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The Cover: Juju Atkinson, a Durham County magistrate, presides in one of North Carolina's people's courts. Photograph by Kathy Thomas of the UNC Photo Lab.

INSTITUTE OF GOVERNMENT
The University of North Carolina
at Chapel Hill

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In This Issue

Around the State

North Carolina's People's Court

Dona Lewandowski

The notion of having a fast, affordable means within the court system of resolving disputes dates back to colonial times. The North Carolina Constitution of 1776 established the office of justice of the peace, and for almost two hundred years justices of the peace decided minor civil and criminal cases in virtually every community in the state. In the first part of the twentieth century, however, the office fell into disrepute, acquiring a reputation for corruption and favoritism that eventually led to calls for judicial reform.[1] In 1965 a sweeping court reform package was adopted in an effort to standardize practice throughout the state and eliminate various abuses that had developed under the old system.[2] The new law eliminated the office of justice of the peace and substituted the office of magistrate, a position bearing similar responsibilities but very different methods of selection and compensation (see "Who Is the Magistrate?"). Today magistrates conduct small claims court in every county in the state. Although the setting varies from a formal courtroom to a small, cluttered office and hearings may be conducted with great formality or in a conversational manner, the law governing small claims court is the same, and the courts generally follow the same procedure.[3]

Purpose and Restrictions

The purpose of small claims court is to provide a readily accessible, low-cost way to resolve civil disputes[4] involving relatively small amounts of money and straightforward legal and factual issues. Because of its unique purpose, small claims court differs from traditional trial courts (that is, superior and district court) in a number of ways. In small claims court, individuals with no legal training present their arguments to a magistrate, who acts as a judge. Special procedures are available to help the parties involved (*litigants*) act without the assistance of an attorney. Because legal representation is the exception, rather than the rule, a person suing in small claims court may obtain a judicial ruling for a small fee. Small claims court also differs from the higher trial courts in its provision of a less formal setting for hearing cases. Courtrooms are smaller, fewer courtroom personnel are involved, and litigants are less hampered by formal rules and procedures when they attempt to tell their story. As a general rule, no one in the courtroom is an attorney, and thus confusing legal jargon is largely absent. A final difference is that magistrates may have considerably more time than a district or superior court judge to answer questions, explain confusing procedures, and respond to litigants in a personal manner.

Because of the special purpose of small claims court, there are restrictions on the cases that may be heard there. An important restriction provides that the person bringing the lawsuit (the *plaintiff*) may ask only for one or more of three specific remedies: money, the recovery of specific personal property, or summary ejectment.[5] Other legal remedies available in the higher trial courts are not available in small claims court. For example, a magistrate has no authority to decide which of two parties

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Who Is the Magistrate?

While many magistrates serve as judges in small claims court, their responsibilities are by no means limited to this function. Magistrates also perform marriages and make preliminary determinations about whether individuals who are mentally ill should be committed to mental health facilities. In the area of criminal law, magistrates determine whether to issue search and arrest warrants, establish conditions for pretrial release of defendants who have been charged with criminal offenses, and accept guilty pleas for certain minor criminal offenses.

Magistrates are not required to be lawyers, and most of them are not. They are not without training in the law, however. All magistrates are required to complete a basic training course within six months of taking office. The course is provided by the Institute of Government in cooperation with the Administrative Office of the Courts and consists of approximately fifty-five hours of instruction in the primary areas of responsibility. Many magistrates also participate in additional educational seminars, which are offered two to three times each year. Magistrates are supervised by chief district court judges.

A magistrate is appointed for a two-year term by a complicated appointment process that involves nomination by the superior court clerk and selection by the resident superior court judge. The annual salary ranges from $14,712 to $25,116, depending upon training and experience. Magistrates also receive longevity pay.

Allen Weed/UNC Photo Lab

Juju Atkinson, a Durham County magistrate, holds court in her office in the county courthouse. "The court is designed for individuals to bring their own cases," Atkinson says. "I see small claims court as the people's court."

has proper title to a piece of real estate. Neither may a magistrate issue an order (*injunction*) prohibiting a person from violating a zoning ordinance. Finally, while a magistrate may award money damages to compensate a plaintiff for a defendant's breach of contract, the magistrate has no authority to order the defendant to actually fulfill the terms of a contract.

A second restriction emphasizes the "small" aspect of small claims court. Only cases involving $1,500 or less are allowed in this court.[6] This rule, *the amount in controversy requirement*,[7] applies even if the plaintiff and defendant in a case involving a larger amount agree that they want the case to be decided in small claims court.

A final restriction is that the plaintiff may file a small claims action only in the county in which the defendant lives. If there is more than one defendant and they live in different counties, the plaintiff may file the action in either county. If the defendant is a corporation, the case may be brought in the county in which corporate headquarters are located, or in any county in which the corporation has an office or other place of business.[8]

Filing a Complaint

The first step in bringing a small claims action to court is filing a complaint in the superior court clerk's office in the proper county. To help plaintiffs file their actions without legal assistance, clerks' offices supply complaint forms tailored to the type of case the plaintiff wishes to bring. A plaintiff need only fill in the appropriate blanks, sign and date the complaint, and return the form to the clerk's office with the appropriate fee (usually $19.00). The clerk then attaches a summons, a document that, along with the complaint, contains important information about the lawsuit. These documents specify the nature of plaintiff's claim, the amount of money or other property that the plaintiff is asking for, and the time and place of trial.

The second step in a small claims action consists of "serving" the defendant with these documents. Because the law requires that a defendant have proper notice that he or she is being sued, there are technical rules that must be strictly observed in serving a defendant with notice of a small claims action. Most plaintiffs choose to have the clerk deliver the complaint and summons to the sheriff's office for service and pay a $4.00 fee for each defendant served. In some counties law enforcement officers telephone defendants to come to the sheriff's office to pick up the summons and complaint. More often, a deputy will take the papers to the address listed on the complaint. Service is accomplished when the officer either hands the papers directly to the defendant or leaves them at the defendant's home with someone "of suitable age and discretion" who also lives there. The officer is not permitted simply to leave the papers with a next-door neighbor or in the defendant's mailbox.[9]

There is an alternative to service by

Allen Weed/UNC Photo Lab

Judges William D. Young IV and Jan Pittman, both magistrates in Wake County, consult over a case. Young is a criminal magistrate who is transferring to civil court. Pittman says that the number of cases has doubled in the last year and a half: "People don't want to talk to each other anymore. They want to go to court."

the sheriff's office. The law also permits the plaintiff to serve the defendant, as long as service is accomplished in a particular way: the plaintiff must mail the summons and complaint to the defendant by registered or certified mail, return receipt requested. The plaintiff also must file an affidavit in the clerk's office stating that the documents were mailed in this way and received, as shown by the signed postal receipt attached to the affidavit.

The rules governing service are applied by the courts strictly. A magistrate will not hear a case in which the defendant has not been properly served unless the defendant appears at trial or agrees in writing to accept service. For example, even if the plaintiff personally handed the defendant a copy of the complaint and summons and they discussed the case, the court cannot hear it, because this is not one of the approved methods of service.[10] The fact that the defendant knows about the case, or even has a copy of the complaint and summons, is insufficient to give the court authority to hear the case and enter judgment against the defendant.

When served with a complaint and summons, the defendant has the option of filing a response (an *answer*) to the plaintiff's claim. In the higher trial courts, failing to file an answer is equivalent to admitting the truth of the claims made by the plaintiff. Because such an admission is legally binding (the defendant will not be allowed to deny plaintiff's claims when the case is tried), virtually all defendants in those courts file answers to complaints. In small claims court, however, failing to file an answer is equivalent to *denying* the claims. Consequently, few defendants file answers in small claims actions.

There is one instance in which a defendant must file an answer in small claims court—when a defendant wishes to assert a claim (a *counterclaim*) against the plaintiff. The only restrictions on bringing a counterclaim in small claims court are that the defendant must be seeking one of the three available types of relief discussed above and that the amount in controversy must not exceed $1,500. Suppose, for example, that John hires Frank to paint his front porch, agreeing to pay Frank $50.00 for the job. Frank paints the porch but fails to clean up properly after he finishes the job. John's cat runs through a tray of wet paint and tracks paint across John's expensive Oriental rug, causing extensive damage. The rug was worth $1,500 before it was damaged. When John refuses to pay Frank for painting the porch, Frank sues in small claims court, asking for the $50.00 that John agreed to pay him. John files an answer in which he says that he should not have to pay Frank anything, because cleaning up is part of the job and thus Frank did not complete it. John also files a counterclaim for $1,500, asserting that Frank's negligence caused his property, the Oriental rug, to be damaged beyond repair. John's counterclaim may be heard in small claims court because John is asking for money damages that do not exceed $1,500.

