

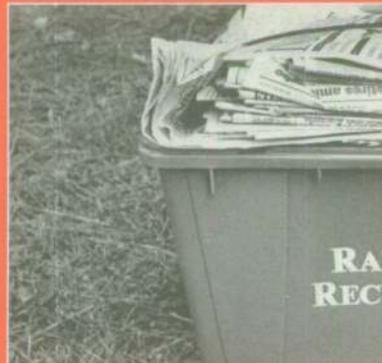
North  
Carolina

# Insight

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December 1989



Recycling Resources  
in North Carolina



# N.C. Center for Public Policy Research

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A nonprofit, nonpartisan 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."

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Center projects include the issuance of special reports on major policy questions; the publication of a quarterly magazine called *North Carolina Insight*; joint productions of public affairs television programs with the University of North Carolina Center for Public Television; 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 ideas on the subject under study and to reach conclusions based on 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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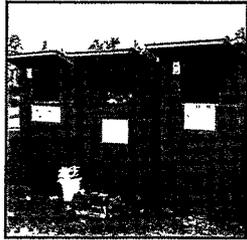
Cover Photos by Karen Tam, Amy Carr, and Jack Betts

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# Recycling North Carolina's Resources: The Long Campaign to Cut Tar Heel Waste

By Mike McLaughlin and Amy Carr

*Through its adoption of landmark legislation, the 1989 General Assembly laid the groundwork for an ambitious assault on the state's bulging waste stream, with recycling the major weapon to be deployed in the battle. The new law sets a goal of diverting 25 percent of waste from the state's landfills by 1993. But the architects of the law agree that more work is needed if local governments are to have a chance of meeting this goal. What must be done to move the state past the current crash waste reduction diet to a lastingly leaner solid waste stream?*

**E**ddie Hill maneuvered his 23-foot custom-designed recycling truck to the curb along a shady narrow street in central Raleigh. What happened next was a blur. Hill raced to a 14-gallon green plastic bin and picked out paper, cans, and bottles, and flipped them to his assistant, Stephen Whitley, who slam-dunked them into the proper compartments on the specially designed "Eager Beaver" truck body.

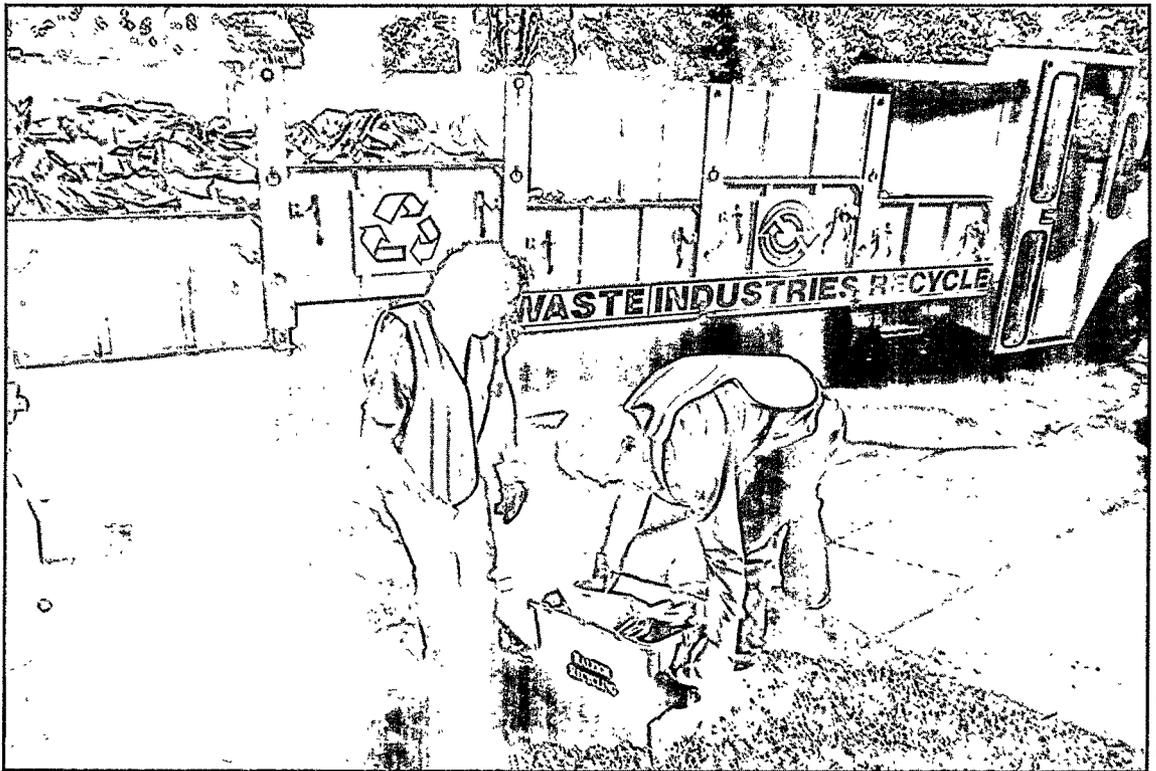
Less than 30 seconds later, both men were back in the truck and headed towards the next green bin. The two would collect from 409 homes

before the day was over, leaving the route only long enough to haul the materials to market.

Welcome to curbside recycling, Raleigh style. The pilot program was an instant hit when it was introduced to 4,000 households in October 1989. And residents still greet the truck with

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*Mike McLaughlin is associate editor of North Carolina Insight. Amy Carr, a 1989 summer intern at the N.C. Center for Public Policy Research, is a graduate student at the London School of Economics. This edition of North Carolina Insight was published on recycled paper, which increased paper costs by 4.9 percent.*



Karen Tam

*Eddie Hill (r) and Stephen Whitley grab a bin full of recyclables on one of Raleigh's curbside recycling routes.*

questions and curious stares. But because of a law passed by the 1989 General Assembly, the recycling truck will become as much a fixture in many North Carolina communities as the meter reader or the postal carrier.

That law is called the Solid Waste Management Act of 1989.<sup>1</sup> The legislature thought it so important that Democrats and Republicans alike laid aside partisan bickering to enact it on the last day of the longest session on record.

"Most of our landfills over the next 10 years will be closed down because they are full," said Rep. James Craven (R-Moore) in legislative debate over the law. "Our counties are going to find themselves buried in waste. Garbage is the greatest problem in our state today."

Rep. David Redwine (D-Brunswick) declared the bill "one of the most important pieces of legislation we will look at this year" before the House passed it after debate in numerous meetings of a subcommittee chaired by Rep. Dennis Wicker, (D-Lee). Sen. Dennis Winner (D-Buncombe) says he only wishes his Senate colleagues had been left time to scrutinize the bill. With adjourn-

ment nigh, the Senate could only give the bill the green light and tack on a few changes in conference committee. "It got to the Senate so late, and there was such pressure to get it passed, that I felt like the Senate had no voice in it," says Winner.

The legislation, according to Rep. Joe Hackney (D-Orange), was actually "20 or 30 bills" rolled into one, which he says justified the length of time the House spent on it. Much of that time was spent in Wicker's subcommittee, which, under Wicker's guidance, worked to shape legislation that ultimately would win broad support. "His having the confidence of both the environmental community and the business community helped tremendously," says Hackney.

The law's most sweeping provision is summed up in a single sentence: "It is the goal of this state that at least 25 percent of the total waste stream be recycled by January 1, 1993."<sup>2</sup> With that sentence, the legislature committed the state to behavior modification on a grand scale, enacting into law the notion that Tar Heels can be taught to stop tossing out so much trash.

In so doing, the General Assembly joined an



*Stephen Whitley and Eddie Hill separate glass, aluminum and newspapers into appropriate compartments of a specially designed truck body.*

increasing number of states that are stepping up to the plate to take their cuts at a mounting problem—what to do with an overflow of solid waste. And the 25 percent waste reduction goal is consistent with that of the federal government. But the legislation was more like a long single than the towering home run supporters initially sought. To get the state home on solid waste, future General Assemblies also must go to bat on the issue.

That's because the legislation establishes lofty goals but does not chart a clear course for reaching them. Indeed, the new law raises troubling questions. How will the counties reach the 25 percent waste diversion goal? And what will become of the waste that is diverted? Will it be recycled and put to productive use? Or will it simply be warehoused, with no market for a huge influx of would-be raw materials that used to be rubbish? Policymakers readily concede they do not have all the answers, but they say the counties—facing huge increases in the cost of landfilling waste—are ready to face the questions. In a sense, local governments will become laboratories for change, nurturing what works and discarding what doesn't as they search for solutions to their solid waste problems. But if local officials have the leeway to tailor programs that meet

their particular needs, they cannot escape one clearcut directive in the law. All must ultimately depend upon recycling to help them meet their waste diversion goals.<sup>3</sup>

Many North Carolina counties and municipalities already are turning to recycling to defuse the solid waste dilemma. To determine the scope of these efforts—and the distance left to travel if the state is to reach its 25 percent waste diversion goal—the North Carolina Center for Public Policy Research conducted a survey of the state's 100 counties and selected municipalities.<sup>4</sup> The Center survey, conducted in July 1989, found ambitious recycling efforts in towns and counties across North Carolina. Yet even the most intensive programs fall well short of the 25 percent waste diversion goal set by the state. And many towns and counties have not yet made a start. For those that are doing little or nothing, the state's goal may seem an impossible dream. But they can take a comforting lesson from history. There is nothing new about the concept of recycling.

### **A Short History of Recycling**

**T**he nation's first paper makers depended on textile rags and waste paper for raw materi-

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*"Garbage. All I've been thinking about all week is garbage . . . . I've gotten real concerned over what's going to happen with all the garbage . . . . The last time I felt this way was when that barge was going all over the place. . . . I started imagining a garbage can that just keeps producing garbage. . . . It just seemed so stupid, especially when we don't know what to do with all the garbage. . . ."*

—Ann Millaney [Andie MacDowell] in  
"sex, lies, and videotape"  
Cannes Film Festival Palm D'Or Award winner, 1989

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als. After the Civil War, battlefield scrap, classified as either "Yankee shot" or "Rebel shot," was cleaned and melted for reuse.<sup>5</sup> And during World Wars I and II, living by the waste-not-want-not adage was considered one's patriotic duty. Scarcity of vital resources necessitated the recycling of everything from kitchen grease to toothpaste tubes. *Chapel Hill Herald* columnist Rolland Wrenn, a lifelong resident of rural Orange County, writes that as a child during World War II, she provoked her parents with an unsuccessful plan to sell all of the family's rubber boots to the salvage dealer during his monthly pickup.<sup>6</sup>

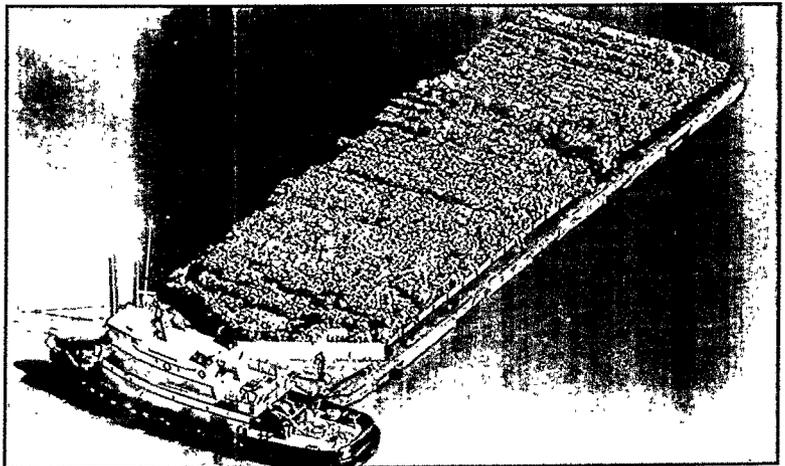
But post-war prosperity ushered in an attitude of wastefulness. Except for a brief resurgence during the early 1970s, recycling was left to people of exceptional environmental consciousness, civic groups, and the desperately poor. Disposable products replaced reusable razors and cloth diapers. Returnable soft drink bottles were replaced by plastic containers the size and

shape of howitzer shells. Elaborate packaging and convenient individual serving containers became standard fare at grocery stores and fast food outlets, and ultimately helped pack the nation's landfills. The figures speak plainly. In 1960, each person in the United States contributed an average of 2.65 pounds of trash a day to what were then rat-infested open dumps, according to the U.S. Environmental Protection Agency. By 1986, the average American produced 3.58 pounds of solid waste daily, or more than half a ton a year for every man, woman, and child.<sup>7</sup>

While the nation indulges its new-found taste for trash, the places to put all the waste actually are diminishing. The thousands of open dumps that could be found across the nation a few decades ago were prohibited by the federal government in favor of the sanitary landfill, essentially a hole in the ground in which waste is buried under daily layers of soil. But these disposal sites in many cases have caused environmental problems of their own. More than a fifth of the sites on the EPA Superfund Priority List—a ranking used to parcel out federal cleanup dollars for the nation's most potent toxic waste sites—are municipal solid waste landfills.<sup>8</sup> Recent environmental concerns and the stigma that always has been associated with living next to a garbage dump have made a political nightmare of siting these facilities. And the EPA has responded to environmental problems with new requirements that will drive up the cost of landfilling dramatically. These requirements include installing plastic or clay liners to prevent leakage, installing and operating systems

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*This wandering garbage barge, originally bound for North Carolina in April 1987, became a symbol of the nation's solid waste woes.*



Wide World Photos

**Table 1. Selected Sample Tipping Fees by State**

State	Dollars per ton
Alabama	\$10.50
California	10.00
Connecticut	35.00
Florida	27.40
Georgia	13.50
Indiana	15.15
Maryland	40.00
Massachusetts	65.00
South Carolina	4.75
Tennessee	7.50

*Source:* National Solid Waste Management Association. Figures represent 1988 median local tipping fees reported to the association through a telephone survey. North Carolina was not included in the survey. Fees for solid waste disposal here range from nothing—the amount charged by most counties—to as much as \$46 a ton in Buncombe County.

to monitor groundwater contamination around the landfill and gas buildup within it, installing leachate collection and treatment systems, and establishing an escrow account to ensure that any environmental damage can be cleaned up after the landfill closes.

Although most North Carolina towns and counties have not yet run out of places to put their waste, some municipalities in other states are shipping their garbage hundreds of miles by rail to find a place to dump. The problem came to a head in the public consciousness with the infamous garbage-laden barge from Islip, N.Y., which in 1987 could find no place to unload its cargo along the entire East Coast. The wandering barge, which originally was bound for North Carolina, has since become a symbol of the nation's solid waste woes.

### The North Carolina Problem

**H**ow serious is the problem in North Carolina? In March 1988, the Center reported that

about a third of the state's 119 landfills had five years or less of life remaining and 13 would be full in less than two years.<sup>9</sup> The Center asked for updates on those figures in its July 1989 survey on recycling. The results show the problem has gotten worse. Of the 112 municipal and county landfills identified in the survey, 52—nearly half—will run out of space within five years. And 20, nearly a fifth of those operating, will fill up within two years. (See Table 3, pp. 20-26, for a complete list of municipal and county operated landfills and their estimated life.) This pressing problem of rapidly depleting landfill capacity was one of the driving forces behind the Solid Waste Management Act.

"I don't think it's reached a crisis for the most part in this state yet," says Senator Winner. "In New Jersey and Connecticut, it's almost beyond crisis. What we're trying to do is get the problem dealt with before it becomes a crisis."

Still, no one is arguing that siting new landfills to replace those that are running out of room will be a simple task. Even in rural areas, the siting of new landfills is often stymied by local opposition. The problem in most cases is not a lack of acceptable land, but mounting public concerns about landfills. A recent study of water quality near 71 coastal landfills in North Carolina revealed considerable pollution. Groundwater quality standards for heavy metals and hazardous organic compounds were violated at more than half the sites.<sup>10</sup> Educated about the risks of groundwater contamination, the dumping of hazardous waste, and the possibility of methane gas leaks and explosions, residents not only shout, "Not in my backyard," but also "Not in my neighbor's backyard, not near my schools, and not near my water supply!"

But for most North Carolinians, once the garbage is out of sight, it is out of mind. Many counties and municipalities include the cost of landfilling in their general operating budgets. Consequently, residents and businesses have no idea of the full costs of garbage disposal. That will soon change, as counties move towards tipping fees to help recoup the cost of waste disposal. A tipping fee is a charge for dumping, usually assessed on a per-ton basis. Gordon Layton, chief of the Solid Waste Section in the new Department of Environment, Health, and Natural Resources, says about a third of North Carolina's counties regularly impose tipping fees for the disposal of solid waste. (See Table 1 for a sampling of tipping fees across the nation.) Orange County is



Robert Llewellyn

*Landfills like this one have become the state's least preferred option for disposing of solid waste. But can North Carolina break its bad habits regarding garbage?*

among those counties that have implemented tipping fees for landfill users. The revenues generated by the fee finance an ambitious recycling program. Fees range from \$3 for dumping a carload of trash to \$15 per ton of waste for industries and municipal and commercial haulers, and run as high as \$100 a ton for disposing of certain hard-to-manage wastes such as asbestos.

"The tipping fee encourages people to think about their discards" and remove recyclable material to save money, says Blair Pollock, solid waste planner for Orange County, Chapel Hill, and Carrboro. Besides the waste-reduction incentive, the tipping fee provides local government a revenue source for its overall solid waste management plan. At \$23 for a ton of waste that has the recyclable industrial and commercial cardboard removed, and double that for loads containing more than 25 percent cardboard, Buncombe County has one of the most aggressive tipping fee schedules in the state. Neighboring counties have complained that Buncombe's high rates are making their own landfills attractive to the county's commercial haulers. County officials also worry that aggressive tipping fees could encourage lit-

tering. The Solid Waste Management Act addresses this problem by authorizing severe fines and the levying of one point on the driver's license of anyone caught using a motor vehicle to litter. The law even allows authorities to impound the vehicles of offenders in the worst cases.<sup>11</sup>

County officials say the courts have not always taken violations of the state litter law seriously enough. "The prohibition against littering hasn't been actively enforced in the counties," says Ed Regan, associate director of the North Carolina Association of County Commissioners. Consequently, Regan says, there is widespread concern that increasing disposal fees at landfills will encourage more illegal dumping. Still, Regan says county officials agree that tipping fees are essential as an economic incentive to waste reduction and recycling and as a source of revenue for solid waste management.

### **A Solid Waste Management Hierarchy**

**A**s the costs of landfilling increase, alternative methods of handling solid waste look more attractive. What are these alternatives? North

Carolina has now adopted a variation on the EPA's hierarchy of disposal methods. In descending order of preference, the state's hierarchy consists of:

- waste volume reduction at the source;
- recycling and re-use;
- composting;
- incineration with energy production;
- incineration for volume reduction; and
- disposal in landfills.<sup>12</sup>

Although it is listed at the top of the waste management hierarchy, waste reduction actually gets less attention in the act than recycling. This fact has not escaped the law's critics, but Hackney says the state has little means of forcing industry to reduce its waste or to market fewer throwaway products. "I don't think we in this state have a good way to enforce waste minimization other than cost," says Hackney. "What it gets down to is a technician from the state signing off on a manufacturing process. We don't have the people or the technical expertise to do that. It's sort of a tough nut to crack." But industry will reduce waste if a savings can be demonstrated. That's

where aggressive tipping fees play a role, giving industry a financial incentive to reduce its waste. And proponents of so-called advance disposal fees say these fees, which amount to additional taxes on certain kinds of packaging or on disposable products, also can encourage waste reduction, as can outright bans on objectionable packaging or products. Finally, consumers could contribute greatly to waste reduction if they would spurn products with excessive packaging.

If reduction of industrial waste is the ideal, the next best thing is finding another manufacturer that can use the waste in its production process. The Southeast Waste Exchange, sponsored by the Urban Institute at the University of North Carolina at Charlotte, specializes in putting waste generators in touch with potential users. The non-profit agency's bimonthly catalogue, *Waste Watcher*, reaches more than 18,000 readers. Director Mary McDaniel says one participating company earns \$54,000 annually on the sale of 60 tons of plastic waste, while the buyer saves \$90,000 on the cost of raw materials.<sup>13</sup> And the transaction diverts the plastic from the landfill.

## *How You Can Cut Waste Production*

Towns and counties have the primary responsibility for cutting the flow of solid waste to landfills, but private citizens must do their part as well. Susan Hassol and Beth Richman provide a common sense guide to home waste reduction in their handbook, "101 Practical Tips for Home and Work Recycling." Here is a sampling of their advice:

- Avoid items with excessive packaging, or, better yet, buy in bulk and avoid packaging altogether.

- Use cloth products instead of disposable paper alternatives. Examples include cloth napkins, cloth cleaning rags, cotton handkerchiefs, and, of course, cotton diapers.

- Avoid disposable products such as razors and lighters.

- Choose returnable beverage containers where available.

- Use a lunchbox or canvas bag, rather than disposable paper lunch bags.

- Re-use grocery bags and refuse a shop's bag when items can be carried out by hand.

- Re-use envelopes, boxes, and packing materials such as foam peanuts.

- Donate used goods such as clothing and small appliances to charitable groups, rather than throwing these items away.

- Use a live Christmas tree which you can plant outside after the holidays.

- Compost yard and kitchen waste to improve soil health and replace chemical fertilizers.

*Source:* Susan Hassol and Beth Richman, "101 Practical Tips for Home and Work Recycling," *A Windstar Earth Pulse Handbook*, August 1989, pp. 27-68. Call (800) 669-4777 for ordering information.

Re-use of products represents another important waste management strategy. Washing and re-using glass containers saves more energy and expense than does crushing old glass to produce new containers. And many items such as furniture and appliances are tossed on the trash heap when they still have value.

For waste that cannot be re-used, recycling is the preferred management option, because it saves both energy and natural resources. Recycling means not only the collection, separation, and processing of recyclable material, but also its eventual use for making new products, and the purchase of these new products by the consumer.

Using organic wastes to produce mulch or compost, the third-ranking process in the state's hierarchy and really a form of recycling, also offers tremendous potential for waste diversion. Yard waste, food waste, and wood account for almost 30 percent of the typical waste stream. Some local governments in North Carolina already use tub grinders to chip wood wastes and yard debris into mulch for landscaping and other uses, and counties that don't soon will have to consider this option. The law bans yard trash from landfills effective Jan. 1, 1993.<sup>14</sup>

Burke County recently invested \$150,000 in a tub grinder to generate mulch, which is sold to county residents for \$3 a pickup truck load. County commissioners expect the revenues to cover the purchase price within two years, and the machine will extend the life of the county's new landfill. Counties can also encourage citizens to use food and yard waste for backyard compost, and can invest in sophisticated machinery to compost on a larger scale.

Incineration reduces the volume of waste that requires disposal and can convert garbage into useful energy. But incinerators are expensive, air emissions must be carefully monitored, and the ash that results from incineration must be disposed of in specially designed landfills, so the state ranked incineration next to last in its waste management hierarchy. Sanitary landfilling ranks last because of its expense and because of environmental problems.

## Recycling: "An Idea Whose Time Has Come"

With its adoption of recycling as the engine driving its waste reduction efforts, North Carolina recognizes "an idea whose time has come," says Hackney. Politically speaking, he appears to be right on target. As constituents become more aware of environmental issues, more and more elected officials of both parties are putting on green-colored glasses.<sup>15</sup> But even Hackney, the chief architect of the Solid Waste Manage-



Amy Carr

ment Act of 1989, says he was surprised the sweeping law won enactment in a single session.

The legislature is not alone in its push for more recycling. Republican Gov. Jim Martin also has shown strong interest. Martin participated in the dedication of the Reynolds Aluminum Recycling facility in Raleigh in August 1989 and declared October Recycling Month in North Carolina. "For the sake of our environment, and for the generations to come, all North Carolina citizens and businesses must join in increasing our recycling efforts," Governor Martin said at the dedication of the Reynolds facility. And Martin promised to follow his words with action, both at home on Blount Street and in his statewide Adopt-a-Highway litter-control program. "We've decided to set an example at the Executive Mansion by recycling all our glass and aluminum products," said Martin. On a grander scale, Martin announced cans and bottles picked up by thousands of volunteers along hundreds of miles of North Carolina highways also would be recycled.

In a Nov. 1, 1989, speech to the National Recycling Congress in Charlotte, Martin endorsed recycling in all state government offices and advocated a state preference for supplies with recycled content. "Recycling paper and aluminum cans in state government snack bars and offices may encourage our state employees to bring recycling home and help develop community support for the idea," Martin said. "By purchasing recycled goods, we may also help create a demand and reduce the cost of recycled goods in the marketplace."

But Bill Holman, a lobbyist for the Conservation Council of North Carolina and the N.C. Chapter of the Sierra Club, says the Martin administration opposed several significant features of the Solid Waste Management Act in its draft form, including state procurement price preferences for supplies with recycled content and fees that would have encouraged recycling and helped to finance solid waste management. "Martin's Department of Administration and Department of Transportation opposed procurement provisions in Senate Bill 111 [The Solid Waste Management Act]," says Holman. "The Martin Administration also opposed advance disposal fees. In short, the Martin administration contributed little to 1989 solid waste legislation."

But if the administration opposed particulars of the bill, Martin still has voiced strong support for recycling. And recycling seems to merit all the attention from politicians and public officials. Experts say besides saving landfill space, recycling saves precious natural resources and energy used in the manufacturing process. Proponents of recycling say substituting a ton of recycled newsprint for newsprint made from virgin wood pulp saves 17 trees. It takes 170 tons of newsprint to produce a typical Sunday edition of *The News and Observer* of Raleigh, the state's second largest newspaper with a Sunday circulation of more than 180,000.<sup>16</sup> Producing recycled paper uses half the energy and half the water used in producing paper from virgin wood pulp, and manufacturing recycled paper results in fewer pollutants being released into the air and water.

Recycling metals also saves resources. "Processing scrap metal takes 80 percent less energy than using virgin ore," says Poly Cohen, president of Lee Iron and Metal Company in Sanford. Cohen cites industry figures which claim each 12 ounce aluminum beverage can recycled saves the energy equivalent of six ounces of gasoline.<sup>17</sup> Scrap dealers across North Carolina have been processing waste for recycling for years, forming a partnership with other industries, says Cohen. Companies are paid for their industrial waste, and scrap dealers make a profit from collecting, processing, and marketing the waste for re-use in manufacturing. Most scrap dealers also



Amy Carr

*Poly Cohen of Lee Iron and Metal, a scrap dealer in Lee County.*

accept consumer waste such as appliances, cars, and aluminum cans for recycling. "We're the original recyclers," says Cohen. Last year, Cohen says, the 2,000 members of his industry's trade organization, the Institute of Scrap Recycling Industries, Inc., handled more than 80 million tons of recyclables nationwide.

### What's in the Trash?

**T**he first step toward setting up an effective recycling program is determining what goes into the local landfill. This is called a *waste stream analysis*. By weight, the nation's waste is 41 percent paper and paperboard, 6.5 percent plastics, and 25.8 percent food and yard waste (see Table 2). Experts are quick to point out that these numbers are general, and that many factors can influence the composition of a local solid waste stream. Alamance County, for example, found through its waste stream analysis that corrugated cardboard cartons, mostly from furniture showrooms, comprised 31 percent of the waste that reached its landfill.<sup>18</sup> The county responded by banning the disposal of recyclable commercial cardboard. County officials say the flow of cardboard reaching the landfill had been cut by 80 percent one month after the ban was enacted in

**Table 2. Gross Discards in the United States,  
Measured by Weight**

Product	Amount (millions of tons)	Percentage of the Waste Stream
Paper and Paperboard	64.7	41.0%
Yard Waste	28.3	17.9
Metals	13.7	8.7
Glass	12.9	8.2
Food Waste	12.5	7.9
Plastics	10.3	6.5
Rubber, leather, and textiles	6.8	4.3
Wood	5.8	3.7
Other	2.7	1.7
Total	157.7	99.9%

Source: U.S. Environmental Protection Agency, 1986 data

May 1988. Other North Carolina counties have found the percentages of textile manufacturing waste and furniture industry wood waste are higher than the national average.

### What Products are Recyclable?

Experts say as much as 80 percent of the solid waste stream theoretically could be recycled, and a growing list of products are made with recycled materials. Proctor and Gamble markets Spic and Span cleaner in bottles made of recycled plastic. Eggs may arrive at the market in cartons made of recycled plastic or paper. And bleached denim scraps and clean cotton fibers have long been used in making U.S. currency.

Aluminum cans are the most heavily recycled consumer product. More than half the aluminum cans shipped by manufacturers in 1988 were melted for re-use, according to industry estimates. Recycling aluminum saves tremendous amounts of energy; manufacturing cans with recycled aluminum uses 95 percent less energy than manufacturing cans from bauxite ore.<sup>19</sup> But basic econom-

ics accounts for the success of aluminum recycling. For consumers who collect and sell aluminum cans, there really is cash in trash. Each can is worth more than a penny.

Since paper—at 41 percent of the waste stream—takes up so much space in landfills, its collection is crucial for the success of any recycling program. Waste paper can be sorted into different quality grades. Computer printout paper and office paper command the highest prices and are used in making new stationery, writing paper, toilet tissue, and wallboard. Corrugated cardboard also is highly marketable, and has become a target for solid waste planners because of its bulk. Alamance and Buncombe counties have banned industrial and commercial cardboard from sanitary landfills altogether. The Orange County answer has been the collection and marketing of commercially generated cardboard from businesses and institutions in Carrboro and Chapel Hill through

a program managed by the town of Chapel Hill. Although this pilot project has not paid for itself directly in cash and landfill space savings, Pollock, the solid waste planner for Orange County, Chapel Hill, and Carrboro, says Chapel Hill plans to continue the program in order to recycle 25 percent of its waste stream by 1993.

