visitor Services Committee	19	X		X	X
29. Labor Market Information, Governor's Oversight Committee for Official	12		X		
30. Management and Develop- ment, Inc., North Carolina Council on	33		X		
31. Management Excellence, Committee for Recog- nition of	9		X		
32. U.S.S. Monitor Technical Advisory Committee	18	X			
33. U.S.S. Monitor Research Council	18	X			
34. Non-Public Education, Special Advisory Committee on	34		X		X
35. Public Management Program, Advisory Board for	8		X		
36. Ridesharing, Governor's Task Force on	41	X			
37. State Employees, Governor's Commission for Recognition of	7		X		

<sup>1</sup> A sunset provision should be placed on this commission so that it ceases to exist at the end of the commemoration of the Roanoke Voyages, Dec. 31, 1987.

Table 3, continued

III. Non-Statutory Boards (established by Secretaries' directives)	Section in Bill	Inac- tive	Dupli- cates	Not State- wide	Can Function w/out Board
38. Coastal Energy Impact Advisory Board	40	X			
39. Community Work Experience Program Advisory Committee	3		X		X
40. County Manager's Advisory Committee	3		X		X
41. Employer Advisory Committee, State	11		X		
42. Film Advisory Committee	24		X		
43. Independent Living, Advisory Committee on Comprehensive Services for	3	X			
44. Lake Phelps Advisory Committee	39			X	
45. Law-Focused Education Advisory Committee	2		X	X	X
46. Library Processing Center Advisory Committee, State	22		X		
47. Library Networking Steering Committee, North Carolina	23		X		
48. Library Services & Construction Act Continuing Education Advisory Committee	21		X		
49. Neuse-White Oak Citizen Advisory Committee	94			X	
50. Outdoor North Carolina Advisory Panel	1	X			
51. Rehabilitation Centers for the Physically Disabled, State Advisory Committee on	3				X
52. Teacher Education, State Evaluation Committee on	46		X		
53. Teacher of the Year State Selection Committee	45		X		
54. Teacher Education, North Carolina Advisory Council on	44		X		
55. Theater Arts Advisory Board	26		X		

**KEY:** **Inactive** — have met infrequently and become inactive.  
**Duplicates** — have duplicated the functions of other boards.  
**Not Statewide** — have local, not statewide, emphasis.  
**Can Function w/out Board** — state programs and agency staff  
can function effectively without a citizen board.

Table 3, continued

III. Non-Statutory Boards, <i>continued</i>	Section in Bill	Inac- tive	Dupli- cates	Not State- wide	Can Func- tion w/out Board
<b>Vocational Education Groups (56-62)</b>					
56. Agricultural Education, Advisory Committee on	42		X		
57. Business & Office Education Advisory Committee	42		X		
58. Health Occupation Education Advisory Committee	42		X		
59. Home Economics Education State Advisory Committee	42		X		
60. Industrial Arts Education Advisory Committee	42		X		
61. Marketing and Distributive Education Advisory Committee	42		X		
62. Trade and Industrial Education, State Advisory Committee for	42		X		
<b>IV. Boards That Should Be Deleted From Senate Bill 726</b>		<b>Reason</b>			
63. Arson Awareness Council, N.C.	14	Council established by insurance industry, and all members but ex-officio members are appointed by private insurance companies.			
64. Employment and Training Council, Community	36	Already abolished in Chapter 543 (HB 1333), Sec 6 of 1985 Session Laws			
65. Employment and Training Council, N.C.	35	Already abolished in Chapter 543 (HB 1333), Sec. 6 of 1985 Session Laws			
66. Private Industry Council, Balance of State	37	Already abolished in Chapter 543 (HB 1333), Sec. 6 of 1985 Session Laws			
67. Occupational Information Coordinating Committee, State (SOICC)	4	Federal Law (P.L. 98-524, Section 423(b)), reads, "Each State receiving assistance under this Act [Carl D. Perkins Vocational Educa- tion Act] shall establish a State occupational information coor- dinating committee...."			

—continued from page 15

This is an idea group made up of some of the best minds from our business, government, and academic communities. I believe the work of both the commission and the Economic Development Board to be of service to the state."

The gains of consolidation, however, are mixed. On the one hand, transferring the functions of one *board* to another means that the program itself is not lost and that citizen input will continue in that area, though not through the same board. For instance, veterans might take solace knowing that if SB 726 passed, the Veterans' Affairs Commission would assume the responsibilities of the Governor's Jobs for Veterans Committee. On the other hand, moving functions around does not necessarily mean great savings for state government that would show up in terms of dollars being turned back to the state treasury. "If staff time is the main board expense," says Art Pope, "you haven't eliminated much cost." Pope points out that the staff still has to stay abreast of issues, the most time-consuming aspect of staffing a board. On the other hand, the same staff will have more time to spend actually serving the public instead of preparing for four to six board meetings a year.

Others fear that absorbing a group into a similar board may mean that some valuable functions will be lost. The Governor's Commission on the Recognition of State Employees, for example, gives awards to state employees.

"Each time you stir up that much positive verbal recognition for 60 to 70 nominees, you raise the standards of everybody's work," asserts Mary Ann Gilmore, who chaired this commission under former Governor Hunt. The functions of this commission, under SB 726, would be folded into those of the State Personnel Commission, which may or may not continue the recognition process. (The legislature could mandate by statute that the State Personnel Commission incorporate this recognition process into its responsibilities.)

## Boards Have Local, Not Statewide, Emphasis

**M**ost boards are statewide in focus or address significant policy questions of concern to a majority of North Carolina citizens. The Economic Development Board, for example, advises the governor on economic development matters of statewide concern. A handful of boards, however, may be more local in emphasis and may not represent the kind of undertaking the state ought to support with staff and funding. These boards would seem to be better placed at the local level. The N.C. Center research uncovered 12 such boards which would be abolished by SB 726 (see Table 3).

Think of all the boards that might exist—and hence state money spent—if every reservoir had a board like the John H. Kerr Reservoir Committee, every major river had a board like the Neuse-White

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The Barker House, which contains the Edenton Historical Commission staff offices overlooks the Albemarle Sound. *Courtesy N.C. Division of Archives and History*





Oak Citizen Advisory Committee, and every historic site had a board like the Edenton Historical Commission.

"I don't think you need the Kerr Reservoir Committee. That is something the locals should have, those who are most directly interested," says Representative Cochrane. In instances such as this, state government is performing a service that a local government may be better suited to provide. "Private foundations could take over the historic sites or local governments could keep them operative through local support," adds Pope.

Yet each one of these existing state boards has a constituency and often a track record. The proposal to eliminate the Neuse-White Oak Citizens Advisory Committee drew this response from NRCDC: "There exists a strong state role in water quality management. This committee provides valuable input into water quality management for the Neuse-White Oak. It has been very active."

In support of the Edenton Historical Commission, Rep. Charles Evans (D-Dare) explains, "There's no more active group. They raise \$50,000 to \$60,000 a year in private funds, and they're also an advisory group to the Department of Cultural Resources." Cochrane, who has gone down the list of boards in SB 726, believes some of those with a local focus *do* have merit. Historic sites deserve a state-level board, she says, if they "benefit the entire state." The question gets even more complicated when legislators learn that Historic Murfreesboro, Historic Hillsborough, and the John Motley Morehead Memorial each has its own state commission even though none of them is an official state historic site.

## State Programs Can Function Effectively Without a Citizen Board

**W**hile every board will have advocates for its existence, some boards either go beyond the normal governmental function or add an extra layer of formality to a regular governmental task. The N.C. Center found 14 such boards which are up for repeal in SB 726. What is common to all 14 is—to put it simply—they don't need to exist in order for the job to get done effectively. Agency staff members are capable of performing the particular governmental service without the input of a citizen board. Deciding whether to axe these boards is easy in some cases and difficult in others.

Some large government programs go without citizen input, while others get an overdose.

Cancer and heart disease, for example, rank as serious health problems in North Carolina, and government efforts to address these problems are properly overseen by the Commission for Health Services and the N.C. Health Coordinating Council. Yet, a less serious disease, arthritis, currently rates its own advisory board, the N.C. Arthritis Program Committee; hence SB 726 has slated this committee for abolition.

By contrast, consider the Governor's Council on Physical Fitness and Health. Do private citizens need a governmental council to tell them to exercise and eat well? Physical fitness and health are certainly admirable goals and could have a profound impact on government—savings on long-term Medicare and Medicaid costs, for example. But this council's main activity has been to sponsor a Governor's Run for Fun, adding to the heavy schedule of road races now open even to the most amateur joggers. The council has not grappled with tougher health and fitness issues, such as whether to warn North Carolinians that "smoking is harmful to your health," as the U.S. Surgeon General and Congress advise. But now enter the U.S. Olympic Festival '87, scheduled for the Triangle area in 1987. The festival planners have turned to the Governor's Council on Physical Fitness and Health as one of its liaisons with state government. Does this new function help to justify its existence? Or does it just argue for a sunset provision, so that it will expire after the 1987 sports festival?

## Will Speaker Ramsey Have His Way?

**L**ike so many issues of public policy, this one won't go away, regardless of what action the legislature takes in 1986. New initiatives in government will always generate the need for citizen participation in developing state policies and programs. The recent creation of the N.C. Technological Development Authority reflects the changing world of technology as it affects economic development, for example. With this constant growth, though, some *system* needs to be in place to ensure that boards don't strangle the process of government in a kudzu-like fashion.

If a board can't accomplish much because it doesn't meet enough, or if it performs work already done by another, or if it exists for something other than a statewide cause, or if it lives beyond its original purpose, or if its sole reason for being is political patronage, then it is helping to strangle state government.

# State of North Carolina

JAMES B. HUNT, JR.  
GOVERNOR



EXECUTIVE ORDER NUMBER 49

## SPECIAL ADVISORY COMMITTEE FOR NON-PUBLIC EDUCATION

WHEREAS, there is a need to bring together leaders in private, independent, and church related non-public elementary and secondary schools and representatives of the citizenry at large to advise the Governor on matters of mutual concern to the State and to non-public schools.

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. I hereby create the Special Advisory Committee for Non-Public Education.

Section 2. The Special Advisory Committee shall be composed of not more than fifteen (15) persons to be appointed to serve at the pleasure of the Governor. The members shall be representative of the various non-public educational institutions in the State.

In 1985, Gov. James G. Martin did not re-authorize the Special Advisory Committee for Non-Public Education. Senate Bill 726 includes this "non-statutory" board on its list to be abolished.

"Sometimes you can make boards more effective by broadening the scope or changing the purpose," says Randy O'Neal, a Hunt appointee to two boards—the Seafood Industrial Park Authority and Wanchese Harbor Citizens Advisory Council. "Instead of creating a new board, you could add extra duties to an existing one."

Boards are effective when they involve citizens, provide advice state agencies can't normally get, educate the public, get new programs off the ground, act as coordinating bodies, provide consumer input, serve as pressure valves, or prevent concentrations of power. Too often, however, boards lack these attributes. A common legislative and executive response to criticism of one board is to create a second group in hopes that it will do better than the first. Criticism of the Governor's Waste Management Board, for example, led not to its abolition but instead to the creation of a new group, the Hazardous Waste Treatment Commission. (There is also a Radiation Protection Commission, a Southeast Interstate Low-Level Radioactive Waste Management Compact Commission, and an

advisory committee to the North Carolina members of this regional commission.)

Citizens become the ultimate losers when the number of boards goes unchecked. Ineffective boards gum up the works and contribute to a slow government that can't deliver services effectively. "There have been officials in the executive branch that name people to a board or commission so they can then come to Raleigh and serve at the taxpayer's expense and then it wasn't doing a darn thing," says Speaker Ramsey.

If Ramsey has his way, the House is going to pass a bill in 1986. The question is what will be in the bill. Will it leave all 67 groups in the bill, abolishing them all? Will it also include some kind of cap or some other means of addressing the overall number of boards? Finally, will the bill address cost-reporting issues or other ways of reviewing how effectively boards are functioning? The four recommendations below address each of these issues, as they now come before the 1986 session of the General Assembly.

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**Table 4. Strengths and Weaknesses  
of Boards and Commissions**

**If boards work well,  
the benefit is:**

1. Boards are a major source of citizen participation and input.
2. Boards provide state agencies with advice they cannot normally get:
  - a. Citizens provide a statewide perspective.
  - b. Citizen appointments can provide technical expertise.
  - c. Citizens can act as sounding boards for proposed policies.
3. Board members can educate the public about state government.
4. Boards can highlight a problem or get a new program off the ground.
5. Boards can serve as vehicles for coordination.
6. Boards can provide consumer input and feedback on how governmental programs work.
7. Boards prevent concentration of power in the executive branch and serve as pressure valves for citizen complaints.

**If boards do not work well,  
the liability is:**

1. a. Some boards do not meet, thus losing all their potential benefits.  
 b. Certain segments of the population—blacks, women, and Indians—are underrepresented on boards.  
 c. Legislators still serve on many boards, thereby thwarting active participation by citizens.
2. a. The Research Triangle area is overrepresented on boards, and other areas of the state are underrepresented.  
 b. Boards may degenerate into rubber stamp operations.  
 c. Some boards try to administer executive branch programs.
3. Time constraints and other full-time occupations may prevent citizen appointees from learning enough to educate the public.
4. a. Boards may outlive the problems they were supposed to address.  
 b. Boards can be a vehicle for deflecting public outcry about a problem without ever doing anything.
5. Complaints about lack of coordination have not declined as the number of boards has increased to 320 since state government reorganization.
6. The fox can be put in charge of the henhouse if more providers than consumers are appointed.
7. Boards can result in "government by committee" and a lack of accountability in state government.