Note that in the example above the magistrate will actually hear two cases at the same time: the claim filed by Frank and the counterclaim filed by John. Because a counterclaim is really nothing more than a claim filed by the defendant against the plaintiff, the law requires that a copy of the counterclaim be given to the plaintiff before trial. The counterclaim need not be served by the sheriff, however. It is sufficient for the defendant to mail or deliver a copy to the plaintiff.

Trial

The precise manner in which trials are conducted varies from one county to the next and from one magistrate to the next. General rules of procedure, however, are established by law and are uniform throughout the state. A small claims trial begins when the magistrate calls the case by announcing the plaintiff's and defendant's names.

Sometimes when a case is called for trial, one of the parties will ask the court to reschedule the trial for a later date (a *motion for a continuance*).[11] A party may seek a continuance because of illness, conflicting job demands, unavailability of a witness, or some other good reason. The law authorizes the magistrate to continue a case for "good cause." A party who plans to ask for a continuance should be prepared to explain and document why a delay is necessary. If the other party agrees, the court usually will allow the motion. On the other hand, if the opposing party contests the continuance, the court must balance one party's need for a delay against the other party's right to a prompt resolution of the dispute. Both parties have a right to argue the merits of their positions to the magistrate before the magistrate makes a decision.

Assuming that the case is not continued, the magistrate begins the trial by placing each party under oath. Then the plaintiff is asked to testify.[12] After the plaintiff finishes, the defendant is invited to question the plaintiff about the testimony. Often the magistrate also will ask the plaintiff questions. After this question and answer period, the plaintiff may call witnesses to give supporting testimony. Both the defendant and the magistrate may question these witnesses as well. It is then the defendant's turn to present evidence, and the same procedure is followed. Usually the magistrate offers both parties a final chance to speak before deciding the case.

The plaintiff has the burden of proof and must introduce enough evidence to persuade the magistrate that it is more likely than not that he or she is entitled to the remedy requested in the complaint. If, after considering all the evidence, the magistrate is not convinced that the plaintiff's version of the facts is probably true and that those facts entitle the plaintiff to the remedy, the magistrate must enter a judgment refusing to award the plaintiff any relief (*dismiss the case*).

The type of evidence on which a party may rely to convince the magistrate to rule in his or her favor is subject to certain restrictions. While not as strictly enforced in small claims court as in higher trial courts,[13] the rules of evidence sometimes cause problems for parties who do not anticipate such restrictions as they prepare their cases. One of the most frequently problematic rules is the *hearsay rule*, a group of highly technical restrictions on the use of "hearsay" evidence to prove a fact about which there

Some Typical

Summary Ejectment Action

A summary ejectment action is brought by a landlord against a tenant when the landlord wants to regain possession of rental property and the tenant refuses to leave. It is usually prompted by the tenant's failure to pay rent but sometimes arises because of other alleged violations of the lease, such as keeping pets or having loud parties. In addition to asking the court to award possession of the leased premises, landlords often ask for past-due rent, late fees, and reimbursement for damage to the property.

Example: The plaintiff, Jane Smith, testifies that the defendant, Susan Jones, rented an apartment from her. She presents a written lease signed by Jones, in which Jones agreed to pay $250 rent on the first day of each month. Smith testifies that Jones has made no payment for two months. She adds that she has asked Jones for payment on several occasions, to no avail. When Jones testifies, she admits that she has fallen behind in the rent. The magistrate will enter a judgment for Smith, awarding her possession of the apartment and rent due as of the day judgment is entered.

Breach of Contract Case

A typical breach of contract case arises when a merchant or other provider of goods or services sues a customer for payment due. A breach of contract case may also involve a personal loan or sale of goods or services by a private citizen.

Example: The plaintiff, Dr. Emily Wolf, testifies that she performed surgery on the defendant's dog, that the fee for this treatment is $500, and that she has not been paid. The defendant, Richard Doe, testifies that his dog died following surgery and that he believes he should have to pay only for successful treatment. The magistrate will probably enter a judgment for Dr. Wolf. As a general rule, a consumer's obligation to pay for medical services rendered is not contingent upon the success of the treatment.

Negligence Action

Negligence actions brought in small claims court usually involve either minor personal injury or property damage because the plaintiff in a case involving more serious injury would seek more than $1,500. The crux of a negligence action is the plaintiff's claim that he or she has been injured by the defendant's failure to behave in a reasonably careful manner.

Example: The plaintiff, Sam Gardner, testifies that the defendant, Joe Neighbor, returned home from an office Christmas party in an intoxicated condition and mistook Gardner's driveway for his own. Gardner explains that his car was parked in the driveway at the time Neighbor pulled in and that Neighbor struck Gardner's car, causing $1,400 property damage. Neighbor admits that he had several drinks at the party but denies that he was intoxicated. He testifies that he was merely attempting to turn around in Gardner's driveway and that the accident was really Gardner's fault because he usually parks his car in the garage. The magistrate will enter a judgment for Gardner because the accident was clearly caused by Neighbor. Gardner is not required to park his car in his garage rather than his driveway.

Intentional Wrongdoing

Intentional wrongdoing by one party, referred to as an intentional tort, is sometimes the subject of a small claims action. Examples of intentional torts are assault, false imprisonment, trespass, and conversion (taking or keeping someone else's property without permission).

Example: The plaintiff, Carol Johnson, testifies that the defendant, Ted Albert, hit her in the face, breaking her nose and causing her severe pain and suffering. She is asking the court to award her $1,500: $500 for medical expenses and $1,000 for pain and suffering. Albert testifies that Johnson and he became involved in an argument in a bar and that the argument consisted only of verbal exchanges until Johnson pulled a knife and attempted to stab him. He claims that he acted in self-defense. If the magistrate believes Albert, he or she will probably conclude that Albert acted reasonably and in self-defense. The magistrate thus will dismiss the case, finding that Johnson failed to prove her case.

Action to Recover Property

Actions to recover property are of two types. An owner of property will sometimes bring an action to force the person who wrongfully took the property to return it. Far more common are actions by "secured parties" to recover possession of property in which they assert a "security interest." These cases are typically brought by banks, finance companies, or merchants who make loans or extend credit to customers. As security for the loan, the lender requires the debtor to pledge certain property as collateral, which the lender/creditor can repossess if the debtor misses a payment. In many cases, the repossessed property is sold by the creditor, with the proceeds going to pay off the debt and expenses of repossession. If any money is left, it must be returned to the debtor. If, on the other hand, the proceeds are insufficient to pay off the debt, the creditor will sometimes bring a second small claims action (called an action for deficiency) seeking a money judgment for the amount still owed.

Example #1: Mary Baker sues John Thompson for the return of her lawnmower. She testifies before Jack Clark, the magistrate, that (1) she is the owner of the lawnmower, (2) she allowed Thompson to borrow the mower, and (3) he has refused to return it even though she has repeatedly asked him to do so. Thompson testifies that Baker gave him the lawnmower. The magistrate's judgment will depend upon who he believes. If he believes Baker, he will enter judgment awarding her possession of the lawnmower. If he believes Thompson, he will dismiss the case.

Example #2: First Credit Loan Company brings an action against Tom Dudley for repossession of a refrigerator. First Credit produces a signed security agreement in which Dudley agreed that the company could repossess the refrigerator if he failed to make one of his monthly payments of $75.00. First Credit also produces its account records showing that Dudley has missed four payments. Dudley was served with a copy of the summons and complaint in person, but he does not appear at trial. The magistrate will enter a judgment awarding possession of the refrigerator to First Credit.

is disagreement. Hearsay testimony is testimony by one witness about a statement made outside the courtroom by another person. For example, in a case involving an automobile accident, the plaintiff testifies that a person at the scene said, "That guy [the defendant] was going at least 100 miles an hour!" This is an out-of-court statement about an important factual issue (how fast the defendant was going immediately before the accident) made by someone other than the witness. It is hearsay testimony. Other examples of hearsay evidence are testimony by a party about what the mechanic at the garage said about the condition of a car and what the doctor said about an injury that is the subject of a lawsuit.

This evidence usually is not admissible (which means the magistrate will not consider it in making a decision), because of the law's preference for testimony by the person who knows about the matter under discussion. In the above example about an automobile accident, the court wants the witness who observed the defendant traveling 100 miles per hour to come to court and testify under oath to that observation. This sort of testimony has several advantages over hearsay testimony. First, statements made under oath in a court of law are more credible than statements made more casually. Second, the testifying party, whether intentionally or accidentally, may not accurately report the statement made by the witness. Finally, the opposing party is entitled to question the witness. For all of these reasons, the use of hearsay testimony in court is restricted.[14]

Another evidentiary rule that comes up frequently in small claims court is the *best evidence rule.* This rule is similar to the hearsay rule in that it encourages parties to come to court prepared to prove their cases by the strongest available evidence. While the hearsay rule applies to both oral and written out-of-court statements, the best evidence rule applies only to written material. Simply stated, the rule requires parties to supply the court with written documents when the contents of those documents are an important aspect of the case.[15] For example, in a summary ejectment action in which the landlord is asking the court to award overdue rent and a late fee, the landlord must give the court a copy of the lease (assuming the lease is written, rather than oral) so that the magistrate can see what the parties had agreed to. The landlord will not be permitted to prove the case by oral testimony about what the lease says, because the lease itself is far superior evidence of that important fact. Similarly, in a case involving a contract, the court will not allow a party merely to testify about the terms of the contract as a substitute for providing the written contract to the court.