Newspaper recycling, on the other hand, has been the victim of its own success. Across much of the nation, the market is weak or glutted. Until mid-October of 1989, Mecklenburg County was having to pay a contractor \$5 a ton to haul its newspapers away—still cheaper, county officials pointed out, than burying the newspapers in the landfill.

Paperstock dealers believe the problem is a temporary one, and innovative uses that could increase demand for reclaimed newspapers are cropping up across North Carolina. Sealed Air Corporation buys all of the old newspapers collected at the City of Greensboro's drop-off recycling sites to produce padded envelopes. Many newspapers print on recycled newsprint, including the *Winston-Salem Journal*, which uses newsprint made



Amy Carr

*Worker prepares a bale of aluminum cans for market at Lee Iron and Metal in Sanford.*

of 38 percent recycled paper—more than any other other paper in the state, according to the N.C. Press Association.<sup>20</sup> Orange and Chatham counties are experimenting with shredded newsprint as a substitute for traditional animal bedding. “We will have to find new markets,” says Pollock. “There is no excuse for newspapers not to be gearing up for printing on recycled paper. And there is no reason that our state can’t look at shredded paper for animal bedding.”

Glass composes 8 percent of the waste stream and also is widely recycled. Glass jars and bottles can be cleaned and re-used or crushed into cullet and employed in making new glass. Cullet melts at a lower temperature and emits fewer pollutants than other raw materials used in glass making. The Carolinas Glass Recycling Program, sponsored by the glass industry, promotes glass recycling in North and South Carolina. When the program began in 1986, a handful of processors recycled 3 million glass bottles and jars monthly. By 1988, more than 70 organizations in the Carolinas handled more than 12 million glass containers a month.<sup>21</sup>

Plastics recycling is still in its infancy, but is rapidly developing with the help of corporate giants like DuPont and General Electric. Reclaimed plastics can be processed into insulated filling for sleeping bags and ski jackets, and plastic lumber for railroad ties, parking lot car stops, and park benches. After July 1, 1991, all plastic containers sold in North Carolina must be molded with a label identifying the plastic resin used to make the product. The imprint will facilitate the separation and recycling of plastics.<sup>22</sup>

Many other common household products are recyclable. Tin cans, which are really 99 percent steel, can be detinned and re-used in manufacturing, although there is virtually no market for tin cans in North Carolina. Aluminum recyclers buy old canoes, aluminum siding, and window frames. Textile scraps are re-used in manufacturing or to make rags and automobile floor mats.

Used tires and oil, which present major disposal problems, also can be recycled. North Carolinians discard an estimated 11 million tires annually.<sup>23</sup> Products from recycled tires can be used to make mud flaps for trucks or added to

asphalt to reduce stress and cracking in new roads. One Iredell County company cuts old racing tires into worm-like strips and weaves them into welcome mats. Tires can also be a valuable energy source when safely burned in an incinerator. A number of counties are shipping scrap tires to a facility in Atlanta at a cost of 70 cents to \$1 per tire. The firm produces crumb rubber from the tires for use as a fuel source.

Used oil, a potentially serious pollutant, can also be a valuable renewable resource when correctly handled. It can be re-refined for use as a lubricant or wood preservative. It can even be used in the production of artificial logs.

### Collection Techniques

**T**echniques for collecting recyclables vary in their waste diversion potential, ease of implementation, and net cost. The Center's survey found that a full range of collection methods already have been put into practice by public and private recycling program operators across North Carolina. These can be grouped into three major

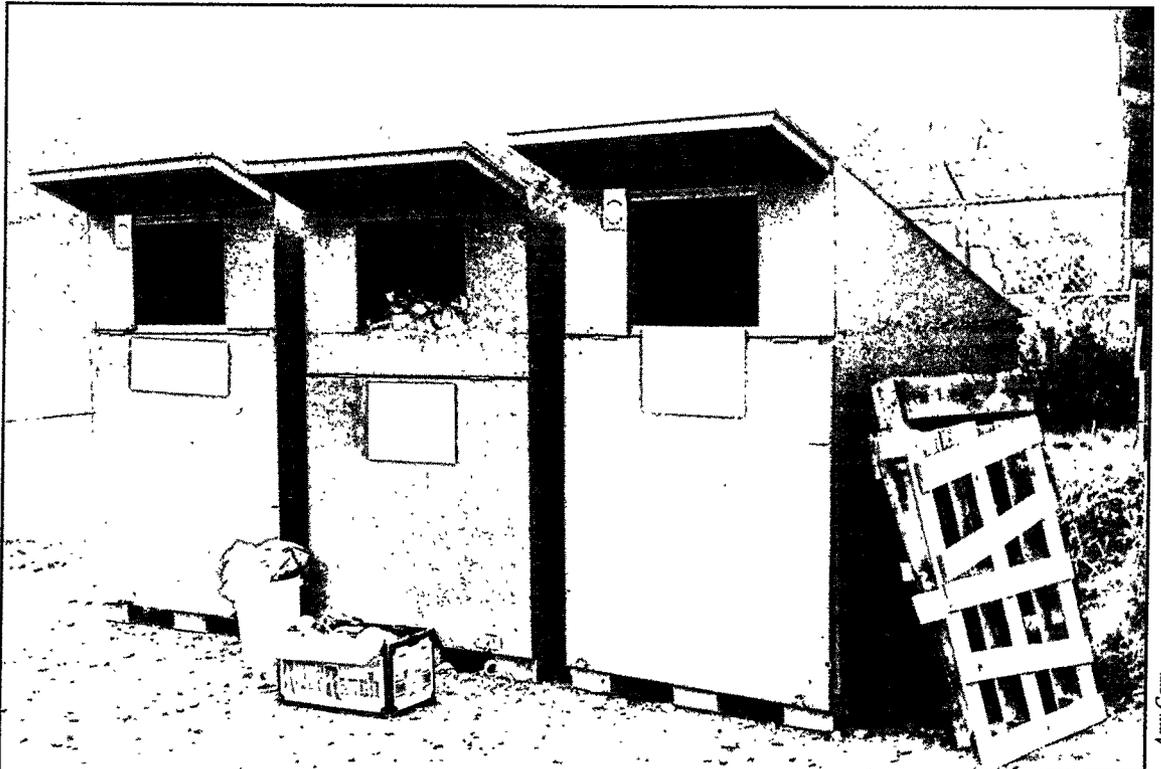
types of operations: 1) buy-back and drop-off centers for recyclables; 2) curbside collection programs; and 3) salvage centers located at landfills to divert metals and bulky materials such as old appliances.

Buy-back centers encourage recycling with a cash incentive. These centers primarily purchase materials such as glass and aluminum that command a high enough price to make it worth the consumer's while to recycle. Reynolds Aluminum Recycling Company alone has collected 2.6 billion cans since the company began operating buy-back centers in North Carolina in 1974, according to company officials. In 1988, North Carolinians earned \$4.5 million through recycling at 50 Reynolds buy-back centers across the state.

The convenience of curbside collection of recyclables boosts participation rates, but is also the most expensive recycling option. The Center's survey found local governments in eight North Carolina counties—Alamance, Catawba, Cumberland, Durham, Mecklenburg, Moore, Orange, and Wake—already provide or contract for limited curbside collection of recyclables.<sup>24</sup>

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*Drop-off boxes like these in Orange County are becoming commonplace across North Carolina as more and more residents take up recycling.*



Amy Carr

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*"I unfolded the bag cuffs, released the latch and lifted out the bag [of garbage]. The full stench hit me with shocking force. Was this ours? Did it belong to us? Had we created it? I took the bag out to the garage and emptied it. The compressed bulk sat there like an ironic modern sculpture, massive, squat, mocking."*

—Don DeLillo  
*White Noise*

National Book Award Winner, Fiction, 1985

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Mecklenburg County's "Curb It" program serves 16,000 Charlotte households and will expand to pick up recyclables from more than 100,000 homes by January 1990. Charlotte residents participating in a pilot project tote red plastic tubs full of plastic drink bottles, aluminum cans, glass, and newspapers to the curb weekly for collection. Curbside collection makes recycling as easy as taking out the trash for these residents.

Curbside recycling was introduced in Raleigh in October 1989, and the program was an immediate hit. "We were talking about getting 35 to 40 percent participation," says Steve Goode, Waste Industries regional manager. "We're probably averaging 70 percent." Goode says some Raleigh citizens have been so eager to recycle that some who are not yet being served are taking their bottles, cans, and newspapers to the homes of people who *are* on the pilot routes, which serve 4,000 homes. "By the second day, we were putting a second truck on every route," says Goode.

Many counties salvage recyclable materials from the landfill. Bulky items, such as appliances, and marketable waste such as corrugated boxes and aluminum, can easily be separated from other garbage. Keep Wayne County Beautiful, a non-profit corporation with no funding outside of recycling proceeds, culls scrap aluminum, glass, and paper from the Wayne County landfill. Half of the proceeds from the monthly sale of 90 tons of mixed paper, 7,600 pounds of aluminum, and 2,100 pounds of glass goes to the five workers who collect the materials, and half is plowed back

into the Keep Wayne County Beautiful budget. And the city of High Point has signed a contract with Delta Waste, Inc. to separate recyclables from city garbage *before* it gets to the landfill. City officials believe they can easily exceed the state's waste diversion goal through this privately operated materials recovery facility.

Drop-off centers are local government's least costly option for recycling residential waste. In 48 North Carolina counties, some site is offered where residents can deposit accumulated recyclables, the Center's survey found. Some counties are consolidating their green box dumpster sites to economize on collection, and are adding drop-off recycling centers at the consolidated sites. Rowan County's 35 unstaffed dumpster sites, for example, will soon be consolidated into six staffed sites where residents will deposit both recyclables and garbage. Although cheaper to operate than curbside programs and buy-back centers, drop-off sites do have disadvantages. Participation is lower, *so less waste gets diverted from landfills*, litter and overflow can be a problem at unstaffed sites, and non-recyclable household trash may be thrown in with the recyclables.

Periodic community recycling days using temporary drop-off sites are one way to spur community interest and to educate residents about recycling. The Carolinas Glass Recycling Program coordinates "R-days" in many communities. The proceeds from the temporary drop-off centers are donated to local charities, says program director Jim Heimberger. Rowan County collected 50 tons of newspaper during a one-day recycling effort in its school system. Two elementary schools averaged 13 pounds of newspapers collected per student.

## The State of the Counties' Recycling Efforts

**R**owan County's program in its schools is one example of a number of innovative recycling efforts in North Carolina. According to the Center's survey, residents in 34 of North Carolina's 100 counties have access to an established recycling program. In these counties, more than \$10,000 a year is spent on recycling programs. Where budget figures were unavailable, counties were placed in this survey category if local entities in the county offered three or more recycling options or employed a full-time recycling coordinator. But 38 counties—a clear plu-

rality—provide *no* recycling services, and 28 counties provide only minimal services. These latter counties offer only one or two services or spend \$10,000 or less on recycling. The survey clearly indicates that in *most* counties—those offering minimal services and those offering none at all—there is little opportunity for citizens to recycle. Even among the 34 counties with established programs, the level of activities varies greatly. Recycling budgets total at least \$100,000 in only 11 counties—Alamance, Buncombe, Burke, Caldwell, Catawba, Durham, Gaston, Mecklenburg, Onslow, Orange, and Wake.

City and county administrators and sanitation officials were asked how many years of useful life remained in their current landfills, whether their

county or municipality paid a full-time recycling coordinator, how much money was budgeted for recycling during the past two years, what recycling activities they engaged in, and what revenues were generated through their recycling programs. (See Table 3, pp. 20-26, for a complete listing of the survey findings.)

One indicator of a strong commitment to recycling is the employment of a full-time recycling coordinator. According to the Center survey, 18 counties and six cities have a paid, full-time recycling coordinator. Mecklenburg has a recycling division manager who supervises a staff of 23 in an aggressive and highly visible program that includes curbside and drop-off center collection, a salvage operation, and processing of materials for

## *Mecklenburg County: An Urban County as a Model Manager of Solid Waste*

Local government officials looking for a solid waste management success story need look no further than Mecklenburg County. "Our philosophy in this county is that we have an integrated waste management system," says Fred Remington, recycling division director. "Built into the system is a series of options for waste disposal. The first option in this community is recycling."

Residents and businesses in this densely populated south Piedmont county on average produce an 1,800-ton mountain of garbage daily, enough to load a 10-mile line of half-ton pickup trucks. Mecklenburg, through a contractual agreement, is responsible for disposing of the waste of six of seven municipalities within the county, including that of Charlotte, the state's largest city and the producer of some 80 percent of the county's waste. This responsibility for disposal means operating the county landfill, which brings with it all the political headaches and expense of siting a new landfill when the old one is filled. The county's current landfill has two years of life remaining. A 574-acre site has been purchased for a new

landfill near the South Carolina border, but South Carolina is suing to block its opening. It is this burden of siting new landfills that during the past decade has propelled recycling from a marginal fundraising scheme for schools and civic groups to an integral component of a model waste management system.

In January 1990, Charlotte will go city-wide with curbside collection of recyclables. The city has set aside more than \$2 million for this expansion, by far the state's most generous budget for recycling. The expansion is the fruit of a successful county pilot program that currently serves about 16,000 homes. Under this program, residents toss aluminum, glass, and plastic containers into 20-gallon bins, then top the bins off with newspapers and place them at the curb for weekly pickup. Remington says some 70 percent of residents in neighborhoods served actually participate by setting out their bins for collection at least once a month, and about 36 percent set out their bins every week. City collectors separate the materials at curbside and haul them to a county-operated

*—continued on next page*

market. (For more on recycling in Mecklenburg County, see sidebar, page 15). The Town of Chapel Hill operates an extensive recycling program with drop-off facilities throughout Orange County and recently awarded a contract to expand its curbside collection services. The towns of Newton and Long View in Catawba County offer curbside collection through a private contractor. Other metropolitan areas in North Carolina are planning large recycling programs. Raleigh re-

cently launched its pilot curbside program, and Wilmington also plans a curbside program.

Rural counties are tackling recycling on a smaller scale, but in some cases with equal enthusiasm. Chatham County's recycling program has grown from a one-Saturday-a-month pilot project into a full-fledged program with four permanent drop-off sites for recyclables and a full-time recycling coordinator, Judy Ingram. Ingram says the county collected 61,000 pounds of newspaper,

### Mecklenburg County, *continued*

facility, where cans are flattened, glass is deposited into roll-off containers for shipment to buyers, and plastic is granulated.

Curbside programs operate in the much smaller municipalities of Huntersville, Cornelius, and Davidson, and Remington says Pineville and Mint Hill, by signing the county's waste management plan, also have committed to provide curbside recycling. The town of Matthews has contracted with a private hauler for waste collection and disposal. Besides the curb-side program, Mecklenburg maintains 10 drop-off boxes for recyclables and diverts appliances and metals such as aluminum, copper, and brass through a salvage operation at the county landfill. County workers also operate two tub grinders at the landfill, which grind scrap wood and yard waste into mulch sold for \$5 a cubic yard and used for landscaping. "We made \$27,000 last year just on our relatively small mulch generation," says Alan Giles, a county resource recovery specialist. County residents currently must bring yard waste to the landfill, but those served by curbside recycling programs also will be able to place yard waste at curbside beginning in July 1990. "Everyone is recycling everything they can—everything that is economically viable," says Remington, adding that the next target is the commercial sector.

Residents who participate in the curbside programs have little incentive other than civic mindedness spurred by an ongoing public relations campaign. But residents and commercial haulers who bring waste directly to the

landfill do have an incentive. The landfill charges a tipping fee designed to recoup waste disposal operating costs. Small load dumpers can get the fee waived or reduced by bringing recyclables to the landfill. A resident bringing a trunk full of garbage in his car, for example, would have to bring along three bags of newspapers for recycling or pay \$5 for dumping. Commercial haulers pay \$23 a ton for dumping, so any material that is recycled rather than dumped results in a direct savings for the hauler.

Mecklenburg's waste management strategy also includes a trump card that puts it well ahead of the game compared to most North Carolina counties—a waste-to-energy incinerator that already consumes all of the backyard garbage produced by the city of Charlotte—about 190 tons a day. Steam produced through incineration is used to heat buildings on the campus of the University of North Carolina at Charlotte in the winter, and steam-generated electricity is sold to Duke Power Company in the summer. County officials say the incinerator produces five megawatts of electricity a day—enough to power 20,000 homes. Ash from incineration currently is hauled to the county landfill, where it is being stored until the county gets a permit for its specially engineered landfill.

Remington says waste-to-energy ranks second in the county's three-tier management hierarchy for non-hazardous waste, and landfilling ranks last. "If it has no economic value and no energy value, then you have to landfill it," says Remington. Mecklenburg traces its solid waste management program to planning efforts that began in the early 1970s.

glass, and aluminum during June 1989. (See sidebar, page 18, for more on recycling in Chatham County.) Watauga County has recycled about 250 tons of waste annually through its buy-back center for aluminum, glass, non-ferrous metals, and paper. "Our little system has worked well, and it hasn't been too costly," says recycling coordinator F. Mark Combs. "We believe in recycling, but at the same time we are pragmatic about the system's limitations. Labor, commodities mar-

kets, and public participation are some tough obstacles."

Nonprofit groups coordinate recycling in many areas of North Carolina. The N.C. Recycling Association, founded in 1988, already claims more than 200 members, including concerned citizens, industries, environmental groups, and solid waste professionals. The group promotes recycling and provides technical assistance to both government and private recycling efforts.

The county's experiment with recycling started modestly in 1977 with a Charlotte Women's Club proposal for four drop-off sites at public schools. Former County Commissioner LaFontaine "Fountain" Odom, now a state senator (D-Mecklenburg), championed the hiring of a part-time recycling coordinator in 1981. From there the program blossomed into a national model with a \$1 million annual budget and a staff of 23.

Although Charlotte now collects recyclables, the county still holds responsibility for processing and marketing these materials. The county—faced with heated neighborhood opposition to its site—scrapped plans for a high-volume materials recovery facility to process the surge of recyclables anticipated from curbside expansion. Instead, the county contracted with a private firm, which will open its own facility. Mecklenburg will pay the contractor \$7.50 a ton for accepting recyclable materials, but officials say that's cheaper than the \$7.80 a ton it would cost the county to operate a processing center.

Mecklenburg has set a goal of diverting 30 percent of its solid waste from landfills by 1994. That exceeds the state goal of 25 percent set in the Solid Waste Management Act, and the county's long-range plans are much more ambitious. By the year 2006, the county hopes to recycle 30 percent of its waste and incinerate 40 percent. That would mean burying only 30 percent of the county's waste in sanitary landfills. "We think it's realistic to assume that 30 percent of waste will always have to be landfilled because we believe at least 30 percent of the waste stream is innocuous, non-combustible, and not economically

recyclable," says Remington.

Comparing those projections to the present, it becomes evident that even Mecklenburg—among the state's best waste managers—has a way to go before its problems are solved. The county currently captures about 10 percent of its waste through recycling and salvaging, and burns another 10 percent in its incinerator. But the county plans to add a second, larger incinerator, to expand recycling even further by targeting multi-family residences and commercial establishments such as restaurants and bars, and to open up a 35-acre facility for producing mulch and compost from wood and yard waste. Remington says the county hopes to divert as much as 18 percent of its current landfilled waste to this facility, 12.5 percent of which could count toward the state's 25 percent waste diversion goal. The remaining 12.5 percent would be achieved through recycling and salvage, Remington says. "I'm confident we will be able to make the waste management goals," says Remington.

Although he concedes that Mecklenburg has gotten a head start, Remington says the state's 25 percent goal is achievable for most North Carolina counties. The key to success, he says, is providing the financial incentive to recycle—an aggressive tipping fee at the landfill. "The challenge is particularly great in an area where there is no or very little tipping fee in the disposal area," says Remington. "Where there is no charge, there is very little economic incentive to recycle. Some incentive *has* to be developed to encourage people to recycle."

—Mike McLaughlin

## *Chatham County: A Rural County with a Big Recycling Effort*

Residents of rural Chatham County are so anxious to recycle that Recycling Coordinator Judy Ingram has a hard time keeping up with their demands. "I can't move as fast as the citizens want," says Ingram. "Our recycling program is an example of a successful grass-roots effort. It's the residents who are pushing the government to do something about solid waste."

It all began in the spring of 1987, when the loosely organized Solid Waste Management Task Force, armed with environmental enthusiasm and a grant from the Governor's Waste Management Board, organized a workshop on recycling for more than 100 Chatham County residents. Chatham County Recycling has since grown from a one-Saturday-morning-a-month drop-off program into a flourishing project with four drop-off recycling centers and a full-time coordinator. Revenues from the sale of recyclables normally cover each month's operating expenses. From December 1988 to June 1989, the amount of materials collected increased by 42 percent, from 43,000 to 61,000 pounds. The program has expanded to include the collection of office paper and cardboard.

In the first six-and-a-half months of operation, the system diverted 133 tons of aluminum beverage cans, newspaper, and glass from the landfill. That's more than seven and a half pounds per county resident, but less than 2 percent of the waste buried in the landfill during the same time period. Still, Ingram says the program is successful. If volunteer support is any indication, she's right. A core group of 75 volunteers teaches recycling in the schools, mobilizes support in churches and civic organizations, patrols the collection sites daily, and searches for new markets for recyclable goods.

Despite these efforts, Chatham and other rural counties have a long way to go before

reaching the state's 25 percent recycling goal. Officials in rural counties say they have neither the money nor the personnel to operate extensive recycling programs. Since Chatham is sparsely populated, curbside collection of trash and recyclables would be cost-effective only in the towns and larger subdivisions in the county. For now, Ingram says the next step towards the 25 percent goal is to make recycling more convenient for participants. "Right now, I have about 5 percent of the people in the county participating," she says. "We will add one more collection site soon, and that might help." When the county consolidates its 60 unstaffed dumpsters into seven staffed centers next year, compactors for regular trash and drop-off facilities for recyclables will be added. Each home will have a site within six miles.

A recently implemented \$15-a-ton tipping fee at the Chatham County landfill provides added incentive for area residents and business to reduce and recycle their waste. The county commissioners, recognizing the strength of support for recycling and alarmed that the landfill has less than seven years of remaining life, have increased county funding for recycling by 62 percent, from an initial \$25,000 in 1988 to \$40,544 for the 1989-90 fiscal year.

Public outreach programs have taught school children to be "good stewards of the land," says Ingram. Last year, second grader Brian Craft claimed first prize in a poster contest with his slogan "Thumbs up for recycling!" One schoolgirl had to be reprimanded for climbing into one of the county's trash dumpsters to retrieve clean newspapers carelessly deposited by a newspaper carrier. "And the enthusiasm is contagious," says Ingram. "We're only making a dent, but we're doing something.... We saw a problem and jumped in in a low-tech way. While we're learning, people are learning to recycle. It is the change in attitudes that is most important."

—Amy Carr

Sun Shares, a nonprofit organization started in 1979, operates the Durham Recycles program. The group's 14 employees manage recycling centers and curbside collection for city and county residents. Sun Shares' funding is provided through tipping fees at the City of Durham's landfill and a grant from the Mary Reynolds Babcock Foundation in Winston-Salem. Nonprofits also have played an important role in recycling in Orange County. Chapel Hill Boy Scouts, for example, have constructed a permanent storage building where they process more than 30 tons a month of glass, paper, and aluminum cans for recycling and operate a buy-back center on Saturday mornings. The Town of Chapel Hill provides incentive for Troop 39's efforts by paying the troop the equivalent of the tipping fee for each ton of waste diverted from the landfill.

Some counties in North Carolina have joined forces with their neighbors to adopt regional solid waste management strategies, an idea now encouraged in state law.<sup>25</sup> In sparsely populated rural counties, an efficient "wasteshed" might transcend county lines. The benefits of sharing

facilities and marketing a larger volume of materials could offset the increased transportation and administrative costs of implementing a regional solid waste management plan, says Phil Prete, waste reduction and recycling coordinator at the University of North Carolina at Chapel Hill.

The regional approach to solid waste management has worked well in the Land-of-Sky Regional Council in western North Carolina, council officials say. The Council of Governments' three-year-old program assists local governments with recycling efforts in Buncombe, Madison, Henderson, and Transylvania counties. The results of the COG's research on the feasibility of regional equipment sharing will be useful statewide, says Land-of-Sky solid waste planner Robin Sexton. Steve Heiselman, recycling coordinator in Buncombe County, says, "Small counties are the ones that will benefit most by regionalization of collecting and marketing processes."

Lee is a good example of those 28 counties making a minimal recycling effort. The county allocated only \$10,000 of its \$565,000 sanitation

— continued on page 27

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*Boy Scout Troop 39 in Chapel Hill is one of a host of nonprofit groups making major contributions to recycling efforts in North Carolina.*



Amy Carr

**Table 3. County and Municipal Recycling Efforts in North Carolina**

	Remaining Years of Life In Landfill	Paid Recycling Coordinator	Current Recycling Activities	Fiscal Year 1989-1990 Funding
<b>ALAMANCE</b>				
Alamance County	3+	yes	DO,LL,O,S	\$140,000
Burlington	—	no	CS,LL	\$6,000
<b>ALEXANDER</b>				
Alexander County	3+	yes	BB	\$22,000
<b>ALLEGHANY</b>				
Alleghany County	7+	no	none	—
<b>ANSON</b>				
Anson County	2	no	DO	N/A
<b>ASHE</b>				
Ashe County	10+	no	none	—
<b>AVERY</b>				
Avery County	2	no	none	—
<b>BEAUFORT</b>				
Beaufort County	5+	no	DO	N/A
Washington	—	no	CS	N/A
<b>BERTIE</b>				
Bertie County	3+	no	none	—
<b>BLADEN</b>				
Bladen County	2+	no	S	—
<b>BRUNSWICK</b>				
Brunswick County	5+	no	none	—

**Key**

- BB: Buy-back center where customers are paid for recyclable materials
- CS: Curbside collection of recyclables on a regular schedule
- DO: Drop-off center where residents may deposit recyclables
- LL: Leaf or limb collection and diversion from the sanitary landfill
- O: Other recycling activity (office paper collection, for example)
- S: Salvage of bulky goods from landfill

- +: More than
- : Less than

N/A: Specific amounts not available; recycling expenditures contained within overall solid waste budget or general expenditures

Planning: Recycling program in planning stages

#: Joint city/county program

**Table 3. County and Municipal Recycling Efforts in North Carolina, cont.**

	Remaining Years of Life In Landfill	Paid Recycling Coordinator	Current Recycling Activities	Fiscal Year 1989-1990 Funding
<b>BUNCOMBE</b>				
Buncombe County	2+	yes	DO,LL,O	\$200,000
<b>BURKE</b>				
Burke County	30+	yes	BB,DO,LL,O,S	\$260,000
Morganton	—	no	DO	N/A
<b>CABARRUS</b>				
Cabarrus County	15+	yes	DO	\$31,552
Concord	—	no	S,LL,	N/A
<b>CALDWELL</b>				
Caldwell County	2+	no	DO,LL,S	\$150,000
<b>CAMDEN</b>				
Camden County	—	no	none	—
<b>CARTERET</b>				
Carteret County	5+	no	DO	N/A
<b>CASWELL</b>				
Caswell County	5+	no	S	—
<b>CATAWBA</b>				
Catawba County	12	—	# BB,CS,DO,LL,S	\$100,000
Conover	—	no	DO,LL,S	\$15,500
Hickory	—	no	DO,LL,S	N/A
Long View	—	no	CS	\$18,000
Newton	—	no	CS,DO,LL	N/A
<b>CHATHAM</b>				
Chatham County	5+	yes	DO,O	\$40,544
<b>CHEROKEE</b>				
Cherokee County	2-	no	LL,S	N/A

This table includes county and municipal recycling efforts and is organized by county. All 100 counties are listed, even those with no recycling programs and no landfills. Cities which operate a landfill or which participated in the Center's recycling survey are also included.

**Bold type** indicates a combined total of five years or less of life remaining in one or more municipal- or county-operated landfills.

**Notes**

\* Rocky Mount lies in both Edgecombe and Nash counties.

\*\* Private landfills and landfills not currently in use are excluded from the list. If a county or municipality operates more than one landfill, the remaining life of each landfill in its jurisdiction is listed.

\*\*\* Macon County has a volunteer recycling coordinator.

\*\*\*\* Rutherford County has a part-time recycling coordinator.