## Recommendations

**1. The 1986 legislature should abolish 62 of the 67 boards in SB 726.** As Table 3 shows, these 62 meet at least one of the four criteria for termination. These boards:

- have met infrequently and become inactive or
- duplicate the functions of other boards or
- have local, not statewide, emphasis or
- advise state programs which can function effectively without a citizen board.

Five of the 67 boards should be deleted from the bill, as explained in Table 3.

Many of these 62 boards will have advocates who will claim the group should be retained. In addition to constituencies promoting the survival of their individual board, several issues affect groups of boards. These issues should be considered when abolishing the individual board.

Of these 62 boards, 35 are non-statutory (see Table 3), and hence come under the 1984 sunset law requiring boards to disband unless reauthorized by an executive official. Including these groups in the bill is being heavy-handed with the executive branch, say Martin administration spokespersons. "We consciously chose to terminate nine boards by not reissuing their executive orders," says Art Pope. "Why does the legislature need to do the same thing statutorily?" On the other hand, if the governor really intends to abolish them, why should he object to such legislative action?

Experienced lawmakers have seen boards become cats with nine lives. Senator Rand, the bill sponsor, is one of these. He believes the legislature needs to express its intent regarding these groups, regardless of gubernatorial action. "Do away with them anyway," says Rand.

**2. The 1986 legislature should consider amending SB 726 to create a mechanism for controlling the growth of executive branch boards.** This mechanism could be (a) a cap on the number of citizen boards, (b) a scheduled monitoring of each department's boards, or (c) some type of sunset provision. The legislature might choose to deal with this difficult systemic issue in the 1987 session, but the discussion over SB 726 this year could help set the stage for passing a monitoring system in 1987.

Some system of ceilings or scheduled monitoring would seem to work better in North Carolina than a sunset provision. Previous sunset efforts in North Carolina have not been successful. If the legislature thinks ceilings would work best, the N.C. Center recommends a ceiling for each of the 10 statewide elected officials in the executive

branch (the governor and each of the nine members of the Council of State) rather than a ceiling for each executive branch department.

The legislature could also monitor boards through a regular review, perhaps of one or two department's boards during each long session.<sup>26</sup> This responsibility should go to committees like the State Government Committee or the Joint Legislative Commission on Governmental Operations. Currently, there is scattered oversight. A clearer assignment of review responsibilities needs to be introduced. The department-by-department approach might assist in distinguishing these responsibilities.

If the legislature goes the sunset route, it could place an automatic sunset provision on statutory boards, just as it did in 1984 on non-statutory boards. The legislature could approach this sunset issue by creating a permanent oversight commission not too different from the now-defunct Sunset Commission or by simply requiring reauthorization of a board within a certain number of years, as done with non-statutory boards.

**3. The N.C. General Assembly should amend NCGS 147-16. 2(a) to clarify that any executive order creating a board can be for no more than two years.** Currently, NCGS 147-16.2(a) reads, "Any executive order of the Governor that creates a board, committee, council, or commission expires two years after the effective date of the executive order, *unless the Governor specifies an expiration date in the order....*" [emphasis added]. By inserting the word "earlier" before the words "expiration date," the General Assembly can ensure that non-statutory boards are reviewed at least every two years.

**4. The 1986 legislature should consider amending SB 726 to require better reporting of board costs, including staff time.** Staffing represents the major outlay involved in operating executive branch boards. Even so, agency officials usually do not compute the cost of staffing for boards. Indeed, in the N.C. Center's survey conducted for its 1985 report, agencies reported no staff costs to support 58 different boards. The N.C. Center remains skeptical that these boards had no staff costs.

Over three quarters, or \$3.6 million, of the total cost of all boards during FY 80-81 went toward the payment of salaries of state employees who provided staff support to state boards.<sup>27</sup> (The \$3.6 million figure above came from estimating the hours spent on the work of boards, then translating those person-hours into dollars using the average state employee salary as the base.) In

its study, the N.C. Center made every effort to omit the work of staff for general program administration from the total, leaving only the staff work spent strictly on board activities—meetings, preparation of agenda, and background research. Legislation could require the same cost-reporting system on a regular basis. This would provide the General Assembly with a much better means of monitoring the actual cost of executive branch boards than is currently available.

## Pruning the Kudzu

If the legislative and executive branches can bring the state board system under control, the citizens will be the ultimate winners. Both branches have taken some steps in that direction—sunset review of non-statutory boards and termination of inactive, non-controversial boards. Two moves need to take place now.

The legislature needs to continue to address the issue of inactive and ineffective boards on a case-by-case basis. But more importantly, the General Assembly must grapple with the systemic problem—how to enhance citizen participation in government without constantly fertilizing the kudzu patch. Finding a solution to this

problem is not an easy process. Some 50 years ago, kudzu did in fact begin to arrest the problem of soil erosion in the South. But the solution became a problem itself. Can the legislature find a way to bring citizens into the governmental process without creating a new problem? □□

## FOOTNOTES

<sup>1</sup>See Jim Bryan et al., *Boards, Commissions, and Councils in the Executive Branch of North Carolina State Government*, N.C. Center for Public Policy Research, 1985, p. 74. Much of this article is based on the research reported in this book.

<sup>2</sup>Chapter 932 of the 1969 Session Laws, now Article III, Section 11 of the N.C. Constitution.

<sup>3</sup>Chapter 864 of the 1971 Session Laws (The Executive Reorganization Act of 1971) and Chapter 476 of the 1973 Session Laws (The Executive Reorganization Act of 1973), now codified as NCGS Chapters 143A and 143B.

<sup>4</sup>Chapter 712, Section 334 of the 1977 Session Laws. Occupational licensing boards are *not* included in the total of 320, nor are they included in the term "boards, commissions, and councils" as used in this article.

<sup>5</sup>In 1979, the membership of the Sunset Commission increased to 12, when legislative members were added to balance the number of gubernatorial appointees.

<sup>6</sup>Chapters 27, 464, 497, and 711 of the 1977 Session Laws and Chapters 504 and 575 of the 1979 Session Laws.

<sup>7</sup>Milton S. Heath Jr. and Ann L. Sawyer, *North Carolina Legislation 1979*, Institute of Government, University of North Carolina at Chapel Hill, 1979, p. 260.

<sup>8</sup>Chapter 932, Section 1 of the 1981 Session Laws.

<sup>9</sup>Chapter 932, Section 2 of the 1981 Session Laws.

<sup>10</sup>*Ibid.*

<sup>11</sup>Chapter 995 of the 1983 Session Laws (second session, 1984, HB 1517).

<sup>12</sup>Chapter 733 of the 1983 Session Laws (HB 1295).

<sup>13</sup>Chapter 1053 of the 1983 Session Laws (second session, 1984, HB 1518).

<sup>14</sup>NCGS 147-16.2(a): "Any executive order of the Governor that creates a board, committee, council, or commission expires two years after the effective date in the order, unless the Governor specifies an expiration date in the order.... The Governor may extend any such executive order before it expires for additional periods of up to two years by doing so in writing..."

<sup>15</sup>In 1980, as part of a comprehensive look at citizen participation in state government, the Department of Administration's State Goals and Policy Board gathered basic information on many executive branch boards but did not make recommendations regarding ineffective or inactive boards.

<sup>16</sup>Mr. Pope served in this position until Jan. 1, 1986, when he returned to private business.

<sup>17</sup>Chapter 757 of the 1985 Session Laws (SB 182), now codified as NCGS 131E-210.

<sup>18</sup>Chapter 479 of the 1985 Session Laws (SB 1), now codified as NCGS 110-148.

<sup>19</sup>20 CFR 602.17.

<sup>20</sup>Chapter 757, Section 180 of the 1985 Session Laws (SB 182), now codified as NCGS 143B-132.

<sup>21</sup>Chapter 757, Section 81 of the 1985 Session Laws (SB 182), now codified as NCGS 143B-216.20.

<sup>22</sup>Chapter 543 of the 1985 Session Laws (HB 1333), now codified as NCGS 143B-344.14.

<sup>23</sup>Chapter 202 of the 1985 Session Laws (HB 476), now codified as NCGS 143B-389.

<sup>24</sup>See *Boards, Commissions, and Councils*, p. 104.

<sup>25</sup>Chapter 757, Section 52 of the 1985 Session Laws (SB 182), now codified as NCGS 143-506.15.

<sup>26</sup>In 1984, the legislature created the temporary Legislative Committee on New Occupational and Professional Licensing Boards to assess proposals to license new occupations and professions between June 1, 1984 and Jan. 1, 1987. This represents one such monitoring mechanism.

<sup>27</sup>See *Boards, Commissions, and Councils*, p. 66.

Gov. James G. Martin at the 1985 Governor's Run for fun, sponsored by the Governor's Council on Physical Fitness and Health. Photograph courtesy of N.C. Division of Health Services





*State Sens. Harold Hardison (D-Lenoir) and Kenneth Royall (D-Durham) left, and Rep. Dwight Quinn (D-Cabarrus) endure another interminable committee session.*

# The Short Session: How Long, Oh Lord, How Long?

by Jack Betts

**M**ason Williams, a songwriter and entertainer who never had to serve time at 201 E. Jones Street in Raleigh, once observed, "There are no empty Tabasco bottles."

In the same spirit that moved Williams to comment on the never-ending quality of the hot sauce, it must be observed: There are no short sessions of the North Carolina General Assembly. They all are long, but some are longer than others. Usually, the sessions convening in odd-numbered years are the longest, and the so-called budget sessions, a.k.a. "short sessions," which convene about this time in even-numbered years, are not as long. They just *seem* as long to weary lobbyists, secretaries, fiscal researchers, committee staffers, reporters, and even legislators themselves.

And this year's "short session" promises to seem—if not be—longer than any other session. *Videri quam esse*, to paraphrase the state motto.

The upcoming session has the promise of things that would drive Jay Hensley up the wall. Hensley, a veteran reporter in western North Carolina, covered annual and "short" sessions of the General Assembly until he couldn't take it anymore and returned to the mountains to cover the annual burning of the courthouse in certain politically fractious counties where party registration provokes the letting of blood.

In the old days, the Capital Press Corps bestowed an annual award of dubious honor on the first reporter to do a story predicting when the assembly would adjourn for the year and go home. In the 1979 session, the days seemed to drone on and on, and finally Hensley could stand it no more. He dashed off a story for *The Asheville Citizen* speculating on when the legislature would finally

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*Jack Betts is associate editor of North Carolina Insight.*

adjourn for the year. As old-timers recall, it was the first week of February when Hensley wrote that piece, and the assembly had been in session only about two weeks.

Fortunately, a younger breed of reporters with cast-iron stomachs and a high tolerance for hot air constitute the Capital Press Corps these days, and the thought of a six-week "short session" dragging on through the steaming days of June and July fazes them not a jot or a tittle. Well, a jot, maybe.

But not veteran reporters like Jim Shumaker. Actually, Shumaker is such a veteran that no one in the Capital Press Corps can remember when Shumaker was a working reporter. Now he teaches journalism at UNC-Chapel Hill, and occasionally he ambles over to the Legislative Flats to see if the Nobles are still in session. They always are (see paragraph two of this article for more), and Shumaker often writes about the Honorables with the sort of deference usually reserved for the rougher element of society. In

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*Martin is the first former Davidson College chemistry professor and tuba player-turned Congressman ever to be elected governor (in North Carolina, at least).*

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1981, for instance, he dropped into the press gallery and later wrote, "In the House, debate was in full blow, with gusts of up to 120 words a minute...." But Shumaker has the right idea: He never stays more than an hour or two, and he never visits more than once a quarter. So sessions are not long to him—at least not anymore.

Despite what any rational person might think, there actually is no state law that *requires* a "short" session to be long. But even worse, there's no law *prohibiting* a "short" session from being long. Virginia and South Carolina both had the wisdom to adopt laws making sure that even their long sessions were short. But North Carolina has adopted no law making sure its long sessions are short, or even that its short sessions will be short, to make a long story short.

No, the fact that this "short" session of the legislature may be long is due entirely to the fact of a devilishly clever innovation being introduced by Gov. James G. Martin. (There is no state law requiring the governor of North Carolina to be

named James, either, despite the fact that the last three have been named Jim. But that's another story, and it's a long one.) Martin, the first former Davidson College chemistry professor and tuba player-turned Congressman ever to be elected governor (in North Carolina, at least), has devised a cunning legislative strategy that threatens to turn the world of biennial lawmaking on its bicameral ear.

For almost every legislative session since the last of the Royal Governors fled for their lives (the last one was also named Martin, but that's another story, too, and it's a longer one), governors have sent their main legislative programs to the General Assembly as soon as the solons convened. In modern history, Gov. James B. Hunt Jr. sent his first General Assembly (1977) a lengthy laundry list of programs he wanted enacted. When the session was over six months later, Hunt had gotten everything he wanted except for ratification of the Equal Rights Amendment (which the legislature has yet to approve) and a new criminal sentencing system, which the legislature did enact later.

But in 1985, Governor Martin took a new tack. He sent only *one* major initiative to his first General Assembly—a tax cut proposal. And the legislature, which stayed in session six months only because it convened nearly a month later than usual, adopted only part of the tax cut. It adopted a lot of other bills, too, but hardly any of them were proposed by Governor Martin, because most of the legislators were Democrats, and Governor Martin is a 100 percent, red, white, and blue-blooded Republican.