After each party has had an opportunity to present evidence and to rebut and challenge the evidence produced by the other party, the judge will decide the case (*enter judgment*). When a case is particularly complex, a magistrate sometimes will put off making a decision in order to research the law and think further about the case. The law permits a magistrate to delay entering judgment for up to ten days after trial. Most of the time, however, the magistrate in small claims court immediately informs the parties of the decision. If the magistrate finds for the plaintiff, the magistrate will fill out a written judgment form spelling out the action the defendant must take in order to satisfy the judgment. For ex-

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Calvin W. Ashley, an Orange County magistrate for more than eight years, demonstrates court procedures for Ken and Marion Hirsch. Ashley holds court in the Carrboro Town Hall for residents of the Chapel Hill–Carrboro area.

Suggestions for Trial Preparation

1. Be familiar with such things as parking and the location of the courtroom before the day of trial. It is important that you are in the courtroom when your case is called. Your late appearance for court is distracting for both you and the judge, and, if you are too late, you run the risk of losing your case.

2. Spend a few hours several days before trial in the small claims court in which your case will be heard. Watching and listening to the trial of other cases when you are not nervous and preoccupied with your own will help you know what to expect on the day of trial.

3. Practice what you want to say to the magistrate when you testify. Remember that your testimony is evidence of your claim. Try hard to focus on factual material relevant to your claim and to present it in a clear, organized fashion. The magistrate hearing your case listens to angry people every day. Even though you may be angry and sincerely believe that the opposing party has treated you unfairly, expressing your emotions does not help the magistrate determine the facts and correctly apply the law. Finally, resist the temptation to complain about unrelated grievances you have against the opposing party. The law does not allow a judge to base a decision on facts not connected to the dispute that is the subject of the lawsuit.

4. Be prepared to prove your claim or defense. Bring relevant receipts, records, letters, cancelled checks, and copies of contracts to court with you. If you are not sure whether you will need a document, bring it with you. Each day cases are lost that might have been won if the party had remembered to bring evidence to court.

5. Identify witnesses who have information about your case and ask them to come to court with you. The magistrate may not allow you to testify to what someone else said outside of court, and the law allows the use of affidavits as a substitute for live witnesses only in very limited circumstances. If a witness' testimony is important to your case, bring the person to court with you. Ask the clerk's office to subpoena witnesses who are not willing to come.

6. Try to settle the dispute before going to court. If you are the defendant in a case and you do not contest the plaintiff's claim for money owed, you may want to ask the plaintiff about working out a payment plan in exchange for an agreement to dismiss the case against you.

ample, the judgment may indicate that the plaintiff is entitled to recover $500 plus costs and interest. Other examples of typical judgments are that the plaintiff is entitled to recover possession of rental property and $250 in unpaid rent (in a summary ejectment case), or that the plaintiff is entitled to recover possession of a stereo system (in an action by a bank to repossess collateral). When the decision of the court is for the defendant rather than the plaintiff, the judgment will indicate that the plaintiff has failed to prove his or her case and that the plaintiff is therefore entitled to recover nothing from the defendant.

A different sort of judgment than that discussed above is sometimes entered. When a case is scheduled for trial and the defendant is present in court but the plaintiff does not appear, the defendant may ask that the case be dismissed based on plaintiff's *failure to prosecute.* Magistrates usually allow this motion, entering an order dismissing the case *with prejudice.*[16] Sometimes neither party is present in court when the case is called. In this instance the usual judgment entered is a dismissal *without prejudice.*[17] Yet another variant occurs when a plaintiff elects not to proceed with a case. At any time before concluding his or her evidence, a plaintiff has the right to *take a voluntary dismissal* of the case. When a magistrate dismisses a case at the request of the plaintiff, the legal effect is similar to that of a dismissal without prejudice: the plaintiff is free to refile the lawsuit at a later time.[18] A voluntary dismissal differs from a dismissal without prejudice, however, in that the plaintiff may exercise this option only *once*: if a plaintiff takes a second voluntary dismissal, it is equivalent to a dismissal *with* prejudice, and the plaintiff never again may bring an action based on the same claim.

Resolution

While many people think that a lawsuit ends when the magistrate makes a decision in the case, the truth is that entry of a small claims court judgment is often merely the first step in a sometimes lengthy process. One or more of three events may take place after judgment. First, the losing party, whether plaintiff or defendant, may appeal the magistrate's decision to district court.

Second, the defendant who loses may choose to satisfy the judgment by complying with its terms. Third, if the defendant fails to satisfy the judgment, the plaintiff who wins may initiate procedures to enforce it.

Appeal

Any litigant who is dissatisfied with the magistrate's decision in a small claims action is entitled to appeal to district court.[19] By appealing, a party asks that the case be heard again by a district court judge. At the district court hearing, each party once more has an opportunity to testify and to present other witnesses and evidence. Because this court is more formal and the rules of evidence and procedure more strictly observed, however, parties often choose to retain an attorney to represent their interests in the trial.

In order to appeal, a party must give notice of appeal in one of two ways: by announcing the intention to appeal in open court, immediately after the magistrate announces the decision, or by filing a written notice of appeal in the clerk's office within ten days after the court enters judgment.[20] If written notice of appeal is given, a copy must be served on the other party; service may be accomplished by mailing the notice to the other party at the last known address. In addition to giving proper notice of appeal, the appealing party must pay court costs of $31.00 within twenty days following entry of judgment. A litigant who fails to give timely notice of appeal waives the right to appeal, and an appeal is dismissed automatically if the appealing party fails to make timely payment of court costs.

After the district court hearing, the judge will announce his or her decision. Whether the judge reaches the same decision as the magistrate, or a different one, the judgment of the district court replaces the earlier small claims judgment, and subsequent proceedings will involve the district court judgment.[21]

Satisfaction of the judgment

In many cases defendants readily comply with the judgment of the court, and no further proceedings are necessary. When a defendant pays the amount awarded in a money judgment or surrenders the property awarded in an action to recover property, the defendant is said to have "satisfied the judgment," and the clerk of superior court will indicate this fact in the records. To be sure that satisfaction of a money judgment is properly recorded, a defendant should pay money directly to the clerk's office rather than to the plaintiff. In any case, a defendant who has satisfied a judgment should check with the clerk's office to be sure that the payment has been recorded. An unsatisfied money judgment is a lien upon land owned by the defendant; the defendant thus is likely to have difficulty in selling his or her house or land, because prospective buyers who search the title will discover that the property is subject to being seized and sold to satisfy the judgment.[22]

Enforcement of the judgment

A judgment, in and of itself, is of no value to a prevailing plaintiff. When a defendant does not comply with a judgment voluntarily, the plaintiff must attempt to enforce the judgment. Many plaintiffs are not aware that this involves additional expense and inconvenience and is all too often unsuccessful.[23]

A money judgment[24] is enforced by seizure and sale of the defendant's property by the sheriff. The first step is to obtain from the clerk's office two forms, a Notice of Right to Have Exemptions Designated and a Motion to Claim Exempt Property, and have them served on the defendant by one of the formal procedures governing service of a complaint and summons.[25] These documents inform the defendant of the right to exempt certain property from seizure and sale. The defendant has twenty days to notify the plaintiff of property to be exempted. After receiving notice from the defendant, the plaintiff may pay $19.00 and ask the clerk to issue an execution for nonexempt property[26] or may contest the defendant's exemption claims and have the question of exempt property determined by a district court judge. If, after twenty days, the defendant does not file a motion to claim exempt property, all property owned by the defendant may be seized and sold.

A defendant is entitled to shelter property worth several thousand dollars (see "Exempt Property"). Many defendants are able to shelter virtually everything they own by properly and carefully claiming their exemptions. For this rea-

Exempt Property

G.S. 1C-1601 permits a defendant to protect certain property from being seized and sold by the sheriff, provided that the defendant follows proper procedures in claiming exemptions. For example, a defendant is allowed to shelter the following property:

1. Up to $7,500 interest in the defendant's or a dependent's home or burial plot.
2. Up to $2,500 interest in any property, decreased by any amount claimed in connection with a home or burial plot.
3. Up to $1,000 interest in a motor vehicle.
4. Up to $2,500 interest in household furniture, clothing, books, appliances, etc. In addition, the defendant may claim up to $500 interest in these items for each dependent, up to a maximum of $2,000.
5. Up to $500 interest in professional books, tools, or other materials used by the defendant or a dependent in earning a living.
6. Life insurance.
7. Health aids prescribed by a health professional.
8. Amounts received as compensation for personal injury (unless the plaintiff is a health care provider, lawyer, or other person whose claim is connected to the accident or injury giving rise to the compensation).

son, a plaintiff may find the attempt to collect on a judgment a frustrating and sometimes futile process. A judgment is good for ten years, however, and may be extended for another ten years by the appropriate legal process. A plaintiff who experiences difficulty in collecting on a judgment because of the defendant's claimed exemptions sometimes maintains contact with the defendant to be aware of changes in financial condition that might make another attempt at execution worthwhile.