*Table by Amy Carr*

**Table 3. County and Municipal Recycling Efforts in North Carolina, cont.**

	Remaining Years of Life In Landfill	Paid Recycling Coordinator	Current Recycling Activities	Fiscal Year 1989-1990 Funding
<b>CHOWAN</b>				
Chowan/Gates/ Perquimans	10+	no	DO	—
Edenton	—	no	LL,O	\$10,000
<b>CLAY</b>				
Clay County	10+	no	none	—
<b>CLEVELAND</b>				
Cleveland County	10+	no	DO,O	—
Shelby	—	no	DO,LL	N/A
<b>COLUMBUS</b>				
Columbus County	10	no	DO	\$10,000
<b>CRAVEN</b>				
Craven County	10	no	none	—
<b>CUMBERLAND</b>				
Cumberland County	10+	yes	CS,DO,LL	\$24,644
Fayetteville	—	no	LL	N/A
Hope Mills	—	no	DO,O	N/A
<b>CURRITUCK</b>				
Currituck County	5	no	none	—
<b>DARE</b>				
Dare County	5	no	none	—
<b>DAVIDSON</b>				
Davidson County	2+	no	none	—
Lexington	1	no	none	—
Thomasville	3+	no	LL	N/A
<b>DAVIE</b>				
Davie County	5+	no	LL,S	N/A
<b>DUPLIN</b>				
Duplin County	2+	no	none	—
<b>DURHAM</b>				
City of Durham	2+	yes	* CS,DO,LL,O,S	\$759,000
<b>EDGECOMBE</b>				
Edgecombe County	10+	no	none	—
Tarboro	—	no	DO,LL	N/A
Rocky Mount*	—	no	DO,LL,S	N/A
<b>FORSYTH</b>				
Forsyth County	—	no	none	—
Winston-Salem **	10-, 2+	no	BB, DO, LL, S	N/A
Kernersville	1-	no	DO	N/A
<b>FRANKLIN</b>				
Franklin County	1-	no	DO,LL,O,S	N/A

**Table 3. County and Municipal Recycling Efforts in North Carolina, cont.**

	Remaining Years of Life In Landfill	Paid Recycling Coordinator	Current Recycling Activities	Fiscal Year 1989-1990 Funding
<b>GASTON</b>				
Gaston County	10+	yes	BB,DO,LL,O,S	\$250,000
<b>GATES</b>				
Gates/Chowan/ Perquimans counties	10+	no	none	—
<b>GRAHAM</b>				
Graham County	1-	no	DO	N/A
<b>GRANVILLE</b>				
Granville County **	1+, 1+	no	none	—
<b>GREENE</b>				
Greene County	20	no	none	—
<b>GUILFORD</b>				
Greensboro	4+	no	DO,LL	\$13,794
High Point **	2+, 10+	no	DO,LL, O	N/A
<b>HALIFAX</b>				
Halifax County	10+	no	none	—
<b>HARNETT</b>				
Harnett County **	10+, 10+	no	none	—
<b>HAYWOOD</b>				
Haywood County	1-	yes	DO,O	\$30,000
Canton	10+	—	—	—
Waynesville	—	—	LL	—
<b>HENDERSON</b>				
Henderson County	15	yes	DO,S	N/A
Hendersonville	—	no	DO,S	N/A
<b>HERTFORD</b>				
Hertford County	1-	no	LL	—
<b>HOKE</b>				
Raeford	4+	no	planning	—
<b>HYDE</b>				
	—	no	DO	N/A
<b>IREDELL</b>				
Iredell County	2+	no	planning	—
Mooresville	—	no	LL,S	N/A
<b>JACKSON</b>				
Jackson County	5+	no	BB	\$30,000
<b>JOHNSTON</b>				
Johnston County	2+	no	none	—
<b>JONES</b>				
Jones County	26	no	none	—
<b>LEE</b>				
Lee County	7	no	DO	\$10,000
Sanford	—	—	LL	N/A

**Table 3. County and Municipal Recycling Efforts in North Carolina, cont.**

	Remaining Years of Life In Landfill	Paid Recycling Coordinator	Current Recycling Activities	Fiscal Year 1989-1990 Funding
<b>LENOIR</b>				
Lenoir County	5+	no	none	—
<b>LINCOLN</b>				
Lincoln County	15+	no	none	—
<b>MACON</b>				
Macon County **	1-, 1-	no ***	DO	—
<b>MADISON</b>				
Madison County	1-	no	DO	\$10,000
<b>MARTIN</b>				
Martin County	2-	no	none	—
<b>McDOWELL</b>				
McDowell County	5+	no	DO,LL,O	\$5,000
<b>MECKLENBURG</b>				
Mecklenburg County	2+	yes	CS,DO,S,LL,O	\$1,000,000
Charlotte	—	yes	CS	\$2,211,504
Cornelius	—	no	CS,LL	N/A
Davidson	—	no	CS,LL	N/A
Huntersville	—	no	CS,LL	N/A
Matthews	—	no	CS,LL	N/A
Mint Hill	—	no	CS,LL	\$100,000
<b>MITCHELL</b>				
Mitchell/Yancey counties	3+	no	none	—
<b>MONTGOMERY</b>				
Montgomery County	2+	no	none	—
<b>MOORE</b>				
Moore County	10+	no	BB,DO,S	\$7,500
Pinehurst	—	no	CS,DO	\$31,200
<b>NASH</b>				
Nash County	2+	no	none	—
<b>NEW HANOVER</b>				
New Hanover County	50+	yes	planning	—
<b>NORTHAMPTON</b>				
Northampton County	10+	no	none	—
<b>ONSLOW</b>				
Onslow County	5	yes	BB,DO,O	N/A
Jacksonville	—	yes	planning	\$121,400
<b>ORANGE</b>				
Orange County/ Chapel Hill/Carrboro †	8	yes	* BB,CS,DO, LL,O,S	\$326,000
Hillsborough	—	no	CS,LL	N/A

**Table 3. County and Municipal Recycling Efforts in North Carolina, cont.**

	Remaining Years of Life In Landfill	Paid Recycling Coordinator	Current Recycling Activities	Fiscal Year 1989-1990 Funding
<b>PAMLICO</b>				
Pamlico County	6+	no	LL,O	\$500
<b>PASQUOTANK</b>				
Pasquotank County	10+	no	none	—
<b>PENDER</b>				
Pender County	5+	no	none	—
<b>PERQUIMANS</b>				
Perquimans/ Gates/Chowan counties	10+	no	none	—
<b>PERSON</b>				
Person County/ City of Roxboro #	5+	no	none	—
<b>PITT</b>				
Pitt County	5	no	BB,DO,O	N/A
Greenville	—	yes	DO,LL,O	\$18,000
<b>POLK</b>				
Polk County	10+	no	DO	N/A
<b>RANDOLPH</b>				
Randolph County	8+	no	DO,LL,O,S	N/A
Asheboro	—	no	DO	N/A
<b>RICHMOND</b>				
Richmond County	10+	no	none	N/A
Hamlet	—	no	LL	N/A
<b>ROBESON</b>				
Robeson County	25+	no	none	—
Lumberton	—	no	DO	N/A
<b>ROCKINGHAM</b>				
Rockingham County	2+	no	none	—
Reidsville	—	no	DO,LL	N/A
<b>ROWAN</b>				
Rowan County	30+	yes	DO,LL,S	\$46,640
Salisbury	—	no	DO,LL	\$8,000
<b>RUTHERFORD</b>				
Rutherford County **	5+, 5+	no ****	LL, planning	N/A
<b>SAMPSON</b>				
Sampson County	5	no	none	—
<b>SCOTLAND</b>				
Scotland County	5	no	DO,LL	N/A
Laurinburg	—	no	LL,O	\$90,000
<b>STANLY</b>				
Stanly County	—	no	DO, planning	\$85,151
Albemarle	5+	no	LL	\$10,000

**Table 3. County and Municipal Recycling Efforts in North Carolina, *cont.***

	Remaining Years of Life In Landfill	Paid Recycling Coordinator	Current Recycling Activities	Fiscal Year 1989-1990 Funding
<b>STOKES</b>				
Stokes County	12+	no	none	—
<b>SURRY</b>				
Surry County	5+, 5+ **	no	DO	N/A
<b>SWAIN</b>				
Swain County	2+	no	LL	N/A
<b>TRANSYLVANIA</b>				
Transylvania County	1-	no	DO, O	N/A
<b>TYRRELL</b>				
Tyrrell County	—	no	none	—
<b>UNION</b>				
Union County	10	no	DO,LL,S	N/A
Monroe	—	no	LL,DO	N/A
<b>VANCE</b>				
Vance County	2-	no	none	—
<b>WAKE</b>				
Wake County	10, 4 **	yes	planned	\$618,000
Cary	—	no	BB,CS,DO,LL	\$73,000
Garner	—	no	DO,LL	N/A
Raleigh	10+	no	CS,DO,LL,O	\$114,000
<b>WARREN</b>				
Warren County	1-	no	none	—
<b>WASHINGTON</b>				
Washington County	2	yes	O	N/A
<b>WATAUGA</b>				
Watauga County	5+	yes	BB,LL,S	\$71,791
Boone	—	no	DO,O	N/A
<b>WAYNE</b>				
Wayne County **	10+, 10+	no	BB,DO,O	N/A
<b>WILKES</b>				
Wilkes County	2-	no	none	—
<b>WILSON</b>				
Wilson County	2+	no	BB	—
<b>YADKIN</b>				
Yadkin County	3	no	none	—
<b>YANCEY</b>				
Yancey/Mitchell counties	3+	no	BB,DO	\$10,000

—continued from page 19

budget for recycling in 1989. A single drop-off site for recyclables is located at the landfill, and only batteries, metal appliances, and aluminum cans are accepted. County activities are supplemented by leaf and limb collection in the City of Sanford, and by the private sector, including a local paper recycler and a local scrap dealer.

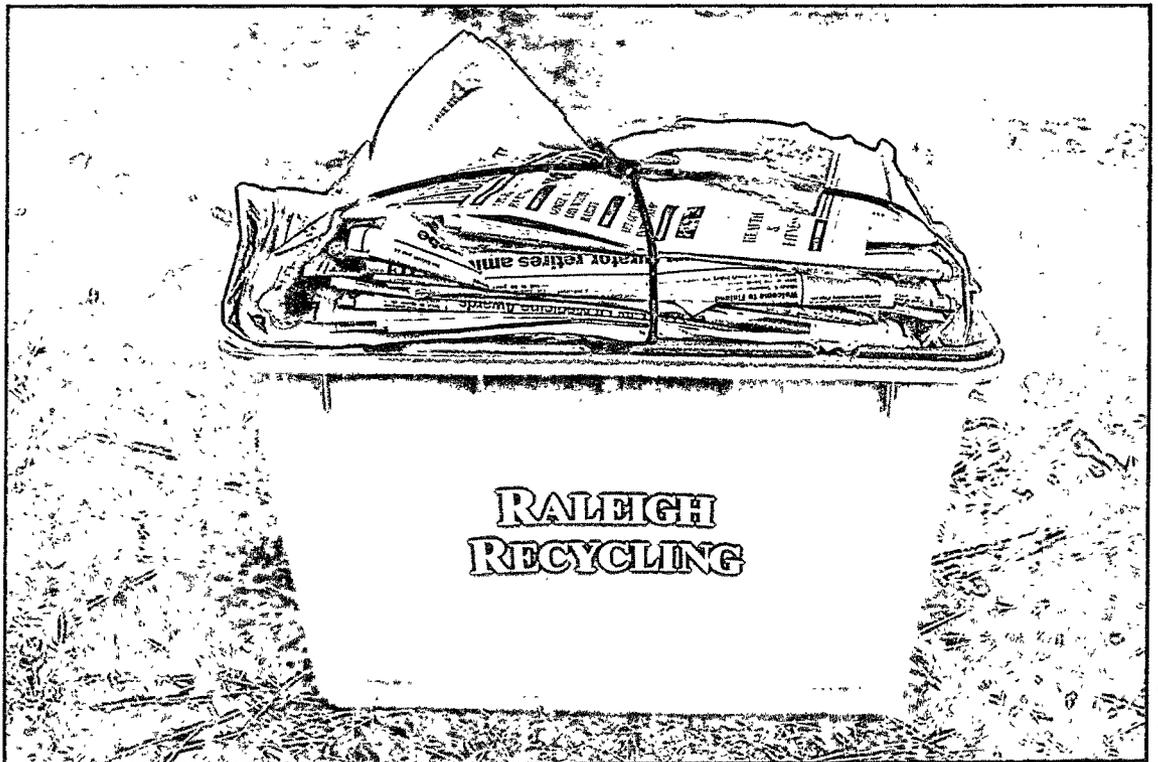
"We're looking at a couple of different options right now," says Lee County Public Works Director Bobby Johnson. "We started out with recycling dumpsters at the container sites, but people were dumping their regular trash in there."

At least Lee has begun experimenting with recycling. The list of counties that reported *no* recycling activities cuts across the entire state. It includes Ashe, Alleghany, and Avery in the west, Lincoln and Person counties in the Piedmont, and Brunswick, Camden, and Currituck in the east. Most of the counties with no recycling activities are small and rural, many are among the state's poorer counties, and more than half—20 of the 38—have more than five years of life left in their landfills. But even more of the counties with well-developed recycling efforts—24 of 34—had more than five years of life remaining in their landfills.

For the most part, the survey found North Carolina's more affluent and urbanized counties to be the recycling leaders, with the heaviest concentrations of non-recyclers in the extreme western and eastern parts of the state, where access to markets may be a greater problem than in the more industrialized Piedmont. It is these non-recycling counties which will face the greatest challenge when the full implications of the Solid Waste Management Act are realized. That challenge is to divert 25 percent of waste from landfills. The enforcement mechanism is the potential withholding of certain state funds.<sup>26</sup>

### How Much Can Be Recycled?

**I**n determining whether the waste diversion goal has been met, county officials can count only half of the 25 percent in the form of yard trash, appliances, tires, and construction and demolition debris. That's because with the exception of tires and appliances, much of this waste winds up in demolition landfills, separate landfills for bulky materials from such activities as construction, land clearing, and demolition that represent less of an environmental threat than sanitary



Jack Betts

landfills. And much of the wood and yard waste can easily be diverted through mulch and compost operations, which many cities and counties already have in place. The other half represents the greater challenge and the more expensive proposition for local government. This 12.5 percent must be achieved through diversion of such recyclables as paper, glass bottles, and aluminum cans—items that might ordinarily wind up in the kitchen garbage pail—and commercial waste such as office paper and cardboard. Solid waste from industrial, mining, or agricultural operations diverted from sanitary landfills cannot be counted towards the goal at all. Given these restrictions, can the goal be met? “I doubt it,” says Hackney, “but goals are something you shoot for.” Chapel Hill’s Pollock says the goal is “realistically optimistic. It is a numbers game. Chapel Hill has an aggressive program, but recycles 2.5 percent of the waste stream. If I include all the yard waste that is diverted from the landfill, I still only push the rate up to 8 or 9 percent.”

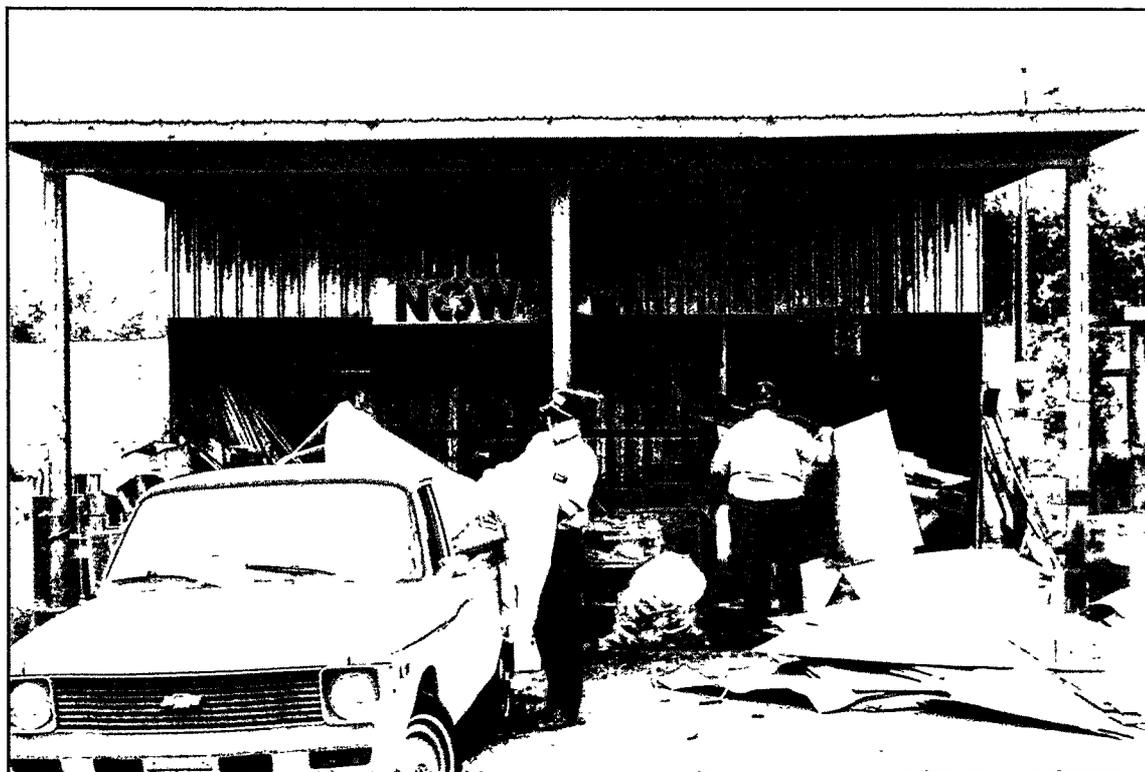
Theoretically, high recycling rates are plausible. Japan recycles more than 50 percent of its solid waste, and European countries all have sur-

passed the 25 percent recycling rate, according to the EPA. Using the EPA domestic waste stream figures, if three-quarters of wood and yard waste and half of waste paper, glass, metals, food, and plastics were recovered, North Carolina could recycle more than 50 percent of its waste stream. At least one lawmaker, Rep. James Craven, wanted a 50 percent goal included in the 1989 legislation.

But a gap exists between what is theoretically possible and what is technically and logistically feasible. Although 80 percent of the waste stream is recyclable, material loss due to contamination, a less-than-perfect participation rate, and the fact that some recyclables inevitably end up in the trash cans of participants, push the feasible recovery rate down considerably. Jeremy O’Brien, a solid waste specialist with HDR Engineering in Charlotte, estimates that no more than 21 percent of the residential and commercial waste stream feasibly can be recovered with curbside recycling, although combining curbside with other means of recycling can push the overall recovery percentage much higher.<sup>27</sup>

Mecklenburg County, with its nationally

*Salvage operation at the Mecklenburg County landfill.*



Mike McLaughlin

recognized recycling program, plans to recycle 15 percent of its garbage next year. Curbside collection goes citywide in Charlotte in January 1990, but Mecklenburg still aims to recycle only 30 percent of its waste stream by 2006. The popular drop-off sites in Chatham County divert less than 2 percent of the county's waste from the landfill. Such experiences suggest that many of the counties actively promoting recycling will not reach the 25 percent waste reduction goal by 1993. And for the 65 counties exerting little or no recycling efforts, the goal may remain elusive. "They're going to have to get off their duff and do something," says Heimberger. "A conscientious effort may accomplish it, but it depends on how hard the counties push recycling."

### What About Cost?

One factor prohibiting many counties from recycling is cost. More than \$3.3 million was budgeted this year for recycling in Mecklenburg County alone, including county and municipal costs, according to the Center survey. And the revenue generated from the sale of recyclables was only \$175,000. A comparable cost-to-revenue ratio exists in other counties with major recycling efforts. Buncombe took in \$25,000 with its recycling program in the 1988-89 fiscal year, but the budgeted cost, at \$150,000, was six times greater. Burke County, with its more modest operation, budgeted \$65,000 for recycling in 1988-89. The county realized only \$3,800 in revenue, a cost-to-revenue ratio of 17-to-1. Many local governments and nonprofit recyclers had hoped residential recycling would function like a stand-alone business, with costs covered by revenue generated. These hopes have been dashed by unstable markets, expensive equipment, and high operating costs. Only unique recycling efforts, like the Keep Wayne County Beautiful program with its abundant source of scrap aluminum, are self-financing. Yet the cost of even the state's most expensive recycling program—Mecklenburg's—represents a fraction of the cost of constructing a new state-of-the-art landfill or a waste-to-energy incinerator.

Mecklenburg's incinerator, which can burn up to 210 tons of garbage a day, cost the county \$27 million. Estimates for constructing a new landfill under EPA's new regulations range from \$100,000 to \$150,000 an acre. Using the more conservative figure, it would take \$20 million to

**Table 4. Estimated Per-Ton Cost to Local Governments of Various Waste Disposal Methods**

Method	Per Ton Cost	
Landfilling	\$30	to \$ 50 *
Curbside Recycling	\$40	\$ 80
Composting	\$50	\$100
Waste-to-Energy Incineration	\$50	\$100

\*Does not include the \$100,000 to \$150,000 an acre cost of building a new landfill when the old one is full.

*Source:* Technical paper prepared by R. W. Beck and Associates for the N.C. Alternative Energy Corporation. Estimates are based on national average costs and may vary greatly depending on regional and other factors.

build a 200-acre landfill. The City of Charlotte budgeted only \$2.2 million in fiscal year 1989-90 to expand curbside collection of recyclables citywide. But O'Brien cautions that operating costs, rather than capital costs, drive up the cost of curbside collection. O'Brien figures the cost of curbside collection and processing of recyclables at about \$50 a ton—after accounting for revenue from the sale of recyclable materials. But because recycling diverts waste from landfills or incinerators, the per-ton tipping fee at one of these facilities also should be deducted from the cost figure. In addition, a landfill depletion adjustment must be made, because if the ton of waste were landfilled, rather than recycled, it would use up valuable landfill space.

Under one scenario, O'Brien assumed a \$27 per-ton landfill tipping fee and a \$23 per-ton landfill depletion cost, so these costs equaled the \$50 per ton net cost of curbside recycling.<sup>28</sup> O'Brien assumed that the landfill would be full within three years and replaced with a more expensive waste-to-energy incinerator. Still, O'Brien says he would not want to soft-pedal the expense of establishing a curbside recycling program. "People are going to be surprised at how

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*"When we try to pick out anything by itself, we find it hitched to everything else in the universe"*

—John Muir

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much curbside costs," says O'Brien. "The reason is collection costs. When you recycle, you are really adding another collection service." One way to minimize these costs would be for sanitation workers to collect garbage, yard waste, and recyclables on a single route, O'Brien says. Yard waste and recyclables could be bagged by the resident and separated from garbage at a transfer station.

Another analysis compares per-ton costs for various waste disposal options and finds curbside recycling—at \$40 to \$80 a ton—to be somewhat more expensive than landfilling, which is estimated to cost \$30 to \$50 a ton.<sup>29</sup> But this analysis does not consider transportation and collection costs, which can vary considerably, nor does it take into account landfill depletion costs or revenue that can be realized through the sale of recyclables. (See Table 4 on page 29).

Capital costs for recycling can range from a few hundred dollars for a simple drop-off facility to hundreds of thousands of dollars for specially designed collection equipment and processing centers. Typically, the larger the percentage of waste diverted from the waste stream, the larger the cost. A tub grinder for chipping yard waste sets a local government back about \$150,000. A compartmentalized truck for curbside collection may run \$70,000. Shredders, balers, and storage buildings or material recovery facilities are all expensive capital investments. Operating costs such as insurance payments, wages, marketing and public relations costs, interest on loans, and transport costs must be figured into the recycling budget. Even consulting fees and other costs involved in planning a recycling program may be prohibitive for some local governments.

It's next to impossible to predict how much revenue these investments will yield. Markets

are extremely volatile. Graphs plotting the prices offered for aluminum and paper look more like EKG readouts than economic data. Even the price paid for usually lucrative aluminum cans is on a downward track. And the bottom has dropped out of the market for old newspapers, although there are signs of a recovery.

Most experts believe that the market for recyclables is demand driven; the demand for recycled materials determines the price offered for them, which in turn determines the volume of collected recyclables which can be marketed. The current glut of waste newspapers illustrates this idea. The supply of papers exceeds the demand and consequently, many local recyclers are not collecting paper anymore. But other solid waste specialists, particularly in the plastics industry, contend that the market is supply driven; if a stable supply of separated waste were available, entrepreneurs would find ways to process and market recyclables.

If the supply-siders are right, the marketing problem will be corrected when enough recycling programs go on line. Most analysts believe, however, that keeping the market for raw materials healthy will require hard work, particularly as more towns and counties recycle and more materials hit the market. Unless these materials are used in production, there is no recycling—only a tradeoff of above-ground storage for landfilling. "You can pick it up all day long, but you aren't recycling if you don't do something with it," says Jerry Bulla, assistant superintendent of sanitation for the City of Greensboro. Bulla believes some counties are "stockpiling recyclables, and then slipping them into the landfill, because the markets just aren't there." Adds Terry Henderson, director of intergovernmental programs for the N.C. League of Municipalities, "We're at that point now where we don't have markets identified for the products, so we're garbage collecting with the idea of recycling, more than truly recycling."

Uncertain markets and low revenue may make recycling look like a bad bargain until the benefits are totaled. Recycling diverts waste from the landfill and consequently lowers the landfill's operating expenses and extends the useful life of existing landfills. An accurate accounting of these avoided costs is necessary to judge the economic viability of recycling. Mecklenburg, with its \$23-a-ton tipping fee at the landfill, plans to turn responsibility for processing and marketing recyclable materials over to a private company

and pay the company \$7.50 a ton to take the materials.

But in counties with low landfilling costs, the revenue from the sale of recyclables and the expenses avoided by not landfilling may not fully offset the costs of recycling. The state estimates disposal costs in a conventional, unlined landfill at \$10 a ton.<sup>30</sup> But with landfill costs skyrocketing in the near future due to the new EPA regulations, rising land costs, and other factors, and with public opposition to siting new landfills, that picture will quickly change. Says Steve Reid, the state's Solid Waste Division spokesman, "You can pay now or you can pay later. And later is going to be a hell of a lot more expensive."

### State Policy Shifting on Solid Waste Management

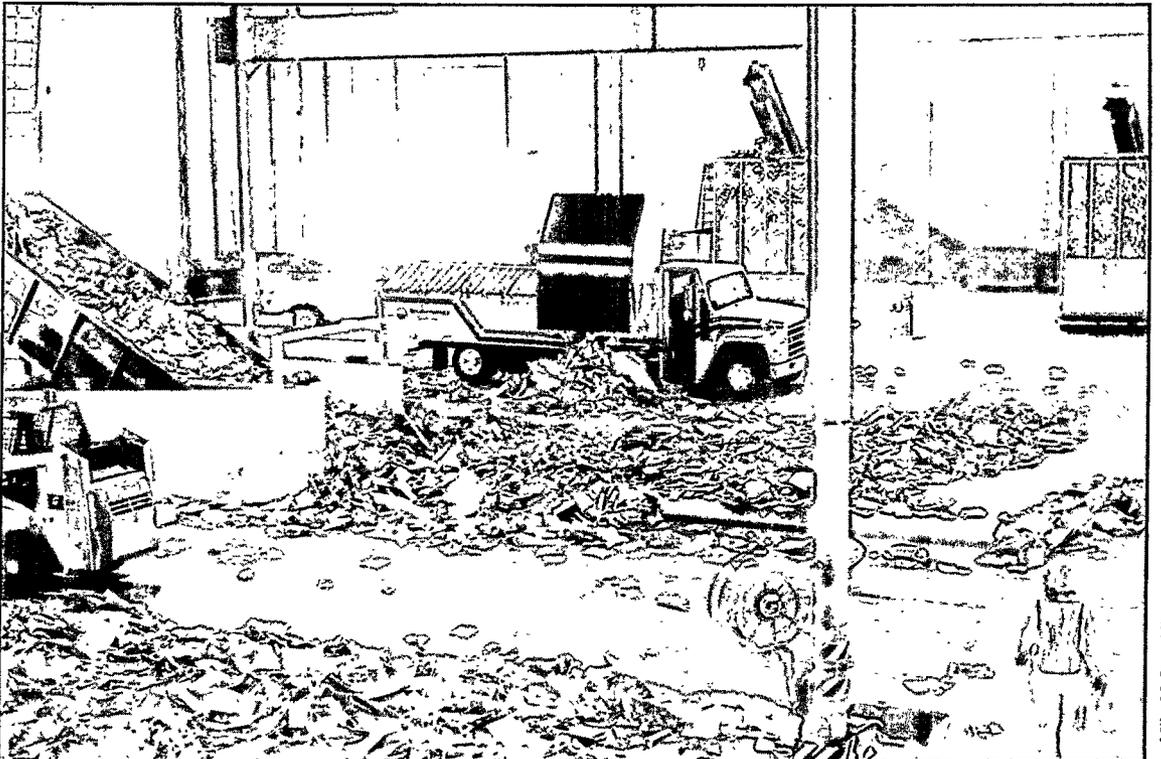
**T**raditionally, local governments have been left on their own to grapple with solid waste management problems. Estimates are that landfilling costs will at least triple by 1991, but no federal monetary or technical assistance is avail-

able to help local governments defray these spiraling costs. "What used to be an inexpensive service that counties and municipalities voluntarily provided their citizens has become expensive, and will become much more expensive in the near future," says the Legislative Research Commission report to the 1989 General Assembly on solid waste management.<sup>31</sup> "The clear trend is for states, in the interests of protecting the health of their citizens and their environment, as well as economic growth, to choose to become more involved in solid waste management, to provide leadership to the counties within their state, and to provide financial assistance or incentives to local governments."