Martin publicly lamented his rude treatment by the General Assembly, and the Speaker of the House and the Lieutenant Governor took appropriate umbrage, and so forth until the 1985 session was long forgotten and thoughts of the 1986 "short" session began to intrude into the legislative consciousness. That intrusion picked up speed as Governor Martin began announcing his new laundry list for the 1986 "short" session—a list that looks more like a regular session agenda than a "short" session wish list.

That list includes:

- A \$157 million program to deal with prison overcrowding by expanding the probation system, constructing new prisons, and contracting with private, for-profit firms to build and operate prisons in North Carolina, an extremely controversial subject in every other state where it has been proposed.

- A proposal to raise gasoline taxes by 2.75



cents per gallon; to transfer funding for the State Highway Patrol from the Highway Fund to the General Fund; and to create a \$70 million revolving fund from which municipalities and counties could borrow for paving needs.

- Efforts to bolster the teaching profession and encourage teachers to stay in the classroom.

- A request for \$750,000 in an effort to bag a federal research project called the \$6 billion Superconducting Super Collider, a 52-mile atomic racetrack to be built underground through Granville and Person counties, just a microchip's lob from the Research Triangle.

- And the normal "short" session adjustments to the biennial \$16.6 billion budget, including the spending of a projected \$385 million credit balance, and pay raises for teachers and state employees.

That would be a heavy enough workload for a regular session, but there's more on the legislative agenda than just the issues Martin is promoting. For instance, there are study commission reports (about eleventy trillion study commissions were authorized in 1985, even though fiscal and general research staff members themselves *seem* certain as to the exact number), and there are competing proposals to deal with medical malpractice and liability insurance issues, not to mention other controversial subjects such as proposals to reform

the special provisions system (see page 48), to abolish 67 boards and commissions (see page 2), and to change the rules for annual pork barrel spending.

Opinion is divided on whether the legislature can deal effectively with all of Martin's proposals as well as other legislative issues. Those who have witnessed firsthand the work of the N.C. General Assembly in the post-World War II era believe it's impossible to deal fairly and fully with each of those items in a "short session." Those who have spent the last 20 years traveling in another solar system think it just might be possible.

Some observers of the political process may attribute the unrealistically heavy agenda for a "short" session to Governor Martin's relative inexperience in dealing with the General Assembly. Others, however, are suggesting that Martin learned his lessons well enough in 1985, when Democratic legislators whined early and often that the Governor was tardy in sending them his proposals for their consideration. Martin will be sending them plenty to chew over this time, but he probably will be wise enough to avoid publicly castigating legislators, as he did a year ago, when his proposals were altered during debate.

"Last year, Governor Martin came on like Rambo," says Ted Harrison of the UNC Center for

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Tuba player Jim Martin  
delivers his State-of-The-State address to  
Democratically controlled legislature on Feb. 28, 1985.



Public Television, and the dean of the Capital Press Corps. "This year, it looks as though he will be more like Gary Cooper in 'High Noon.'"

That is, Martin will be relying more on savvy and finesse, rather than firing from the hip with

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*But by proposing so much, he  
will be observing Dirksen's  
Third Law of Politics, which  
holds, "Don't Get Mad, Get  
Even."*

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his .50-caliber, gas-fired, air-cooled, automatic-fire barrage of words aimed at the legislative leadership in particular and the Democratic majority in general. But like The Coop, Martin can't be expected to take it lying down if and when his programs themselves become the target. The chances are that he will have learned how to fight—and that calling the Speaker and the Lieutenant Governor names don't help much. Without veto power, he's got to have the ammunition to fight this fight, and if he can provide the facts to back up his calls for private prisons, for example, or transferring the Highway Patrol to the General Fund, he and his programs will be more successful.

Another view, of course, is that Martin knows he can't get all he wants from this "short" session, even if it does run long. But by proposing so much, he will be observing Dirksen's Third Law of Politics, which holds, "Don't Get Mad, Get Even."<sup>1</sup> By sending the legislature so many major initiatives to deal with in a short period, Martin thereby puts pressure on the Democrat-controlled body either to pass the buck, pass it all, or pass the steamy summer in session trying to pass something other than the time of day.

Of course, the Democrats could always refer the whole ball of wax to an obscure study committee and head for the beach. Tradition suggests that this referral gambit could occur regularly this session. It happened to Gov. James E. (the other Republican Jim) Holshouser innumerable times. It also happened during the governorship of the first Republican to serve any time in the 20th Century. He was Daniel (this was before the unwritten rule requiring governors to be named Jim) Russell (1897-1901), and during *his* first session of the legislature, near-anarchy reigned in the Senate. The Democrats were outnumbered by the Republicans and the Populists, who together called themselves the Fusionists. But even operat-

ing in a majority did not help the Republicans.

One GOP stalwart, Sen. James L. Hyatt of Burnsville, then in his first term, rose to his feet in the Senate late in the evening of Feb. 12, 1897, and introduced Senate Bill 676, an act to provide for female suffrage in North Carolina.<sup>2</sup> The bill was immediately referred to the Committee on Insane Asylums and was never seen again. Hyatt would not be reelected to the legislature for another 14 years, and Governor Russell was to gain fame mainly as the first governor to take official note of the ghost in the Executive Mansion. But that's another story.

Fortunately for Martin, there is no Committee on Insane Asylums anymore, and legislative leaders who are looking for a place to sink his proposals will have to be more creative—or more devious—if they plan to scuttle all or even a big part of Martin's legislative program. But then, they've got plenty of time to do it. After all, this "short" session of the General Assembly promises to be a long one. The question is, if the lawmakers are still in session in August, will anyone notice? ☞☞

#### FOOTNOTES

<sup>1</sup>Dirksen's Three Laws of Politics: (1) Get elected. (2) Get reelected. (3) Don't get mad, get even. By the late U.S. Senator Everett McKinley Dirksen (R-Illinois), as reported in *The Official Rules*, by Paul Dickson, Delacourt Press, New York, 1978, p. 39.

<sup>2</sup>S.B. 676, reported at p. 295, *Journal of the Senate of the State of North Carolina*, 33rd day, Regular Session 1897.

*How can you tell who's who  
in the 1986 short session?*

*By reading ...*

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## ARTICLE II

A Guide to the N.C. Legislature

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copy of our who's who — Article II.*

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# State Public Policy Research Centers Survive the Years, Weather the Financial Storms

by Jack Betts

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**“T**hink tanks are an American phenomenon. No other country accords such significance to private institutions designed to influence public decisions.” So writes Gregg Easterbrook, national correspondent for *The Atlantic*, in a January 1986 article on national think tanks affecting domestic and foreign policy.<sup>1</sup> Beginning with the Brookings Institution, established in 1920, these organizations all along the political spectrum have been shaping national policy for more than 65 years.

But while these institutions have commanded most of the public notice—and more of the funding available for nonprofit research—a healthy number of *state-level* policy organizations have been at work just as long, if not longer. In fact, one such group, the Citizens Research Council of Michigan, founded in 1916, has been hewing away at the public policy jungle for 70 years, and others were formed in the Thirties and Forties. Still others, like the N.C. Center for Public Policy Research, were born of the Seventies, but all have one common theme: researching and gathering data on state and local governments to educate the public about how governments go about their decision-making—and how well.

More than two dozen centers—some nonprofit private institutions, some related to universities and some acting as foundations—are at work analyzing and influencing the way their states and

communities are governed. But measuring the impact of a group's work in the public policy field is more difficult than correctly guessing the number of managers George Steinbrenner will hire to direct the New York Yankees this season.

At an October 1983 conference of major public policy center officials, sponsored by the Winthrop Rockefeller Foundation in Little Rock, Arkansas, participants concluded there was no easy way—or quick way—to measure a state-level think tank's impact upon governmental decision making. As one speaker put it, “The process of change is a long, hard slogging in the trenches to put the information out there, wondering if anyone ever pays any attention to it, and it is a slow incremental process. It's not an earthquake.”

Perhaps not an earthquake, but state policy research centers *have*, over time, moved legislative mountains. Cases in point? For instance, the Wyoming Taxpayers Association believes its reports have saved taxpayers \$10 million in property taxes. The Washington Research Council's reports have led to changes in industrial insurance laws. The Public Affairs Review Council of Louisiana's research has led to reforms in budget procedures and in campaign finance.

Still other organizations see their missions—and their accomplishments—in even more

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*Jack Betts is associate editor of North Carolina Insight.*

intangible terms. The California Center and the Center for Analysis of Public Issues in New Jersey both view their successes as contributing to the body of information available about state and local issues. California Center President Tom Hoeber views it this way: "Our goal is citizen education; we do not view passage of legislation as our mission and we do not track the impact our articles have."

Adds Rick Sinding of the New Jersey group, "Our magazine articles add to the body of knowledge on any given subject, but whether they directly influence decision-making is difficult to say. For instance, did our article on divestiture inspire Gov. Tom Kean to sign a divestiture bill? Or did (South African Prime Minister) Botha's speech? Or political pressure? Or all of the above?"

Unlike their well-known brethren on the national level, state policy research organizations are far less identifiable by political or partisan intent. The Brookings Institution, for example, is known for its relatively liberal positions; the Heritage Foundation and the American Enterprise Institute, on the other hand, are identifiably conservative and make no bones about their political agendas.

But describing state-level policy groups in similar fashion is difficult to do. Because most of these groups are private, nonprofit organizations under the U.S. tax code, they go out of their way to avoid being identified with a political party or with a partisan viewpoint. In most cases, their boards of directors reflect a bipartisanship politically as well as a cross-section of business, academia, communications, and other vocations. Most state-level policy centers examine the political context of issues, but few approach their work from an ideological bias.

"The fact is that much of what state governments are about does not leave time or space for this sort of ideological argumentation," says Thad Beyle, 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.

To determine how other state-level public policy research groups are faring under today's financial and operational obstacles, the N.C. Center for Public Policy Research recently surveyed the known existing groups aimed at assessing state policy-making. Results arrived from across the country, and represented a broad diversity of organizational structure, financing, and production. Some were private, nonprofit groups like the N.C. Center, examining policy in all areas

of state government. Many more were private, nonprofit taxpayer associations, focusing more on state tax policy and whether taxpayers were getting their money's worth. Others were related to universities or foundations, and one started as a nonprofit organization but converted to a for-profit status. Still other groups chose not to respond to the survey.

While all these groups have similar functions, each has a different emphasis. All share the goal of educating the public about governmental policy-making, but each goes about the job in different fashion. Some rely on magazines but publish government directories or produce public television shows. Others publish summaries of research in a newsletter or pamphlet. Some centers issue book-length reports, while others hold annual or quarterly conferences. Some engage in research for hire under contracts, while some concentrate more on politics. Others seek to perform arduous, nitty-gritty research on the arcane details of how a government works. Some perform almost all these functions; others, only one.

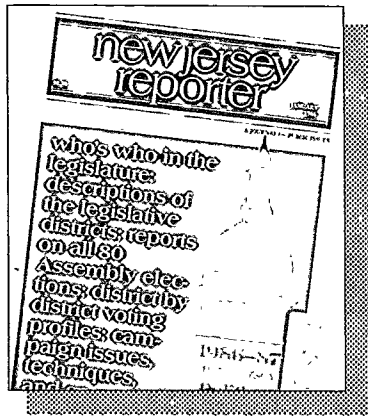
Common to all was a central theme: examining how well government meets the needs of the state and its people. This issue of *Insight* takes a look at a representative sampling of the five types of state-level policy organizations and what they do.

## The Broad-Based, Nonprofit Policy Research Movement

**T**HE N.C. CENTER FOR PUBLIC POLICY RESEARCH: Established in 1977 in Raleigh, the N.C. Center's goals are to evaluate state programs and policies; to educate the public about how state government works and raise issues for public debate; to monitor the N.C. legislature and enhance its accountability to the public; and to conduct research on public policy issues of statewide importance.

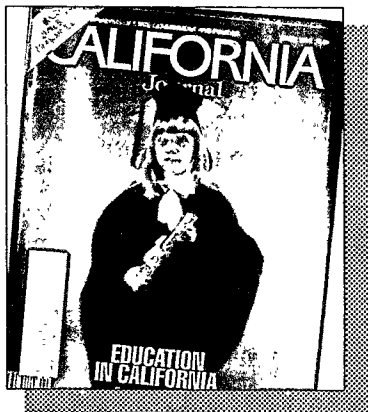


NORTH CAROLINA CENTER FOR  
PUBLIC POLICY RESEARCH INC.



Among the results of the Center's efforts are adoption of a state civil rights act for the handicapped following a 1983 report on the problems of the mentally and physically impaired; consideration of legislation to abolish boards, commissions, and councils in the executive branch following a 1985 report urging the elimination of 98 such boards; adoption of a statewide teacher certification regulation following a Center report on out-of-field teaching in grades 7-12; and a new state basic education plan standardizing curriculum and addressing funding disparities among state school districts, as the Center had recommended.

The Center is one of the few nonprofit groups to publish a regular magazine, on the one hand, and to engage in detailed research projects and periodic seminars. *North Carolina Insight* magazine, which began publication on a quarterly basis in 1978, has a circulation ranging from 1,500 to 2,500, depending upon the issue. Its main audiences are the Center's 600 regular members, who contribute \$24 per year, more than 200 policymakers and elected officials (including the 170 members of the General Assembly), and about 200 newspaper reporters and editors and broadcast journalists.