When the defendant has property that has not been exempted, the sheriff seizes and sells the property according to a complicated statutory procedure. As a preliminary matter, the plaintiff may be required to advance the costs of seizure, storage, and sale of the property. After the property is sold, the sheriff remits the proceeds of the sale to the clerk of court's office. The process ends when the clerk forwards to the plaintiff the amount awarded in the judgment (plus reimbursement for the sums advanced by plaintiff), marks the judgment satisfied, and remits any surplus to the defendant. ❖

Notes

1. For a more detailed discussion of the history of North Carolina's courts, see Albert Coates, "The Courts of Yesterday, Today and Tomorrow in North Carolina," *Popular Government* (March 1958, Special Issue).

2. 1965 N.C. Sess. Laws 310.

3. The statutory rules governing small claims procedure are set out in Chapter 7A, Article 19 of the North Carolina General Statutes. Hereinafter the General Statutes will be cited as G.S.

4. It is important to distinguish between civil cases and criminal prosecutions. A criminal prosecution always involves a violation of law, and the state is the entity bringing or initiating the action (thus the reference to criminal cases as State vs. [defendant's name]). Criminal prosecutions are aimed at "public wrongs"—violations of the public interest—and the remedy sought is punitive, usually imprisonment or a fine. Criminal prosecutions are never heard in small claims court, because that court has authority to rule only in *civil* actions. A civil action is a lawsuit alleging a private wrong, such as a breach of contract or negligent act. In a civil action the person bringing the lawsuit is almost always a private citizen or business entity (although in rare cases the state sometimes claims that it has been victimized by a act of private wrongdoing and will bring a civil action). Sometimes the same behavior—an assault, for example—is *both* a violation of the criminal law and a private wrong. In such cases a criminal prosecution, civil action, or both may ensue.

5. Summary ejectment is an action brought by a landlord against a tenant in which the landlord seeks to recover possession of rental property. This action is often accompanied by a request for a money judgment as reimbursement for unpaid rent, late fees, or damage to rental property.

6. In 1868 justices of the peace were authorized to decide contract actions involving $200 or less. Since then the General Assembly has increased the jurisdictional limit on several occasions. In 1985 the amount was increased from $1,000 to $1,500.

7. G.S. 7A-243 sets out the rules for determining the amount in controversy. The statute states that the amount is determined without regard for interest and court costs. As a general rule, the amount in controversy in actions to recover personal property is equivalent to the value of the property or the underlying debt, depending on the circumstances. In a summary ejectment action the requirement does not apply if the only relief requested is recovery of rental property.

8. G.S. 1-79. If a corporation has no registered or principal office or other place of business, it is treated as if it were a resident of any county in which it regularly does business.

9. G.S. 42-29 provides for an additional method of service in summary ejectment cases. This alternative involves mailing a copy of the summons and complaint to the defendant's last known address, followed by posting copies of the documents on the rental property. This service must be made by a law enforcement officer.

10. The law's rigid insistence on compliance with procedural formality in this area makes sense when one remembers that the plaintiff who assures the judge that the defendant knows about the lawsuit may be mistaken or even deliberately untruthful.

11. This request is often made prior to trial, particularly when the party cannot be in court at the time trial is scheduled. Some magistrates allow parties to ask for a continuance by telephone, while others require parties to make their requests in writing or in person. In whatever form the request is made, normally it is granted only on condition that the party asking for the continuance immediately notify the opposing party of the delay and new trial date.

12. In small claims court, unlike district and superior courts, the plaintiff is not entitled to a judgment by default if the defendant neither answers nor appears. Instead, the plaintiff must present evidence and establish a right to a remedy, just as if the defendant were present in the courtroom. As a practical matter, of course, the plaintiff usually prevails in these circumstances because the defendant is not present to challenge the plaintiff's evidence or to introduce additional evidence.

13. G.S. 7A-222 states: "The rules of evidence applicable in the trial of civil actions *generally* are observed" (emphasis added).

14. Hearsay evidence is not always inadmissible. Sometimes such evidence falls within one of a number of technical exceptions to the hearsay rule set out in G.S. 8C-1, Article 8.

15. G.S. 8C-1, Rules 1002 and 1003 state a preference that the original of a document be introduced into evidence but permit a photocopy to be used instead, unless the authenticity of the copy is challenged. Rule 1004 allows the use of other evidence if the original has been lost or destroyed, or is otherwise unavailable.

16. When a case is dismissed with prejudice, the legal effect is to prohibit the plaintiff from filing another lawsuit based upon the same claim.

17. When a case is dismissed without prejudice, the legal effect is to permit the plaintiff to file the lawsuit again at a later time.

18. A voluntary dismissal has an additional legal consequence: the plaintiff may file the lawsuit again any time within one year, *even if the lawsuit would ordinarily be barred by the statute of limitations.* In effect, the plaintiff may extend the statute of limitations period for up to one year by filing the lawsuit within the applicable period and then dismissing the case before trial.

19. Appeal from a judgment awarding money automatically suspends the plaintiff's right to collect on the judgment while the appeal is pending. A judgment awarding summary ejectment or possession of personal property is not automatically suspended if the defendant appeals; the law provides that the defendant may make arrangements with the clerk's office to delay enforcement of these kinds of judgments by actions such as posting bond or paying rent to the clerk's office while the appeal is pending.

20. For purposes of calculating the ten-day period for giving notice of appeal, judgment is entered when the magistrate announces the decision in open court, not when the written judgment is signed and filed in the clerk's office. Only when the magistrate delays making a decision does the date the written judgment is filed become important.

An appealing party who desires a trial by jury rather than by a district court judge must assert that right within ten days of the day on which judgment is entered. In such a case the person usually requests a jury trial when giving notice of appeal. If the appealing party does not request a jury trial, the nonappealing party may make such a request within ten days after receiving notice of the appeal. A request by a nonappealing party for a jury trial is made by written notice served on all parties and filed in the clerk's office.

21. The losing party in district court has the right to appeal to the North Carolina Court of Appeals. This appeal is expensive, costing at least several hundred dollars in addition to attorney fees. On appeal to this court, the case is not heard again, as it is in district court. Instead, the court of appeals judges review the case transcript and record to be sure that the district court judge correctly applied the law in conducting the district court hearing and in making a decision.

22. When a defendant and his or her spouse hold joint title to their home or other buildings and land (that is, title is in both names), the sheriff may not seize and sell this property. This property may be sold to satisfy a judgment only when the plaintiff sued both spouses and obtained a judgment against both of them [Bruce v. Nickolson, 109 N.C. 202, 13 S.E. 790 (1890)].

23. Unlike the law governing small claims procedure, the law pertaining to enforcement of judgments was not specifically designed by the legislature for use by persons without legal representation. The rules governing parties' rights and responsibilities in this area are complex, and a full and accurate description of them is beyond the scope of this article. A party who wishes to assert and safeguard his or her rights properly has little alternative but to consult an attorney.

24. Somewhat different procedures apply when a judgment awards possession of real or personal property.

25. If service by one of these methods is attempted unsuccessfully, the plaintiff may merely mail the documents to the defendant by first-class mail. In this case the plaintiff is required to file a certificate in the clerk's office explaining what service was first attempted and outlining the steps taken in mailing the documents to the defendant.

26. An execution is an order to the sheriff to seize and sell the defendant's property, aside from exempt property, in order to satisfy the judgment. The execution fee advanced by the plaintiff is added to the total amount due from the defendant. The plaintiff is thus reimbursed for this expenditure out of the proceeds of property seized and sold in satisfaction of the judgment.

North Carolina's Legislative and Regulatory Response to AIDS

Jeffrey S. Koeze

Since the first cases were reported eight years ago, nearly 80,000 people in the United States have developed acquired immunodeficiency syndrome (AIDS). Of those individuals, 45,000 have died.[1] Estimates of the total number of Americans infected with the AIDS-causing human immunodeficiency virus (HIV) vary widely, but the most commonly used figures are between 1 and 1.5 million.[2] By 1992, there will have been more than 250,000 cases of AIDS in the United States. In 1991 alone, 54,000 people may die from it.[3]

Before 1984, fewer than fifteen AIDS cases were reported in North Carolina.[4] Through November 8, 1988, 654 AIDS cases had been reported in North Carolina, and of those individuals 356 had died.[5] Nobody knows how many North Carolinians are infected with HIV. For every AIDS case, fifty to 100 individuals are thought to be infected with the virus. The number of AIDS cases in North Carolina doubles every fifteen months so that by the middle of 1991 there may be over 2,500 cases of AIDS reported in the state.[6]

From the founding of the republic through the early twentieth century, state and local governments had primary responsibility for public health programs in the United States. As in other fields, however, the federal role has grown steadily during this century. Today federal agencies such as the United States Public Health Service, the Occupational Health and Safety Administration, the Food and Drug Administration, the Environmental Protection Agency, the National Institutes of Health, the Centers for Disease Control, and the Health Care Financing Administration are as important to the public's health as local health departments. Nevertheless, despite the expanded influence of the federal government, until the appearance of HIV the states typically dominated policy and funding in the field of communicable-disease control.