Until the 1989 legislative session, North Carolina had only a few policies in place to encourage responsible solid waste management in general, and recycling in particular. Recycling and resource recovery equipment costs have been and remain deductible from franchise taxes or individual income taxes.<sup>32</sup> Such tax incentives encourage the purchase of recycling equipment and promote the development of the recycling

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*Materials processing center in Seattle, where residential garbage collection rates that vary with the amount of waste produced have driven participation in curbside recycling programs to about 80 percent.*



Mike McLaughlin

industry. The Pollution Prevention Pays Program, established in 1983, encourages private industries and local governments to reduce or recycle potentially polluting wastes, and offers matching grants of up to \$5,000 to promote such efforts. The program has provided funding for waste stream analyses in some counties and maintains a library of information about recycling. The program also has contracted for two special publications—a statewide directory of recycling programs and contact persons, and a directory of markets for recycled materials.<sup>33</sup>

But these limited state efforts were not enough to prevent solid waste problems from getting worse. In 1989, the General Assembly recognized a larger state role in what until then largely had been considered a local concern. In addition to the Solid Waste Management Act, the legislature appropriated \$5 million to set up a financing agency authorized to borrow private money on behalf of local government for capital costs associated with recycling, composting, incinerating, and landfill construction.<sup>34</sup> The agency is expected to help local governments tap up to \$50 million in private funds.<sup>35</sup>

Observers say this recognition of an increased role for the state in solid waste management was one of the most significant developments of the 1989 General Assembly. Holman, the environmental lobbyist, says the loan fund stalled in the House in 1988 on grounds the issue was strictly local. "Here, one year later, you have a loan fund and a solid waste bill that very much involve the state in solid waste management," says Holman.

The Department of Environment, Health, and Natural Resources (DEHNR), for example, was also handed rulemaking assignments on scrap tire disposal, landfill escrow accounts to handle sealing and monitoring after closure, and medical waste collection and disposal.<sup>36</sup> The Department of Public Instruction must make educational materials on recycling available to local school systems, although the law does not specify a deadline.<sup>37</sup> And by March 1991, two important documents are due. The Department of Economic and Community Development (formerly the Department of Commerce) must issue a report on the recyclables market,<sup>38</sup> and DEHNR must complete a statewide solid waste management plan.<sup>39</sup> The Department of Transportation also has its homework assignment—a feasibility study on using waste oil in road projects.<sup>40</sup> And the Department of Administration must complete a report on state procurement of supplies with recycled content.

Finally, all state agencies must initiate their own recycling programs by Jan. 1, 1992.<sup>41</sup>

But despite the new state role, the heavy lifting still takes place on the local level, both literally and figuratively. Local government must find new ways of dealing with tires, waste oil, lead-acid batteries, discarded major appliances, and yard trash, all of which will be banned from sanitary landfills by 1993.<sup>42</sup> That's in addition to the requirement that local governments submit solid waste management plans to the state, institute recycling programs aimed at meeting the state waste diversion goal by Jan. 1, 1991, and actually divert 25 percent of waste from local landfills by the 1993 deadline.<sup>43</sup>

The two strongest lobbies for local governments—the N.C. League of Municipalities and the N.C. Association of County Commissioners, actively supported the law in its final form. Still,

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*William Nicholas dumps newspapers for recycling at the Mecklenburg County office building.*



Mike McLaughlin

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*"The earth was the great garbage bowl. Everything discarded was flung on the earth and they did not care. Almost they liked to live in a milieu of fleas and old rags, bits of paper, banana skins and mango stones. Here's a piece torn off my dress! Earth, take it. Here's the combings of my hair! Earth, take them!"*

—D.H. Lawrence  
"The Plumed Serpent"

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both groups say there are unresolved questions. "We like the legislation, but there are some questions about the way it will be implemented," says the League's Henderson. "What is the appropriate role for various levels of government?"

Henderson says the law suggests a four-tiered partnership. The state must find and create markets for recyclable materials, multi-county regions get the role of implementing expensive waste management options that require a pooling of local resources, counties claim responsibility for disposing of waste and getting recyclables to market, and cities collect solid waste and recyclables. "This is truly one area where we are going to have to be intergovernmental and interdependent," says Henderson.

The law also hits the private sector on a number of fronts, including these: all plastic grocery bags must be recyclable by January 1991; imprints that aid recycling will be required on certain plastic containers beginning in July 1991; and polystyrene products—such as plastic foam cups and the clam shell containers that keep hamburgers hot—must be recyclable by Oct. 1, 1991. At least 25 percent of both plastic grocery bags and polystyrene products must be recycled by October 1993, or these products will be banned.<sup>44</sup>

### The Missing Link — Money

What's missing is a source of money to pay for these new initiatives. The legislative study commission had recommended that the 1989

General Assembly appropriate funds for 50 new positions to help the Division of Solid Waste Management carry out its new responsibilities. The division got only 13. That's a substantial increase in staff for a tight budget year, but Holman says the agency already faced a year-long backlog of landfill permit applications. Now it must handle a greatly increased workload under the Solid Waste Management Act. The act also includes little money for university research and local demonstration projects, which Hackney says are vital to help the counties develop more efficient recycling programs and to stimulate markets.

The reason for the money omission? No one wanted to pay. Advance disposal fees for containers and newsprint were scrapped in the face of industry complaints that could have scuttled the bill. Fran Preston, a lobbyist for the N.C. Retail Merchants Association, says her trade group believes consumers purchase the container with the product, and therefore hold responsibility for seeing that the container gets recycled. She says merchants in the state's 40 border counties would be placed at a competitive disadvantage through pre-disposal fees, and the fee collection and container redemption system would be difficult to administer. "There are a lot of better ways to do it," says Preston, who favors curbside collection programs.

A bottle-bill-style container deposit provision that would have kicked in if the pre-disposal fee failed to stimulate enough recycling raised the ire of both merchants and soft drink bottlers. Sam Whitehurst, a lobbyist for the N.C. Soft Drink Association, says the whole notion of a fee system was premature. "Somewhere down the road we may have to go to some sort of funding mechanism," says Whitehurst. "There are so many things to get off the ground, we need to take it in steps." (See sidebar on bottle bills, page 34, for more.)

Hugh Stevens, who lobbies for the N.C. Press Association, says the newsprint fee was inequitable as proposed because many North Carolina newspapers do not have ready access to recycled newsprint. The only two newsprint recycling plants in the Eastern United States are owned by newspaper chains, says Stevens. Many of the state's independent newspapers buy their newsprint in Canada, which offers little recycled newsprint. These newspapers, Stevens says, are effectively shut out of the recycled newsprint market. Stevens says the fee would have cost news-

papers only \$25,000 a year statewide—enough to represent a nuisance to publishers but too little to influence printing decisions. And Stevens says the fee singled out newspapers while ignoring certain other problematic paper products, particularly disposable diapers. Yet Stevens says he recognizes the newsprint disposal problem and believes the industry is willing to help solve it. “I think the problem is all of us, and I think it’s silly to claim you are not part of the problem if you are,” says Stevens.

Local governments opposed a 50-cents-a-ton waste disposal fee to be collected at landfills and remitted to the state, calling the fee a raid on a county revenue source. Regan says some counties which already have well-developed solid waste

management programs—such as Mecklenburg—saw no benefit to using part of waste disposal fees to help the state pay its administrative costs or to help set up recycling programs in other counties. Still, Regan says the counties are open to discussion on the subject. “I don’t think we ever take non-negotiable positions,” he says.

Primary sources of funding for the Solid Waste Trust Fund created in the bill are a \$300,000 appropriation from the state’s General Fund, and a 10 percent share of the one fee that did survive the bill—a 1 percent levy on retail tire sales, which will generate \$389,000 annually for the fund. An additional \$500,000 was appropriated to be matched by private money for a study to analyze the state’s waste stream. But compared to

## *No Bottle Bill for North Carolina—Yet*

A July 1989 poll included one finding that should have shaken up North Carolina merchants and soft drink distributors. The poll by FG\*I, a Chapel Hill public relations and marketing firm, found 70 percent of the state’s citizens favor a 5-cent deposit on beer and soft drink containers. In other words, they want a bottle bill.

But despite this apparent strong public support, bottle bills have gotten no respect from the General Assembly. A total of 18 bottle bills have been introduced and killed in the legislature since 1969, according to Sam Whitehurst, a lobbyist for the N.C. Soft Drink Association. The latest defeat came when a container deposit provision included in the Solid Waste Management Act was excised by a House panel during the 1989 session.

Yet some lawmakers see the bottle bill as a major piece of the solid waste reduction puzzle. “If you ever want to get serious about solid waste, a bottle bill is the way to do it,” said Rep. David Diamont (D-Surry) during House debate on the Solid Waste Management Act. “We can’t get it passed because the special-interest groups have too much clout in the legislature. They contribute too much to our campaigns.”

Nine states currently have traditional deposit laws on the books, and most appear to be working. The theory behind the bottle bill is simple: people aren’t likely to throw away a container that is worth something. The mechanics of bottle bills are simple too. Distributors charge retailers the deposit. They in turn charge their customers. When the consumer has used up what was in the container, he returns it to the retail store for a refund. The retailer then returns the container to the distributor. California, the tenth state to enact a bottle bill, offers a variation. The state charges beverage wholesalers a penny deposit. Consumers are asked to return the containers to redemption centers, where they get the penny back, along with the scrap value of the container and a share of unclaimed deposits.<sup>1</sup>

Although bottle bills target only about 5 percent of the waste stream, they have proven successful at reducing litter and encouraging recycling. Oregon claims a 90 percent redemption rate for beer and soft-drink bottles.<sup>2</sup> New York state’s bottle bill has resulted in the recycling of aluminum, glass, and plastic beverage containers at rates of 60, 80, and 50 percent, respectively.<sup>3</sup>

Bottle bill opponents are quick to point out

major increases budgeted for education, roads, and prisons, the General Assembly barely opened its purse for what may be the most significant issue facing the state over the next decade.

"What's needed is money for university research, for grants to the counties, for various kinds of research," says Hackney. "Really, we would like to have—and I think the problem merits it—somewhere in the order of \$5 million . . . . It's the perennial environmental problem, which is underfunding."

The North Carolina bill was patterned after Florida's Senate Bill 1192, ratified in June 1988, which set a 30 percent recycling goal by 1994 and placed the responsibility for establishing and enforcing recycling programs on the counties. But

the Florida program is much better financed. A \$25 million Solid Waste Management Trust Fund provides local governments with grants to fund capital expenditures and subsidize initial operations. A 10-cent-per-ton advance disposal fee is imposed on newsprint, with papers receiving a refund if they buy recycled newsprint. The fee increases to 50 cents if less than 50 percent of the newsprint is being recycled by October 1992. Advance disposal fees also will be levied on containers if 50 percent of containers sold are not being recycled by October 1992.<sup>45</sup>

These provisions give the Florida law the teeth some say are lacking in North Carolina by providing strong financial incentives for local

that deposit legislation does not require the recycling by industry of the containers collected. But even though a bottle bill does not mandate the reuse of collected materials, the laws of economics do: manufacturers who collect tons of clean, marketable, sorted recyclables are not going to pay to have them dumped in a landfill.

Retailers, although compensated for the inconvenience of refunding deposits, often oppose bottle bills. They argue that sorting the containers means time, trouble, and increased labor costs, and the deposit adds to the cost of the product. Paying customers may be inconvenienced by having to stand in line behind people who only want to redeem bottles or cans. The bottles and cans also could attract roaches and would require at least some sacrifice of retail space for storage. Container manufacturers are against bottle bills too, and have fought them in part by supporting litter-control efforts and recycling programs. "We don't like bottle bills," says Jim Heimberger of the Carolinas Glass Recycling Program, an industry-sponsored recycling program. "It may have started out as a tactic, but recycling has evolved into an ethic for us. Once you've got a white hat on, it feels good."

Heimberger says a bottle bill in North Carolina would be devastating because it would take the lucrative container recycling

business away from community-based recycling programs and small, private recyclers. "It effectively destroys those programs," he says. "You pass a bottle bill, and you've taken the bread and butter out of it for those small recyclers." Durward F. "Butch" Gunnells, a lobbyist for the North Carolina Soft Drink Association, says coupling a bottle bill with widespread curbside recycling would create a wasteful dual system and would hurt curbside programs.

But Rep. Joe Hackney (D-Orange), who engineered the passage of the Solid Waste Management Act, disputes such arguments. "It's the single most effective way to deal with bottles and cans," says Hackney. "It would be nice not to have to have a recycling program for certain kinds of containers, because recycling programs don't make money. They cost money." Hackney says the most effective argument bottle bill opponents have is a political argument. "Stores don't want to mess with it, and they speak up," he says.

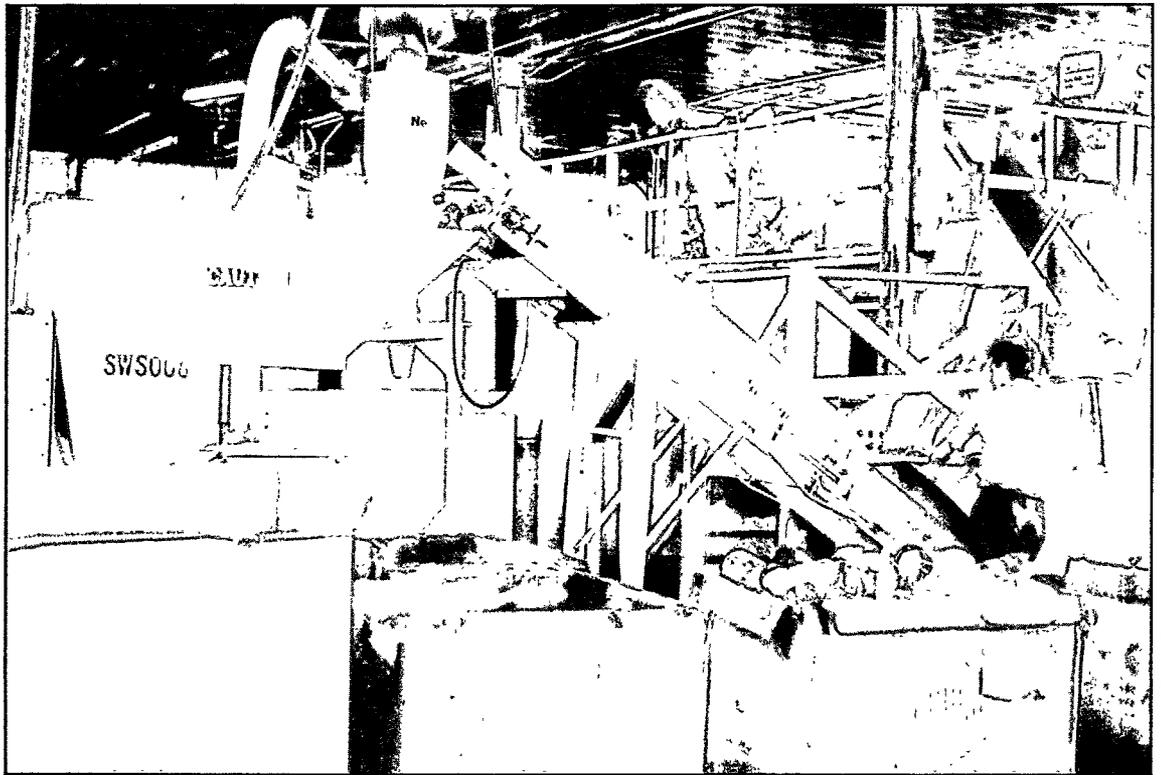
—Amy Carr

#### FOOTNOTES

<sup>1</sup>Environmental Defense Fund, *Coming Full Circle: Successful Recycling Today*, 1988, pp. 72-73.

<sup>2</sup>Philip J. Prete, *A Solid Waste Agenda for North Carolina Cities and Counties*, The Conservation Foundation of North Carolina, May 1989, p. 21.

<sup>3</sup>Environmental Defense Fund, p. 70.



Mike McLaughlin

*Worker monitors a conveyer belt at Mecklenburg's material processing center.*

government and industry to encourage recycling. Still, no one disputes the significance of the Solid Waste Management Act. "It does have some of the teeth taken out of it, but it is a step in the right direction," says Pollock, the solid waste planner for Orange County, Chapel Hill, and Carrboro. "If nothing else, it has pushed the level of debate one notch further. You know, politics is incremental."

## Recommendations

**W**ith the act, the state has laid the groundwork for a statewide assault on its solid waste management problem, with recycling as the major weapon to be deployed in the battle. But to make recycling work on a statewide basis and to get a handle on the state's solid waste woes, the legislature must return to this issue in future sessions.

The clear omission in the bill, and the issue that needs immediate attention, is money. Implementing a statewide solid waste management strategy, and recycling 25 percent of the state's waste stream, cannot be accomplished on good in-

tentions alone. Somebody has to pay the bill. Steven Levitas, director of the N.C. Environmental Defense Fund, says there are three clear sources of revenue for solid waste management, and all must be tapped if the state is to fund adequately the sweeping provisions of the Solid Waste Management Act. Those three sources are: 1) the outright appropriation of tax dollars by state and local government; 2) user fees such as tipping fees at landfills and separate bills for residential garbage collection, with a portion of the revenue returned to the state for research into recycling markets and methods; and 3) taxes on consumer products that contribute heavily to the waste stream—the advance disposal fees featured in the Florida law. "I don't think we will ever have the political will to raise all that money from one source," says Levitas.

Too often, the state has created new responsibilities for local government without identifying sources to pay for them. In this instance, the state identified one revenue source—the tipping fee—and local government nixed it. County officials say they did so in part because business balked at

picking up part of the tab for solid waste management through advance disposal fees for containers and newsprint. The one exception is tire dealers—and tires present unique and expensive disposal problems. The tire fee hardly can be expected to pay the freight for overall solid waste management.

To improve the state's chances of reaching its solid waste management goals, the North Carolina Center for Public Policy Research offers these recommendations:

**1) The state should require counties to establish tipping fees at their local landfills that reflect the true cost of solid waste disposal.** The law already requires that all waste going into local landfills be weighed by July 1, 1991. Once the waste is weighed, it becomes a relatively simple matter to assess a fee on a per-ton basis. Counties should also have the option of basing their disposal fees on volume, since some bulky materials take up more space in landfills than their weight would suggest. Waste disposal costs vary by county, and so would the fees. But counties are required under the law to calculate their true cost of solid waste disposal and inform the public of those costs. The next logical step is to assess cost-based tipping fees. The sooner such tipping fees are in place, the sooner North Carolina citizens will realize the enormous expense of a throwaway society. And a percentage of the revenue can be used to pay for recycling programs. Municipalities, which have the responsibility of collecting waste and thus will wind up paying the county tipping fees, may want to consider charging citizens separately for garbage pickup, rather than burying these expenses in the annual property tax bill. That too would help bring home the cost of waste disposal, and it would help municipalities defray collection costs. It also would set the stage for a variable rate structure in which residents could cut their garbage pickup bills by cutting their waste production and by recycling. The City of Seattle has pushed its voluntary recycling program participation rate to about 80 percent with a simple system in which citizens are charged a garbage pickup rate that varies with the size of the garbage can.

**2) The General Assembly should increase its appropriation for implementing the provisions of the Solid Waste Management Act during its 1990 short session.** Solid waste management may well be the major issue facing the state during the next decade. The \$800,000 appropriated out of a \$7.36 billion General Fund budget

is a relative pittance. It will not come close to paying for the new state responsibilities spelled out in the law, much less provide the wherewithal to assist local government in gearing up for a massive assault on solid waste. The state *must* demonstrate its commitment with a more generous appropriation—at least the \$5 million Hackney suggested, which would represent a modest investment in a far-reaching solution to the solid waste management problem. Otherwise, legislators will continue to encounter stiff resistance to raising revenue from local government and business interests, and the problem won't get solved. Once the legislature has shown its commitment through a realistic appropriation, it may want to return to the issue of advance disposal fees and taxes or other disincentives to encourage waste reduction and recycling. But first the legislature must appropriate enough money to get the Solid Waste Management Act out of the starting blocks.

**3) The state should adopt a preference for the purchase of supplies with recycled content, even if the price is up to a ceiling of 5 percent higher.** If the state succeeds in recycling 25 percent of its waste, the result will be a huge influx of recyclable materials. Without sufficient markets, the result may be above-ground stockpiling, rather than landfilling. That's no solution to the solid waste dilemma, but there are no easy answers to the problem of inadequate markets. The study mandated by the General Assembly to be done by the Department of Economic and Community Development (formerly Commerce) by March 1991 may point to private markets that could be tapped. But a good first step for the state would be a good example—a preference for goods with recycled content. Hackney says prices of products with recycled content are too high right now for a reasonable price preference to have much of an impact on state purchasing, but that could change with the onset of high-volume purchasing. At some point, the price of products with recycled content should reflect the savings on energy and raw materials used to make these products. A preference would give manufacturers a target to shoot for, and might even spur the onset of competitive prices for such products as recycled paper. This magazine, for example, was printed on recycled paper at an additional cost of 4.9 percent.

Action in these areas would enhance the state's chances of meeting its 25 percent waste diversion goal through recycling, although the Jan. 1, 1993, deadline may be unrealistic. The full



Amy Carr

potential of recycling can be realized only if North Carolina changes its attitude toward waste, and that will not happen in three short years. What is needed is a statewide waste diet that incorporates government, industry, and private citizens.

The programs and policies already in place in cities and counties across the state provide a good starting point. Experience in these existing programs indicates the public is willing to recycle at a certain level on conservation grounds alone. And business is beginning to realize that recycling means good public relations and—in some cases—higher profits. But these motives alone will not be enough to push the state past its 25 percent goal. Strong economic incentives, a massive public education effort, and programs that maximize convenience will be required if the state is ever to recycle a fourth of its waste. The Solid Waste Management Act represents the bold beginning of a long battle to slim down the state's bulging waste stream. But it is only a beginning.



**FOOTNOTES**

<sup>1</sup>Chapter 784 (SB 111) of the 1989 Session Laws, now codified as N.C.G.S. 130A-309.  
<sup>2</sup>G.S. 130A-309.04(c).

<sup>3</sup>G.S. 130A-309.09(b),(d).  
<sup>4</sup>The Center mailed a survey to each of the state's 100 counties and selected municipalities with populations of more than 5,000 residents. Those counties and municipalities which did not respond got one follow-up mailing. These two mailings yielded an 88 percent response rate from the counties. Surveys were conducted by telephone for the remaining 12 counties, yielding a total response rate of 100 percent. Telephone surveys also were conducted for some municipalities which did not respond to the mail survey but were thought to have significant recycling programs. A total of 100 counties and 70 municipalities participated in the survey.  
<sup>5</sup>"Scrap: America's Ready Resource," Institute of Scrap Recycling Industries, Inc., Washington, D.C., 1988, p. 18.  
<sup>6</sup>Rolland Wrenn, "Recycling: A Good Idea Comes Around Again," the *Chapel Hill Herald*, Aug. 2, 1989, p. 4.  
<sup>7</sup>Background for "The Solid Waste Dilemma: An Agenda for Action," Draft Report of the Municipal Solid Waste Task Force, Office of Solid Waste, U.S. Environmental Protection Agency, August, 1988, Chapter 1, p. 12.  
<sup>8</sup>Background for "The Solid Waste Dilemma: An Agenda for Action," p. 2E-18.  
<sup>9</sup>Tom Mather, "Trying to Make Molehills Out of Mountains of Trash," *North Carolina Insight*, Vol. 10, No. 2-3, March 1988, p. 40.  
<sup>10</sup>John Hodges-Copple, "Minimizing Solid Waste," Southern Growth Policies Board, 1988, p. 3.  
<sup>11</sup>G.S. 14-399.  
<sup>12</sup>G.S. 130A-309.04(b).  
<sup>13</sup>Mary A. McDaniel, "The Role of Waste Exchange in Waste Minimization," *Proceedings of the Sixth Annual Conference on Hazardous Wastes and Hazardous Materials*, April 1989, pp. 238-240.  
<sup>14</sup>G.S. 130A-309.10(f)(3).

<sup>15</sup>For more on the new political clout of environmentalists, see Seth Effron, "When It Comes to Environmental Politics, Who's Leading Whom?" *North Carolina Insight*, Vol. 10, No. 2-3, March 1988, pp. 2-9.

<sup>16</sup>Nash Herndon, "House Panel Revives Bill to Reduce Levels of Trash," *The Raleigh Times*, July 27, 1989, p. 7B.

<sup>17</sup>"The Amazing All-Aluminum Can," Phoenix Quarterly, published by the Institute of Scrap Recycling Industries, Inc., Vol. 21, No. 2, Spring 1989, p. 8.

<sup>18</sup>Philip J. Prete, Mary Beth Edelman, and Richard N.L. Andrews, *Solid Waste Reduction: Alternatives for North Carolina*, University of North Carolina Institute for Environmental Studies, October 1988, p. 23.

<sup>19</sup>"The Amazing All-Aluminum Can," p. 8.

<sup>20</sup>Terry Martin, "Groups Speak Against N.C. Recycling Measures," *Winston-Salem Journal*, June 10, 1989, p. 15.

<sup>21</sup>Prete *et al.*, p. 27.

<sup>22</sup>G.S. 130A-309.10(e).

<sup>23</sup>Prete *et al.*, p. 63.

<sup>24</sup>The City of Greensboro in Guilford County also reported curbside collection of recyclables. The city's effort is limited to collection of appliances at 48,000 homes.

<sup>25</sup>G.S. 130A-309.04(b).

<sup>26</sup>G.S. 130A-309.09(t).

<sup>27</sup>Jeremy K. O'Brien, "Guidelines for Implementing Cost-Effective Curbside Recycling Programs," paper presented at National League of Cities recycling conference, Seattle, July 28, 1989, p. 8.

<sup>28</sup>*Ibid.*, p. 4.

<sup>29</sup>Jeff Clunie, Joyce Marymee, Bob Bingham, "Environmental and Economic Imperatives for Considering New Waste Disposal Approaches," draft technical paper by R.W. Beck and Associates for the North Carolina Alternative Energy Corporation, January 1989, p. 12.

<sup>30</sup>"Solid Waste Management," Legislative Research Commission Report to the 1989 General Assembly, p. 9.

<sup>31</sup>*Ibid.*, p. 4.

<sup>32</sup>Philip J. Prete, *A Solid Waste Agenda for North Carolina Cities and Counties*, The Conservation Foundation of North Carolina, May 1989, p. 16.

<sup>33</sup>The publications, produced under contract by the University of North Carolina Institute for Transportation Research and Education, are titled, "1988 Directory of North Carolina State and Local Contacts for Recycling Information and Assistance," and, "Directory of Industrial and Commercial Recyclers Serving North Carolina Businesses and Communities." The N.C. Association of County Commissioners also has distributed a helpful report, "Recycling: Perspectives for North Carolina Local Governments," by David Patte.

<sup>34</sup>Chapter 756 (SB 115) of the 1989 Session Laws.

<sup>35</sup>The N.C. Center for Public Policy Research recommended in March 1988 that the General Assembly establish a revolving loan fund for landfill construction, with local governments borrowing from the fund and repaying the state. See Mather, p. 52, for more on these recommendations, which were written by Jack Betts, then associate editor of *North Carolina Insight*.

<sup>36</sup>G.S. 130A-309.26(c), G.S. 130A-309.27(f), and G.S. 130A-309.58(b).

<sup>37</sup>G.S. 130A-309.14(i).

<sup>38</sup>G.S. 130A-309.14(c).

<sup>39</sup>G.S. 130A-309.06(a)(1).

<sup>40</sup>G.S. 130A-309.19.

<sup>41</sup>G.S. 130A-309.14(a)(1).

<sup>42</sup>G.S. 130A-309.58(b), G.S. 130A-309.10(f)(1-4).

<sup>43</sup>G.S. 130A-309.09(d).

<sup>44</sup>G.S. 130A-309.10(c-e).

<sup>45</sup>Ruth Bell *et al.*, "Trends in State Recycling Legislation," paper presented by staff of R.W. Beck and Associates recycling and materials recovery consultants, The National League of Cities recycling conference, Seattle, WA., July 28, 1989, pp. 5-7.



Karen Tan

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# Black Legislators: From Political Novelty to Political Force

by Milton C. Jordan

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*In this article, Insight examines the role of African American legislators on the 20th anniversary of their return to the N.C. General Assembly and how their role has evolved since 1969, when then-Rep. Henry Frye of Guilford County became the first black to be elected to the legislature in the 20th century.*

**F**or two years, Alma Steele argued the residents' perspective as an ex-officio member of the Durham Housing Authority's Board of Commissioners. Afterwards, she had to sit silent and motionless as the other commissioners voted. But in 1981, all that changed. Rep. Kenneth Spaulding (D-Durham) pushed a bill through the N.C. General Assembly that allowed public housing residents to be full voting members of these boards rather than just non-voting delegates.<sup>1</sup> Spaulding was one of only four African American lawmakers in the N.C. General Assembly that year, but his legislation changed things for public housing residents.

"That law confirmed what I had known all the time," Mrs. Steele says. "My convictions reflected in my votes were as important as my opin-

ions and suggestions. It surely made a difference." Those comments, say black legislators, summarize their role and their significance during the 20 years of this century that blacks have been elected to legislative seats in the N.C. General Assembly.

"Black legislators must clearly understand that we are up here to make a difference," explains Sen. William Martin (D-Guilford). "First, we address the needs of our constituents in our districts, then the needs of black people statewide, and the state as a whole. Our mission is to make a difference."

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*Milton C. Jordan, a long-time North Carolina journalist and freelance writer, is also a media marketing consultant for N.C. Central University in Durham.*

But making that difference is no easy task when you lack the numbers to carry votes. In two decades, African American legislators have used other tactics to get things done. "When I went there," says Henry Frye, North Carolina's first black legislator in this century, "I knew I wouldn't get very far with allegations. So I never charged anyone with anything. I always spoke of the problems we faced as third-party entities."