The N.C. Center, steered by a Board of Directors of 35 persons, has a regular staff of eight persons, employs four to six interns in the summer as well as during the school year, and operates on an annual budget of about \$385,000. The bulk of the budget (63 percent, down from 90 percent in 1981) comes from two North Carolina foundations, the Z. Smith Reynolds and the Mary Reynolds Babcock foundations, while the remainder comes from 84 corporate contributors, 14 individual donors, 600 members, sales, and advertising. In recent years, its research reports have included *Article II: A Guide to the N.C. Legislature* (including the Center's most controversial product, effectiveness rankings of individual legislators based on biennial surveys of legislators, lobbyists, and capital correspondents); a series of reports on the For-Profit Hospital Movement in North Carolina; and *Boards, Commissions and Councils in the Executive Branch of North Carolina State Government*, a 600-page report (see article on page 2 for more). The Center also engages in annual seminars and symposia. In 1985, the Center held a seminar on campaign finance in the state, focusing on the 1984 races for governor and U.S. Senator. Nationally syndicated columnist David Broder of *The Washington Post*, Democratic pollster Peter Hart, and Republican campaign consultant Lance Tarrance were among the main speakers at the event. Another Center product, *North Carolina Focus*, a collection of articles on the workings of state government, is used as a textbook in public schools.

**NEW JERSEY—THE CENTER FOR ANALYSIS OF PUBLIC ISSUES:** Like the N.C. Center, this group's best-known product is its magazine, *New Jersey Reporter*. The N.J. Center originally was established in 1970 to produce research reports as well, and early publications included reports on bail bondsmen and auto insurance. But the group found more of a market for 10 magazine issues a year and does not now attempt to produce periodic research reports. Directed by a board of 15 members, the Center has an annual budget of \$225,000, nearly half of it from foundations. Corporate givers donate about 21 percent of the center's budget, and subscribers provide another 19 percent.

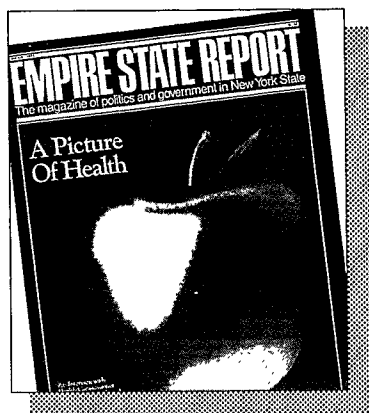
With a staff of six persons, *New Jersey Reporter* has a circulation of about 2,500. The magazine staff also produces an annual government directory in its magazine, appears regularly each month on public television on a program called "Front Page: New Jersey," and sponsors annual conferences and symposia. Recent seminars were

on "Hazardous-Waste and Solid-Waste Facility Siting" and "Urban Revitalization."

**THE CALIFORNIA CENTER:** This group has had more success at reaching a mass audience with its monthly magazine of politics and government, *California Journal*. With a staff of 13, plus up to four interns and a 15-member board, the California Center (created in 1970) operates on an enviable budget of about \$900,000 annually. Unlike many of its sister organizations in the nonprofit corporation world, the California Center is nearly self-sustaining. It receives less than 6 percent of its budget from foundation, corporate, or individual givers. Relying on the largest population of any state in the union (25 million), the Center receives half its annual budget from subscribers (18,000 paid circulation, which the Center translates into about 55,000 readers), 18 percent from printing publications for others, 17 percent from advertising, and 13 percent from book sales. The group also gets a healthy chunk of income from an annual fund-raising event, the California Roast, at which Golden State politicians are skewered, basted and turned slowly over glowing rhetorical coals during an evening of merriment. Last year, the California Center grossed \$25,000 from its weenie roast.

In addition to its 12 magazines each year, the California Center publishes a monthly newsletter, "Newsfile." It also issues reports and texts, such as a biennial *Almanac of California Government and Politics*, a *California Government and Politics Annual*, and a yearly directory of legislative, executive, and judicial officials that sells up to 80,000 copies. The Center also produces weekly and monthly programs over public television, and is planning appearances on cable television. Last fall, the Center also began monthly seminars on areas of public interest, such as the state budget and the legislative process. For the future, the Center has ambitious plans for cable TV coverage of the Capitol and for expanding publishing.

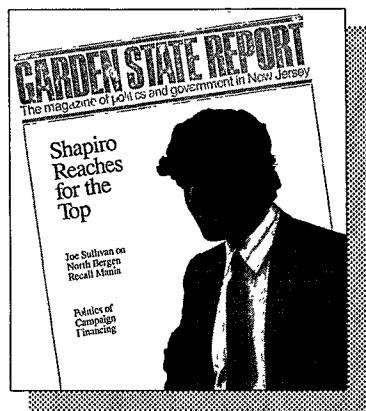
These policy centers share common strengths and weaknesses. They provide more in-depth research generally than other media organizations in their states, and they seek to illuminate issues that are rarely addressed in the daily press. Yet they constantly fight the battle of the budget, and fundraising is a constant concern. Their risks are greater. For instance, in a lean fundraising year, such centers must consider cutting their products or their staff. But their independence allows them to develop a greater knowledge of government and how the politics and programs work in a certain policy area.

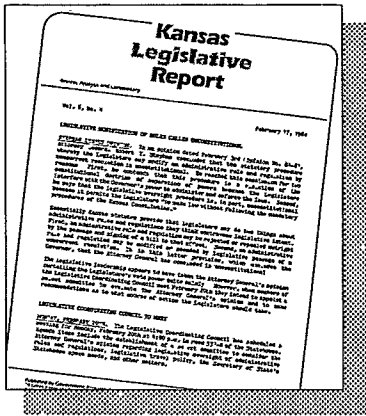


## The For-Profit Public Policy Business

**S**TATE REPORT NETWORK: New Jersey and California both are no doubt concerned by competition from an unlikely source, a previous cousin in the nonprofit policy field. When it first began publication in 1974, *Empire State Report* was produced by a private, nonprofit corporation. Later it became associated with the New York State Legislative Institute at Baruch College of the City University of New York. In 1982, however, the magazine became a for-profit venture, aimed at a target circulation of the state's top political and governmental leaders, the financial community, labor, education, health, and the mass media. The magazine has a circulation of about 12,000, says Floyd Weintraub, president of State Report Network.

In 1985, Weintraub startled the small world of state-level public policy centers when he announced the creation of competitors for *New Jersey Reporter* and for *California Journal*. Weintraub began publishing *Garden State Report* in New Jersey last fall, and introduced *Golden State Report*

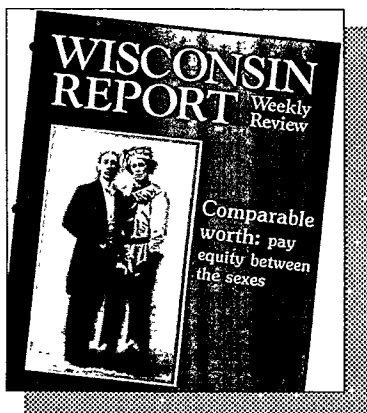




earlier this year in California after being rebuffed in his attempt to purchase outright the *California Journal*.

**GOVERNMENT RESEARCH SERVICE:** State Report Network is not the only for-profit organization at work in the public policy vineyard. Scores of consulting firms around the country engage in general and for-hire research projects. For example, Government Research Service in Topeka, Kansas opened its doors in 1978. Its staff of two produces a twice-monthly newsletter called the "Kansas Legislative Report," and an annual handbook called the *Kansas Legislative Handbook*, a periodically updated loose-leaf guide to the Kansas legislature and its members. It also organizes six seminars each year on the legislative process. The organization has also introduced a new publication called the *State Legislative Sourcebook: A Resource Guide to Legislative Information in the Fifty States*, which is marketed on a national scale.

**WISCONSIN REPORTS:** An impressive venture that began operation in 1983, Wisconsin Reports' *Weekly Review* sought to be a state-level



combination of *Congressional Quarterly* and *National Journal*. With an annual budget of \$320,000 and a staff of 12, this for-profit magazine quickly became an excellent resource—and a financial nightmare that wound up in reorganization under Chapter 11 of the U.S. Bankruptcy Act. Publisher Rick Merrill notes that although "economic viability eluded us, the publication did achieve widespread editorial credibility." Merrill has hopes of securing the financing to resume publication of the *Weekly Review*, which has not been published since March of 1984.

The for-profit research movement has its own set of problems as it works to survive in a field where farmers who toil in the public policy earth never get rich. Publishers of policy magazines walk a very fine line in maintaining their independence, on the one hand, and in trying to put out a marketable product that people will buy and that, as in the case of State Report Network, advertisers will be willing to support. The danger is that the drive to obtain advertising and show a profit could affect either an organization's choice of topics or the independence of its research findings. The opportunity is to fill a niche in the market for those who need information on government.

## The Foundation as Policy Research Center

**WINTHROP ROCKEFELLER FOUNDATION:** At the opposite end of the funding scale is the private foundation that engages in state policy research. One such example is the Winthrop Rockefeller Foundation of Little Rock, Arkansas. With an endowment of \$2.5 million, the foundation has a staff of eight, engages two interns each year, and is guided by an 11-member board of directors. In 1984-85, the Winthrop Rockefeller Foundation produced major reports on tax reform, economic development, and groundwater in Arkansas. These reports were distributed without charge to about 3,000 recipients. The foundation is considering taking on new functions in the future, including public television documentaries and a citizen's handbook on hazardous substances.

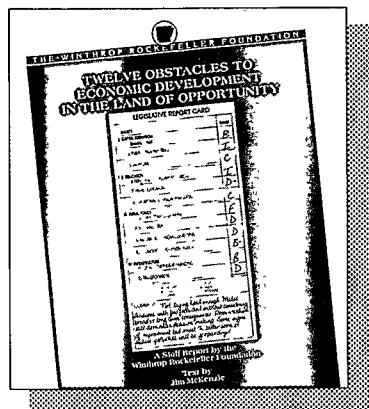
**Z. SMITH REYNOLDS FOUNDATION:** The Winthrop Rockefeller Foundation is, of course, not the only foundation to engage in research. What sets it apart is that its own staff takes an active part in the research. In similar fashion, the Z. Smith Reynolds Foundation of Winston-Salem,



North Carolina has taken a more direct role in public policy research. In addition to funding policy research efforts like the N.C. Center for Public Policy Research and commissioning reports, such as the N.C. Center's 1985 book, *Grantseeking in North Carolina: A Guide to Foundation and Corporate Giving Programs*, the foundation in 1984 embarked upon a major examination of the "critical issues affecting the quality of postsecondary education." Research on the project—called "The Third Century Project"—will include conferences, surveys of boards of trustees of the state's postsecondary educational institutions, developing demographic profiles, conducting case studies, and examining college facilities and financial aid. Finally, the study will examine the role of government in postsecondary education. Z. Smith Reynolds Foundation Executive Director Thomas W. Lambeth says the Third Century Project has a staff of three and has spent about \$150,000 in its research "over parts of the last three years."

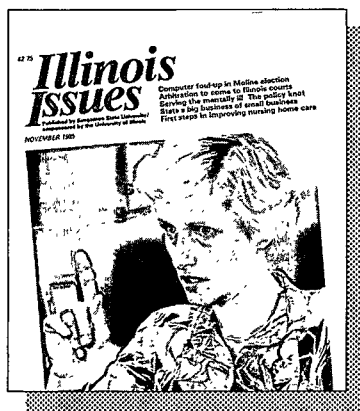
These foundations engaging in policy research have one luxury that other policy outfits eye enviously: a handsome endowment that finances special research and ensures that the light bills will be paid and that staff members will receive their paychecks on time. Most policy organizations, no doubt, would much prefer to have endowments, but very few do. Only Brookings and Hoover, among the national-level think tanks, have substantial endowments; the remainder must hold annual fundraising campaigns.

Few foundations engage regularly in state-level policy research, but many have been instrumental in the state-level public policy movement. For instance, the Ford, Rockefeller Brothers, and Carnegie foundations provided seed money for such groups as *Illinois Issues*, the California Center, the Center for Analysis of Public Issues in New Jersey, and for the N.C. Center. When those early grants ran out, however, the state policy groups turned to other sources, including major foundations within each state, which concentrate on funding projects or organizations within those states. For example, the Illinois group gets major funding from the Joyce Foundation; *New Jersey Reporter* receives major funding from the Fund for New Jersey, the Geraldine R. Dodge Foundation, and the Florence and John Schumann Foundation; and the N.C. Center receives major grants from the Z. Smith Reynolds and Mary Reynolds Babcock foundations.



## The University-Related Policy Institute

**ILLINOIS ISSUES:** Another hybrid organization examining state-level public policy is *Illinois Issues*, a monthly magazine of government and public affairs published by Sangamon State University in Springfield and co-sponsored by the University of Illinois. The magazine, founded in 1975, has a staff of seven plus two part-time faculty members and three to four student interns, and a 20-30 member board of directors (appointed by the two universities) which engages in fundraising and editorial review. It operates with a \$375,000 annual budget. Foundation support represents 15 percent of the budget, while direct support from the two universities makes up about 45 percent of the magazine's income. About 4,500 subscribers contribute 31 percent, and advertising and corporate contributions make up the other 9 percent. Fundraising, reports staff member Marilyn Immel, is a "constant and significant drain on the publisher and the board."



*Illinois Issues* says it "attempts to strike a balance between the reports of the daily media and the scholarly articles of professional journals." It says the measure of its success is the fact that each year, more than 100 *Illinois Issues* articles are reprinted in various books, journals, magazines, and newspapers, including the *Chicago Sun-Times* and the *Chicago Tribune*. Not long ago, the Library of Congress reprinted one of its articles on water policy for use by high school debating teams across the country.

*Illinois Issues* also publishes a roster of state government officials, and a number of other supplementary publications including book-length manuscripts on government policy and process. It

also engages in a series of television programs called "Illinois Issues Profiles," in which magazine Publisher Michael Lennon interviews leading figures from the worlds of Illinois business, education, and government.