The governmental response to the spread of HIV[7] reflects both the traditional state and local responsibility for communicable-disease policy and the expanded role of federal agencies in public health. The federal government provides hundreds of millions of dollars every year for medical research on HIV infection. In addition, federal dollars support state testing programs, federal and state education efforts, and home- and community-based treatment of AIDS patients. The Food and Drug Administration controls the availability of new drug therapies for HIV infection. The Centers for Disease Control in Atlanta played a central role in the discovery of HIV and continues to be a leading source of epidemiological data and policy recommendations.

There is, however, no comprehensive federal HIV-control policy. With the United States Congress unable or unwilling to act, state and local governments have responded to the spread of HIV with a wide variety of policy initiatives, passing by 1988 over 140 laws dealing with the epidemic. North Carolina completely revised its communicable-disease laws and had new administrative regulations in effect four months before President Reagan's Presidential Commission on the Human Immunodeficiency Virus Epidemic even issued its final report.

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This article will review North Carolina's legislative and regulatory response to the challenge of preventing the spread of HIV.[8]

HIV-Infection Control and Prevention Efforts

The Division of Health Services of the North Carolina Department of Human Resources took the lead in creating North Carolina's policy to stop the progress of HIV. In the summer of 1986 Dr. Ronald Levine, state health director, assembled a group of public health professionals and attorneys to draft a package of HIV-control legislation. During the 1987 session, the General Assembly enacted much of the proposed legislation[9] and in the process gave the Commission for Health Services a clear legislative mandate to issue new regulations dealing with HIV. Division of Health Services staff members promptly drafted new regulations, and after a series of public hearings and some revisions, the commission approved the rules, most of which took effect February 1, 1988.[10]

North Carolina's control and prevention program depends for its success on the willingness of individuals infected with HIV or at risk of infection voluntarily to come forward and seek the help of the public health system. The HIV-control package introduced in the 1987 General Assembly included two measures intended to encourage individuals to seek help by reducing the risk that they would be penalized for doing so. The first measure, a proposal to forbid discrimination against those infected or thought to be infected with HIV, failed in the legislature. The second measure, a provision to ensure the confidentiality of information about HIV infection or an AIDS diagnosis, passed.

Section 130A-143 of the North Carolina General Statutes now provides, "All information and records, whether publicly or privately maintained, that identify a person who has AIDS virus infection [HIV] or who has or may have . . . [AIDS] shall be strictly confidential." The statute contains several exceptions to this protection. For example, information about HIV infection may be given to health care personnel providing medical care to infected persons and may be released pursuant to a court order or subpoena, for research purposes (under strict commission rules), and to enforce the public health laws. These exceptions notwithstanding, on the whole this statute tightly restricts the release of information about HIV infection and, if enforced, should help allay the fears of those previously hesitant to seek advice, testing, or care.

In designing the remainder of North Carolina's HIV-control policy, North Carolina public health officials turned to the traditional tools of public health: surveillance (also called case identification or case finding), control measures, and education. Surveillance is the process of finding those infected with HIV. Control measures are procedures that those infected are legally obligated to follow to avoid spreading HIV to others. Education encourages those at risk to come forward and teaches them how to help control HIV's spread.

Surveillance

There are three fundamental public health surveillance techniques: reporting, contact notification, and screening. North Carolina has used all of them to combat the spread of HIV.

Reporting statutes require that public health officials be informed when certain diseases occur. These reports alert officials to those who need treatment and who may be subject to control measures. The reports also provide information that officials need both to argue persuasively for necessary resources and to allocate those resources effectively.

In North Carolina fifty-six diseases and conditions, including AIDS, must be reported. AIDS-related complex or infection with HIV are not reportable. The Commission for Health Services limited to cases of AIDS the obligation to report because reporting requirements may deter individuals from seeking testing, medical care, and advice about preventing further transmission out of fear that their names might be made public or be released to landlords, employers, insurance companies, or other government agencies. Those at highest risk of HIV infection, male homosexuals and intravenous drug users, are the most important groups to encourage to seek help. They also are the most concerned about the possibility of release of information because they fear criminal prosecution in addition to the stigma, social isolation, and discrimination that a diagnosis of AIDS or ARC or a positive test for HIV often bring.

Contact notification alerts those who may have been exposed to a communicable disease that their health is threatened so that they may seek appropriate care. Contact notification carried out by public health workers is called active notification or contact tracing. In active notification schemes, workers ask individuals seeking treatment to name those with whom they have had the type of contact that may have transmitted the disease. They seek to learn from whom the disease was contracted and to whom it may have been spread. Workers then seek out those individuals and find out if they are infected. If so, they provide treatment and education and impose personal control measures.

North Carolina has mandatory contact notification requirements for those infected with HIV. State regulations require such individuals to notify all those with whom they have had sex or shared needles after they were infected. If the date of infection is unknown, sex and needle partners for the past year must be informed. Infected individuals may satisfy their obligation by listing sexual contacts and needle-sharing partners on a form given them by their physician. The physician is required to encourage the patient to complete the form and mail it to the state Division of Health Services. Counselors in the division's AIDS Control Program attempt to reach those named to offer testing and counseling. The contacts are not told who named them. After reasonable efforts to reach the contacts, the list of names is destroyed.

The state also has a mandatory active notification plan for spouses of those infected with HIV. Regulations require the attending physician of an infected individual to inform the Division of Health Services if the physician knows the identity of an infected person's spouse. The division contacts the spouse and provides testing and counseling.[11]

Many commentators have strongly criticized the use of contact notification as a public health strategy for combat-

ing AIDS. Like reporting, it may deter HIV-infected individuals from seeking the medical attention and education they need. It is further argued that partner notification by physicians undercuts the trust on which medical relationships are founded and may thereby reduce compliance with measures designed to prevent transmission. (Whether this actually happens is unknown.) Furthermore, opponents of active notification point out that it is expensive and that unlike persons infected with syphilis or gonorrhea, those infected with HIV cannot be cured.

Despite these objections, there is support for expanding active notification in North Carolina. Some medical professionals and public health workers advocate active notification not only of spouses but of ex-spouses, live-in lovers of both sexes, and other known sexual partners.

Although contact notification and reporting have engendered some controversy, public debate over case identification methods has focused on screening. The only screening methods for HIV in wide use today are the blood tests for HIV antibodies. Since the development of these tests in 1985, many individuals and groups have advocated testing as a way to fight AIDS. Some of the proposed testing plans are mandatory—they legally require certain individuals to be tested. Such schemes range in scope from screening the entire population to testing groups such as prostitutes or prison inmates. Other proposals would require testing of blood donors, hospital patients, and those seeking treatment in clinics for sexually transmitted diseases.

In 1987 the North Carolina General Assembly considered bills that would have established mandatory testing schemes for food service employees, prisoners, prostitutes, and couples applying for marriage licenses. Those bills failed, as they have in most states. Currently only one state, Illinois, requires an HIV test before marriage. Several states test prison inmates, but at least one state, Iowa, discontinued its mass-screening program after the first 800 inmates all tested negative.

Iowa's experience demonstrates one problem with all testing schemes that are not narrowly focused on individuals known to be at high risk for HIV infection. In most areas of the United States, including North Carolina, HIV has not spread far enough into the population to make broad testing schemes cost-effective. For example, press reports state that in 1988, only twenty-six of 155,458 Illinois marriage license applicants tested positive for HIV, at a cost of about $200,000 per case identified. If instituted nationally, one researcher estimates that mandatory premarital testing would reveal approximately 1,200 cases of infection at a cost of about $80,000 per case.[12] Public health professionals believe that voluntary testing combined with educational efforts aimed at high-risk populations is a much more cost-effective way to identify and reach those at risk for HIV disease.

The Commission for Health Services has the authority to set up mandatory testing but has chosen instead to emphasize voluntary, anonymous testing. Free tests for HIV are provided through local health departments. The tests are coded numerically so that only the person being tested knows the results. Appropriate counseling is provided along with the test, as required by state law.[13]

The commission will soon act on newly proposed regulations requiring mandatory testing of certain sex offenders. These rules, if approved, will require testing of those charged with an offense that involves nonconsensual vaginal, anal, or oral intercourse, or intercourse with a child aged 12 or under upon request of the victim and a finding by the local health director that the sexual contact posed a significant risk of transmission of the HIV virus. In addition, the revised rules would permit the local health director to order those at high risk for HIV infection to be tested if they were the source of nonsexual blood or body-fluid contacts that posed a significant risk of transmission.