Frye, now an associate justice of the N.C. Supreme Court, first served in the House of Representatives in 1969. He was the lone black there until 1971, when Joy J. Johnson, a firebrand Baptist minister from Robeson County, joined Frye in the General Assembly, and their tactics expanded. "Joy could preach to our colleagues," Frye recalls, "and he would fire them up with his oratory, and then I would sit and negotiate with them." As time passed and the numbers of African American legislators increased to three in 1973, then doubled to six in 1975 and 1977 (see Table 1, p.42), the strategies expanded further.

"We were still too few to carry much clout," says Frye, who served in the House through 1980 and in the state Senate in 1981 and 1982, "but we could target more of our colleagues to work with. But another important part of our strategy was to take serious direction from the traditional black community organizations."

### Bringing About Change

African American legislators have wrought many changes during their time as state lawmakers. Consider:

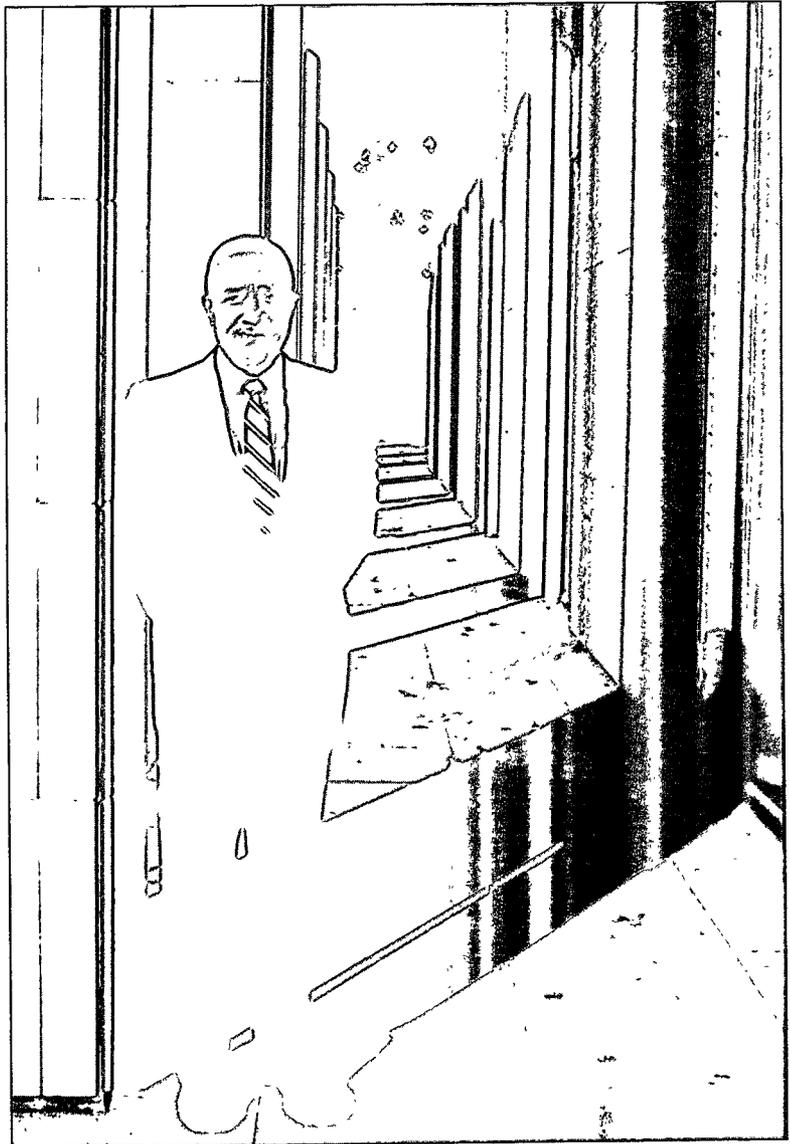
■ In 1969, Frye persuaded his colleagues to approve a bill that put the state's literacy test to a referendum.<sup>2</sup> Frye contended that the literacy test requirement unconsti-

tutionally blocked African Americans from voting. The proposal to change the law lost in the referendum, but later the courts overturned such laws.<sup>3</sup>

■ That same session, Frye introduced legislation to prevent the enforceability of unconscionable clauses in business contracts.<sup>4</sup> In his characteristically mild-mannered way, Frye said these "unconscionable contracts or clauses in contracts" prevented many North Carolinians from engaging in business in the state. That was one of the first legislative efforts in this state to expand economic

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*Associate Justice Henry Frye in 1969 became the first black legislator elected to the N.C. General Assembly in the 20th century.*



Karen Tam

**Table 1. Blacks in the N.C. Legislature in the 20th Century**

	1900- 1968	1969	1971	1973	1975	1977	1979	1981	1983	1985	1987	1989
Senate	0	0	0	0	2	2	1	1	1	3	3	4
House	0	1	2	3	4	4	3	3	11	13	13	13
Total Number Elected	0	1	2	3	6	6	4	4	12	16	16	17
Percentage of Membership	0	1 %	1 %	2 %	4 %	4 %	3 %	3 %	7 %	9 %	9 %	10 %
Total Who Served*	0	1	3	3	6	10	6	4	12	16	16	18

\* This number includes African American legislators who were appointed to fill the unexpired portions of terms to which other legislators were first elected.

Sources: *Article II: A Guide to the 1989-1990 N.C. Legislature*, published by the N.C. Center for Public Policy Research; and *North Carolina Government 1585-1979, A Narrative and Statistical History*.

development opportunities for various groups, including black businessmen. The measure failed in 1969, but passed two years later.

■ In 1976, black legislators saved the law school at predominantly black North Carolina Central University in Durham from closure when other legislators were grumbling about the school. They were unhappy because the school's graduates had a low passing rate on the state bar exam, and because it was expensive for the state to support two public university law schools—at NCCU and at UNC-Chapel Hill. Black legislators engineered a \$6.2 million appropriation to improve and expand the law school—more capital improvement money in one lump sum than the law school had received from the General Assembly in the previous 39 years combined.<sup>5</sup>

■ In 1981, Spaulding and a handful of other black legislators fought for a redistricting proposal—one that created single-member districts in areas where there are a lot of black voters—that

was subsequently ordered by the courts.<sup>6</sup> Anything less, Spaulding argued, would have diluted black voting strength and deprived blacks of the representative of their choice. As a result in the 1984 elections, blacks quadrupled their numbers in the General Assembly from four years earlier, from four to a total of 16 (see Table 1, above.) Their numbers since have grown to 18 in the 1989-90 session.

■ In 1987, black legislators fought and won the legislative battle to have Dr. Martin Luther King's birthday become a paid state holiday for state employees.<sup>7</sup>

■ Also in 1987, these legislators helped rewrite the way voters nominate and elect Superior Court judges, and created new judgeships that blacks would win.<sup>8</sup> Superior Court judges are elected statewide even though they are nominated from within judicial districts, and blacks felt the statewide election of such judges was the chief reason that black lawyers were not being elected

to such positions. In the 1988 elections, the number of black Superior Court judges climbed from two to 10.

■ In 1989, black legislators sparked the rewriting of the state's 74-year-old runoff primary law.<sup>9</sup> The old law required candidates to win 50 percent plus one vote in a primary with more than two contestants, or face a runoff if the second-place finisher called for one. Under the new law, a candidate needs to win only 40 percent of the vote to win a party's nomination. Blacks and some white legislators had argued for years that the second primary law often kept them out of office, but efforts at repeal failed until blacks pushed the issue in the 1989 session. The second primary had cost state Rep. H.M. "Mickey" Michaux the 2nd District Democratic nomination for Congress in 1982 (see "A Path to Victory," *North Carolina Insight*, Vol. 6, No. 1, June 1983, for more).

## Calling the Shots

**B**ut the changes pioneered by black legislators extend beyond the laws they've worked to pass. For example, these legislators have rewritten many traditional leadership relationships in the black community. While civil rights leaders continue to carry clout, members of the Legislative Black Caucus now more frequently call the shots, set the agenda, and orchestrate the strategy of change.

Traditionally, black leaders have taken a family approach to dealing with important issues. That is, critical discussions that might reveal differences among key leaders have been kept within the family and not bandied about publicly. If issues couldn't be resolved, the antagonists traditionally called a truce to prevent those differences from erupting publicly. But all that changed in 1987.

Representative Michaux, dean of black legislators with six terms under his belt, introduced and shepherded to passage a bill designed to obviate two suits against the state filed in federal court. The suits were filed by the National Association for the Advancement of Colored People (NAACP) with the assistance of a prominent Republican Party leader, Allen Foster, the GOP's 1984 nominee for Attorney General. They charged that North Carolina's system of electing Superior Court judges was unconstitutional.<sup>10</sup> Normally, Michaux would have observed the

keep-it-in-the-family rule even though he disagreed with the NAACP suit, but this time he went public and sponsored the legislation to defuse the suits and create new judgeships that would be filled by black citizens. "My concern," Michaux says, "was that you never know what a court will do. Frankly, I feel more comfortable handling this legislatively where you can have better control over what happens."

This new political thrust produced strange political adversaries and alliances. The NAACP found itself opposing Representative Michaux's bill, and Republicans found themselves quoting NAACP state President Kelly Alexander Jr. of Charlotte as they fought against Michaux and in favor of the NAACP position.

The ouster of long-time member E. B. Turner from the UNC Board of Governors that same year and the appointment of former Rep. Joy Johnson heralded a similar shift in tradition. In the past, a black official could expect to continue in a public position almost indefinitely, regardless of that person's effectiveness. But during 1987, several members of the Legislative Black Caucus became disaffected with Turner's performance, branded him ineffective, and declared that Turner had to go. He went. Turner was not renominated, and Johnson, like Turner also a resident of Robeson County, was elected by the legislature to the same seat that Turner had held.<sup>11</sup>

Those changes give African American legislators new clout in the statewide black community. And these legislators and their actions have helped change the way that black leaders are perceived. They have, for example, established solid legislative reputations. They have also helped undermine the notion that blacks think and act in a monolithic fashion. In addition to Michaux's willingness to buck tradition, former state Rep. William Freeman (D-Wake) voted independently when he was a member. Freeman, elected from a district where more than 70 percent of the eligible voters are white, didn't always vote with the Legislative Black Caucus. He voted to keep the death penalty for children 17 or younger, to require parental consent for abortions (Michaux says the Caucus did not vote to fight that bill), and to deny workmen's compensation benefits for hernia victims. His record was so conservative, in fact, that fellow Wake Rep. Peggy Stamey quipped, "If he was white, we'd call him a redneck."

In 1989, when the Caucus voted to boycott the General Assembly's meeting at the Market House in Fayetteville during the Bicentennial



Karen Tam

*Rep. H.M. "Mickey" Michaux, dean of black legislators, believes the Legislative Black Caucus holds more cards than ever.*

Celebration of the U.S. Constitution, the group left Reps. Luther Jeralds and C.R. Edwards, both of Fayetteville, free to attend, though only Edwards actually went. The Caucus was upset because slaves once had been sold at the Market House, and members thought that the program planners had been insensitive to black legislators to schedule a meeting there. The boycott was meant to express the Caucus' deep displeasure. But Edwards attended and got the session to approve a resolution honoring a former slave who became a successful minister.<sup>12</sup>

### **An Eight-Item Agenda**

**B**lack legislators have developed an eight-item agenda that they individually and collectively pursue in the N.C. General Assembly. That agenda is:

- Preserving, protecting, and enhancing the historically black campuses of the University of North Carolina system, which are N.C. A&T State

University in Greensboro, N.C. Central University in Durham, Winston-Salem State University, Fayetteville State University, and Elizabeth City State University;

- Advocating expanded opportunities in economic development for minorities;

- Seeking expanded programs and appropriations for human services;

- Advocating stronger and more equitable public education;

- Fighting for broader recognition for African American accomplishments and concerns;

- Educating black voters;

- Advocating for local initiatives and supporting local bills; and

- Acting as a preventive force in the General Assembly to fight legislation deemed harmful to minority interests.

"Our presence, the savvy we've developed, and the respect we've gained allow us to help kill—often before it gets to the floor—certain

—continued on page 47

## *When Black and Republican Interests Coincide, Does the Democratic Party Lose?*

**T**hough there aren't any black Republicans in the N.C. General Assembly, and though blacks and Republicans usually vote on different sides in the N.C. General Assembly, and though they normally don't cast their legislative lots together, blacks and Republicans have helped each other enormously in the legislature and in the courts—to the point that the face of politics is changing dramatically in North Carolina. In the early 1980s, blacks and Republicans teamed up to force the General Assembly to adopt single-member legislative districts where there were concentrations of black voters.<sup>1</sup> In 1989, the groups teamed up again to pass legislation that will eliminate many runoff primaries.<sup>2</sup> The changes help both groups, and state Rep. H.M. "Mickey Michaux (D-Durham) says he has no illusions about this paradox.

"I'm convinced that Republicans voted for the party primary bill because they feel if more black candidates get to general elections, Republicans can win more legislative seats at our expense," says Michaux, a veteran legislator who feels blacks are caught between a rock and a hard place on such issues. Michaux has good reason to feel that way. So far, the winners of the uneasy alliance between Republicans and blacks are Republican legislators and black legislators. The losers are white Democratic legislators, whose numbers are dwindling in the General Assembly—94, down from 146 a decade ago and from 134 in 1983, just before the big redistricting changes began.<sup>3</sup>

It's "the untold story" of North Carolina politics in the 1980s, says J. Brad Hayes, Gov. Jim Martin's chief political guru. "When you take all the things combined that helped our

legislative gains, it is not the coattails of the Governor or senators or presidents," Hayes told *The News and Observer*. "It is redistricting."<sup>4</sup>

The big legislative change came in 1985, after the landmark redistricting court case *Gingles v. Thornburg* resulted in creation of a number of single-member districts designed to allow black voters to elect black legislators.<sup>5</sup> In 1983, there were 12 black legislators and 24 Republican legislators, and 134 white Democratic legislators. In 1985, with the new single-member districts in place, there were 16 black legislators, 50 Republicans, and 104 white Democrats. The blacks and Republicans have continued to gain since 1985, while white Democrats have continued to decline.

How has this change come about? First, the U.S. Voting Rights Act prohibits redistricting plans that dilute minority voting strength, and in fact requires states covered by the act to draw districts that would allow black voters to choose a black legislator if they wished.<sup>6</sup> That means that in certain districts, blacks can and do elect black legislators—but it also means that white Democrats, who once could have counted on black support, no longer are winning as frequently without that support. And it means that white Republicans, who once could count on blacks voting against them, no longer have that disadvantage. Thus, in many new urban districts, Republicans are beating Democrats regularly, in areas where they used to have trouble running county-wide in multi-member districts.

*The Washington Monthly* took note of the effects of the alliance between the GOP and

—continued

blacks in 1987.<sup>7</sup> "In the last few years," the magazine reported, "many of the nation's most prominent civil rights groups, joined by local Republicans, have used provisions of the Voting Rights Act to overturn existing electoral plans. For blacks, creating black majority districts is a simple way of ensuring the election of black representatives. For Republicans, packing blacks into a few districts means that the surrounding districts become whiter, less Democratic, and fertile soil for GOP candidates."

In similar fashion, the runoff primary bill may benefit Republicans and blacks—though the GOP may be the ultimate victor. By eliminating runoff primaries in many races, blacks should be able to win more Democratic nominations—as Michaux would have in the 1982 2nd Congressional District race. Under old law, a candidate must have received one vote more than 50 percent to win a nomination. Some blacks, like Michaux, led the first primary, but were overwhelmed in a runoff. Under the new law, a candidate in a primary with more than two candidates can win the nomination if that candidate draws at least 40 percent of the vote. Had the law been in effect in 1982, Michaux would have been the Democratic nominee—but he might not have won the election. Some political observers say—and Michaux fears—that Republican chances for victory in the general election may have been enhanced by the likelihood that blacks will win the Democratic nomination. Voters then may opt for the white candidate in a general election when faced with a choice between a black and a white.

While the alliance does improve election prospects for blacks, said *The Washington Monthly*, "civil rights groups may ultimately harm their own cause . . . . One way to judge an idea is by the company it keeps. The Republican connection ought to disturb those who carry the banner for civil rights. Racial districting may have become a clarion call for the civil rights movement, but it is also a cause célèbre for the conservatives who cheer the

willingness of blacks to separate."<sup>8</sup>

For some observers, the supreme irony is that after all the gains in knocking down segregation in education, in employment, in housing, and in other arenas, the net effect of single-member districts is to re-segregate the races—making some districts blacker and some districts whiter.

But those who have fought for opportunities for blacks reject that notion. Charlotte attorney Leslie Winner says that while the changes may have hurt the Democratic Party, that's a wound that the party will have to bear. "In the end," she told *The News and Observer*, "my answer is that white Democrats are not entitled to save their own necks at the expense of black representation, even if that is the net effect."<sup>9</sup>

—Jack Betts

#### FOOTNOTES

<sup>1</sup>The first redistricting plans following the 1980 census passed the legislature as Chapters 800 and 1130 of the 1981 Session Laws for House districts and Chapter 821 of the 1981 Session Laws for Senate districts. These redistricting plans were successfully challenged under the federal Voting Rights Act in a landmark national case, *Gingles v. Edmisten*, 590 F Supp. 345 (E.D.N.C. 1984), affirmed in part, reversed in part, *sub nom.*, *Gingles v. Thornburg*, 418 U.S. 30, 106 Su. Ct. 2752, 92 L.Ed. 2d 25 (1986). Single-member districts finally were adopted in the 1984 General Assembly, in Chapters 4 and 5 of the 1983 Session Laws (Extra Session 1984) for Senate districts, and in Chapters 1, 6, and 7 of the 1983 Session Laws (Extra Session 1984) for House Districts.

<sup>2</sup>Chapter 549 of the 1989 Session Laws, now codified as G.S. 163-111.

<sup>3</sup>For more information on legislative demographics, see Lori Ann Harris and Marianne M. Kersey, *Article II: A Guide to the 1989-90 N.C. Legislature*, by the N.C. Center for Public Policy Research (1989), pp. 236-7.

<sup>4</sup>As quoted in Rob Christensen, "Ranks of urban, white Democrats thinning in legislature," *The News and Observer* of Raleigh, April 16, 1989, p. 1A.

<sup>5</sup>See footnote 1, above.

<sup>6</sup>Section 2 of the U.S. Voting Rights Act of 1965, as amended June 29, 1982, and codified in 42 U.S. Code 1973.

<sup>7</sup>Mathew Cooper, "Beware of Republicans Bearing Voting Rights Suits," *The Washington Monthly*, February 1987, p. 11.

<sup>8</sup>*Ibid.*, pp. 11 and 15.

<sup>9</sup>As quoted in Christensen, p. 10A.

—continued from page 44

legislation that might prove detrimental to our primary constituency," explains Rep. Pete Cunningham (D-Mecklenburg). Black legislators say this agenda hasn't changed much in 20 years, and they say it's not likely to change very much any time soon.

"We will continue to do what we've done for the past two decades," says Michaux. "We'll chip away at each issue a little bit each session." In that respect, the battles that black legislators fight remain the same. But just as some things remain the same, other things change.

Thus, as North Carolina moves from a one-party to a two-party state, black legislators face important new challenges. First, they must walk a much narrower tightrope of change because many strategies that traditionally aided blacks might also serve Republican interests, Michaux says. Of the 35 black legislators who have served in the last 20 years (see Table 2, page 50), all have been Democrats, and black legislators do not perceive Republican interests as dovetailing with black interests.

"I'm convinced that Republicans voted for the party primary bill because they feel if more black candidates get to general elections, Republicans can win more legislative seats at our expense," says Michaux (see sidebar on page 45 for more). In fact, 1989 was the best year ever for both Republicans and blacks, with 17 black legislators and 59 from the Grand Old Party. (In October 1989, James P. Green of Oxford was named to succeed the late William T. Watkins That brought the number of blacks in the 1989-90 legislature to 18.)

So, black legislators must successfully handle the damned-if-you-do, damned-if-you-don't syndrome. They must forge new coalitions, even when it may be difficult to handle ideologically. For example, the newly organized Eastern Legislative Delegation tends to be more conservative than blacks normally prefer. This group, however, has become a powerful legislative bloc. The Eastern Legislative Delegation is composed of 67 legislators who represent 43 counties bordering and east of highway I-95. Eight members of the Legislative Black Caucus also are members of the Eastern Legislative Delegation. Thus, the foundation of that coalition between black legislators and the powerful eastern group could be in place.

Second, black legislators must develop new, young leadership without sacrificing significant seniority. But that may be difficult. At least three

veteran members of the Legislative Black Caucus say privately that they are considering not running for re-election in 1990, and Rep. Sidney Locks (D-Robeson) has announced he is resigning his seat to accept the call to a church in Greenville.

And third, black legislators say they must find ways to deal with or to counteract what they believe may be a more conservative turn in legislative thinking. That turn is symbolized partly by the overthrow in early 1989 of then-Speaker Liston Ramsey (D-Madison) in favor of Rep. Josephus Mavretic (D-Edgecombe) by a coalition of Republicans and dissident Democrats, and by the recent gains of Republicans in the House and, to a lesser degree, in the Senate.

### Fights Don't Get Easier

**B**ut accomplishing all these goals and meeting these new challenges won't be easy. "Sometimes it seems that the more we stay up here and fight, the harder the lines of opposition are drawn," says Michaux, who has served two stints in the legislature—1973-77 and 1985 to the present.

The 1989 legislative session provides a case in point. Just before the General Assembly adjourned in the wee hours of Sunday, August 13, state Sen. Jim Richardson (D-Mecklenburg) summed up his feelings. "We might as well go home, because we're not getting anything down here this year," he said. Added Rep. Herman Gist (D-Guilford), "We're retrogressing this year. We're taking three steps backward instead of going forward."

Several sour notes marred the 20th anniversary for black legislators, which was especially disappointing to them because the 1989 session appeared to hold such promise for progress. For one thing, a sizable contingent of black legislators—13 in the House, four in the Senate—held lawmaking seats. That was the highest total ever, and represented 10 percent of the membership in the General Assembly. That's still well below the state's black percentage in the population (about 23 percent), but it is the highest since the return of blacks to the legislature in 1969 (see Table 1 on page 42 for more).

It wasn't until 1983 that more than six African Americans held legislative seats at the same time. That year, 12 black legislators took their seats in the state legislature. Now, after 20 years, several black legislators have seniority. Nine of the 18 members have held office for six years or

longer. And a number of them have moved up in the effectiveness rankings of the N.C. Center for Public Policy Research.<sup>13</sup> For instance, Rep. Dan Blue (D-Wake) moved up to 6th in the 120-member House, Michaux moved up to 15th, and Representative Locks was 25th in the 1988 rankings. While these members were moving up significantly, others were not, reflecting the traditionally lower rankings that minorities in the legislature get—including Republicans, women, American Indians, and African Americans.

So as the 1989 legislative session approached, most black legislators thought they were headed for choice committee chairmanships in the House. But their fortunes were devastated by dramatic change in the House, when 45 of the 46 Republicans teamed with 20 dissident Democrats to oust

Ramsey, a western North Carolina populist who until 1989 had strong ties to liberals and conservatives, whites and blacks and Indians, male and female legislators. The coalition that ousted Ramsey was not an ideological one, but was based on issues such as legislative openness. Blacks had supported Ramsey, and all but one stayed loyal when it came time to vote on the speakership.

The change in speakers cost black legislators a number of powerful positions and, some observers believe, reduced their overall influence. According to Ramsey, he had planned to give black representatives these chairmanships: Howard Barnhill (D-Mecklenburg), Aging; Dan Blue (D-Wake), Appropriations (Ramsey's decision to elevate Blue, a member of the Center's board, to this committee came shortly before the House was to vote on the speakership); Logan Burke (D-Forsyth), Housing; Pete Cunningham (D-Mecklenburg), Military and Veterans Affairs; C.R. Edwards (D-Cumberland), Higher Education; Milton (Toby) Fitch (D-Wilson), Courts and Administration of Justice; Herman Gist (D-Guilford), Highway Safety; Luther Jerals (D-Cumberland), Children and Youth; Annie B.



Karen Tam

*Rep. Milton Fitch became the first black in this century to preside in the N.C. House on May 9, 1989.*

Kennedy (D-Forsyth), Manufacturing and Labor; Sidney Locks (D-Robeson), Appropriations/Human Affairs; and Mickey Michaux (D-Durham), Judiciary I. However, Mavretic aide Tim Kent points out that "during eight years as Speaker, Ramsey never included an African American as part of his inner circle."

Ramsey said only two blacks would not have chaired full committees—Rep. Thomas Hardaway (D-Halifax), a second-termer who Ramsey had planned to give three vice-chairmanships, and Rep. Howard Hunter (D-Northampton), a freshman member of the General Assembly.

But under new House Speaker Josephus Mavretic, only two black members chaired committees. Representative Fitch chaired the Public Employees Committee, and Representative Edwards—the lone African American to vote for Mavretic—chaired the House Committee on Education. Most black House members did get committee vice-chairmanships, however. (Mavretic says he was the first speaker to include a black—Michaux—in the final budget negotiations. "That makes Michaux's position . . . even more signifi-



Karen Tam

*On May 23, 1989, Sen. Frank Ballance performed the same role in the N.C. Senate.*

cant," he says.) Of course, there were far fewer committee chairmanships in 1989 under Mavretic, who reduced the number of standing committees from 58 to 12, with another 58 subcommittees. Blacks under Ramsey would have had 11 of the 58 committee helmets, or 19 percent; under Mavretic, they had two of the 12 chairmanships, or about 17 percent. Fitch also was elected Majority Whip by the Democratic Caucus. "No doubt, Liston's loss hurt us," says Cunningham, a second-term legislator. "It diluted our power."

Michaux found that it had another effect as well. "Liston's loss knocked us out of some powerful chairmanships," he acknowledged. "Still, when you consider the power of our vote, the defection of those 20 Democrats [who sided with Republicans against Ramsey] really strengthened our position. Unless the dissidents return to the fold, no one can pass any legislation without us." With 13 votes in the House, so much division among Democrats, and the traditional Democratic-Republican rivalry, Michaux reasoned, any working coalition would need the votes of black legislators to pass their bills.

In the Senate, meanwhile, it was unclear in

early 1989 how blacks would fare. The Senate for the first time was to have a Republican presiding officer, Lt. Gov. Jim Gardner, appointing committees. But that was December, and things changed in a hurry. First, Senate Democrats, still in control of the rulebook, repealed the Senate rules allowing the Lieutenant Governor to name committees and committee chairmen.<sup>14</sup> That power went instead to Sen. Henson Barnes (D-Wayne), the new President Pro Tempore. And Barnes gave committee chairmanships to all four blacks in the Senate. Sen. Frank Ballance (D-Warren) was named chairman of the Alcoholic Beverage Control Committee; Sen. Ralph Hunt (D-Durham) was chairman of the Small Business Committee; Sen. William Martin (D-Guilford) was chairman of the Appropriations/General Government Committee; and Sen.

Jim Richardson (D-Mecklenburg) was chairman of the Children and Youth Committee. So black lawmakers probably were helped by the change in the Senate.

### Campus Costs

**D**espite Michaux's view that blacks were stronger, a number of black legislators were disappointed by the 1989 session, particularly in the financing of certain institutions favored by the Legislative Black Caucus. For example, historically black campuses of the UNC system got about \$10 million for the biennium for capital improvements.<sup>15</sup> That's less than half what the caucus had sought for those schools. And it was particularly galling when the legislature set aside \$2 million for a new basketball palace at N.C. State University, but cut out funding for the planning of new academic buildings at N.C. A&T State University, the flagship black institution in Greensboro. And the caucus had sought several million dollars for economic development for minorities, but wound up with only \$1.5 million for the biennium.<sup>16</sup>

—continued on page 53

**Table 2. African American Legislators in the N.C. General Assembly, by Legislative Session and Method of Selection (listed by seniority in office)**

Elected	Appointed
<b>1969 General Assembly</b>	
House: Henry Frye, D-Guilford	
Senate:	
<b>1971 General Assembly</b>	
House: Henry Frye, D-Guilford Joy Johnson, D-Robeson	* Alfreda Webb, D-Guilford, replacing state Rep. McNeill Smith, who was appointed to the N.C. Senate in December 1971 to succeed Hargrove "Skipper" Bowles, who had resigned to run for Governor.
Senate:	
<b>1973 General Assembly</b>	
House: Henry Frye, D-Guilford Joy Johnson, D-Robeson Mickey Michaux, D-Durham	
Senate:	
<b>1975 General Assembly</b>	
House: Henry Frye, D-Guilford Joy Johnson, D-Robeson Mickey Michaux, D-Durham Richard Erwin, D-Forsyth	
Senate: Fred Alexander, D-Mecklenburg John Winters, D-Wake	
<b>1977 General Assembly</b>	
House: Henry Frye, D-Guilford Joy Johnson, D-Robeson Mickey Michaux, D-Durham Richard Erwin, D-Forsyth	Howard Clement, D-Durham, replacing Michaux in August 1977 after Michaux was appointed U.S. Attorney for the Middle District of North Carolina. Robert Davis, D-Robeson, replacing Johnson, who was appointed to the N.C. Parole Commission in February 1978.

— *continued*

\* Replaced a white legislator.