THE INSTITUTE OF GOVERNMENT OF NORTH CAROLINA: *Illinois Issues* is one of a genre of magazines about state and local government published by or in conjunction with state universities. Its content, however, is aimed at a somewhat more general audience than, for instance, the quarterly magazine *Popular Government*, published by the Institute of Government at the University of North Carolina at Chapel Hill. The publication, now in its 55th year, is aimed at state and

**Table 1. State-Level Public Policy Research Organizations**

Arizona Tax Research Association  
1814 W. Washington Street  
Phoenix, Arizona 85007  
602-253-9121

The Winthrop Rockefeller Foundation  
308 E. Eighth Street  
Little Rock, Arkansas 72202  
501-376-6854

The California Center  
1714 Capitol Avenue  
Sacramento, California 95814  
916-444-2840

California Taxpayers Association  
921 11th Street, Suite 800  
Sacramento, California 95814  
916-441-0490

Connecticut Public Expenditure Council  
21 Lewis Street  
Hartford, Connecticut 06103  
203-527-8177

Florida Tax Watch, Inc.  
111 N. Gadsden Street  
Tallahassee, Florida 32301  
904-222-5052

Tax Foundation of Hawaii  
220 S. King Street  
Honolulu, Hawaii 96813  
808-536-4587

Illinois Issues  
K Building, Sangamon State University  
Springfield, Illinois 62708  
217-786-6084

Taxpayers Federation of Illinois  
525 W. Jefferson Street  
Springfield, Illinois 62702  
217-522-6818

Government Research Service  
701 Jackson, Room 304  
Topeka, Kansas 66603  
913-232-7720

Public Affairs Research Council  
of Louisiana, Inc.  
300 Louisiana Avenue, P.O. Box 3118  
Baton Rouge, Louisiana 70821  
504-343-9204

Massachusetts Taxpayers Foundation, Inc.  
24 Province Street, No. 853  
Boston, Massachusetts 02108  
617-720-1000

Citizens Research Council of Michigan  
625 Shelby Street  
Detroit, Michigan 48226  
313-961-5377

Minnesota Taxpayers Association  
480 Cedar Avenue, No. 175  
St. Paul, Minnesota 55101  
612-224-7477

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local officials, and examines in its articles a variety of facets of state and local government. The Institute also examines, for example, the fiscal impact of tax proposals, such as the suggested abolition of the state's property taxes and concomitant increase in state sales taxes. But the Institute does not usually attempt to evaluate how well a program or policy has functioned, nor does it make specific recommendations for changes in state policies.

These types of policy organizations often produce some of the best descriptions of the *process* of government to be found in public policy publishing today. But one potential problem is that because they are financed by the state,

through the university systems, there are some policy matters they cannot easily address—for instance, ranking the effectiveness of legislators, who appropriate university funds. Or, for another example, assessing the performance of the state university system. Their strength is that they can take advantage of the research capabilities that already exist within a university system.

### **The Corporate-Financed Nonprofit Research Movement**

**I**n many other states, policy research organizations financed largely by major industries engage in fiscal research on state taxation policy

**Table 1. State-Level Public Policy Research Organizations, *continued***

Taxpayers Research Institute of Missouri  
P.O. Box 56  
Jefferson City, Missouri 65102  
314-634-8746

Center for Analysis of Public Issues  
16 Vanderventer Avenue  
Princeton, New Jersey 08540  
609-924-9750

State Report Network  
545 Eighth Avenue  
New York, New York 10018  
212-239-9797

Institute of Government  
University of North Carolina at Chapel Hill  
Knapp Building 059A  
Chapel Hill, North Carolina 27514  
919-966-4107

North Carolina Center for  
Public Policy Research  
P.O. Box 430  
Raleigh, North Carolina 27602  
919-832-2839

Z. Smith Reynolds Foundation  
101 Reynolda Village  
Winston-Salem, North Carolina 27106  
919-725-7541

Pennsylvania Economy League, Inc.  
P.O. Box 105  
Harrisburg, Pennsylvania 17108  
717-234-3151

Rhode Island Public Expenditure Council  
222 Richmond Street  
Providence, Rhode Island 02903  
401-521-6320

Texas Research League  
P.O. Box 12456  
Austin, Texas 78711  
512-472-3127

Washington Research Council  
906 S. Columbia Street, No. 350  
Olympia, Washington 98501  
206-357-6643

West Virginia Research League, Inc.  
1107 Charleston National Plaza  
Charleston, West Virginia 25301  
304-346-9451

Public Expenditure Survey of Wisconsin  
P.O. Box 1316  
Madison, Wisconsin 53701  
608-255-6767

Wisconsin Reports, Inc.  
115 W. Main Street  
Madison, Wisconsin 53703  
608-251-1221

Wyoming Taxpayers Association  
2515 Warren Avenue, No. 300  
Cheyenne, Wyoming 82001  
307-635-8761

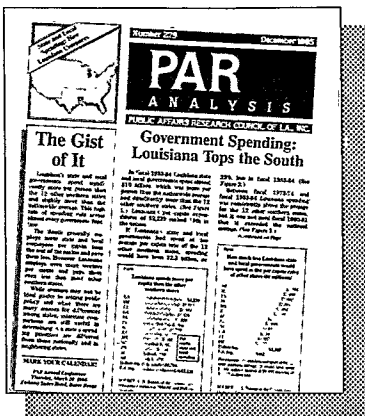
and assess whether taxpayers get their money's worth from state programs. These organizations—members of an umbrella group called the Governmental Research Association—are non-profit corporations with small staffs, modest budgets, and targeted audiences of government, business, and media leaders. Among them are these groups:

**THE PUBLIC AFFAIRS RESEARCH COUNCIL OF LOUISIANA:** Established in 1950, the Public Affairs Research Council has a staff of 12 and an annual budget of about \$650,000. Most of that—94 percent—comes from its membership of 3,400, and the remainder comes from research contracts the Council signs with local governments. The council also has one of the largest boards of directors in the business—250 persons—but an executive committee of 23 persons sets Council policy.

According to Carol Miller, vice president for development of the council, the organization annually publishes seven issues of "PAR Analysis," a multicolor newsletter summarizing the council's current findings. It also publishes weekly legislative bulletins when the legislature is in session, and holds an annual conference on economic development in Louisiana. Recent research topics of the Public Affairs Research Council include workers compensation, education, state budget procedures, campaign finance, ethics for state and local employees, and constitutional revision.

**THE ARIZONA TAX RESEARCH ASSOCIATION:** Established in 1940, this group has a four-person staff, a 50-person board of directors, and a \$200,000 annual budget—95 percent of it from corporate givers. The group publishes a newsletter 10 times a year, which is mailed to 1,500 recipients, publishes a tax digest, and holds periodic seminars on such subjects as the unitary tax and education management.

**THE TAXPAYERS' FEDERATION OF ILLINOIS:** Also founded in 1940, it has a staff of six, a 30-person board, and an annual budget of \$350,000, with corporations donating 85 percent of the budget. Ten times a year, the Federation publishes "Tax Facts," a newsletter with a circulation of 2,500 aimed at members, the press, and the General Assembly and its staff. The Federation also publishes a *Legislative Manual* and *Fiscal Facts, A Practical Guide to Illinois Real Estate Taxation*, a reference guide to county



government law, a biennial analysis of the Illinois tax climate, and periodic studies of special tax and spending issues. The group says that although its primary audience and membership is the Illinois business community, "individual members receive equal treatment in their respective areas of concern."

**THE CITIZENS RESEARCH COUNCIL OF MICHIGAN:** Organized in 1916, this outfit has

a staff of 10 plus one intern, a 25-person board of directors, and a \$505,000 annual budget. About three-fourths of its budget comes from corporations, and the remainder from foundations, interest income, sales, and individual contributions. The Council publishes its research reports in the form of a four-to-eight-page pamphlet called "Council Comments," which often includes tables and charts showing comparative data. Recent Council reports have addressed Michigan's state cash deficit, improving the administration of special ad valorem tax assessments, and reforming the financing of adult educational programs.

Here's how the Council described one policy issue in which its work had an impact: "Through the late 1970s and early 1980s, the state of Michigan outspent its general purpose resources by more than \$800 million, covering the deficit by changing accounting definitions and rolling over the debt from year to year by continual short-term borrowing. A series of Citizens Research Council reports beginning in 1980 defined the true nature of the state's financial problem, its growing seriousness, and the options for remedy. The reports received a great deal of press attention, including a lead *Wall Street Journal* editorial; research staff made presentations on the issue before many groups large and small; the issue of 'voodoo accounting' surfaced in the 1982 gubernatorial campaign; and the state began to solve the problem through earmarked tax revenues in 1982. Today the state's cash position is sound and the earmarked taxes are due to expire before the end of calendar 1985."

**THE TAXPAYERS RESEARCH INSTITUTE OF MISSOURI:** Organized in 1939, the Institute has a staff of seven and a 61-member board of directors that sets policy and is active in fundraising. Its annual budget of about \$267,000 comes primarily from memberships of business and professional citizens. It circulates research reports to

1,500 to 2,000 government officials, legislators, news media, institute members, and the public. Recent research reports examined the creation of a state cash reserve and proposals to roll back property tax rates. Other reports have concerned public employee pensions, which led to creation of legislative oversight, and executive branch restructuring.

**TEXAS RESEARCH LEAGUE:** Organized in 1953, the League has a paid staff of 17.5 persons and employs two to four interns each year. Its 200-member board of directors functions primarily as a fundraising arm of the League—a successful one. The League's annual budget is \$962,000, with

more than 96 percent of that stemming from corporate support.

The League publishes a monthly newsletter, "TRL ANALYSIS," which has a circulation of 4,500, and various state public finance bulletins, usually during legislative sessions. Recent reports include research on school district budgets in the state, funding of public education, program accountability in state government, and an examination of county government mechanisms. The League also holds periodic statewide conferences. In 1982, one such conference examined Social Security provisions; a 1986 conference is planned on state taxation. The League's reports

**Table 2. Comparison of Selected State-Level Public Policy Research Organizations**

Organization	Annual Budget	Staff/ Interns	Magazine	Newsletter	Research Reports	Gov. Directory	TV Program	Seminars
The California Center	\$900,000	13/4	12/yr	12/yr	No	Leg., Exec., Judic.	Yes	1/yr
Center for Analysis of Public Issues - N.J.	\$225,000	6	10/yr	No	No	Leg., Exec.	Yes	2/yr
North Carolina Center for Public Policy Research	\$385,000	8/4	4/yr	6-8/yr	3-4/yr	Leg.	No	1/yr
Illinois Issues	\$375,000	7/4	12/yr	No	No	Leg., Exec., Judic.	Yes	No
State Report Network N.Y., N.J., Cal.	N/A	N/A	12/yr	No	No	No	No	No
Government Research Service Kansas	N/A	2	No	24/yr	No	Leg., Exec., Judic.	No	6/yr
The Winthrop Rockefeller Foundation - Arkansas	\$2.5 million (Endowment)	8/2	No	No	4/yr	No	No	No
Public Affairs Research Council of Louisiana, Inc.	\$650,000	12	No	7/yr	Yes	Leg.	No	1/yr
Arizona Tax Research Association	\$200,000	4	No	10/yr	Yes	No	No	Yes
Taxpayers Federation of Illinois	\$275,000	6	No	10/yr	Yes	No	No	Yes
Citizens Research Council of Michigan	\$505,000	10	No	No	Yes	No	No	No
Taxpayers Research Institute of Missouri	\$267,000	7	No	No	Yes	Leg.	No	No
Texas Research League	\$962,000	17.5	No	10/yr	Yes	No	No	Yes
West Virginia Research League	\$170,000	4	No	No	Yes	No	No	No
Wyoming Taxpayers Association	\$166,000	3	No	6/yr	Yes	No	No	4/yr

N/A: Not Available

Source: Survey by North Carolina Insight, September 1985.

have led to increased efforts to control expenditures for school district budgets, and another report led to legislation raising college tuition.

**WASHINGTON RESEARCH COUNCIL:** Organized in 1932, this organization employs a staff of seven, directed by a board of directors of 39 persons. The Council declined to release information on its annual budget, but said it produced two reports last year—on industrial insurance and taxes on manufacturers. The Council also publishes newsletters and policy briefs.

**WEST VIRGINIA RESEARCH LEAGUE:** Incorporated in 1969, the League has an annual budget of \$170,000 and a staff of four persons. Its support comes from West Virginia businesses and foundations. The League publishes an annual handbook on state and local taxation, and responds to government and legislative requests for research reports, which usually are made public by the requesting agency.

**WYOMING TAXPAYERS ASSOCIATION:** Begun in 1937, this organization has a staff of three and a board of directors of 30. Its annual budget is \$170,000, all of which comes from its members, who are described as individuals, "corporate tax representatives," and association executives. It produces a bi-monthly newsletter, a tax calendar, an annual Legislative Summary Service covering daily legislative action, and participates in Tax Freedom Day. Last year, the Association produced a major study on severance taxes, as well as reports on property taxation and a summary of the taxes levied by state and local governments. The group also holds workshops on taxation every three months.

Other members of the Governmental Research Association include organizations in California, Connecticut, Florida, Hawaii, Massachusetts, Minnesota, Pennsylvania, Rhode Island, and Wisconsin. The strength of many of these organizations is that they have been at work in the public policy vineyards long enough that their financial stability is no longer in question, thanks in part to major corporate support. To others, however, strong corporate support might result in what consultants like to call "the art of directed conclusions"—that policy centers will produce only what their major supporters are willing to buy.