North Carolina law currently mandates HIV testing of those who wish to donate blood or semen. Similarly, donors of tissues or organs for transplantation must be tested for HIV. Even critics of mandatory testing support these measures as necessary to protect the recipients of these donations and because those who do not wish to be tested may simply elect not to donate.

The success of any testing program depends on the accuracy of the test. The tests for antibodies to HIV require skilled technicians if they are to be done well. For that reason, effective July 1, 1988, laboratories providing HIV testing services in North Carolina must be certified by the state to do so.

Even if the HIV tests are done well, HIV testing outside of high-risk populations generates a number of false positive test results. Administered in the general population, between one half and two thirds of the positive results of a single enzyme-linked immunoabsorbent assay (ELISA) test for HIV antibodies may be incorrect.

Release of false positive test results causes unnecessary trauma, diverts health care and counseling resources, and undermines faith in public health programs. Many, but not all, of those false positive results can be eliminated by thorough testing procedures. A second ELISA test should follow each initially positive ELISA. If the second test is positive, a confirmatory western blot test should be done. North Carolina rules prohibit the release of test results until all three tests are complete, unless the test results are clearly marked as preliminary.

Control Measures

Individuals identified as having a communicable disease are often subject to control measures that range, depending on the disease, from proper handwashing to quarantine and isolation. North Carolina's personal control measures for HIV infection require the infected person to (1) use condoms when engaged in sexual intercourse; (2) refrain from sharing needles; (3) not donate or sell semen, ova, tissues, organs, breast milk, blood, plasma, platelets, or other blood products; (4) have a tuberculosis skin test; and (5) notify future sexual partners of the infection.

These control measures are neither controversial nor exceptional. Of more interest, because it is uncommon, is North Carolina's approach to quarantine and isolation. Quarantine is the confinement of a healthy person who may have been exposed to a communicable disease until it is known whether the person has become infected. Based on testing technology in common use, the quarantine period for HIV could be a year or more. Isolation is the confine-

ment of a person known to harbor a disease for as long as that person remains infectious. The isolation period for HIV infection would be the rest of an infected person's life.

Many states have considered legislation that would require the use of quarantine and isolation to control the spread of HIV. At least three states—Connecticut, Florida, and Indiana—strengthened state isolation and quarantine authority between 1985 and 1987. In contrast, North Carolina actually *restricted* use of these severe disease-control measures. Before 1987 North Carolina law provided for the use of quarantine and isolation at the discretion of public health officials. State law now permits public health authorities to use these measures only when the public health is actually endangered, when all other reasonable means for protecting the public health have been tried and have failed, and when no less restrictive alternatives exist. In addition, by regulation the Commission for Health Services has provided that orders issued by health authorities for the control of communicable disease may be no more restrictive than the control measures previously established for the particular disease. Because the commission's control measures for HIV do not include quarantine or isolation, these measures are unavailable for HIV infection in North Carolina.

Three arguments support North Carolina's approach. First and most important, reducing the threat of quarantine and isolation makes it easier to convince those who need education, testing, and medical care to seek help. Few individuals would seek testing, counseling, or medical care if quarantine or isolation were likely consequences. Second, limits on the use of quarantine and isolation make practical sense. Thousands of North Carolinians are infected with HIV, and more are being exposed all the time. The state does not have the facilities to isolate infected individuals or to quarantine those who have been exposed to the virus. Creating the facilities would be prohibitively expensive. Third, widespread use of isolation or quarantine would almost certainly be successfully challenged in the courts.

In addition to personal control measures, North Carolina has measures designed to deal with AIDS in the workplace and institutional settings such as schools, prisons, and hospitals. Administrative regulations require health care workers, emergency responders, and funeral service personnel to use blood and bodily fluid precautions at all times. Properly followed, these precautions protect against the spread of HIV and other dangerous infections. Health care workers who pose a significant threat to the health of patients because of open skin lesions or secondary infections must be removed from direct patient care. However, state law does not restrict the work activities of any other employees who may be infected.

North Carolina law also does not require prison inmates to submit to an HIV test, but regulations require attending physicians of HIV-infected individuals to inform the director of health services of the North Carolina Department of Correction and the prison administrator if their patients enter the state prison system. There is no similar regulation governing local jails, but the law does require local health directors to ensure that jail health plans provide both inmates and jailers with training on HIV control.

Regulations also spell out a procedure for deciding when an HIV-infected child will be permitted to attend school. Most HIV-infected children pose no risk of spreading the virus in the school setting. If the child does not threaten the health of others and requires no special attention while in school, school personnel ought not to find out about the child s HIV status. If, however, an HIV-infected child's attending physician believes that the child poses a significant risk, the physician must notify the local health director. The health director must investigate and consult with the child's parents or guardian, a medical expert, and appropriate school officials (or a committee appointed by the school board). The health director then decides whether the child may remain in the classroom.

Education

North Carolina's legislative and regulatory steps to stop the spread of HIV may appear impressive. However, the effectiveness of reporting, contact tracing, and personal control measures can be overestimated. Communicable diseases may go unreported, infected individuals may refuse to inform contacts, and personal control measures may not be followed. These violations of the public health laws are criminal misdemeanors, but prosecutions are and will continue to be rare. Until the still far off day when we can immunize against or cure HIV infection, control of the virus will depend on the cooperation of those already infected and at risk for infection. That cooperation can only be secured through effective counseling and education.

North Carolina does have a statewide program of AIDS education, but it suffers from a shortage of funding. In 1987 the General Assembly rejected a proposed program that would have provided $4.7 million for AIDS education in fiscal year 1987–88 and $5.2 million in fiscal year 1988–89. No new funds were appropriated for education during 1987–88, and $170,000 in federal money available for educating gay men, drug users, and minorities went unspent for a year. The General Assembly did appropriate $250,000 for grants to local health departments for AIDS education and counseling in 1988–89. Some additional local funds have been provided through transfers from other programs at the state level and federal grants. But those amounts only partially replace the resources that local departments have spent on AIDS.

One arguably bright spot in AIDS education is the legislature's decision to require that AIDS prevention be taught in the public schools. A bill passed in 1987 requires that the public schools provide such instruction under guidelines developed by the State Board of Education, "emphasizing parental involvement [and] abstinence from sex and drugs."[14] Whether this education will be effective is uncertain. Unfortunately, North Carolina's prior efforts in the sex education field are often criticized and apparently have failed to bring about a reduction in the state's high rate of teenage pregnancy. Furthermore, even if highly successful, this effort will not reduce the number of new cases of AIDS for many years. Now and for the next several years most new cases of HIV infection will occur among adult gay and bisexual males, intravenous drug users, and the sexual partners of those two groups.

Some educational efforts are targeted for those groups, but these politically controversial programs are almost entirely dependent on the availability of federal grants.

Conclusion

The results of North Carolina's legislative and regulatory response to the HIV epidemic will not be seen for many years. In most cases several years elapse between the time an individual becomes infected with HIV and the time that individual develops AIDS. The AIDS cases reported in the next few years will be the result of HIV infections contracted before intensive efforts to control the spread of the virus were begun. We will not know if our current efforts have succeeded or failed until the middle of the next decade. Until then, we can only hope that we have acted wisely or, if unwisely, that medical science will spare us the pain of our errors by giving us a cure. ❖

Notes

1. United States AIDS Program, Center for Infectious Diseases, Centers for Disease Control, AIDS Weekly Surveillance Report, 5 December 1988.

2. One recent estimate placed the number of infected individuals in 1987 at 1.9 million. To estimate more accurately the prevalence of HIV in the United States population, the Centers for Disease Control has begun a research program that will test over one million blood samples taken from a wide variety of groups. Preliminary results from this study are expected in late 1988.

3. N.C. Dept. of Human Resources, Div. of Health Services, Report of North Carolina Task Force on AIDS, 1 December 1988, 6.

4. N.C. Dept. of Human Resources, Div. of Health Services, Epidemiology Section, AIDS Update, *Epi-Notes* 88-1 (January 1988): 3.

5. Task Force on AIDS, 6.

6. Task Force on AIDS, 6.

7. Readers will notice that in this article I speak of HIV, HIV infection, and HIV policy much more frequently than AIDS, AIDS infection, or AIDS policy. This use of terminology is intentional. AIDS does not spread from one person to another; HIV, the virus that causes AIDS, does. Therefore, it is sometimes misleading to speak about the "spread of AIDS" or the "control of AIDS" when what is meant is the spread and control of HIV. In addition, focusing attention on HIV reminds us that a person can be infected with HIV and be capable of transmitting the virus but not have AIDS.