**Table 2, continued**

Elected	Appointed
<b>1977, continued</b>	
	Harold Kennedy, D-Forsyth, replacing Erwin, who was named to the N.C. Court of Appeals in February 1978.
Senate: Fred Alexander, D-Mecklenburg John Winters, D-Wake	Clarence Lightner, D-Wake, replacing Winters, who was appointed to the N.C. Utilities Commission in August 1977.
<b>1979 General Assembly</b>	
House: Henry Frye, D-Guilford Kenneth Spaulding, D-Durham Robert Davis, D-Robeson	* Annie Brown Kennedy, D-Forsyth, replacing Rep. Judson DeRamus, who was named a Superior Court judge in August 1979.
Senate: Fred Alexander, D-Mecklenburg	Rowe Motley, D-Mecklenburg, was named to succeed Alexander after his death in April 1980.
<b>1981 General Assembly</b>	
House: Kenneth Spaulding, D-Durham Dan Blue, D-Wake Melvin Creecy, D-Northampton	
Senate: Henry Frye, D-Guilford <sup>#</sup>	
<b>1983 General Assembly</b>	
House: Kenneth Spaulding, D-Durham Dan Blue, D-Wake Melvin Creecy, D-Northampton Annie Brown Kennedy, D-Forsyth <sup>#</sup> Frank Ballance, D-Warren Phillip Berry, D-Mecklenburg C.R. Edwards, D-Cumberland Herman Gist, D-Guilford Charlie B. Hauser, D-Forsyth Luther Jeralds, D-Cumberland Sidney Locks, D-Robeson	
Senate: William Martin, D-Guilford	
<b>1985 General Assembly</b>	
House: Dan Blue, D-Wake Melvin Creecy, D-Northampton Annie Brown Kennedy, D-Forsyth Mickey Michaux, D-Durham <sup>#</sup> Frank Ballance, D-Warren C.R. Edwards, D-Cumberland	

— continued

<sup>#</sup> Indicates legislator previously served in the House.    \* Replaced a white legislator.

**Table 2, continued**

**Elected**

**Appointed**

**1985, continued**

Herman Gist, D-Guilford  
 Charlie B. Hauser, D-Forsyth  
 Luther Jerals, D-Cumberland  
 Sidney Locks, D-Robeson  
 Howard Barnhill, D-Mecklenburg  
 Milton Fitch, D-Wilson  
 Jim Richardson, D-Mecklenburg

Senate: William Martin, D-Guilford  
 Ralph Hunt, D-Durham  
 Melvin Watt, D-Mecklenburg

**1987 General Assembly**

House: Dan Blue, D-Wake  
 Annie Brown Kennedy, D-Forsyth  
 Mickey Michaux, D-Durham  
 C.R. Edwards, D-Cumberland  
 Herman Gist, D-Guilford  
 Luther Jerals, D-Cumberland  
 Sidney Locks, D-Robeson  
 Howard Barnhill, D-Mecklenburg  
 Milton Fitch, D-Wilson  
 Logan Burke, D-Forsyth  
 Pete Cunningham, D-Mecklenburg  
 William Freeman, D-Wake  
 Thomas Hardaway, D-Halifax

Senate: William Martin, D-Guilford  
 Ralph Hunt, D-Durham  
 Jim Richardson, D-Mecklenburg<sup>#</sup>

**1989 General Assembly**

House: Dan Blue, D-Wake  
 Annie Brown Kennedy, D-Forsyth  
 Mickey Michaux, D-Durham  
 C.R. Edwards, D-Cumberland  
 Herman Gist, D-Guilford  
 Luther Jerals, D-Cumberland  
 Sidney Locks, D-Robeson  
 Howard Barnhill, D-Mecklenburg  
 Milton Fitch, D-Wilson  
 Logan Burke, D-Forsyth  
 Pete Cunningham, D-Mecklenburg  
 Thomas Hardaway, D-Halifax  
 Howard Hunter, D-Northampton

Senate: William Martin, D-Guilford  
 Ralph Hunt, D-Durham  
 Jim Richardson, D-Mecklenburg  
 Frank Ballance, D-Warren<sup>#</sup>

\* James P. Green, D-Granville, replacing  
 Rep. William T. Watkins, who died in  
 September 1989.

<sup>#</sup> Indicates legislator previously served in the  
 House.

\* Webb, Kennedy, and Green were the only  
 black legislators to have replaced white  
 legislators in the N.C. General Assembly.  
 In all, 35 African Americans have served in  
 the N.C. General Assembly since 1969, and  
 of those, 30 have been elected to terms and  
 five have been appointed to an unexpired  
 term only.



Karen Tam

*Rep. Dan Blue, shown here debating the gubernatorial veto in the House on Aug. 3, 1989, had been slated for a top leadership post before the coup that toppled former Speaker Liston Ramsey.*

—continued from page 49

And it was even more disheartening in light of comments made earlier in the session by Speaker Mavretic. On an eastern speaking tour, Mavretic had said in Greenville, "We have only two schools of agriculture, and one of them is not much of a school at all." Blacks thought Mavretic meant that the agriculture school at N.C. A&T State University was not a good one, but the Speaker said later that he was referring only to the state's failure to provide adequate funds to A&T. Mavretic promised to help seek better funding, and the House approved \$328,000 for a laboratory, but the Senate chopped the money from the budget. Mavretic also supported funding for A&T's agricultural extension network.

The Legislative Black Caucus's support has traditionally commanded a high price in the legis-

lature in recent years, but in 1989 that price tag sparked front-page headlines when it became tangled with the debate over a gubernatorial veto. Gov. James G. Martin's efforts to put the question of veto power to a statewide referendum passed the Senate easily in March, but failed by 12 votes in the House during heated debate in August.<sup>17</sup> But Martin's supporters scrambled to revive the issue, and the Legislative Black Caucus' votes could have changed the outcome. To pass a proposed constitutional amendment in the House requires 72 votes, and there were 13 black legislators in the 1989 House. But not a single one had voted in favor of veto on August 3. Seven of the 13 had voted no, and the other six were absent from the chamber. A change could have given the Governor 73 votes for veto—more than enough to pass and put it on the ballot.

So an offer was extended by Speaker Mavretic, who was working with the Governor to revive the issue. The offer was to put \$2.7 million in the new budget for minority economic development if the Caucus would drop its opposition and vote for veto. Michaux, the chairman of the Caucus, wanted more horse flesh in this kind of horse-trading. He proposed instead an increase of \$40 million over the biennium for the state's black schools—\$4 million in new spending each year for each of the five predominantly black campuses. That counteroffer was made to the Governor's minority affairs aide, Jim Polk. The Governor didn't respond, Michaux said, so the Durham lawmaker offered his proposal as a budget amendment in the House Appropriations Committee. It got only seven votes and failed. Veto remains alive, but with uncertain prospects for passage in the 1990 short session.

The dickering over the veto votes played itself out in the public prints. Michaux got some criticism for putting a price tag on legislative votes. Martin told reporters, "What Mr. Michaux has said is he's got a price and it hasn't been reached yet." Retorted Michaux, "The only thing I can say is that the Governor has his price also. He's got the purse strings and he controls the budget."

And black lawmakers remain frustrated. "It seems as though every time anybody wants something, or needs something, they come to us to get votes," says Michaux. "But when it comes to minority needs, the money isn't there."

## **Bitter Defeats: "Are We Getting There?"**

**E**ven on those bedrock issues where black legislators have operated successfully in the past, such as anti-discrimination measures, they suffered defeat this year. For example, a bill that Sen. Ralph Hunt (D-Durham) proposed to make ethnic intimidation a crime got lost in the shuffle of deadlines with hundreds of other bills.<sup>18</sup> Normally, such legislation would have gotten a better reception. It was, after all, the top item on the NAACP's legislative agenda for the 1989 session. According to the organization's former executive director, Dennis Schatzman, the law was designed to counter an increase in crimes involving bigotry in North Carolina. The group called North Carolinians Against Racial and Religious Violence counted 53 such crimes in 1988, an increase of

nearly 13 percent over the previous year, when 47 such crimes were reported. But the bill went nowhere, and neither did a companion bill sponsored by Representative Locks in the House. Michaux himself had two bills that were designed to make it easier to register voters, but they both died in committee.<sup>19</sup>

So while there were some gains in 1989, there were also losses, and this 20th anniversary of blacks in the legislature is as much a year of assessment as it is of celebration. "For 20 years, our presence here has at least symbolized that this state is moving into a new political era," says Sen. Frank Ballance (D-Warren). "Yet this year, 20 years later, we must seriously ask ourselves, 'Are we getting there?'"

A 20-year assessment offers a mixed picture of how black legislators have responded to the challenges, the battles they've won and lost. Even now, the jury remains out as to their ultimate role, their real significance, the strength of their power. But at a minimum, no one today perceives a black legislator as a sort of lawmaking curiosity. "That was pretty much the view when I went to the General Assembly," says Frye. "Many of my colleagues looked at me in awe. They seemed to wonder how I got elected. But I also gained much respect during my time there."

## **A New Approach?**

**F**or some black caucus members, the traditional agenda and general approach is not enough—and they are calling for new efforts. "We have accomplished a lot in the 20 years that blacks have helped make laws in the General Assembly," says Senator Ralph Hunt of Durham. "But we need to do more. The Caucus, for example, needs to meet between sessions, and we need to come up with a more specific agenda of issues that we plan to pursue." According to Hunt, that agenda should include fighting for an affirmative action program in the General Assembly itself. "We work around here all day when the legislature is in session," says Hunt, "and we see very few black faces during the day. We don't see enough of them working in the Principal Clerk's offices, in bill drafting, or in legislative services. But after 5 o'clock, we see hordes of blacks who come in to clean the building. We must carry a part of the blame for that because I believe we have been derelict in expressing our concerns over this particular issue."

— continued on page 58

# Assessing the Black Legislative Agenda After 20 Years

**B**lack legislators celebrated the 20th anniversary of their return to the N.C. General Assembly in 1989. What is their record based on their agenda? Here's a look at what black legislators say they've done since 1969 on five key issues.

**1. Preserving Historically Black Universities.** North Carolina has five historically black universities in the statewide University of North Carolina system, and according to former legislator Henry Frye, battling for these schools must remain a high priority on every black legislator's agenda. "I believe our work in their behalf has made a difference over the years," says Frye. "But it is a continuing fight."

Sen. William Martin (D-Guilford) agrees. "I recall that in the 1984 short session, there was no money in the [expansion] budget for the black colleges," he says, "and the black legislators worked together and found about \$13 million for these schools."

Sometimes the issue is more than money. Former Rep. Kenneth Spaulding (D-Durham) says that during his three terms in the House, there almost always was some effort to close one or more of the historically black schools. "Our position then, as it is for those who are over in Raleigh now, is that these schools don't need to be closed. They need comparable funding."

That happened in 1976 when the NCCU School of Law was struggling with provisional accreditation, but the UNC Board of Governors proposed no new money to help the school improve. "I let the board know that if they couldn't find the \$6 million the school needed that I would propose it from the floor of the House," says Rep. H.M. "Mickey" Michaux (D-Durham). The UNC board had only recently gotten the power to make budget deci-

sions for the entire system, and the board didn't want legislators putting in separate bills for fear that others would do the same, and the board might lose control. "They knew that my bill would have begot a number of similar bills, and that their new and tenuous power over the budgetary process would have been seriously compromised," adds Michaux. The board found the money.

"There is no question but that the black legislators have been enormously helpful to these schools," says Chancellor Jimmy Jenkins of Elizabeth City State University, the smallest of the five universities, with about 1,700 students. "They have played an instrumental role in keeping the doors of opportunity open."

But Chancellor Cleon Thompson of Winston-Salem State University believes that African American legislators' clout is weaker now than it was in the 1970s, when their numbers were smaller but there appeared to be more public support for their efforts. "In the 1970s, the legislators had active public sentiment that helped magnify their clout," says Thompson. "There was the federal agenda through HEW [the U.S. Department of Health, Education, and Welfare, which pushed North Carolina to eliminate vestiges of discrimination in its public colleges], and an active alumni and friends movement. In the 1980s, both efforts have disappeared, and I believe the black legislators have less clout in pushing the agenda of these institutions." For the 1990s, Thompson says, a clear goal of black legislators should be rebuilding strong public support for their efforts in the General Assembly.

**2. Enhancing Minority Economic Development.** These efforts began 20 years ago when Frye sponsored legislation preventing the

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enforcement of unconscionable clauses in business contracts.<sup>1</sup> In the 1970s, the issues on this agenda revolved around removing further barriers to business for blacks. Business development has continued to occupy the agenda in the 1980s, and 1987 was a watershed year. During that session, black legislators sought and got:

—Three Minority/Women Business Enterprise Programs financed, one each in Charlotte, Durham, and Winston-Salem.<sup>2</sup>

—About \$100,000 in state funding for the N.C. Minority Business Council, a study group designed to provide usable and credible data on the state of black economics in North Carolina.<sup>3</sup>

—And a Legislative Research Commission study of how much business state government does with firms owned by African Americans, women, and disabled persons.<sup>4</sup>

Rep. Luther Jeralds (D-Cumberland) says the Legislative Black Caucus had made such efforts a priority. "We will be doing all we can to remove barriers that shouldn't be there, and to give the kind of help that is needed to move as many of these firms as possible into the mainstream."

Minority business groups are particularly happy with work by second-term Rep. Thomas Hardaway (D-Halifax), who was chairman of the House Subcommittee on Highway Finance in the 1989 session. Hardaway successfully led a fight to guarantee that the state would spend at least 10 percent of the more-than-\$9 billion targeted for a new state highway spending plan with minority-owned firms, and for a clause providing for similar minority participation in a new prison construction program.<sup>5</sup> In 1987, Hardaway futilely sought a 4 percent guarantee in a \$29.3 million prison construction program advocated by Gov. James G. Martin and approved by the legislature.<sup>6</sup>

**3. Expanding Human Services.** This issue, says Rep. Annie Brown Kennedy (D-Forsyth), goes beyond the usual concept of human services. "This concept means helping people in many ways who might not have any other advocates in powerful positions." Kennedy's philosophy has reflected itself in a number of legislative proposals and enactments, including:

—Legislation prohibiting the state courts from sentencing persons 17 years old or younger to death for capital offenses, approved in 1987.<sup>7</sup>

—Legislation that would allow two-parent families to receive Aid to Families with Dependent Children (AFDC) assistance under certain circumstances, approved in 1986.<sup>8</sup>

—A proposal to create a legislative study commission to examine the family in North Carolina—approved in 1987 and conducted in 1987 and 1988.<sup>9</sup>

—And a proposal to allow mothers and fathers to take up to 14 weeks off from work immediately following the birth of a child, without endangering the parents' jobs or benefits during the leave period. The bill failed, but a study of the issue was authorized.<sup>10</sup>

Michaux calls these sorts of bills part of a "chipping away stage"—small incremental progress that various members of the Legislative Black Caucus seek each session. "Annie might run the ball on some of these issues one year, and someone else might pick them up and run with them another time," says Michaux. "There are times when we might even give one of our issues to a white colleague to run for us. They often ask us to run certain bills for them, too."

But Rep. Sidney Locks (D-Robeson) adds a cautionary note. "We must continue to be concerned about traditional human services, too. We must scrutinize the budgetary process to see that some things aren't slipping through the cracks."

**4. Recognizing African American Accomplishments.** The first big victory in this area came in 1977 when then-Sen. Fred Alexander (D-Mecklenburg) won an appropriation to finance programs for the N.C. Black History Month.<sup>11</sup> But without a doubt, the crowning jewel was the 1987 law declaring Dr. Martin Luther King's birthday to be an official state holiday.<sup>12</sup> In between these successes, black legislators won more than \$2 million in state funds to develop a State Historic Site in eastern Guilford County to honor Charlotte Hawkins Brown, the noted black educator who started Palmer Memorial Institute in Sedalia.<sup>13</sup> One of the students at the institute in the 1940s

was a young man from Durham who later would make a name for himself in the legislature—H.M. “Mickey” Michaux, who was instrumental in securing the appropriations four decades later for the site.

**5. Educating Black Voters.** Frye says one of the first lessons he learned when he got to the General Assembly is that the local delegation carries the most clout on local issues. “Naturally, many black people considered me their representative no matter where they lived,” he says. “But I had the responsibility to show them how to work successfully with their local delegation.”

That responsibility, says Sen. Ralph Hunt (D-Durham) is just as important today as it was 20 years ago. He cites the debate on the second primary bill approved by the 1989 General Assembly, which lowers the threshold for primary winners from 50 percent plus one vote, to 40 percent.<sup>14</sup> Rep. Beverly Perdue (D-Craven), a white legislator, proposed a compromise amendment to set the threshold at 45 percent. Says Hunt, “We didn’t fight her directly. We got to some people in her district and had them talk with her. She withdrew the amendment.”

Another facet of voter education is how to increase the number of black legislators in the General Assembly, says former Rep. Kenneth Spaulding (D-Durham), himself a descendent of the last black U.S. Congressman from North Carolina, U.S. Rep. George White, who served from 1897 to 1901 in the U.S. House of Representatives. Spaulding fought hard in 1981 and 1982 to get the General Assembly to accept the notion of single-member districts in the state’s more populous areas, where there were heavy concentrations of black voters, and that fight hurt him politically, he believes.

“I was told that my political career would be bright if I would stop insisting so strongly on ... single-member districts,” says Spaulding. “But I knew that concept was what the law [the federal Voting Rights Act] demanded.<sup>15</sup> I also knew that it was right. So I continued.” Largely because of that fight and the redistricting that followed, 12 African Americans took their seats in the General Assembly in 1983 and four more in 1985. That redistricting issue will resurface in the 1991 General Assembly,

following the 1990 census.

“Someone will have to step forward and carry that ball,” says Spaulding. “It’s a costly task. To battle for more numbers, for getting closer to parity, means that you are fighting to put some of your colleagues out of the General Assembly. Often, these are colleagues with whom you have a friendly, and often successful relationship. It’s a tough task. But it must be done. That’s the real issue that tests the role, the strength, and the significance of black legislators.”  
—Milton Jordan

#### FOOTNOTES

<sup>1</sup>HB 928, “Unconscionable Contracts,” introduced by Rep. Henry Frye, in the 1969 General Assembly. The bill failed to move that year, but Frye pursued the same legislation in the ensuing session and saw it adopted as Chapter 1055 of the 1971 Session Laws, now codified as G.S. 25-2-302.

<sup>2</sup>Chapter 830 of the 1987 Session Laws.

<sup>3</sup>Chapter 830 of the 1987 Session Laws.

<sup>4</sup>Chapter 873 of the 1987 Session Laws.

<sup>5</sup>Chapter 692 of the 1989 Session Laws. The 10 percent goal for minority participation in the highway construction bill was codified as G.S. 136-28.4. The 1989 emergency prison construction appropriation bill is Chapter 8 of the 1989 Session Laws. A similar 10 percent minority participation goal in the prison bill was not codified, but is found at Sec. 3(b) of Chapter 8 of the 1989 Session Laws.

<sup>6</sup>Chapter 3 of the 1987 Session Laws. Hardaway failed to win passage of a 4 percent minority set-aside in the 1987 prison construction bill, but G.S. 143-135.5 declares it to be state policy that the state shall seek to grant construction contracts to firms owned by minorities, including African Americans, women, American Indians, and other groups.

<sup>7</sup>Chapter 693 of the 1987 Session Laws, now codified as G.S. 14-17.

<sup>8</sup>Chapter 1014 of the 1985 Session Laws (Second Session 1986), now codified in G.S. 108A-28(b)3.

<sup>9</sup>Chapter 873 of the 1987 Session Laws, creating a Modern Family Study Commission. The Legislative Research Commission on the Modern Family filed its “Report To The 1989 General Assembly” on Dec. 14, 1988.

<sup>10</sup>Chapter 873 of the 1987 Session Laws, authorizing a study of the need for parental leave in North Carolina. The study was not performed.

<sup>11</sup>Chapter 802 of the 1977 Session Laws.

<sup>12</sup>Chapter 25 of the 1987 Session Laws.

<sup>13</sup>Chapter 923, Sec. 142, of the 1983 Session Laws, authorized the first appropriation of \$67,377 for the Charlotte Hawkins Brown State Historic Site. Since then, the Department of Cultural Resources has provided additional funds for the site.

<sup>14</sup>Chapter 549 of the 1989 Session Laws, now codified as G.S. 163-111.

<sup>15</sup>Section 2 of the U.S. Voting Rights Act of 1965, as amended June 29, 1982, 42 U.S.C. § 1973.

—continued from page 54

Despite all the progress of the last 20 years, it should be sobering to realize that African Americans legislators have not made as much progress in this century as they had in the last third of the 19th century before they were disenfranchised. From 1868 to 1900, 113 black legislators were elected to the N.C. House of Representatives—an average of more than three new African American legislators each year over the 32-year-period.<sup>20</sup> By contrast, 30 different African Americans have been elected to legislative terms in the last 20 years—an average of 1.5 new black legislators every year, or *just half the rate* of a 100 years earlier. Those figures serve as a vivid reminder of how far African Americans in the N.C. General Assembly have come, and of how far they have to go. □ □

#### FOOTNOTES

<sup>1</sup>Chapter 864 of the 1981 Session Laws, now codified as G.S. 157-5.

<sup>2</sup>Chapter 327 of the 1969 Session Laws. The proposed constitutional amendment to delete the literacy test for voter registration was defeated in a statewide referendum on Nov. 3, 1970 by a 355,347 to 279,132 vote—56 percent against, 44 percent for the amendment.

<sup>3</sup>Such literacy tests were prohibited in the 1965 Voting Rights Act (42 U.S.C. 1973), and several courts cases upheld that ban, most notably *Gaston County v. United States*, 395 U.S. 285, 89 S.C. 1270, 23 L. Ed. 2d 309 (1969). In North Carolina, a state law requiring literacy tests (G.S. 163-58) was finally repealed during the 1985 legislature by Chapter 563 of the 1985 Session Laws, but it remains in the N.C. Constitution in Article 6, Section 4.

<sup>4</sup>HB 928, "Unconscionable Contracts," failed to move in 1969, but Frye backed the same legislation in the ensuing session and saw it adopted as Chapter 1055 of the 1971 Session Laws, now codified as G.S. 25-2-302.

<sup>5</sup>Chapter 983 of the 1975 Session Laws (Second Session 1976).

<sup>6</sup>Spaulding and others fought against legislative redistricting plans preserving multi-member districts, which passed the legislature as Chapters 800 and 1130 of the 1981 Session Laws for House districts and Chapter 821 of the 1981 Session Laws for Senate districts. These redistricting plans were successfully challenged under the federal Voting Rights Act in a landmark national case, *Gingles v. Edmisten*, 590 F Supp. 345 (E.D.N.C. 1984), affirmed in part, reversed in part, *sub nom.*, *Gingles v. Thornburg*, 418 U.S. 30, 106 Su. Ct. 2752, 92 L. Ed. 2d 25 (1986). Single-member districts finally were adopted in the 1984 General Assembly, in Chapter 4 and Chapter 5 of the 1983 Session Laws (Extra Session 1984) for Senate districts, and in Chapter 1, Chapter 6, and Chapter 7 of the 1983 Session Laws (Extra Session 1984) for House Districts.

<sup>7</sup>Chapter 25 of the 1987 Session Laws, now codified as G.S. 103-4(a).

<sup>8</sup>Chapter 509 of the 1987 Session Laws, now codified as G.S. 163-106.

<sup>9</sup>Chapter 549 of the 1989 Session Laws, now codified as G.S. 163-111. What effect the new law will have on politics is yet to be determined, but political scientists anticipate unforeseen consequences. Says UNC-Chapel Hill political scientist Thad Beyle, "I am speculating, but I feel there will be more pre-primary action taking place now in an attempt to cope with the 40 percent rule. That action could be akin to the 1986 pre-primary activity in which candidates ceased being candidates [prior to entering the primary] so that Terry Sanford could win big. The keys to such pre-primary activity will be what the money people do (they can shut down candidacies) and what some key leaders do."

<sup>10</sup>*Haith v. Martin*, 618 F. Supp. 410 (1986); see also *Alexander v. Martin*, 86-1048-CIV-5, U.S. Eastern District N.C., which was dismissed by agreement of the two parties, and see also *N.C. v. U.S.A.*, Civil Action 86-1490, District of Columbia Circuit Court of Appeals, which was also dismissed by agreement.

<sup>11</sup>House Resolution 2155, July 2, 1987 (1987 House Journal, p. 1552).

<sup>12</sup>House Joint Resolution 14 of the 1989 Session Laws.

<sup>13</sup>For more on the effectiveness rankings from 1977-1988, see Lori Ann Harris and Marianne M. Kersey, *Article II: A Guide to the 1989-90 N.C. Legislature*, published by the N.C. Center for Public Policy Research, May 1989. The rankings are based on a biennial survey of the 170 legislators, the registered lobbyists, and the Capital Press Corps.

<sup>14</sup>See Ran Coble, "The Lieutenant Governorship in North Carolina: An Office in Transition," *North Carolina Insight*, Vol. 11, Nos. 2-3, April 1989, pp. 157-165.

<sup>15</sup>Chapter 754 of the 1989 Session Laws.

<sup>16</sup>Chapter 752 of the 1989 Session Laws.

<sup>17</sup>SB 3, which had passed the state Senate on March 2 on a 41-6 vote, was defeated in the House on August 3, 1989 on a 60-43 vote (72 votes, or three-fifths of the 120 members, were required for passage). But SB 3 was revived on a 55-29 vote to reconsider (which required a two-thirds majority of those present and voting) on August 4, 1989, and remains alive for possible action in the 1990 short session.

<sup>18</sup>SB 537 and a companion bill, HB 751, never moved out of the respective judiciary committees and thus are not eligible for consideration in the 1990 short session. The bills would have made it a misdemeanor with a penalty of up to a year in prison, and a fine of up to \$1,000, to engage in acts of racial or ethnic intimidation.

<sup>19</sup>HB 547, "Voter Registration Facilitated," and HB 548, "Same Day Voter Registration," both failed. HB 547 was reported unfavorably by the House Judiciary Subcommittee on Elections. HB 548 was not acted upon before adjournment, rendering it ineligible for consideration in the 1990 short session.

<sup>20</sup>There is some debate over the actual number of black legislators elected during the years between 1868 and the turn of the century. Historians Hugh T. Lefler and Albert Ray Newsome put the number of blacks elected to the House and Senate at 127 (see *The History of a Southern State: North Carolina*, p. 551), but that figure apparently includes 14 members who served in both the House and Senate. An unduplicated count compiled by an unnamed researcher in the Department of Cultural Resources puts the number of individuals elected to the House or the Senate during the same period at 113 (see "Discrepancies in the Number of Blacks in the N.C. General Assembly (1868-1900)", an unpublished, undated research paper in an exhibit file on the "Black Presence in North Carolina" in the Information Services Section, Division of State Library, Department of Cultural Resources.



# IN THE COURTS

## *The Judging Business: Does the Court of Appeals Follow Precedent?*

by Katherine White

*This regular Insight department examines policymaking and the decision-making process in the judicial branch of state government. In this installment, Insight reports that the state Supreme Court is insisting that panels on the state Court of Appeals be consistent—and stop trying to overrule what previous panels have held.*

If the North Carolina Supreme Court gets its way—and so far it hasn't—the North Carolina Court of Appeals is going to have to change its ways. It's going to have to make sure that its three-judge panels don't overturn one another and that it follows the precedents set down by earlier panels.

If that sounds like basic civics, it is. But the fact is that the Court of Appeals has been told on more than one occasion in recent years that it will have to mend its ways. What's the Court of Appeals to do? Its 12 judges sit in panels of three to decide cases appealed from the state's trial courts and directly from quasi-judicial government agencies, such as the N.C. Utilities Commission or the N.C. Department of Insurance. Collectively, the Court of Appeals judges write as many as 1,500 opinions a year, ranging from decisions on rapes to robberies, divorces to contract claims, zoning to workers compensation, and banking to welfare.<sup>1</sup> That's as many as five times the number of decisions the seven-member Supreme Court must make, but the Appeals Court has five more judges to do it. To handle its workload, the Court of Appeals hears cases in panels of three judges—in effect in four different Courts of Appeals—rather than *en banc* like the Supremes. The Su-

preme Court—which never sits in panels—reviews the work of the Court of Appeals and is the final arbiter of what the law is in North Carolina. It decides up to 700 petitions for review each year, and hands down from 200 to 300 decisions annually.

At times, the Court of Appeals' opinions have reached different results—findings in one case that directly contradict or ignore findings in a similar case. Sometimes it happens on purpose, some appeals judges say privately, when the Court of Appeals wants the Supreme Court to referee an issue it can't decide. And sometimes it happens because one panel of judges is simply unaware of what another panel has written on the same point of law. And now the N.C. Supreme Court is telling the Court of Appeals judges that they have to keep up with what their colleagues write and follow those opinions—even though they may disagree with them.