But even the oldest and strongest of the policy centers has to work continuously to have its message heard. As the Citizens Research Council of Michigan puts it, "[T]he greatest failure ... is in articulating the unique contribution we can make to public affairs in terms that are compelling enough

to generate contributions sufficient to the task at hand."

## Strengths and Weaknesses of Public Policy Organizations

Virtually all these centers and organizations have succeeded in making their research products available to the public. Research from state-level policy centers is valuable for several reasons, says N.C. Center Executive Director Ran Coble. The established media "don't have the time to do research," explains Coble. In addition, government agencies often cut funds for research and evaluation in times of austerity because these do not represent direct services for constituents. The N.C. Center provides "a truly independent voice for concerns of citizens not tied to a political party or economic interest," says Coble.

As discussed in the sections above, many research groups monitor how much their work actually influences public policy decisions. But putting an effectiveness yardstick on such research can prove difficult. "Our work in the area of water policy increased public awareness about the issue, but the public pressure was not enough to counteract the farming interests in a legislative battle," explains Wendy Margolis, a policy officer at the Winthrop Rockefeller Foundation. The Foundation's work is valuable because "special interests run the government and control too much of the legislative process," says Margolis. The Foundation seeks to "provide in-depth research and information from other than a lobbying perspective."

Not all policy organizations, however, consider direct government action to be the proof of effectiveness. For some, merely disseminating information is a success. *New Jersey Reporter* prides itself on providing comprehensive analysis and placing issues and events in historical perspective, says Editor Rick Sinding. But the magazine considers its greatest failure the relative lack of visibility—"a function, one supposes, of lack of money," laments Sinding.

That lack of visibility is not uncommon to public policy research organizations—or to the better-known national think-tanks, either. Most public policy groups endure painfully small press runs for books, reports, and other publications. While commercial publishers judge success in terms of profit, "public policy presses are not usually troubled when a book loses money," pointed out Suzanne Gordon in *The Washington Post* last year. "If the book has influenced government decision-making at a local, state, or national

level, it is deemed a success. The major audience for these books, therefore, is ... the academic experts, businessmen, lobbyists, consultants, and, most importantly, politicians who set the nation's course."<sup>2</sup>

Considering their audience, policy research centers need to keep on the cutting edge of issues. But sometimes, they become stilted or fall behind when they fail to anticipate emerging issues—or fail to try something new, as one old hand in the public policy business explains. Policy organizations should “try to identify the emerging issues,” says Samuel Gove, the outgoing long-time chairman of *Illinois Issues* magazine. “Don’t get locked into doing the same thing time after time. Examine the changes that are to come. For instance, the banking world is undergoing a revolt, and national banking is coming. The insurance business is in turmoil. Even if we were to elect a Democratic president, we would continue to have decentralization and deregulation. We should be looking at these things.”

No matter how close to the edge these groups stay, however, they face other difficulties. Obtaining funding for a controversial organization can be time-consuming and difficult. Frequent staff turnover or staff burnout is a problem. Such groups can allow publishing to become a motive for existence. And perhaps most frustrating is measuring the degree of effectiveness.

Her group has “a lack of clout in policy formation,” notes Margolis of the Winthrop Rockefeller Foundation. And while foundations have the luxury of endowments, they also must live with certain limitations. “Legal restraints on foundations may hamper the organization’s effectiveness,” says Margolis.

The Citizens Research Council of Michigan believes that policy organizations should not focus on building an enviable win-loss record. Instead, they should seek to provide the best research they can. “We do not lobby and do not believe that our success can be measured in terms of short-term ‘wins and losses’ in the policymaking arena,” says the Council. “We operate on the premise that if our studies are factual and their conclusions compelling, they will sell themselves in the marketplace of ideas.”

The Council notes that public policy researchers must have “a geologist’s sense of time” because the process of improving government is a time-consuming one. Over the long run, the Council attempts to assist government in administering its programs in the public interest, but it does so by providing a sort of “outside

insight” that helps the press, the general public, and government decision-makers themselves.

The Texas Research League echoes Coble’s recognition that independent, nonpartisan research is still highly valued in a world where information is more available than ever before. “While both state and local governments have developed more capable and sophisticated research programs over the past decade, there still remains a continued need for nonpartisan, credible research on an in-depth basis to examine public policy and current issues,” the League says.

“Perhaps the most lasting contribution of the new think tanks is that they have transformed the terms of public policy debate,” writes Easterbrook in *The Atlantic*.<sup>3</sup> State-level think tanks have also shaped debate for local and state governments. They have identified the pressing public issues and they have framed the debate in terms of what public policy should be, with solid research backed up by ideas. “Ideas,” Easterbrook reminds us, “move nations.” They move states, too.

However, there is always the bottom line that threatens the security of some policy organizations: finances. Almost every group has gone through hard times, when membership was low, when grant support was late in arriving, when public interest in government institutions waned, or when corporate support slowed to a trickle. That causes many organizations to spend a large amount of time on fundraising, promotions, and marketing programs instead of engaging in and directing the research and writing that are the groups’ prime products and reason for existence.

Obviously, much work needs to be done in the arena of state policy research. Various organizational vehicles continue to find ways of filling the opportunities that exist. “Like all publishing,” concludes Suzanne Gordon, “public policy publishing will have its fads (industrial policy, for example, is out this year; nuclear policy may be peaking, and education may be on the rise), but most observers believe that the phenomenon will be with us for a long time to come.”<sup>4</sup> ■

#### FOOTNOTES

<sup>1</sup>“Ideas Move Nations,” by Gregg Easterbrook, *The Atlantic*, January 1986, pp. 66-80.

<sup>2</sup>“Public Policy Publishing: Lobbying in Print,” by Suzanne Gordon, *The Washington Post Book World*, July 28, 1985, pp. 5-6.

<sup>3</sup>Easterbrook, p. 80.

<sup>4</sup>Gordon, p. 6. Also see “The Role of Public Policy Research Institutes in the National Scene” by Thomas F. Johnson, American Enterprise Institute, Washington, D.C.



# IN THE COURTS

## Opening Courtroom Doors to Lawsuits Involving Latent Diseases

by Katherine White

*This regular Insight feature focuses on how the judicial system affects public policy-making. This column examines a recent N.C. Supreme Court decision in the case of Wilder v. Amatex Corporation, et al., and a U.S. Western District Court decision in the case of Gardner v. Asbestos Corporation, Ltd.*

**F**or years, North Carolina law harbored a frustrating "Catch-22" for workers who develop debilitating—and often fatal—diseases related to products used in the workplace. It allowed workers to file claims for such diseases *only* if they were detected within a certain time period. But for those who developed diseases that take longer to manifest themselves, the state's courtroom doors were locked tight.

Late last year, however, the N.C. Supreme Court opened the state courts' doors a crack for those who develop diseases caused by prior exposure to harmful substances—diseases that might not cause health problems until years later. And in March 1986, a federal district court judge in Charlotte, relying on the 1985 state Supreme Court's decision, pushed those courtroom doors wide open.

Until these two decisions, no one in North Carolina had much success with using state or federal courts to litigate claims involving diseases or other physical problems that take more than 10 years to manifest themselves. The N.C. law on which Wilder based his claim, G.S. 1-15(b), prohibited claims for bodily injuries from harmful substances unless they were filed within 10 years of the date of last exposure.

In effect, the past law of North Carolina prohibited people from claiming damages if the damages did not become apparent within the 10-year period. And, a product liability law enacted in 1979 [G.S. 1-50(6)] barred such claims unless they

were filed within six years of the date of purchase of the product for consumption or use.

The two recent decisions said that these state statutes *do not apply* to claims arising out of diseases. By saying that the statutes involved [G.S. 1-15(b), now recodified as 1-52(16), and G.S. 1-50(6)] do not apply, the decisions have the effect of loosening the time limits on when workers can file claims for diseases developed long after exposure to hazardous substances. From now on, the time limit for filing suits begins not from the *date of the injury*, (for example, the first time the worker is exposed to asbestos), but instead from the *date the injury is discovered*. This will usually be the date a doctor diagnoses the disease. This gives plaintiffs more time to file suits.

The decisions specifically dealt with claims by plaintiffs with asbestosis (an irreversible scarring of the lung tissue caused by the presence of asbestos fibers, resulting in acute breathing problems). But the decisions may also allow court claims for *any* latent diseases caused by exposure to harmful substances, regardless of when they arise. The policy impact of the courts' decisions in these cases is to expand the number of persons who will be able to file for damages stemming from late-developing diseases caused by harmful substances.

The far-reaching scope of the state court decision moved N.C. Supreme Court Associate Justice Louis Meyer to predict doom for the state's businesses and industries. Calling asbestosis cases "the tip of the iceberg," Justice Meyer said potential claims could include damages from exposure to the defoliant Agent Orange, DES (a drug prescribed for expectant mothers in the Fifties whose children later have had health problems), radiation, birth control devices, toxic

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wastes, and formaldehyde.

"The onslaught of these cases and the accompanying increase in the number and amount of jury awards are forcing some manufacturers into bankruptcy and resulting in raised insurance premiums of hundreds and even thousands of percent for others," Meyer contends. "The business and insurance worlds have been permeated by a feeling of crisis."<sup>1</sup>

The N.C. Supreme Court decision, *Wilder v. Amatex Corporation*, allowed J.W. Wilder, a retired insulation installer, to pursue his claim against a number of asbestos manufacturers even though he had no exposure to their products for 10 years before he filed his suit in 1981. Wilder had worked with asbestos from 1938 until the early 1970s, but he was not diagnosed as having asbestosis until 1979. A trial court dismissed Wilder's claim because he had failed to file his suit within the 10-year period required under the old law. The N.C. Supreme Court granted a petition to review the case, allowing Wilder to bypass the N.C. Court of Appeals.

In its Nov. 5, 1985 decision, the Supreme Court concluded that G.S. 1-15(b) (passed in 1971), which ostensibly barred claims if 10 years had lapsed since the defendant last was exposed, *did not apply to latent disease cases*. "Diseases such as asbestosis, silicosis, and chronic obstructive lung disease normally develop over long periods of time after multiple exposures to offending substances which are thought to be causative agents," Justice James Exum wrote for the majority. "It is impossible to identify any particular exposure as the 'first injury'" from which to measure the 10-year period, he said.<sup>2</sup>

The law that Mr. Wilder's claim turned on was repealed in 1979.<sup>3</sup> A products liability statute was enacted the same year that required suits to be filed within six years of the purchase of the material for consumption or use. The state Supreme Court, narrowly viewing the facts in Mr. Wilder's situation, did not address the newer, product liability law and whether it covered latent disease claims.

The second decision, although not binding on the state Supreme Court, went further. In federal court, U.S. District Judge David B. Sentelle of Charlotte decided on March 4, 1986 that the new, six-year law should be construed the same way as the state Supreme Court had viewed the earlier, similar law.<sup>4</sup> "That decision makes it plain ... that the State Supreme Court does not consider disease to be included [within a statute of repose affected by the time limit on filing claims] ... unless the legislature expressly expands the language to

include it," he wrote. The plaintiff in the case before Judge Sentelle was another asbestosis victim. On May 7, 1986, in a case involving yet another victim of asbestosis, the U.S. Fourth Circuit Court of Appeals in Richmond approved Judge Sentelle's reasoning.<sup>5</sup>

Laws blocking access to the courts for damages from injuries that can take decades to surface have been adopted throughout the nation. Setting a time limit for such claims, supporters argue, gives protection to defendants from stale claims made when records are lost and memories are dim. The time limit also gives companies a time "after which they could be relieved from the threat of a lawsuit and go on about their business,"<sup>6</sup> argued the defendants in *Wilder v. Amatex Corporation*.

However, many state courts have struck down such laws, usually on state and federal constitutional grounds. The Alabama Supreme Court, for instance, threw out a 10-year limit on such claims because it violated the Alabama Constitution's "Open Courts" provision, which guarantees all parties free and open access to the courts. The Alabama constitutional provision is similar to one in the North Carolina Constitution.<sup>7</sup> Other courts, including those in Florida, New Hampshire, Wisconsin, and Wyoming, have similarly concluded that such laws are unconstitutional.

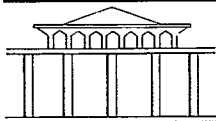
The *Wilder* decision does not address the constitutional questions of closing courts to a class of plaintiffs. Rather, the decision hinges on what the General Assembly intended when it originally passed the 10-year limit in 1971. "It is inconceivable that the legislature enacted G.S. 1-15(b) in 1971 intending that claims for injuries caused by disease accrue before the disease is diagnosed," Justice Exum wrote.<sup>8</sup>

But the opposing view—expressed by Justice Meyer and argued by the asbestos industry—is that legislators were aware of the effect of the law. The majority view, Justice Meyer wrote, "I find naive. At that point in time, delayed manifestation injuries, together with the time-delayed product injuries, constituted a giant wave that was breaking upon the courts."<sup>9</sup>

Regardless of the legislative intent, the reasoning of the two courts means the issue is alive for General Assembly action. However, representatives of those companies adversely affected by the court rulings have not said whether they will seek a legislative remedy from the courts' decisions.

A recent *North Carolina Law Review* note advocates legislative action to clarify the state's

—continued page 47



# IN THE LEGISLATURE

## Budget Committee Chairmen Sharing New Wealth — Of Knowledge

by Paul O'Connor

*This regular Insight feature examines an aspect of the legislative process as it affects public policy. In this article, the writer takes a look at a recent expansion of budget-making powers by the legislative leadership.*

Reporters lunching in the Legislative Building cafeteria one day this spring were startled when Rep. William T. "Billy" Watkins beckoned them back to a joint House-Senate Appropriations Committee meeting from which they had been unceremoniously ejected a mere hour earlier.