8. This article reflects the law in January, 1989. North Carolina's legislative study commission on AIDS and the state task force on AIDS have developed legislative proposals for the 1989 session of the General Assembly. In addition, in February, 1989, the Commission for Health Services will consider proposed regulatory changes. See *North Carolina Register* 3 (16 January 1989): 879–80.

9. Chapter 782, An Act to Amend the Communicable Disease Law, made a number of changes in Chapter 130A of the North Carolina General Statutes.

10. Most of the regulations discussed in this article are found in Subchapter 7A of Title 10 of the North Carolina Administrative Code. Regulations governing laboratories and testing are found in Subchapter 9D of Title 10.

11. Proposed changes to these regulations make clear that the physician need not make a report if the physician has notified and counseled the spouse.

12. Paul D. Cleary et al., "Compulsory Premarital Screening for the Human Immunodeficiency Virus: Technical and Public Health Considerations," *Journal of the American Medical Association* 250 (2 October 1987): 1757–61.

13. Tests may also be ordered by physicians for the benefit of patients under their care. These test results ordinarily will carry the patient's name.

14. N.C. Gen. Stat. § 115C-81 (1988).

Institute of Government Summer Internship Program

Mickey Freeman

"I have learned more in these ten weeks than I could ever learn in four years of college-level history or political science courses," wrote an intern at the end of his 1988 summer internship in state government. "My knowledge and understanding of North Carolina and its residents has grown more than I could ever have anticipated." This reaction is typical of the college students who have spent a summer with the Institute of Government's Summer Intern Program.

Each summer twenty-eight college students are selected to intern in state and local government agencies in the Raleigh area. The interns get a glimpse of the real world while making significant contributions to their agencies. They do not get paid much—$5.00 per hour—and they get little public recognition. But it is a good way to learn about public service and the workings of government.

Former Governor Terry Sanford started the program in 1962, when he asked the Institute to sponsor internships for outstanding college students in the state. "The program was started to engage the interest of college students in government—its needs, concerns, and problems," John Sanders, director of the Institute of Government, explains. "It was also a way for agencies to get good legwork out of bright people." The program has benefitted from more than a quarter century of experience and input from 500 participants whose present ranks include politicians, bankers, educators, journalists, and lawyers.

Lawyer and state senator Dennis Winner of Asheville interned with the Department of Commerce and Development during the summer of 1963 and says it changed his life. Winner had just graduated from The University of North Carolina at Chapel Hill and planned to attend law school and establish a career out of state. But after a year away, he returned to North Carolina. "That summer, I got so involved with the state and the government of the state that I never [really] left," he recalls.

Geoffrey Simmons interned with the Utilities Commission in 1974. Now an attorney in Raleigh, Simmons thinks that his summer with the Institute of Government was crucial to his professional career: "The experience set the foundation for my political and legal career and my work in community service. I learned a lot about state government and who the real players were. My summer in Raleigh enabled me to get a foothold on the Raleigh community—after I graduated from law school and came to Raleigh, people remembered me from when I was an intern."

The internship program has three main components, which consist of an internship in state or local government, a residential program, and seminars and field trips. Over the years, the program has almost doubled from its original fifteen positions, but the program's mission remains the same: to help students become better-informed citizens and to give them first-hand experience in government.

Selection of Interns

Interns are chosen on the basis of their college grades, involvement in ex-

The author was the 1988 intern coordinator for the program and an intern in 1986.


Charlotte Gill

tracurricular activities, and interest in government. But the Institute takes care to select students from a broad spectrum of social and academic backgrounds in order to provide a unique opportunity for interns to learn from one another. This past summer the Institute selected twenty-eight bright and energetic students—fourteen men and fourteen women—after a rigorous competition involving more than 200 applicants. Eighty finalists were asked to come to Chapel Hill for a personal interview with state government officials, college professors, and former interns.

The final group represented nineteen colleges and universities, including such diverse schools as Princeton University, Lenoir-Rhyne College, Duke University, and Mars Hill College. (All were either residents of North Carolina or out-of-state students attending college in the state.) They included student body presidents, Phi Beta Kappa inductees, heads of student organizations, fraternity and sorority officers, a varsity baseball catcher, a bicycle racer, and two officers in the army reserve. Four of the students were black, and one was a Vietnamese emigrant. Some were affiliated with the Democratic or Republican parties, others were registered as independents, and still others were unsure about their political beliefs. Among the interns were aspiring writers, college presidents, judges, international bankers, teachers, coaches, and social workers. The one interest they all shared was a curiosity about politics and how government really worked.

1988 Internships

The Institute makes a special effort to place students in jobs where they perform useful, challenging work. In 1988 the Institute placed students with fifteen state government agencies and, for the first time in many years, with three local governments. The internships were as diverse as the interns—as diverse, for example, as the North Carolina Museum of History, the Consumer Protection Division of the Department of Justice, the Employment Security Commission, and the City of Raleigh. While interns sometimes help file and answer telephones, the agencies must agree to give interns meaningful assignments.

Liz Appel worked with the Governor's Office of Research. A junior at Yale University majoring in philosophy and psychology, Appel was unsure of her political beliefs, and she thought that interning during an election year would help clarify them. She followed legislation for the office, which meant regular attendance at Senate and House sessions and committee meetings. Her experience with the General Assembly gave her a unique view of the complex process of partisan politics and compromise by which the state's laws are made. "The internship placed me in a position from which to observe and learn," she says. "I learned a tremendous amount about what was really taking place in the Senate sessions and committee meetings."

Not all the interns served with high-profile agencies such as the governor's and lieutenant governor's office. By no means did this lessen the importance of their work. Ginger Saunders, a senior majoring in history at Salem College, interned with the the Crime Prevention Division of the Department of Crime Crime Control and Public Safety. Saunders planned and helped direct an institute for a group of teenagers from housing projects who had been determined to be at high-risk for committing crimes. Two hundred youths attended the one-week program to help raise their individual self-esteem and confidence.

"The best thing about the week was that it was all positive reinforcement," Saunders comments. "We sent them the message that 'you are worth something and can do something with your life.'" The group of thirteen- to seventeen-year-olds were taught about drug abuse and its dangers, career opportunities, and higher education. They also learned leadership skills and methods of crime prevention. At the end of the program, participants were given materials to help them arrange crime prevention programs at their housing projects.

Saunders's project was typical of the type of internship the Institute tries to arrange—rewarding to the intern and beneficial to the sponsoring agency. Richard Martin, Saunders's supervisor, emphasizes that if Saunders had not been able to help with the project, it never would have occurred: "She was most instrumental. She was my right hand. I could not have done it without her."

Because state government requires people from all fields, the Institute of Government recruits students from a broad range of backgrounds. Erik Johnson, a senior metal design and sculpture major at East Carolina University, interned with the North Carolina Museum of Art. He was able to work in his chosen field, art, which is an area many

people might not associate with state government. Johnson prepared information sheets for tour guides and helped develop training programs for school teachers. He also wrote a paper on his favorite sculptor, Rodin, which was used to train volunteer guides.

Tiffany Danitz, a junior history and communications major at Mars Hill College, interned in the State President's Office of the Department of Community Colleges and followed pending legislation in the General Assembly that concerned the department. Like most interns, Danitz was nervous when she began her job, uncertain about whether she was capable of performing the required work competently. But although inititally she felt lost, she soon came to feel like part of the team. "I met so many people in the first week, I was darned if I could remember ten names," she wrote at the end of the summer. "That made me nervous. I realized quickly that politics is the art of remembering names and something about each individual with whom you come in contact."

Jennifer Schuller, a senior majoring in history and education at The University of North Carolina at Asheville, worked with the Department of Correction in its Pre-Release Training Division. She helped twenty-five inmates ready for parole to prepare for life in the free community. This training included classes on topics such as how to hold a job and avoid drugs and how to find help in the community when in trouble. Schuller found her work exciting and developed a rewarding awareness of a unique population in need of help: "So many of the inmates need the service we provide. Even more, so many of them need desperately to be told by someone, 'I believe in you.'"

Another intern found that his internship helped satisfy his strong altruistic calling. "I'm the guy who can't pass a broken down car on the road without stopping," laughs Bill Rhyne, Jr., a junior at Lenoir-Rhyne College majoring in mathematics and computer science. In fact, an interest in homelessness led him to start a shelter for the homeless at his college. Last summer Rhyne, whose big heart was matched only by his enthusiasm, interned with the Department of Natural Resources and Community Development's Division of Community Assistance. He helped distribute

Robert P. Matthews

Darryl Peterkin interned with the Archives and Records Section of the North Carolina Museum of History. A graduate of Yale University, Peterkin is currently working on his doctoral degree in early colonial and pre-Revolutionary American history on full scholarship at Princeton University. Peterkin's best memory of the summer was the trip to Washington, his first visit to the nation's capital, and the friendships that it fostered. "We got to know each other well . . . away from Raleigh," he says. "I really enjoyed the diversity of the group." Peterkin hopes to teach at the university level and later work in higher education administration.