The Supreme Court's latest directive came in May 1989 in what was an eyebrow-raising aside—for judicial writing, anyway—in an important environmental decision having to do with sedimentation control laws.<sup>2</sup> The Supreme Court in that case reversed a decision by the Court of Appeals which had made front-page news across the state and had plunged the state bureaucracy into turmoil.<sup>3</sup> The Court of Appeals decision, written by Judge K. Edward Greene, concluded that state government lacked the authority under

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the N.C. Constitution to levy fines in administrative cases. To reach that result, Judge Greene did not follow an earlier Court of Appeals decision.<sup>4</sup> Greene's decision—had it been upheld—would have meant an end to penalties for violations of air and water pollution regulations and for others who violated the state's administrative rules. It would have been, in the words of one state official, "a goat roping of cosmic proportions. We would have had to rewrite several hundred laws and God knows how many cases would have been thrown back in our faces."<sup>5</sup>

But the Supreme Court, in a unanimous decision written by Associate Justice Louis B. Meyer, concluded that Judge Greene had erred. The General Assembly could, too, give state agencies the authority to exercise discretion in determining civil penalties, the Supreme Court held. The Supreme Court further noted that Judge Greene had ruled contrary to an earlier decision by another Court of Appeals panel—something the Supreme Court said that Greene's panel cannot do. Wrote Meyer, "Where a panel of the Court of Appeals has decided the same issue, albeit in a different case, a subsequent panel of the same court is bound by that precedent, unless it has been overturned by a higher court."<sup>6</sup>

Anytime the Supreme Court gives *public* direction to the Court of Appeals, it means that the Supreme Court cannot conjure up a more subtle way to convey a strong message. Associate Justice Burley B. Mitchell Jr. says that the less-than-gentle prod by the Supreme Court to the Court of Appeals was necessary because some Court of Appeals judges "have just ignored each other" in recent years. In other cases, they have overstepped their bounds, as the late Justice Earl Vaughn wrote in an unusually terse three-paragraph order in 1985 in response to a Court of Appeals decision striking down the state's alienation of affection laws. Vaughn wrote that "the panel of Judges of the Court of Appeals to which this case was assigned has acted under a misapprehension of its authority to overrule decisions of the Supreme Court of North Carolina and its responsibility to follow those decisions, until otherwise ordered by the Supreme Court."<sup>7</sup>

For most judges, the Supreme Court's edict in the sedimentation case was neither a rhetorical revelation nor a judicial bolt from the blue—but seeing it in print was still a jolt even though judges know they're supposed to follow precedent. "It was just hard to find in black and white until Justice Meyer wrote it down," says Appeals Judge

Sidney S. Eagles Jr. The Court of Appeals judges are somewhat philosophical about the Supreme Court's get-tough language. As one judge blithely put it, "They're not Supreme because they're right; it's just that they're right because they are Supreme."

Failure to follow precedent is *not* considered a big problem for the Court of Appeals, but it happens just often enough for the Supreme Court to have to dredge the subject up again. But most judges interviewed for this article say that the Court of Appeals' heavy workload makes it difficult to know what other judges are writing. "Most of us try our dead-level best to follow others' opinions," says Judge S. Gerald Arnold, and inconsistent opinions are rare. Still, he concedes, "It happens more often than we like . . . . This particular situation is becoming more of a problem. We have such a turnover of judges that we have no long collective history . . . . They [the judges] have different philosophies in terms of how to approach cases."<sup>8</sup>

In addition to the turnover of judges, the increase in the size of the court from nine to 12 judges in 1977 is blamed for the difficulty of judges to keep abreast of all the decisions doled out by the Appeals Court. "At one time I thought I basically knew what was going on with the other judges," says Arnold. "Now, I'd say I don't."

Adds Judge Robert F. Orr, "If you consider that when things are really rolling, that there is a lot of pressure to get the opinions out, it's certainly easy to miss a case."

Several Supreme Court justices who have had earlier experience on the Court of Appeals say that conflicting opinions by the court panels are bound to occur. "Some are inadvertent," says Mitchell. "There are some where they [the judges] just have a conflict." Mitchell, a member of the Court of Appeals from 1977-79, says such conflicting opinions "inevitably are going to happen. When I was on the Court [of Appeals], we used to keep a notebook of recent opinions in the library so the last thing you did was check off that nothing had happened in the last week or so by another panel."

Justices Harry Martin and Willis Whichard, both serving as Associate Judges on the Court of Appeals in 1981, left a clear trail of conflicting opinions. On May 19, 1981, the two judges filed their respective opinions in separate cases on whether the constitutional prohibition of double jeopardy precluded convictions for larceny and possession of stolen goods, both of which

stemmed from the same set of facts. Judge Martin allowed both convictions, saying that they had different elements and therefore were separate crimes.<sup>9</sup> Judge Whichard disallowed the two, saying that the prosecutor had relied on the same evidence to prove both the crimes.<sup>10</sup>

In December of the same year, Judge Whichard reiterated his opinion and Judge Vaughn (then also on the Court of Appeals) dissented in the same case, citing Justice Martin's May 19, 1981 decision. But then, Judge Whichard did too, citing *his* own earlier case—but also Martin's decision, to show the dichotomy of opinion on the issue.<sup>11</sup> "It was clear we were not two ships passing in the night," now-Justice Whichard says. The Supreme Court upheld Judge Martin's conclusion—at least on the double jeopardy point.<sup>12</sup>

Another example is currently pending before the Supreme Court. The issue: does one need a physical injury before he can seek damages for the tort of negligent infliction of emotional distress, a mental injury? According to one panel of the Court of Appeals, which has admitted difficulty with the subject, "mental anguish" is a physical injury and is sufficient to allow a claim for negligent infliction of emotional distress.<sup>13</sup> According to another panel, a physical injury is just that—a physical injury and nothing more.<sup>14</sup>

And then there's another set of cases illustrating further confusion over the law. Judge Orr in March 1988 observed that a section of the workers compensation statute is "a morass of confusion and needs to be intelligibly redrafted."<sup>15</sup> Judge Jack Cozort, several months later in another case, declared a subsection of the same part of the statute to be "clear and unambiguous."<sup>16</sup>

Court of Appeals Chief Judge Robert A. Hedrick says the conflicting decision situation is not a problem for the court. Rather, he says, it is a personal problem for the judges who chose to disagree with their colleagues' previous decisions. "We have no problem," Judge Hedrick says. "There was no problem in that case [involving the civil penalty for administrative violations]. The problem was that Judge Greene just refused to follow [precedent]. It was his mistake, his personal mistake, and we've talked about that case, but he wouldn't listen."

Hedrick was equally adamant about the alienation of affection decision—originally written by Court of Appeals Judge Clifton Johnson—that was so abruptly vacated by the Supreme Court. "He ignored precedent. That was his personal

mistake," says Hedrick. "We have no trouble keeping that [precedent] straight."

Of course, neither Judge Johnson nor Judge Greene believed they were overruling established precedent of either the Court of Appeals or the Supreme Court. Both men thought they had distinguished material differences in the cases—differences that did not amount to either overruling or ignoring precedent—until the Supreme Court declared the Court of Appeals decisions to be in error. In addition, neither Greene nor Johnson was alone in their thinking. In the civil penalty case, Appeals Judge Eugene Phillips voted with Greene, while Judge Charles Becton dissented in a 2-1 decision; in the alienation of affection case, Appeals Judges Hugh Wells and Becton joined Johnson in a unanimous decision.

Whatever the reason for conflicting opinions from the Court of Appeals, Judge Arnold says the court does want to resolve the matter. Other states have resolved the issue—or avoided it—by requiring all reported opinions to be circulated and approved by all judges on the intermediate appellate court. In Maryland, for example, the Court of Special Appeals, with 13 judges, holds conferences at which all opinions to be published must be approved by a majority of the court. Court of Special Appeals Chief Judge Richard P. Gilbert says the 13 judges "take the facts as given by the judges on the panel, but we don't accept their say in the law." The review is independent and designed to keep the court's decisions consistent—to reflect the entire court's position, not just a majority of a three-judge panel.

When the majority of the court disagrees with the majority of the panel responsible for the opinion, the Maryland appeals court will have additional arguments before the entire court and a new opinion will be written for the entire court. The unpublished opinions are approved by a majority of the three-judge panel which heard the arguments and, as a further check, by the chief judge. And, when Judge Gilbert spots potential problems in proposed unpublished opinions, he sends that draft out to the entire court for its review. "When you let these panels go into business for themselves, you get problems," says Gilbert. "We're not going to have two judges telling the other 11 what to do."

The National Center for State Courts and Public Policy in Williamsburg, Va. does not keep records on how many courts of appeals sit *en banc* to review decisions for consistency, but that practice "is fairly common," says a spokesman, and

New York and Michigan have procedures similar to Maryland's.

Unlike its Maryland counterpart, the North Carolina Court of Appeals does not have an established system for internal review of its opinions. The court was set up with the understanding that "the Supreme Court would reconcile the differences," says Judge Eagles, where the Court of Appeals had difficulty. But the Supreme Court's unwillingness to referee the Court of Appeals panels—as outlined most recently in the sedimentation case—points up the clear need for some sort of system to make sure that the court's panels don't contradict one another in the future. In fact, the Supreme Court has mentioned the problems more than once, going back at least six years to a 1983 bank case in which the Supreme Court held that one panel of the Court of Appeals was bound by another. The high court wrote that "once a panel of the Court of Appeals has decided a question in a given case, that decision becomes the law of the case and governs other panels which may thereafter consider the case."<sup>17</sup>

The Supreme Court said that did not mean the Court of Appeals could not change its mind, but if it wanted to do so, it first had to declare the original panel's decision to be in error—and such a decision should be handed down by the original panel if possible. "Otherwise," lectured the Supreme Court, "a party against whom a decision was made by one panel of the Court of Appeals could simply continue to press a point in that court hoping that some other panel would eventually decide it favorably, as indeed the plaintiff did in this case; and we would not have that 'orderly administration of the law by the courts' ... which litigants have a right to expect."

How can the Court of Appeals ensure that "orderly administration?" Several alternatives suggest themselves:

- The Court could sit *en banc* to review decisions for consistency, which might be the safest way to approach the problem. But several judges who discussed the subject with *Insight* felt the *en banc* approach might only add to the Court's already heavy workload without producing measurable improvements.

- The Court might be expanded from 12 to 15 or more members, reducing the individual caseload somewhat and allowing more time for research for consistency. This alternative may do more to reduce caseload than to prevent conflicting opinions by multiple panels. That is, in pro-

viding for more judges, it also creates more opportunities for missing precedent already established by earlier panels. What's more, it might be politically difficult to achieve. The Court of Appeals was last expanded in 1977, and persuading the legislature to increase the number of appeals judges is harder than creating new trial court judgeships.

- The Court might set up a sort of super-panel of four to six judges whose job it would be to keep a sharp judicial eye out for precedent and consistency. This, of course, would add to the workload of the judges involved, but that extra workload could be somewhat alleviated if the Court were also to:

- Add professional staff whose key job it would be to review all panel decisions for consistency and precedent and to work with the super-panel to make sure that all 1,500 Court of Appeals decisions pass the litmus test of consistency before they are published. This latter recommendation, combined with the super-panel, seems to be the most practical alternative and would not add to the entire court's workload. It could be implemented at least on an interim basis with existing staff until the Court could persuade the General Assembly to fund more staff positions.

Panels of the Court of Appeals have disagreed on at least a half-dozen occasions in recent years, and the Supreme Court has told the Court of Appeals at least three times that it would have to follow precedent. The Supreme Court's 1983 language seems clear enough. And no doubt judges of the Court of Appeals understand what the Supreme Court meant. But as the sedimentation case showed, clarity and perspicacity aren't enough. Following precedent, for the Court of Appeals, is harder than it sounds. □◻

#### FOOTNOTES

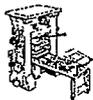
<sup>1</sup>For the year ending Dec. 31, 1988, the Court of Appeals handed down 1,155 decisions. For the same period in 1987, the Court decided 1,209; in 1986, 1,210; in 1985, 1,523; in 1984, 1,343. The caseload depends upon the number of appeals filed with the court. By comparison, the Supreme Court decides about 225 cases a year, and reviews about 600-700 petitions, says Supreme Court Clerk Gregory Wallace.

<sup>2</sup>*In The Matter of A Civil Penalty*, 324 N.C. 373, 379 SE2d 31 (1989).

<sup>3</sup>*In The Matter of A Civil Penalty*, 92 N.C. App. 1, 373 SE 2d 572 (1988).

<sup>4</sup>*N.C. Private Protective Services Bd. v. Gray, Inc.*, 87 N.C. App. 143, 360 SE 2d 135 (1987).

—continued on page 69



## *When the Legislature's In Session, Does Other News Take a Back Seat?*

by Jack Betts

*This regular feature of Insight focuses on how the news media—newspapers, television, and radio—cover public affairs in North Carolina. In this column, Insight examines whether the Capital Press Corps ignores other state government news and concentrates solely on the legislature when the N.C. General Assembly is in session.*

One day last June, Jim Sheppard took the elevator down to the fourth floor of the Archdale Building in the downtown state government complex and walked into a conference room filled with state officials. He wouldn't need the releases he had prepared a week earlier, which announced the first meeting of a blue-ribbon panel to determine whether North Carolina should start up an environmental indicators program.<sup>1</sup> A veteran state public information officer, Sheppard wouldn't have to answer any questions from the press, either, because no reporters showed up. Those reporters, as Sheppard had anticipated, wouldn't be anywhere else that day but covering the N.C. General Assembly, en route to its longest session ever—more than seven months.

So it goes in Raleigh, where there are two packs of note—the Wolfpack of N.C. State University in west Raleigh, and the press pack of the Capital Press Corps downtown. When you're looking for reporters during a legislative session, finding them is a snap. Just drop by the big white building on Jones Street and there they'll be—as

hostage to the legislative session as staff members, the cafeteria crew, and the legislators themselves. Reporters grouse about the long hours and constant grind of covering the legislature from start to finish—215 days from January to August in 1989—but few of them are able to break away regularly to do the sort of coverage of other state government stories that occur throughout the year, whether the legislature is in session or not.

This pack journalism prevails largely because, in North Carolina, the General Assembly is the most powerful branch of government and by far the most accessible. Stories are easy to get. Legislators seek out reporters, doling out juicy quotes and swapping hot rumors. Most meetings are wide open, and not even the wiliest legislator can hide from a reporter for long. And it's a lot easier to cover the legislature, where all 170 members and all the staff are located in just two adjacent buildings, than the executive and judicial branches—which are spread out in 95 buildings in downtown Raleigh alone and in hundreds more in the rest of the state. And, of course, the fact is that reporters stick to the General Assembly because that's where their editors want them to be most days. When reporters aren't there, editors want to know why not.

"Reporters *are* mainly tied up with the legislature when it's in session, even when there are sexy issues out there to be covered, like the Mobil Oil thing," says Seth Effron, Raleigh correspondent

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*Jack Betts is editor of North Carolina Insight.*

for the *Greensboro News & Record*. "It's gotten covered somewhat [mostly by environmental reporters], but it would have been more closely scrutinized if the legislature had not been in session [when Mobil Oil proposed to drill for gas off North Carolina's coast]." The same thing goes for the state's choice of a radioactive waste disposal site operator, Effron adds. "There would have been more intensive coverage of that issue if the legislature had not been in session." The *Winston-Salem Journal*, the state's environmental watchdog, had covered the story for more than a year, but other news organizations weren't giving it as much attention—especially during the General Assembly.

Graham Wilson, a former Raleigh correspondent for WBTV in Charlotte and now a government spokesman at the Department of Crime Control and Public Safety, agreed with Effron's assessment about the legislature captivating reporters' attention. "We had a feeling that we were tied to the legislature somewhat when it was in session," says Wilson. That prevented him from covering other state stories or getting out of town to cover statewide controversies. "It did affect coverage. When the legislature wasn't in, it was one less thing to worry about."

Adds Ferrel Guillory, government editor of *The News and Observer* of Raleigh: "When the legislature is in town, it tends to dominate [news coverage]. But the fact is that even when the legislature is not in town, we don't do the day-to-day coverage of state government as well as we should. That's not a problem specific only to North Carolina. I don't think *The Washington Post* covers government as well as it should, or *The New York Times*. Covering the bureaucracy, the everyday workings of government, is really difficult. It has gotten so big, it has gotten so arcane, that you tend to go where the flashes of activity are."

The phenomenon does not go unnoticed in the Governor's office. Phil Kirk, until recently Gov. Jim Martin's chief of staff and himself a former reporter for *The Salisbury Post*, observes that most newspapers and other media outlets don't put enough reporters on government news, and when the General Assembly is in session, that's the only game in town. "I think the state government and legislative coverage personnel assigned by the media are so small, relatively speaking, that they have to concentrate on either the legislature or the rest of state government," and reporters regularly choose the legislature, Kirk says. "I have defi-

nately seen that happen each time the General Assembly is in town. They have to cover what is hot at the moment, and that's the legislature. We expect the administration to be more closely scrutinized when the legislature is not in town."

Good reasons abound for sticking with the legislature. "There are legitimate reasons that the General Assembly demands all of our time," observes Danny Lineberry, Raleigh correspondent for the *Durham Morning Herald*. "One, no other branch of state government has as much impact on the daily lives of North Carolina's citizens—how much they pay for gasoline, how much their driver's licenses cost, how much automobile liability insurance they must purchase. Second, I think it's our responsibility to tell the people what their elected representatives are doing, how they are voting (or not voting), where they stand on issues . . . . In short, given the limited resources available to news organizations and the potential impact of its actions, I think the General Assembly deserves the intense coverage—even if it means other areas go uncovered."

Adds columnist Paul T. O'Connor, "Given its current size, the Raleigh press corps does a greater service by covering one branch well rather than covering all three in a very shallow manner."

Running with the pack has always been a danger for Raleigh reporters, whether they work for a Raleigh outlet or an out-of-town organization. Most reporters are cognizant of the problems that stem from running with the pack—covering the same stories, missing others, forgoing the risky, boring enterprise of digging into the details of a policy issue in favor of the tried-and-true routine of events coverage, guaranteed to get the story air time or page-one play. Most members of the Capital Press Corps wouldn't miss a gubernatorial press conference—held on Thursday mornings in the Administration Building—for all the beer in Beaufort. While those conferences don't often produce front-page-quality news, they always produce something that reporters can write about, especially stories of confrontation between the Governor and legislature when it's in session. But stories of such confrontation, while dramatic enough to sound important, help the reading and listening public far less than aggressive coverage of other public affairs.

Timothy Crouse described the pack phenomenon in his 1972 screed, *The Boys On The Bus*. Crouse wrote of "womblike conditions that gave rise" to pack journalism, and described the pack as "hierarchical as a chess set" and "divided into

cliques.”<sup>2</sup> Crouse could have been writing about the General Assembly, where reporters and legislators spend too much time in captivity together, and the Capital Press Corps, which has its own hierarchy (see sidebar, p. 66). “Everybody denounces pack journalism, including the men who form the pack,” wrote Crouse. “Any self-respecting journalist would sooner endorse incest than come out in favor of pack journalism.”

In North Carolina, the pack rarely congregates for election coverage. It convenes more often in legislative coverage. And much of the legislative coverage in 1989 was about the squabble between the House and the Senate and the Governor about *how to fund* the \$9 billion highway funding package—by a factor of 20, the largest road-building and public works program in the state’s history.<sup>3</sup> But almost missing entirely in the coverage—as *The News and Observer* was careful to point out in a short item in its “Under the Dome” column<sup>4</sup>—was much pointed discussion of *whether there was a need* for all that road-building. There were exceptions, of course. Ferrel Guillory of *The News and Observer* pondered how to approach the subject in an editorial-page column,<sup>5</sup> and columnist O’Connor wondered whether education had become a second or third priority behind roads. Most reporters did do stories when Sen. Marshall Rauch (D-Gastonia) worried aloud about the need to spend so much money, but lacking from the public prints was any detailed reporting on the need for the projects. While *local* road needs often were well covered by newspapers, the media generally seemed to accept the conventional legislative wisdom—and the Martin administration’s assertion—that the new N.C. *intrastate* roads package was essential, and focused instead on how to pay for the monumental project. Ted Harrison, a public television producer and the most experienced hand in the press corps, notes that road needs were determined by state transportation officials a year earlier, and that the press never really covered the story in a comprehensive way. “That part of the battle—the needs—was fought out long before we as a rat pack got hold of the carcass, and no one wanted to play catch-up,” says Harrison.

Guillory, who helped restructure The Old Reliable’s 1989 coverage in an effort to avoid missing the sort of stories that are easy to overlook during a legislative session, concedes that some stories don’t get enough attention when the big show is in town. “I know there are agencies, pieces of government, that we don’t poke into well

enough. There’s the [N.C.] Agriculture Department, certain elements of the Department of Commerce [now renamed the Department of Economic and Community Development], and any number of government agencies,” said Guillory. “But I wouldn’t argue to divert coverage from the legislature to something else. I’d argue that we need to pay attention to the other two branches of government more.”

Newspapers in particular have made efforts to get those sorts of stories and to avoid the pack. In the late 1970s, for instance, *The Charlotte Observer* had a model arrangement for its Raleigh bureau. Three full-time, veteran reporters sought to do stories that no one else was covering, and their product was the envy of other news operations. That office had one of the state’s top investigative reporters in Howard Covington, one of the top political reporters in Ned Cline, and an experienced general assignment reporter in Susan Jetton. That trio covered a wide variety of stories no one else was doing—and all this came at a time (1978 and 1979) when the state budget was much smaller (less than \$4 billion a year in 1979 as opposed to \$10 billion in 1989) and when the state had less responsibility for programs and the federal government had more. The *Observer*, the state’s largest newspaper, and other papers have maintained a bureau of two reporters in Raleigh in the 1980s, but the continued growth in state government would justify sending *more* reporters, not *fewer*, to cover the state. In a Raleigh office, three is not a crowd, given the size of government.

Today, most reporters make an effort to get away from the legislative building, if only to preserve their sanity during the seemingly interminable sessions. Guillory says *The News and Observer* made pre-session plans to spring loose Bill Krueger and others for stories on day care centers and prisons, among other subjects. *The Charlotte Observer* tries to send reporters from its Charlotte staff to Raleigh to regularly supplement government coverage, allowing Raleigh Bureau reporters like John Drescher to pursue, for instance, a story on a special fund that paid for a cook at the University of North Carolina president’s home in Chapel Hill.<sup>6</sup> Effron and his editors make it a practice to plan on at least one long-term project during each session of the General Assembly. In the middle of the 1989 session, when the House and Senate were at loggerheads over a host of issues, Effron took several weeks away from the General Assembly to do the painstaking and time-consuming research

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## *Covering the Legislature: "As Hierarchical As A Chess Set"*

The Capital Press Corps is hardly a monolithic group. Reporters on the state government beat bring different interests and talents to the job, and the way they go about covering government largely reflects the interests of the organization for whom they toil. These ink-stained wretches fall roughly into a hierarchy that, in no particular order of importance, includes:

**The Wires.** These reporters represent The Associated Press and United Press International, two worldwide news organizations that provide state government coverage to their North Carolina members. The AP has more staff and far more clients than UPI, which has fallen on hard economic times and is down to a lone legislative reporter now, but the reporters from each are among the hardest-working in Raleigh. They'd better be. They're expected to get it all and to beat the competition. But they could use more time and freedom to pursue in-depth stories.

**The N&O.** *The News and Observer* of Raleigh is the state's second-largest newspaper, but in Raleigh and eastern North Carolina it is the authoritative daily, the bible of state government. On any given day it can commit a half-dozen or more experienced reporters to the legislature alone and still have veterans covering other state government agencies. Reporters at the *N&O* are expected to get it first and get it right, and out-of-town reporters take special glee in scooping The Old Reliable, as it's called by its marketing department. Their reporters, consequently, may worry too much about being the scoopee and not enough about being the scooper.

**The Out-Of-Towners.** Reporters for *The Charlotte Observer*, the *Winston-Salem Journal*, the *Greensboro News & Record*, the

*Durham Morning Herald*, and *The New York Times* Regional Newspapers (including *The Wilmington Star*, *The Lexington Dispatch*, the *Hendersonville Times-News* and the *Lenoir News Topic*) maintain year-round news bureaus in Raleigh, and the Charlotte and Greensboro newspapers normally employ at least two reporters in their Raleigh office all the time. In addition, *The Independent Weekly*, based in Durham, and the N.C. Association of Afternoon Newspapers, maintain a Raleigh office with experienced journalists. These reporters have considerable freedom in what they cover, far more than most newshawks in North Carolina. Every sizable paper ought to have at least two full-time reporters in Raleigh, and three should be standard for the big boys.

**The Homers.** Medium-sized papers like *The Asheville Citizen*, *The Salisbury Post*, *The Fayetteville Observer*, the *High Point Enterprise*, and the Freedom Newspapers (including the *Gastonia Gazette*, the *Burlington Times-News*, the *New Bern Sun Journal* and the *Kinston Daily Free Press*) often send reporters to cover sessions of the N.C. General Assembly, but their coverage concentrates mostly on home-town legislators, and those reporters usually go back home when the legislature goes home. Thus, the term "homers." In 1989, *The Asheville Citizen* and the Freedom Newspapers decided to keep their reporters on in Raleigh in full-time, year-round news bureaus to cover more state government and public affairs news. Their competition should consider doing the same.

**The Marconians.** Once a proud bastion of journalism, radio news in North Carolina has fallen on hard times since radio deregula-

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tion began in the early 1980s.\* But at least two big Raleigh stations—WPTF-AM and WRAL-FM—commit a full-time reporter to legislative sessions, while most other stations are content to let their announcers “rip ‘n read”—the term for getting wire copy straight from AP or UPI with the latest state news. Guglielmo Marconi, who invented radio but who didn’t know beans about news, might not spin in his grave, but Douglas Edwards would have a fit. Still, it’s not too late to save radio journalism. There’s no question that radio journalism has been damaged by radio deregulation in the 1980s, but that deregulation has also allowed many stations to develop a special niche—with more consumer reports and how-to specials and listener feedback programs. Stations just have to decide whether hard news is more important than happy talk, and perhaps some stations will move to an all-news format, which has been successful in other areas.

**The Public TV Folks.** Unlike the national networks, television news departments in North Carolina don’t do a very good job of covering state government news—in part because television is a visual medium and state government doesn’t produce good pictures. Fortunately, however, there’s North Carolina Public Television. Underfinanced and poorly-equipped, the University of North Carolina Center for Public Television produces four half-hour-long programs a week when the legislature is in session and other regular public affairs and state government programs when it’s not in session. Legislators, lobbyists, and journalists have come to depend on the nightly Legislative Report series to keep them up-to-date on the legislature, and on Stateline when it’s not in session to tell them what else is happening. The state should consider parting with a few more bucks to make their job easier—and the report more comprehensive.

**The Video Virtuosos.** If it’s state government and public affairs you’re interested in, don’t depend on local television news. The three Raleigh-area commercial stations (WRAL, WTVD, and WPTF) have capable

reporters, but they don’t send reporters to the legislature every day, and as a result their reporters cannot keep up with the intricacies of what’s going on there, much less what’s going on within the mid-levels of state agencies. They do, however, do a good job of reporting the headlines, which too often seem to be picked up from the morning newspapers. Four stations do make a stab at regular coverage, however, and there’s the statewide Carolina News Network that allows some stations to swap some government and public affairs stories. WRAL and WPTF of Raleigh, WTVD of Durham, and WBTV of Charlotte (which maintains a regular Raleigh bureau) all make an effort to have regular reports from the legislature, the Governor’s office, and other major government events. Sam Donaldson they ain’t, but nobody’s complaining about that. At least they give it a shot—and that’s a lot more than some other big North Carolina stations can say.

**The TV Homers.** A decade ago, stations from Charlotte, Winston-Salem, High Point and Greensboro maintained regular news bureaus in Raleigh. Now only WBT of Charlotte, and lately WECT of Wilmington and WNCT of Greenville do, and the other stations send a reporter and videographer to Raleigh only for special coverage. Government officials love to see them come, too. They know they won’t get any hard questions from these hometown reporters who come to Raleigh only a few times a month and who don’t even know where the bathrooms are—let alone what a clincher motion or a special provision or an administrative law judge is. All these officials have to face is a few political softballs and—pow—they’re all over the 6 o’clock news. Edward R. Murrow would spin in his grave. But maybe in the 1990 session they’ll send reporters down more often—maybe even twice a week. It’d be an improvement over once in a blue moon.

—Jack Betts

\* For more, see “Radio Journalism in North Carolina: Listening for Less News,” *North Carolina Insight*, Vol. 9, No. 4, June 1987, p. 44.

—continued from page 65

to find out how much money the state was spending to employ public information officers (PIOs). Their job sometimes was to answer public inquiries, and sometimes, it seemed to Effron, to be apologists and press agents for their bosses. The cost for this cadre of PIOs wasn't available any other way than through poring over computer printouts and tracking down the spokespersons for each of scores of state agencies. The grand total, in an article published June 18, 1989, came to more than \$9.2 million for 362 official government PIOs on the payroll.<sup>7</sup>

Effron's story was unusual not so much because of its importance or its originality, but because the paper was willing to devote so much time to a single investigative story when there was plenty of other news cover. That story came at the height of the General Assembly, when, as the late Sen. Ralph Scott (D-Alamance) would have put it, the throat-cutting had just begun. Most other reporters were still in the traces covering the budget process, the debate over teacher pay raises, or the highway funding imbroglio. And here was Effron, blithely ignoring the legislature to do what was, after all, a splashy story guaranteed to make the taxpayers' teeth gnash. Other reporters were envious as well. "Where's Effron and what's he doing, anyway?" wondered a fellow scribe while Effron was off chasing his story.

The Greensboro paper had been planning to do that story for some time, says Effron. "Some [legislative] issues might have gone uncovered," concedes Effron, "but the *News & Record* as much as any newspaper has been making an effort in not having its own reporters duplicate others, especially the wire services. We look at the AP (The Associated Press) as another staffer for us, and we use them."

So, the paper used more copy than normal from the AP and stories from its other Raleigh reporter to cover the legislature while Effron pursued the story on PIOs. Little, if anything, in legislative coverage was sacrificed, Effron says, and the *News & Record* got a big Sunday spread out of it.