The 15 chairmen of the appropriations subcommittees had been summoned to Raleigh on March 3 for an untold purpose. As legislative staff members arrived, they were told to leave. Before the meeting began, House Expansion Budget Committee Chairman Watkins (D-Granville) asked lobbyists and news reporters to leave also. Then the doors were slammed shut.

An hour later, the doors swung open and sulking reporters were invited inside to hear Watkins announce a new appropriations procedure that could dramatically disperse legislative power to subcommittee chairmen—in a legislature where the budget power traditionally is held in the tight fists of a very few.

On its face, the announcement appeared almost routine. Henceforth, the 15 subcommittee chairmen (one Senate and two House chairmen for each of the five subcommittees) would be expected to meet monthly with the legislature's Fiscal Research Division staff to prepare staff work plans and monitor budget developments. Then the subcommittee chairmen would report their progress to the chairmen of the full Appropriations Committees. In effect, it could make the 15 chairmen the most knowledgeable, and potentially the most powerful, legislators in their individual budget

areas and break the inner circle's exclusive grip on the budget by spreading knowledge and power to more members—from five to 20 legislators. Those are in addition to two others who figure heavily in budget decisions—Speaker of the House Liston Ramsey (D-Madison), who is a legislator, and Lt. Gov. Robert Jordan, who is not a legislator but who does preside over the Senate.

"This definitely represents the dispersing of power from that small group (of full budget committee leaders) to a larger group," says Rep. Daniel T. Blue (D-Wake), chairman of the House Appropriations Committee on Human Resources. (The legislature refers to these 15 subcommittees as full committees, such as the subcommittee headed by Blue.)

"This change will give more input to the subcommittee chairmen and to the members of their committees," adds Sen. Aaron Plyler (D-Union), chairman of the Senate Appropriations Committee. "For years, we've been accused of not having it (the appropriations process) open."

During regular sessions in odd-numbered years, the Appropriations Committee breaks up into five subcommittees: human resources, crime and public safety, general government, education, and natural and economic resources. These subcommittees meet for five months, going line-by-line through the base and the expansion budgets, which comprise the state's biennial \$16.6 billion budget. Programs get approved, and programs get axed.

But then, as the legislative session winds down, the top Appropriations Committee chairmen get together in a closed session and fit the

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final budget together. Much of the subcommittees' work is retained, but some of it disappears. "I've had times when we took things out, and when the budget came back (from that closed meeting), it was back in there. You were surprised to see it, and then you weren't," says Rep. R. Donald Beard (D-Cumberland), chairman of the House Expansion Budget Committee on General Government.

Those surprise changes usually come without the foreknowledge of even the chairman of the subcommittee that reviewed the budget. Watkins, one of the key inner-circle figures in recent years, concedes that the past practice could make rank-and-file members of the subcommittee feel as though their work had been for naught. With the new procedure, Watkins says, the subcommittee chairmen will be the legislators who are more proficient in their specific areas. "We intend to have them in the final super subcommittee meeting that puts the final (budget) document together," Watkins adds.

If the process really has been opened up, the question that logically follows is why? Why would the budget leaders want to give up the power they've held tightly for years? At least four theories come to mind to explain this legislative change of heart.

The first could be called the "IT'S BIGGER THAN BOTH OF US, BILLY, SO LET'S GET SOME HELP" THEORY. Rep. David Diamont (D-Surry), chairman of the House Expansion Budget Committee on Human Resources, explains this theory: "The budget is so big, it's so complex, that no longer can any one person have control. It's too complicated." Thus, legislative leaders badly need the help that the subcommittee chairmen can provide to help keep track of the budget, which has quadrupled in size in the last 20 years. Further complicating the process is the difficulty of a small group drafting a complex state budget at a time when federal aid to states is being slashed.

So how about theory two, which could be called the "WHO'S IN CHARGE HERE, ANYWAY?" THEORY. The legislative leadership subscribes—publicly, anyway—to this notion. Two legislators who have pulled the strings for years, Watkins and Sen. Kenneth Royall (D-Durham), chairman of the Senate Ways and Means Committee, say the new procedure is designed to reverse a power shift from legislators to staff. "In Washington, they tell me, the staff has taken over the Congress. It could easily happen here," says Watkins. "The climate is right." Royall agrees. "It's been getting more like Washington."

Several chairmen grumble about isolated

instances where staff members had exercised considerable influence over legislation. Royall recalls two instances where he felt a staff member was trying to undermine legislative proposals, both of which Royall supported. In the first, Royall says, the administrative cost of a career ladder program for teachers was overstated; in the second, the effectiveness of the Eckerd Wilderness Camps was understated. Legislative staffers, who serve at the pleasure of the leadership, would not discuss the subjects for the record. (In these cases, Royall's perception may have been that the facts presented by the staff argued against his positions.)

Sen. Anthony Rand (D-Cumberland), chairman of the Senate Base Budget Committee, says there has been a feeling among appropriations leaders "that some of the stuff coming out [of the Fiscal Research Division] reflected the bias of the staff." Rand also reports that there have been complaints by some executive branch members that fiscal staffers had gotten into research projects without direction to do so from the legislature, and that they had tried to intimidate uncooperative executive branch officials. Legislative staffers privately point out that they often are given no direction from legislators, and thus must choose between initiating research on their own or sitting idle.

Royall says the problem is one of knowledge. Staff works full time on the budget and is much more knowledgeable than the legislators. Royall is quick to lay the blame with the legislature and not with the staff. "In many cases," Royall points out, the subcommittee chairmen "go in there and turn the meeting over to the staff. [The subcommittee chairmen] are going to have to do a lot more work than they have been doing. If the legislators are going to run the legislature, the chairmen will have to take a lot more active role and become better versed in the whole picture." They will also have to guard against politicizing the fiscal research staff, veteran observers point out.

Watkins, too, faults the legislature for the growth of staff power. "The fiscal research staff works for the appropriations committees, and yet they have had no direction from the group they work for [during the] 12 months" between the end of a regular session and the beginning of a short session, he says.

Veteran legislative observers point out that the change may starkly illuminate the differences in ability, expertise, and effectiveness of some subcommittee chairmen. It may well be that the Senate chairmen, who have more experience and who have worked with the budget longer, will become more accomplished in budget-making than

some of their less-experienced House subcommittee colleagues.

Others feel that the primary motive for the change is political. Immediate press questions of Watkins focused on the Democratic-controlled legislature's stormy relationship with the Republican administration of Gov. James G. Martin, and whether the move was designed to allow the Democrats to keep a closer eye on the Martin administration. Watkins denied a political motivation, and Martin's top lobbyist, former state Rep. Ward Purrington, discounted politics as a factor. "It sounds like an organizational improvement to me. It's involving more people in the decision-making, and we favor opening up the legislature to more input."

Juicier political speculation centers on the 1988 race for lieutenant governor, a race which might pit Watkins and Rand against each other. That brings up the third theory, which might be called "THE SUNSHINE BOYS" THEORY—for a legislative leadership attempting to let the sun shine in on the budget process. One legislator who could gain from a new "sunshine" reputation is none other than Billy Watkins, who otherwise would enter the race with a reputation for years of legislative backroom wheeling and dealing. One senior senator explains: "Out there in the public, Billy's image is that he's a hard, mean legislator who wants to keep hold of the process. I think this is Billy's attempt to look softer, more open. You know Tony (Rand) doesn't need that."

Rand doesn't buy that theory. "I find that hard to believe. That ain't Billy's style. Billy's still going to do as Billy always does if he can get away with it," says Rand.

More than one legislator could benefit from the move. Having subcommittee chairmen make the hard decisions could take the heat off both Watkins and Rand. Yet both Watkins and Rand can always dominate the debate on issues that would be especially beneficial to their political futures, and they can still take the credit for making those decisions.

Finally, there is the "MIRROR, MIRROR, ON THE WALL, WHO'S THE OPENEST OF THEM ALL?" THEORY, reflected in the cynicism of one senior senator: "It's all for image. It can't be anything else." This view concludes that Watkins is trying to make himself look good, and Lt. Gov. Robert Jordan is trying to appear as though he's fulfilled a campaign promise to open up the process. But in

the end, the senator said, the same four or five legislators will still make the important decisions.

Regardless of the reasons, another question is what difference will it all make? For one thing, Watkins says, the new process will forestall the development of a full-time legislature. If the 20 budget leaders aren't staying up with fiscal development, then the entire legislature will have to stay in Raleigh to do so. So the onus is on the 15 subcommittee chairmen to keep up to date on budget matters.

Of course, for some legislators, like Royall, Plyler, and Watkins, the legislature is already a full-time job. And as Blue points out, the new budget procedures will increase the number of full-time legislators, and could speed the arrival of a completely full-time assembly. "Before," says Blue, "it (the budget process) was overwhelming four chairmen. Now it might not be overwhelming, but it will call for much more time from the other 15 chairmen." Soon, each committee will begin to develop specialists in individual fields of interests and those legislators will begin working full time, Blue predicted.

The possibility of 20 or more full-time legislators is troubling to many observers. The time demands of the General Assembly already make it extremely difficult for anyone who is not self-employed, retired, or wealthy to serve. A few legislators, like Diamont, a teacher and coach in Surry County, are not so financially independent. Will Diamont and others like him be able to aspire to full-time budget chairmanships? Maybe not, says Diamont. He's already had to take himself out of consideration for spots on the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations because of the time demands they make on legislators. But Royall and Watkins say the legislature can't allow that to happen. In cases like Diamont's, the staff should go to the legislator's home, or call him on the phone, they say.

If those 20 members do, in fact, become full-timers, then the legislative branch is in for a dramatic dispersal of power. The inner circle might retain the power to determine how much will go into each general category of spending, but the enormous power to determine where within that category the money will be spent will reside with the subcommittee chairmen.

And once that power has been dispersed, can it be gathered in again?

"No," says House Speaker Liston Ramsey. "And it probably shouldn't ever be pulled back in."



## IN THE COURTS — continued

public policy on latent disease claims. A law, for example, could eliminate time limits on suits for harm caused by prolonged exposure if the disease ordinarily does not manifest itself within those time limits. Legislative action to maintain time limits for filing claims would suggest "that the rights of special interests, namely insurers and manufacturers, are protected from liability for delayed manifestation diseases to an inordinate degree," the *Law Review* article says.<sup>10</sup>

But to Justice Exum and the four colleagues who joined him in the decision, there is no quibbling about "inordinate degree" or miraculous foresight. "...[T]he legislature and the Court have recognized that exposure to disease-causing agent [sic] is not itself an injury. The body is daily bombarded by offending agents. Fortunately, it almost always is capable of defending itself against them and remains healthy until, in a few cases, the immune system fails and disease occurs. That, in the context of disease claims, constitutes the first injury. Although persons may have latent diseases of which they are unaware, it is not possible to say precisely when the disease first occurred in the body. The only possible point in time from which to measure the 'first injury' in the context

of a disease claim is when the disease is diagnosed."<sup>11</sup>

In other words, the Court's majority would have nothing to do with a Catch-22 provision that would require the filing of a claim for a disease before that disease could be diagnosed. That, the Court decided, would require extrasensory perception not available even to a judge, a legislator, or a worker. ▯▯▯

### FOOTNOTES

<sup>1</sup>*Wilder v. Amatex Corporation, et al.*, 314 N.C. 563, 336 S.E. 2d 74 (1985).

<sup>2</sup>*Wilder, Id.* at 557.

<sup>3</sup>N.C.G.S. 1-15(b), enacted as Ch. 1197, 1971 Session Laws, adopted July 21, 1971, was recodified in 1979 as 1-52(16), enacted as Ch. 654, s. 3, 1979 Session Laws. The product liability law, N.C.G.S. 1-50(6), was enacted as Ch. 654, s. 2, 1979 Session Laws, adopted effective October 1, 1979.

<sup>4</sup>*Gardner v. Asbestos Corporation, Ltd.*, Civil Action No. C-C-83-0723P (W.D.N.C., March 4, 1986), at p. 9.

<sup>5</sup>*Hyer v. Pittsburgh Corning Corp.*, Civil Action No. 83-2117 (4th Cir., May 7, 1986).

<sup>6</sup>*Wilder*, Defendant Appellee's Brief at p. 71.

<sup>7</sup>Article I, Section 18, Constitution of North Carolina: "All courts shall be open; every person for an injury done him in his lands, goods, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay."

<sup>8</sup>*Wilder*, 314 N.C. at 561.

<sup>9</sup>*Wilder, Id.* at 563.

<sup>10</sup>64 UNC Law Review 416, 441 (1986).

<sup>11</sup>*Wilder*, 314 N.C. at 560.

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## ***N.C. Center Releases Report on Special Provisions—the Pandora's Box of Budget Bills***

*In June 1986, the N.C. Center for Public Policy will release a report called "Special Provisions in Budget Bills: A Pandora's Box for North Carolina's Citizens." The report, written by N.C. Center Executive Director Ran Coble, examines special provisions in budget bills passed by the N.C. General Assembly since 1971. Excerpts from the executive summary of the report appear below.*

**S**pecial provisions in legislative appropriations bills are like Pandora's Box. They contain a variety of plagues that undermine the legislative process, work against the public interest, and erode the authority of existing systems and institutions of government. These special provisions—adopted by the legislature in the frenzied final days before adjournment of each session—often are approved without adequate public debate and frequently without the knowledge of many members of the General Assembly.