"Still, I think there are parts of government that do go uncovered," Effron says. "I don't want to imply that people get away with murder. But there are stories of significance that don't get written—changes in eligibility for government programs, how the state day care commission is handling the question of what to do about when kids get sick, how the state's investment portfolio

is being managed."

Martin's former Chief of Staff Phil Kirk—who became president of N.C. Citizens for Business and Industry on December 1—agrees, but only to a point. "I think it's more a quantitative thing. They [readers] get the information [about other state government stories] ultimately, but I don't think they get it nearly so soon or in such quantity when the General Assembly is in session."

While accepting the notion that some stories may go unreported while the legislature commands the attention of most newspapers, Guillory points out that the General Assembly is, after all, an important story—particularly for those newspapers that don't maintain full-time offices in Raleigh. "I don't blame *The Asheville Citizen* or *The Fayetteville Observer* for paying attention to the legislature, because this is a democracy," Guillory says. "The legislature is an expression of democracy, and there ought to be a lot of coverage. But you do need to find some balance, and I'd argue that we have got to do a better job overall. One of the real issues in journalism these days is whether there is a diminishing of government news and political news of all kinds. There's a danger that we will *People* magazine ourselves too much."

Finding that proper balance—between what the public is interested in reading and what they should know about—is a journalistic challenge, and one that reporters sometimes worry about when the legislature seems to go on interminably without making progress. "There are times when I feel like I'm being paid to watch a hamster cage," notes Effron. "Sure, there's a lot of motion on that wheel, and yeah, we can tell the reader that there was movement today on that wheel, but when the end of the session comes, it still seems like we spent a lot of time spinning our wheels when we could have been out covering other stories."

Aggressive coverage of state government begins with a commitment to hard news and not to media consultants and decorators who insist on fluff and soft news. One way to provide that coverage would be to commit more resources—to assign more reporters to state government coverage—and to insist on more interpretive reporting of, say, trends in regulatory issues at the N.C. Utilities Commission, or whether the Milk Commission is an anachronism, or whether the state's administrative rules bureaucracy is a shambles. The state's larger out-of-town newspapers, as well as the state's bigger television stations, could as-

sign more reporters to Raleigh to keep up with the big increases in state government—growth that has been fueled in part by the federal government's ceding of much responsibility to the states in the past eight years as the growth of parts of the federal budget has slowed. And those reporters should be schooled in the arts of aggressive, hard-nosed, and independent reporting—and not just more reporting of the same old spinning wheels.



## FOOTNOTES

<sup>1</sup>For more on this subject, see Bill Finger, "The State of the Environment: Do We Need a North Carolina Environmental Index?," *North Carolina Insight*, Vol. 11, No. 1, October 1988, pp. 2-29. The N.C. Center for Public Policy Re-

search proposed the index to chart changes in the quality of the state's environment. Gov. James G. Martin embraced the idea in his 1989 Second Inaugural Address and most newspapers mentioned the index in their next-day coverage, but since then there has been little mention of the subject while the Department of Environment, Health, and Natural Resources has made steady progress in developing the index.

<sup>2</sup>Timothy Crouse, *The Boys On The Bus*, Ballantine Books (New York), 1972, pp. 7-8.

<sup>3</sup>Chapter 692 (HB 399) of the 1989 Session Laws.

<sup>4</sup>"Some road plans in bill questioned," *The News and Observer* of Raleigh, July 30, 1989, p. 1A.

<sup>5</sup>Ferrel Guillory, "Massive road building, but missing questions," *The News and Observer* of Raleigh, Aug 4, 1989, 1989, p. 10A.

<sup>6</sup>John Drescher, "UNC System's Set-Aside From Grants Questioned," *The Charlotte Observer*, June 25, 1989, p. 1A.

<sup>7</sup>Seth Effron, "Taxes paying for what government voices say," *Greensboro News & Record*, June 18, 1989, p. A-1.

## IN THE COURTS — continued from page 62

<sup>5</sup>Don Follmer, spokesman for the N.C. Department of Environment, Health, and Natural Resources (then the Department of Natural Resources and Community Development), as quoted in "Court made the right ruling," the *Winston-Salem Journal*, May 8, 1989, p. 14.

<sup>6</sup>In *The Matter of A Civil Penalty*, 324 N.C. 373 at 384, 379 SE 2d 31 at 37 (1989).

<sup>7</sup>*Cannon v. Miller*, 71 N.C. App. 460, 322 SE 2d 780 (1984); vacated by the N.C. Supreme Court, 313 N.C. 324, 327 SE 2d 888 (1985).

<sup>8</sup>The N.C. Court of Appeals was created by constitutional amendment in 1965 and began with six judges in 1967. The Court was increased to nine judges in 1969 and to its current total of 12 in 1977. Since its creation, 30 judges have been members of the Court, and 18 have been members since the Court was enlarged to 12 in 1977. By contrast, the seven-member N.C. Supreme Court, has also had 18 members since 1977—and seven of the 18 had previously been members of the Court of Appeals. Of the current

seven justices on the Supreme Court, four—Associate Justices Burley Mitchell, Willis Whichard, Harry Martin, and John Webb—served on the Court of Appeals prior to joining the high court.

<sup>9</sup>*State v. Andrews*, 52 N.C. App. 26, 277 SE 2d 857 (1981).

<sup>10</sup>*State v. Perry*, 52 N.C. App. 48, 278 SE 2d 273 (1981).

<sup>11</sup>*State v. Garner*, 55 N.C. App. 192, 284 SE 2d 733 (1981).

<sup>12</sup>*State v. Perry*, 305 N.C. 225, 287 SE 2d 872 (1982).

<sup>13</sup>*Johnson v. Ruark Obstetrics*, 89 N.C. App. 154, 365 SE 2d 909 (1988).

<sup>14</sup>*Edwards v. Advo Systems, Inc.*, 97 N.C. App. 154 (1989) 376 SE 2d 765 (1989).

<sup>15</sup>*Williams v. International Paper Co.*, 89 N.C. App. 256, 365 SE 2d 84 (1988).

<sup>16</sup>*Pollard v. Smith*, 90 N.C. App. 585, 365 SE 2d 84 (1988).

<sup>17</sup>*N.C.N.B. v. Virginia Carolina Builders*, 307 N.C. 563, 299 SE 2d 629 (1983).

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## *School Spending Disparities Persist, Center Reports in New N.C. Focus*

by Ran Coble

**D**espite the promise of the state's new Basic Education Plan, the state's share of total per-pupil spending remains about the same, while the local contribution is moving up steadily and the federal contribution continues to decline sharply, the N.C. Center for Public Policy Research says in a new book. Because the state's share of school funding has remained about the same since 1973-74, the state has done little to counteract the enormous differences in local district supplements that can occur from one school district to the next.

"Disparities in local school supplements create a political headache for North Carolina," says Marianne M. Kersey, co-editor of the new book. "On one hand, no one wants to discourage local officials from appropriating money to improve schools, but on the other hand, no one wants to see children receive varying opportunities for a good education, just based on where they live."

In effect, despite the spending of hundreds of millions of dollars, the Basic Education Plan has done nothing to reduce disparities among school districts, the Center says. "The state's Basic Education Plan aims to provide a basic curriculum for every school child, but it was not designed to reduce disparities among the state's 140 districts," notes Kersey, who adds that some states have a special school equalization fund to deal with the problem of disparities.

The Center says per-pupil spending in North Carolina varied by as much as 56 percent among the state's 140 public school systems in the 1987-88 school year, the latest year for which figures are available. This situation remains virtually unchanged since the Center last checked the results in the 1983-84 school year, when there was a 58 percent difference in spending. The Center says the disparities among school districts are caused mainly by differences in local supplements and lead to greatly differing educational programs among the city and county systems. This kind of disparity has led courts in eight states to find school finance systems unconstitutional, the latest in Texas on Oct. 2, 1989.

These findings are among those contained in 61 different articles on state government, politics, and public policy included in *North Carolina Focus*, the Center's 447-page textbook for high school social studies classes and college-level courses on state and local government. The new book, available now from the Center, was specially designed to give students of government a sharp-eyed overview of how their state operates.

"It's hard to find a book of this sort containing a comprehensive view of what North Carolina does in a variety of areas—school funding, how

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*Ran Coble is executive director of the N.C. Center for Public Policy Research.*

legislators vote, how well gubernatorial succession works, or how the courts make public policy," says Kersey.

Up to now, when students studied state government, state politics, or state policy problems like school finance, there were no up-to-date texts specifically on North Carolina and its state government. With that in mind, the Center published *Focus* as a public service for teachers and students across the state. The book was funded by grants from The Janirve Foundation in Asheville and the A. J. Fletcher Foundation in Raleigh.

The book is organized like the North Carolina Constitution. It contains chapters on the rights of citizens, the legislative branch, the executive branch, the judicial branch, and budgeting and financing in state government—which comprise the first five articles in the Constitution. Next, there are chapters on four policy areas—economic development, education, corrections, and the environment. The final two chapters examine state politics and the media's coverage of government and politics. In all, there are 61 articles in the book, as well as a copy of the state Constitution.

In the article on school finance, Kersey counters the conventional wisdom that financial disparity among North Carolina school systems is not a major problem because the state provides a base level of funding to support local districts' operating costs. The article then explains how two trends in the last decade have diluted the base of state support.

First, the share of school budgets from *federal sources* has been cut in half. It has decreased from 14.2 percent in 1972 to 7.7 percent in 1987-88, the latest school year for which figures are available. Second, since 1973-74, the *state's share* has stayed about the same, at 69 percent. "Thus, since 1973-74," says Kersey, "the most flexible and controversial part of school budgets—the *local* contribution—has increased from 19 to 23 percent."

The state base of funding does little to counteract the differences in local supplements. In 1987-88, *local* per-pupil spending ranged from a high of \$1,535 in the Chapel Hill/Carrboro City Schools to a low of \$287 in the Fairmont City School District within Robeson County, a more than five-fold difference. The variation in these local supplements is the chief reason for the disparities in *total per-pupil spending*. In 1987-88, total spending (excluding food service) in the

Onslow County system was \$2,645 per pupil, the lowest of any of the 140 districts. The Tryon City system in Polk County ranked first with \$4,124 spent on each pupil—56 percent more than the Onslow County system. Both the Fairmont City and Tryon City districts have been consolidated into county school systems for the 1988-89 school year. (For data on each school district, see table, page 72.)

## Differences in Course Offerings

**I**n explaining the possible consequences of disparities in school financing, the book points to differences in course offerings. A student at Blue Ridge High School in Jackson County has 116 fewer courses to choose from than a student at Northern Durham High School. A student at Northern Durham has such choices as German, musical theater, and principles of technology, while a student at Blue Ridge gets only a few choices beyond the required curricula. Another possible consequence of the disparities is that better teachers might be attracted to school systems that offer higher wages and better benefits. In addition, better buildings might be available in wealthier districts, since the responsibility for facilities lies mostly with the counties.

## Court Cases on School Finance

**I**n a companion article in *North Carolina Focus*, the N.C. Center reviewed court cases across the country involving the constitutionality of disparities in school financing. Though the court decisions are split, the Center noted that many of the successful challenges to school financing schemes were based on state constitutions with provisions similar to North Carolina's. North Carolina's Constitution has an equal protection clause as well as a clause guaranteeing a uniform system of education. Article IX, Section 2 of the Constitution says "The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools . . . wherein equal opportunities shall be provided for all students."

Both of these guarantees have been important in cases in eight states which found disparities in school finance unconstitutional. The eight states are California, Connecticut, Kentucky, New Jer-

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**Per-Pupil Expenditures (PPE) by School District, 1987-88**  
**(Excluding School Food Service)<sup>1</sup>**

School District	State		Federal <sup>2</sup>		Local		Total	
	PPE	Rank	PPE	Rank	PPE	Rank	PPE	Rank
Alamance County	\$ 2,235	131	\$ 110	128	\$ 502	81	\$ 2,848	124
Burlington City	2,460	43	142	95	792	19	3,394	29
Alexander County	2,469	40	120	118	333	130	2,922	111
Alleghany County	2,688	11	206	34	408	106	3,302	37
Anson County	2,297	101	160	71	442	95	2,900	116
Ashe County	2,621	14	179	54	401	108	3,201	50
Avery County	2,547	22	221	31	510	72	3,278	41
Beaufort County	2,367	72	184	45	366	125	2,917	112
Washington City	2,275	115	240	21	389	115	2,904	115
Bertie County	2,296	103	248	17	380	120	2,925	110
Bladen County	2,484	38	250	16	444	94	3,178	55
Brunswick County	2,289	106	157	76	589	54	3,036	84
Buncombe County	2,550	21	137	104	658	35	3,345	33
Asheville City	2,417	49	281	9	1,399	2	4,097	2
Burke County	2,538	25	121	117	518	71	3,177	56
Cabarrus County	2,330	88	112	126	549	66	2,991	91
Kannapolis City	2,333	84	146	87	583	57	3,061	82
Caldwell County	2,312	96	119	119	520	70	2,950	101
Camden County	2,702	9	174	59	585	56	3,461	24
Carteret County	2,225	132	143	92	431	102	2,799	133
Caswell County	2,346	79	157	75	338	129	2,842	126
Catawba County	2,354	75	80	140	601	48	3,035	85
Hickory City	2,383	64	164	68	614	44	3,162	59
Newton City	2,353	76	143	93	738	26	3,234	46
Chatham County	2,315	95	102	131	648	37	3,065	81
Cherokee County	2,372	70	177	56	307	134	2,855	123
Chowan County	2,605	16	174	58	573	60	3,353	31
Clay County	2,587	18	158	74	347	128	3,092	78
Cleveland County	2,389	59	148	84	445	92	2,981	92
Kings Mtn. City	2,369	71	180	50	588	55	3,137	66
Shelby City	2,460	42	311	6	671	32	3,443	26
Columbus County	2,340	82	241	20	375	121	2,955	99
Whiteville City	2,332	85	240	22	372	123	2,943	102
Craven County	2,197	136	289	8	445	93	2,931	107
Cumberland County	2,159	138	225	28	505	75	2,890	119
Currituck County	2,396	57	138	101	915	14	3,450	25
Dare County	2,130	139	86	138	756	23	2,973	93
Davidson County	2,182	137	108	129	390	114	2,681	139
Lexington City	2,315	94	231	24	745	24	3,292	38
Thomasville City	2,508	32	222	30	592	52	3,322	34
Davie County	2,262	121	129	108	502	82	2,893	118
Duplin County	2,416	50	179	52	368	124	2,963	98
Durham County	2,210	133	87	135	1,170	6	3,468	23
Durham City	2,280	112	170	63	1,296	3	3,745	8
Edgecombe County	2,428	47	297	7	436	101	3,161	60
Tarboro City	2,388	60	124	112	599	51	3,111	74
Forsyth County	2,303	100	129	109	1,098	9	3,530	15
Franklin County	2,292	105	134	106	456	89	2,882	120
Franklinton City	2,334	83	191	39	426	104	2,951	100

## Per-Pupil Expenditures by District, *continued*

School District	State		Federal <sup>2</sup>		Local		Total	
	PPE	Rank	PPE	Rank	PPE	Rank	PPE	Rank
Gaston County	\$ 2,250	126	\$ 114	123	\$ 459	88	\$ 2,823	128
Gates County	2,672	12	187	41	634	40	3,493	20
Graham County	2,796	7	329	5	390	113	3,515	18
Granville County	2,277	113	145	88	550	65	2,972	94
Greene County	2,804	6	244	18	478	84	3,526	16
Guilford County	2,317	90	81	139	1,028	11	3,426	27
Greensboro City	2,472	39	139	99	1,253	4	3,864	6
High Point City	2,359	73	166	67	1,240	5	3,765	7
Halifax County	2,407	52	261	14	324	132	2,992	90
Roanoke Rapids City	2,450	44	131	107	674	31	3,255	43
Weldon City	2,513	31	267	12	571	61	3,351	32
Harnett County	2,402	54	161	70	332	131	2,896	117
Haywood County	2,618	15	180	49	717	29	3,516	17
Henderson County	2,275	116	140	96	523	68	2,938	104
Hendersonville City	2,284	109	144	91	855	16	3,283	40
Hertford County	2,386	62	227	27	503	78	3,116	71
Hoke County	2,269	119	187	42	292	137	2,748	137
Hyde County	2,967	1	253	15	768	22	3,988	3
Iredell County	2,256	123	110	127	454	90	2,820	130
Mooresville City	2,347	78	143	94	665	33	3,154	61
Statesville City	2,542	23	181	48	996	13	3,719	10
Jackson County	2,466	41	235	23	525	67	3,225	47
Johnston County	2,286	108	137	103	388	116	2,811	131
Jones County	2,839	4	340	4	290	139	3,468	22
Lee County	2,317	92	167	66	660	34	3,143	63
Lenoir County	2,494	36	187	43	506	74	3,186	53
Kinston City	2,316	93	220	32	592	53	3,128	69
Lincoln County	2,317	91	118	121	438	100	2,873	122
Macon County	2,516	30	125	111	617	41	3,258	42
Madison County	2,605	17	180	51	386	117	3,171	57
Martin County	2,380	66	186	44	650	36	3,215	48
McDowell County	2,297	102	122	115	402	107	2,821	129
Mecklenburg County	2,377	67	101	132	1,098	8	3,576	14
Mitchell County	2,555	20	149	82	439	98	3,142	64
Montgomery County	2,521	28	149	81	390	112	3,061	83
Moore County	2,296	104	157	77	726	27	3,179	54
Nash County	2,199	135	174	60	502	80	2,875	121
Rocky Mount City	2,255	124	121	116	744	25	3,121	70
New Hanover County	2,383	65	173	61	685	30	3,240	44
Northampton County	2,557	19	268	11	477	85	3,302	36
Onslow County	2,098	140	199	37	348	127	2,645	140
Orange County	2,525	27	112	125	869	15	3,506	19
Chapel Hill/ Carrboro City	2,281	111	89	134	1,535	1	3,904	5
Pamlico County	2,502	34	222	29	383	119	3,108	75
Pasquotank County	2,310	98	159	73	503	77	2,972	95
Pender County	2,255	125	178	55	503	76	2,936	105
Perquimans County	2,717	8	168	65	601	47	3,486	21
Person County	2,375	68	169	64	600	50	3,144	62
Pitt County	2,391	58	155	78	644	38	3,190	52
Polk County	2,692	10	179	53	722	28	3,593	13
Tryon City	2,848	3	123	114	1,153	7	4,124	1

## Per-Pupil Expenditures by District, *continued*

School District	State		Federal <sup>2</sup>		Local		Total	
	PPE	Rank	PPE	Rank	PPE	Rank	PPE	Rank
Randolph County	\$ 2,202	134	\$ 87	137	\$ 397	111	\$ 2,685	138
Asheboro City	2,351	77	140	97	643	39	3,134	67
Richmond County	2,250	127	140	98	364	126	2,754	136
Robeson County	2,244	130	268	10	291	138	2,804	132
Fairmont City	2,540	24	343	3	287	140	3,170	58
Lumberton City	2,269	118	153	80	372	122	2,795	134
Red Springs City	2,385	63	216	33	307	135	2,908	114
Saint Pauls City	2,248	129	200	36	314	133	2,762	135
Rockingham County	2,488	37	170	62	577	59	3,236	45
Eden City	2,308	99	119	120	503	79	2,929	108
Western Rockingham	2,343	80	154	79	601	49	3,097	76
Reidsville City	2,408	51	164	69	560	63	3,132	68
Rowan County	2,288	107	98	133	522	69	2,908	113
Salisbury City	2,666	13	242	19	814	17	3,722	9
Rutherford County	2,331	87	144	90	497	83	2,972	96
Sampson County	2,498	35	231	25	463	87	3,191	51
Clinton City	2,310	97	146	86	615	43	3,072	80
Scotland County	2,329	89	175	57	612	45	3,115	72
Stanly County	2,387	61	108	130	438	99	2,933	106
Albemarle City	2,406	53	126	110	772	21	3,304	35
Stokes County	2,281	110	139	100	604	46	3,025	87
Surry County	2,399	56	145	89	427	103	2,970	97
Elkin City	2,508	33	87	136	1,084	10	3,679	11
Mount Airy City	2,357	74	136	105	796	18	3,289	39
Swain County	2,813	5	695	1	410	105	3,918	4
Transylvania County	2,375	69	123	113	579	58	3,078	79
Tyrrell County	2,854	2	191	40	617	42	3,662	12
Union County	2,276	114	113	124	442	96	2,831	127
Monroe City	2,342	81	264	13	790	20	3,396	28
Vance County	2,265	120	182	47	399	110	2,846	125
Wake County	2,249	128	115	122	1,025	12	3,390	30
Warren County	2,537	26	227	26	440	97	3,204	49
Washington County	2,519	29	206	35	297	136	3,022	88
Watauga County	2,443	46	148	83	551	64	3,141	65
Wayne County	2,259	122	159	72	507	73	2,925	109
Goldsboro City	2,274	117	388	2	449	91	3,111	73
Wilkes County	2,417	48	137	102	385	118	2,939	103
Wilson County	2,331	86	194	38	570	62	3,094	77
Yadkin County	2,400	55	147	85	465	86	3,012	89
Yancey County	2,446	45	183	46	400	109	3,030	86
<b>STATE AVERAGE</b>	<b>\$ 2,338</b>		<b>\$ 154</b>		<b>\$ 656</b>		<b>\$ 3,149</b>	

### FOOTNOTES

<sup>1</sup> Low-income students receive reduced price or free school meals, and others pay for meals. The figures in this chart *exclude* all food service funds. The data are rounded to the nearest dollar.

<sup>2</sup> Federal funds are designed to supplement, not supplant, state and local efforts. Federal funds are included in this table to give the local funding picture for each school district. Federal monies, however, should not be considered as a way to address disparities in per-pupil spending among districts.

*Source:* "Selected Financial Data 1987-88," N.C. Department of Public Instruction Information Center, pp. 6-8. For more, see also "Local School Finance in North Carolina," the Public School Forum of North Carolina, 1989, pp. 6-13.

## Total Per-Pupil Expenditures, 1987-88

The Top Ten		The Bottom Ten	
1. Tryon City	\$4,124	140. Onslow County	\$2,645
2. Asheville City	4,097	139. Davidson County	2,681
3. Hyde County	3,988	138. Randolph County	2,685
4. Swain County	3,918	137. Hoke County	2,748
5. Chapel Hill/Carrboro	3,904	136. Richmond County	2,754
6. Greensboro City	3,864	135. St. Pauls City	2,762
7. High Point City	3,765	134. Lumberton City	2,795
8. Durham City	3,745	133. Carteret County	2,799
9. Salisbury City	3,722	132. Robeson County	2,804
10. Statesville City	3,719	131. Johnston County	2,811

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sey, Texas, Washington, West Virginia, and Wyoming. The Texas Supreme Court decision is the most recent, with a decision rendered on Oct. 2, 1989 that glaring disparities between rich and poor districts violated the state constitution. However, in six other states—Arizona, Colorado, Georgia, New York, Ohio, and Oregon—courts did not strike down unequal financing among local school districts under their state constitutions.

In North Carolina, about two-thirds of school finances come from the state, and all counties get some amount of money. But the Reidsville City School System is considering suing the state over its financing formula. School board attorney Robert L. Watt III says, "The board is considering doing it, and we are doing some research on it right now. The board has asked me to continue looking into it, but there is no timetable or deadline."

"These articles on school financing are just a sample of the kind of issues *Focus* can raise in classrooms across North Carolina," says the Center's Board Chairman, Thad Beyle, a teacher of courses on state government and on N.C. politics and public policy at UNC-Chapel Hill. "There is no other text available that provides in-depth

information on North Carolina state government and policy issues," says Clyde Frazier, a professor of political science at Meredith College. "*Focus* should prove to be an invaluable resource for high school teachers of North Carolina state government," adds John Ellington, head of the social studies section for the N.C. Department of Public Instruction.

The book has been well received. Several newspapers have reviewed it on their book pages, and *Fayetteville Times* Editor Roy Parker Jr., a member of the Center's board of directors, called *Focus* "a fat collection of scores of articles produced by the state's premier independent research-and-report center covering the workings, problems, needs, the past, present, and future of government activities in North Carolina."

Parker said the Center's studies "are regularly quoted, but even more, they have become the basis for a growing number of policy initiatives and public goals."

Copies of *North Carolina Focus* containing the research on school finance are available for \$19.00 (plus \$.95 tax and \$2.50 postage and handling) from the N.C. Center for Public Policy Research, P.O. Box 430, Raleigh, NC 27602, or call (919) 832-2839. ☐☐

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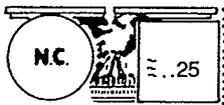
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- TAXES:** Regressive, Progressive, or What?, by Mike McLaughlin, No. 2-3, p. 140.  
Taxes and the Poor in North Carolina: An Unfair Share?, by Charles D. Liner, No. 2-3, p. 138.  
Tax Fairness Study Commission Recommends Restructuring of State Income Tax, by Mike McLaughlin, No. 2-3, p. 146.



# IN THE MAIL

## Letters to the Editor

### Vol. 11, No. 2-3 Profiles in Poverty April 1989

Congratulations on your outstanding April issue of *North Carolina Insight*, "Profiles in Poverty." I am still making my way through a copy of the volume we have here at the Foundation. It's an in-depth and thoughtful look at the problems of poverty in our state. Every North Carolinian should read this issue—it refutes many of the myths people believe about the poor.

—Christine Kushner  
North Carolina Foundation for  
Alternative Health Programs, Inc.  
Raleigh

I agree with you that the Commission on Tax Fairness [see "Tax Fairness Study Commission Recommends Restructuring of State Income Tax," p. 146] made good recommendations, but ... the legislature did not pass them all. Repeal of the intangibles tax did not pass, and as a result Salisbury's wealthiest citizen and his grown children moved out of state. The committee recommended raising the income tax and repealing the intangibles tax. I think this should be done soon. N.C. is losing valuable citizens now, and repelling many who might move here. I know of cases through the years that have been a big net loss to the state.

When a citizen leaves to avoid intangibles tax, North Carolina loses his income tax, sales tax, inheritance tax (most are not young), his commu-

nity leadership and probably his charitable contributions to local causes. The state spends lavishly to attract industry (with all its problems of pollution, congestion, traffic, need for new schools, hospitals, roads, etc.) and then has a tax on stocks and bonds to discourage capital-owning people from living here. When will North Carolina wake up? Many have gone and more are considering it.

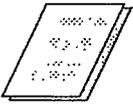
—Fred Stanback  
Salisbury

### Vol. 11, No. 4 Alternatives to Prison August 1989

Congratulations on an outstanding summary of the issues facing the corrections system in North Carolina. In addition to my consulting work with the Special Committee on Prison Overcrowding [in the General Assembly], I have been involved directly in jail overcrowding studies in Guilford, Forsyth, Rowan, and Catawba counties.

Your analysis of the scope of the problems facing state and local jurisdictions and your specific recommendations for the next steps to take are all right on target! I commend you for your thorough and accurate understanding of issues which often get treated in either a confusing or highly emotional manner.

—John R. Kernodle Jr.  
Executive Director  
The Community Justice Resource Project  
Greensboro



# MEMORABLE MEMO



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION  
P. O. BOX 25201  
RALEIGH 27611-5201

August 28, 1989

JAMES G. MARTIN  
GOVERNOR

JAMES E. HARRINGTON  
SECRETARY

MEMORANDUM TO: DISTRIBUTION A

FROM:

Douglas C. MacCaskill  
Security Administrator

SUBJECT:

CHANGE IN RACF ID'S

In order for Department of Transportation personnel to have access to end-user computer applications such as FOCUS and DB2 it will be necessary to have an end-user TSO ID. The naming convention that SIPS originally assigned to the DOT (all ID's begin with TP) will not work with the end-user TSO ID's. These ID's must begin with T1 to work with the SIPS billing system. The security staff has determined that it will be best to change all the ID's at one time since it will enable us to continue our goal of a single id for each person.

The security staff will make the change over the Labor Day holiday. There will be two changes that will affect you as a system user. Your RACF ID (ROSCOE and Corporate Tie) will begin with T1 rather than TP and you will have to use the one time password HWY1 to get into the system the first time. You will be able to enter as a new password the one you are currently using. The change will be effective on Tuesday, September 5, 1989.

We anticipate no problems with the change over, but if you encounter problems please contact DeWitt Perry or Bob Wells at (919) 733-5555.

We will broadcast this message on the ROSCOE signon screen, but please advise your personnel of the change.

DCM/dc

cc: Don E. Bullard  
William C. Deal, Jr.

*Sen. Sam Ervin once observed that he could understand the English language and what it meant just by reading it. "It is my mother tongue," the hero of Watergate explained to an intransigent witness. But times have changed, and at the N.C. Department of Transportation, English is no longer the official language, as this amazing example of bureaucratic gobbledygook demonstrates. This is genuine, red-blooded, All-American, high-tech computer chip gobbledygook, and if you don't know what an end-user TSO ID is, or what your RACF ID (ROSCOE and Corporate Tie) will begin with, or even what your one time password HWY1 is, we can't help you.*

*But we will do this. If you'll input us a candidate for the next issue's Memorable Memo—whether it's written in English or in binary code or in some other foreign language—we'll upload a broadsmile on our interfaces, downpromise an end user guarantee of anonymity, and outprint the upnext issue of Insight.*

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