Years ago, the practice of special provisions began as a legitimate way to explain the purposes of an appropriation or limit the use of funds. Special provisions once served as the narrative flesh on a skeleton of columns of numbers appropriating certain amounts to each state agency. But in recent years, what once was a justifiable method of providing budget instructions to state agencies has gotten out of hand.

For instance, special provisions in recent years were used to repeal parts of the Administrative Procedure Act, to attempt (unsuccessfully) to repeal the Coastal Area Management Act, to pass a major revision to the state's bingo laws, to allow overweight trucks on the state's highways, and to establish study commissions on such disparate subjects as the quality of water in the Pigeon River and a retirement plan for local sheriffs and registers of deeds.

To curb this undesirable practice of using special provisions to supplant the regular legislative process, the Center recommends that each house of the General Assembly adopt rules barring the use of special provisions to establish, amend, or repeal statutory law. It also recommends that the legislature amend the Executive Budget Act and empower citizens to petition the N.C. Attorney General to challenge any special provision establishing, amending, or repealing a law. If the Attorney General declined to pursue the case, the individual citizen would then have the right to sue in Superior Court.

Special provisions are not to be confused with pork barrel bills. While pork barrel appropriations and special provisions may wind up in the same bill, they perform different legislative tasks. Special provisions rarely involve the expenditure of money, but they directly affect state laws by amending, repealing, or creating new laws. Pork barrel appropriations, on the other hand, refer specifically to special appropriations, either statewide or local in nature, for legislators' pet projects. This report identifies three major problems with special provisions, as summarized below.

### **Special Provisions Bypass the Normal Legislative Process**

**S**ome bills which might not pass on their own merits are often inserted into budget bills in the form of special provisions. This report, for example, describes a special provision which required a study of comparable worth, or pay equity, in the State Personnel System. This special provision passed as part of the main budget bill in 1984. But in 1985, after debating the merits of the proposal in a *separate bill*, the legislature repealed its 1984 action.

Special provisions undermine the legislative  
—continued page 50

Table 1. Increase in Number of Special Provisions

Date and Type of Legislative Session	Number of Special Provisions
1981 regular long session	29 (SB 29)
1982 short budget session	30 (HB 61)
1983 regular long session	65 in three budget bills (SB 23, SB 313, and SB 22)
1984 short budget session	87 in three budget bills (HB 80, HB 1376, and HB 1496)
1985 regular long session	108 in three budget bills (SB 1, SB 182, and SB 489)

## What Are Special Provisions?

• Special provisions, as defined in the Center's report, are portions of budget bills which are used in any of the following inappropriate ways:

(1) to amend, repeal, or otherwise change any existing law other than the Executive Budget Act;

(2) to establish new agency programs or to alter the powers and duties of existing programs;

(3) to establish new boards, commissions, and councils or to alter existing boards' powers;

(4) to grant special tax breaks or otherwise change the tax laws; or,

(5) to authorize new interim studies by the General Assembly or other groups.

\* \* \*

• An *inappropriate* special provision is in a budget bill but is unrelated to the budget and amends other state laws. For example:

"Effective July 1, 1985, Chapter 150A of the General Statutes [the Administrative Procedure Act] is repealed, with the exception of G.S. 150A-9 and G.S. 150A-11 through 17."

— *Chapter 923 of the 1983 Session  
Laws (SB 313), Section 52*

• A *legitimate* special provision explains an expenditure of funds in the budget bill. For example:

"Of the funds appropriated to North Carolina State University at Raleigh...the sum of \$30,000 shall be used for research and related extension activities in turf grass. An additional \$40,000 shall be used for corn research, and \$60,000 shall be used for a swine specialist for a ten-county area in extension, which was inadvertently left out in a previous appropriation."

— *Chapter 1034 of the 1983 Session  
Laws (2nd Session, 1984, HB 80),  
Section 53*

process because too few legislators are involved in the special provisions process. When questioned about the secrecy of the process, legislative leaders will defend the technique by saying that the full House and Senate Appropriations Committees review all special provisions. However, contrast that explanation with a scene from one 1984 Appropriations Committee session.

Committee member Rep. Bruce Ethridge (D-Onslow) asked the Chairman, Rep. William T. Watkins (D-Granville), if he could submit an amendment to the appropriations bill. "I don't know," replied Watkins. "That depends on what it is." Ethridge did not send forth his amendment, even though committee rules allowed it.

One reason why rank-and-file legislators do not revolt, say legislative observers, is that votes for special provisions are implicitly tied to a legislator's share of pork barrel money for his or her district. If you don't vote for the main budget bill—special provisions and all—you may not take home the bacon, observers say. In 1985, for example, former Sen. John Jordan (D-Alamance) did not vote for the main appropriations bill *and* received no pork barrel money—a fact that did not go unnoticed in the press.

## Special Provisions Can Work Against the Public Interest

**S**pecial provisions work against the public interest when they are used to create new programs, new boards and commissions, or assign new duties to state agencies. For example, in the last three sessions, special provisions have been used to establish a homeownership assistance program, a community college scholarship program, and an alcohol and drug defense program.

While these may all be worthy programs, they were established without the normal legislative scrutiny given to the need for new programs. The report identifies 11 new boards and commissions also established through special provisions. The taxpayers have a right to expect full legislative debate on the creation of new programs and new boards. These new programs can cost the taxpayers for years to come.

Special tax breaks are also granted in special provisions. One special provision in 1977 authorized foreign trade zones, which had the effect of creating tax breaks for certain types of property held in these zones. Another 1984 provision exempted certain trucks from penalties for being overweight.

**Table 2. Increase in Length of Budget Bills**

Date and Type of Legislative Session		Number of Pages in Bill to Fund "Current Operations" of State Agencies
<b>A. Regular Long Sessions (usually 6 months)</b>		
	1971	31 pages
	1973	32 pages
	1975	53 pages
	1977	79 pages
	1979	89 pages
	1981	90 pages
	1983	191 pages
	1985	214 pages <sup>1</sup>
<b>B. Short Budget Sessions (usually 1 month)</b>		
	1974 <sup>2</sup>	38 pages
	1976	80 pages
	1978	57 pages
	1980	60 pages
	1981 <sup>3</sup>	66 pages
	1982	74 pages
	1984	164 pages <sup>4</sup>

### FOOTNOTES

<sup>1</sup>This bill was actually 107 pages, but it was *single spaced*. All the preceding bills in this column were *double spaced*. When compared to the other bills in this column, the 1985 bill is the *equivalent* of a 214-page bill.

<sup>2</sup>The first such short session and the beginning of annual legislative sessions.

<sup>3</sup>Special October session.

<sup>4</sup>This bill was actually 82 pages, but it was *single spaced*. All the preceding bills in this column were *double spaced*. When compared to the other bills in this column, the 1984 bill is the *equivalent* of a 164-page bill.

## Special Provisions Undermine the Authority of Other Governmental Institutions

**S**pecial provisions damage relationships between state and local governments and between the executive and legislative branches of government. For example, in 1984, many local school systems were surprised to hear at the last minute about a special provision enacting a centralized payroll system for all public school systems in North



**Table 3. Prohibitions Against Substantive Legislation (Special Provisions) Being Included in Budget Bills, By State (1985)**

**A. Prohibit Special Provisions Through State Constitution (29)**

Alabama	Missouri
Alaska	Montana (and joint rule)
Arizona	Nebraska
Arkansas	New Hampshire
California	New Jersey
Colorado	New Mexico
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Illinois	South Dakota
Indiana	Tennessee
Kansas	Texas
Louisiana	Utah
Maryland	West Virginia
Mississippi (and House rule)	

**B. Prohibit Through Other Measures (2)**

Connecticut (statute and rule)  
Massachusetts (statute)

**C. Regulate Special Provisions Through Constitution (8)**

Idaho	Ohio
Iowa	South Carolina
Nevada	Virginia
New York	Washington

**D. Regulate Special Provisions Through Other Measures (1)**

North Dakota (Senate rule)

**E. No Prohibitions Against Special Provisions (8)**

Delaware	Rhode Island
Maine	Vermont
Minnesota	Wisconsin
North Carolina	Wyoming

**F. Status Unclear (2)**

Kentucky (court case pending)  
Michigan (did not respond to survey)

*Source:* Gerry F. Cohen, "Survey of Other States Concerning Appropriation Process," Memorandum to the N.C. Senate Select Committee on the Appropriation Process (October 31, 1985), pp. 5-6.

Carolina. The Controller for the State Board of Education, James Barber, objected to the use of a special provision as the vehicle for such a change. "We could have worked out the problems during debate in the normal committee process," he explained at the time.

Special provisions can be a legislative thorn in the executive branch's side. In 1985, the Democratic leadership used special provisions to prohibit Republican Gov. James G. Martin from hiring private legal counsel or private investigators without the consent of the Attorney General, a Democrat. The thorns can pierce Democrats' skin as well. In 1981, Gov. James B. Hunt Jr. found two special provisions so objectionable that he asked for, and obtained, an opinion from the N.C. Supreme Court, which said they were unconstitutional invasions of his constitutional powers to administer the budget.

The report notes that 31 other states prohibit (either by statute or in their constitutions) substantive legislation similar to these special provisions

in their appropriations bills. Nine more states have at least partial restrictions on special provisions. Thus, the North Carolina legislature is in the small minority of states that allow special provisions. The South Carolina Chamber of Commerce has recently sued the S.C. General Assembly over its practice of adding non-germane legislation to the annual appropriations bill. A special provision authorizing a dues checkoff to the State Employees Association for state employees triggered the suit.

### Conclusion

**B**ecause the use of special provisions bypasses the full legislative process, because it can result in legislation against the public interest, and because it undermines other institutions of government, the General Assembly should end the practice. The time has come to close this Pandora's box—before additional legislative plagues escape to wreak havoc on the orderly process of government. □◡□

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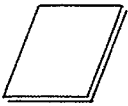
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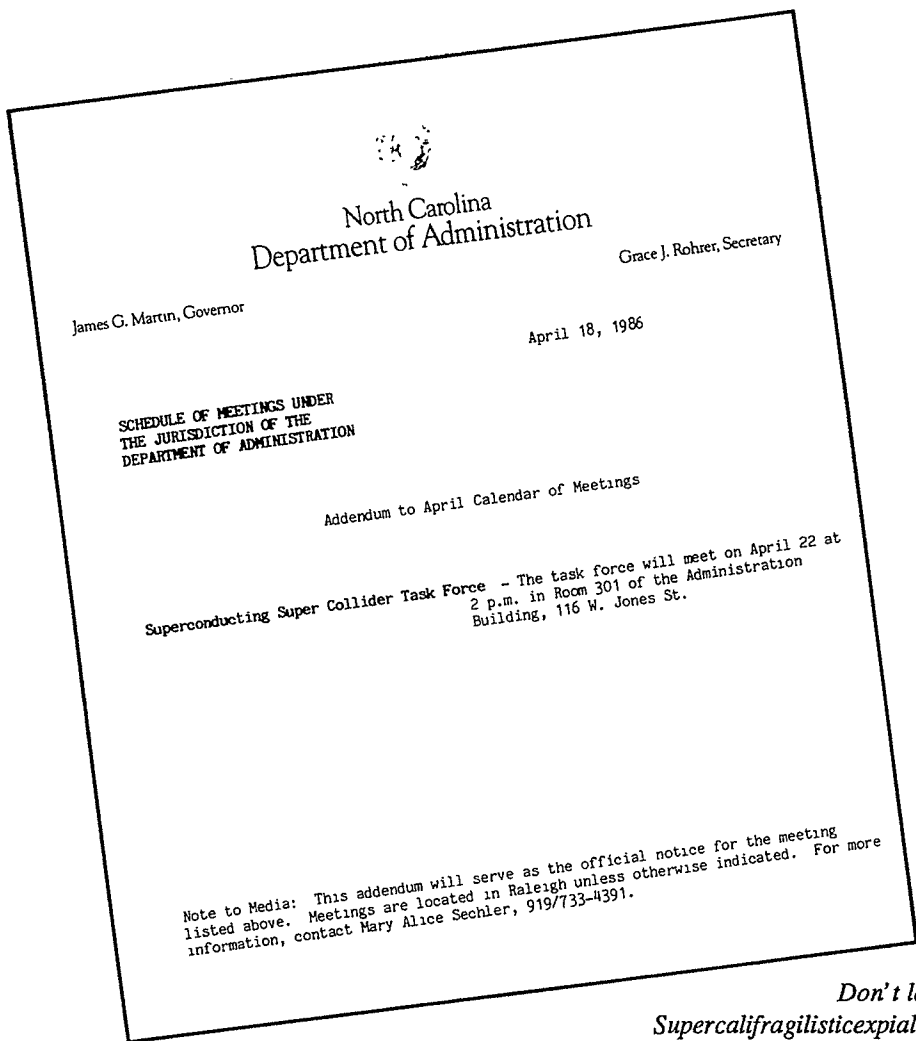
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*Don't laugh yet.  
Supercalifragilisticexpialidocious,  
it isn't, but it is serious business. North Carolina's version  
of Star Wars, the Superconducting Super Collider can't be purchased in a  
supermarket or be seen at the Super Bowl.*

*Nope, it's a 52-mile long, underground concrete racetrack for smashing atoms,  
and the Department of Commerce says it would mean a \$6 billion investment  
in North Carolina if it were to be located here. That's why the state of North  
Carolina is spending hundreds of thousands of dollars trying to land the  
Superconducting Super Collider in Granville and Person counties.*

*So the next time you hear someone giggling about the Superconducting Super  
Collider, tell 'em it could be the next smash hit in North Carolina's economic  
development. And tell 'em to keep those cards and letters coming—to  
Memorable Memo. Anonymity guaranteed, or we'll smash your atoms for free.*

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