Mark Haskett

Trang Nong, a senior accounting major at Western Carolina University, interned with the State Auditor's Office. She looked at the internship program as a good opportunity to learn about government and public service. "I wanted to get some experience with my major and in the real world," Nong says. "But getting to know the other interns was the best part of the program." Nong is a native of Vietnam, which her family fled by boat during the 1975 Communist takeover of the country. After being rescued by the United States Navy and sent to a relocation center in Indiana, Nong's family settled in Hickory.

Bernie Carpenter

Seth Hassett, a senior majoring in psychology and history at Guilford College, interned with the Office of the Lieutenant Governor and the North Carolina Commission on the Bicentennial of the United States Constitution. A highlight of the summer came when the Raleigh *News and Observer* published an editorial that Hassett wrote about the electoral college at the suggestion of his supervisor. "I felt I had an opinion and breadth of knowledge about the topic," he explains. "My supervisor told me I wrote well and should explore publishing an editorial." Hassett, student body president at Guilford College, hopes to continue his education next year in public policy or law school.

Charlotte Gill

$800,000 for the Emergency Shelter Grants Program to aid homeless individuals in the state. When local shelters applied to the division for money, Rhyne reviewed their applications to make sure they met state and federal qualifications for funds. "Sometimes it was like climbing a mountain of paperwork," he recalls. He also compiled the first statistics on the estimated number of homeless in the state and about specific shelters and the services they provide.

Weekly Seminars

Rhyne also was instrumental in arranging one of the weekly seminars, a unique aspect of the program. Each week, interns organize hour-long discussion sessions with state officials on topics of their choice. These seminars give interns an inside look at major issues affecting the state. One week Rhyne brought his supervisor, the director of a local shelter, and a homeless individual to talk with the interns. Most of the interns had never met a homeless person, and they discovered that she was like them in many ways. They also learned how the state cooperates with the federal government and local support agencies to offer social services. Most students left this seminar and others better informed and more aware of the problems presented.

Several seminars related directly to the work of the interns. The first seminar of the summer concerned AIDS and was presented by the director of the AIDS Outpatient Clinic at Duke Medical Center. Students learned how AIDS is transmitted among individuals, precautions that should be taken to avoid acquiring the virus, and about the myth and reality of AIDS. The seminar was especially useful to intern David Green, a graduate of East Carolina University, who used what he learned to help develop an AIDS policy for the personnel department of the City of Raleigh.

For all the interns, particularly those working for the Department of Correction, the death penalty was an important seminar topic. The director of the Death Penalty Resources Center, a lawyer, explained how criminals are convicted. And the director of prison activities at Central Prison described the bleak life of death row convicts. The interns then debated the morality and deterrence effect of the death penalty.

Another seminar dealt with North Carolina's prison-overcrowding dilemma. Because the state exceeded its capacity to hold inmates during 1988, it was threatened with a federal takeover of its prisons. The seminar focused on alternatives to incarceration, such as community volunteer and work release programs. Once again, students were able to see the complexity of a tough issue that the state must overcome.

1988 Interns and

Todd Allen, *Wake Forest University*
Resource Management Planning Section of the Department of Natural Resources and Community Development

Elizabeth Appel, *Yale University*
Governor's Office of Research

Amy Barnes, *The University of North Carolina at Chapel Hill*
Division of Travel and Tourism

Julie Bell, *The University of North Carolina at Greensboro*
Office of the Lieutenant Governor

Amanda Brooks, *Meredith College*
Corporations Division of the Office of Secretary of State

Robert Burns, *Appalachian State University*
County Manager's Office of Wake County

Dan Crocker, *Princeton University*
Commerce Finance Center of the Department of Commerce

Tiffany Danitz, *Mars Hill College*
Office of Governmental Affairs in the Department of Community Colleges

Mark Davis, *The University of North Carolina at Chapel Hill*
Consumer Protection Division of the Department of Justice

Charlotte Gill, *Swarthmore College*
Commission on Indian Affairs

Clark Goodman, *Duke University*
Work Release Program in the Division of Prisons

David Green, *East Carolina University*
City of Raleigh

Richard Griffin, *Western Carolina University*
Resource Management Planning Section of the Department of Natural Resources and Community Development

Anne Harvey, *The University of North Carolina at Chapel Hill*
Town of Cary

Residential Program

One of the major features that distinguishes the Institute of Government's program is the group living situation. The diverse backgrounds and educational interests of the interns make the living experience lively and foster considerable debate and strong friendships. These friendships are obvious when alumni reunite at an annual reception and often may last a lifetime.

Last summer the interns lived in a dor-

Their Agencies

Seth Hassett, *Guilford College*
Office of the Lieutenant Governor

Beverly Hsiao, *University of Pennsylvania*
Agency for Public Telecommunications

Tamara Jackson, *North Carolina State University*
Rural Economic Development Center

Erik Johnson, *East Carolina University*
North Carolina Museum of Art

Alisa Mayfield, *North Carolina Central University*
North Carolina Symphony

Trang Nong, *Western Carolina University*
Field Audit Division of the Office of State Auditor

Darryl Peterkin, *Yale University*
Archives and Records Section of the North Carolina Museum of History

William Rhyne, Jr., *Lenoir-Rhyne College*
Division of Community Assistance of the Department of Natural Resources and Community Development

Ginger Saunders, *Salem College*
Crime Prevention Division of the Department of Crime Control and Public Safety

Jennifer Schuller, *The University of North Carolina at Asheville*
Pre-Release and Aftercare Program of the Department of Correction

Jerry Smith, *The University of North Carolina at Chapel Hill*
Employment Security Division

Jason Ward, *Western Carolina University*
North Carolina Symphony

Jay Wilkerson, *The University of North Carolina at Chapel Hill*
Local Government Commission

Ellen Wilkinson, *Duke University*
Administrative Office of the Courts

mitory on the campus of Meredith College, where interns had access to a library and recreational facilities, including a gymnasium and swimming pool. The college was an inexpensive, comfortable place to live and was conveniently located near the major roads leading to the capital area, where most of the students worked. And living close together offered the interns a unique opportunity to share their work experiences and thus to get a broader view of government. Groups of students could always be found discussing a wide array of issues in their free time, whether they were playing cards, cooking a group dinner in the dormitory kitchen, or gathering in the lounge after work.

Field Trips

In addition to the group living situation and weekly seminars, another major aspect of the internship program is its field trips. Last summer the interns were given a behind-the-scenes tour of the North Carolina Museum of Art. During this special tour, interns learned how old paintings are restored and the history behind some of the museum's most famous paintings. They came to appreciate the importance of the museum to the cultural heritage of the state and its role in the education of students and teachers.

Later in the summer the interns visited Central Prison. They saw firsthand what they had heard during the earlier seminars about life in prison as they toured general population cells and walked among the inmates.

Interns also toured the State Bureau of Investigation laboratory. The high-technology of the SBI lab fascinated the interns, who learned how law enforcement officials trace everything from weaponry and handwriting to body fluids and bad checks.

The most enlightening trip of the summer was a visit to the nation's capital. In conjunction with the Youth Advocacy and Involvement Office intern program, the Institute planned a series of discussions with federal government officials. After traveling to Washington on a Thursday evening, interns spent the weekend sight-seeing and attending informational seminars. Friday morning the interns met briefly with Senator Terry Sanford on the Capitol steps and then received an insider's tour of the Capitol from one of the senator's assistants. Interns then had the choice of touring the Supreme Court building, the Federal Bureau of Investigation, or the endless maze of Smithsonian Institution museums.

The complexity of the issues facing state and national leaders was made clear to the interns that day. After meeting several members of Senator Jesse Helms' staff, the interns discussed with the director of Governor Martin's Washington office the proposed supercollider and its potential effect on North Carolina, among other issues. The highlight of the afternoon was a discussion about "Star Wars" with an army officer who was serving as congressional liaison for the Strategic Defense Initiative.

Despite the interns' busy schedules, they still found time for several other group events throughout the summer. For instance, several interns attended the Black Legislative Caucus and North

Carolina Democratic Convention. The Institute arranged for affordable tickets to the caucus to enable interested students to attend. The convention introduced interns to the complex process used to send delegates to the national convention.

One group of interns visited the Senate gallery to watch state legislators in action. When the group was officially recognized, Senator Dennis Winner stood to announce that he was a former Institute of Government intern. He told his fellow senators, "When I was an intern, we, too, came to visit the Senate. And we saw some of the worst legislation in the state passed that day [the North Carolina Speaker Ban law]. Gentlemen, let's try not to repeat history."

Benefits

Faculty members of the Institute of Government annually rotate the directorship of the intern program. Past directors say that the most important aspect of the program is that interns learn about government while benefitting state and local government agencies. But the directors also say that they, too, benefit from the experience. Michael Smith directed the program in 1988. He says that the interns renewed his excitement about state government: "I like the chance to work with bright, idealistic students. I especially like watching their personal and professional growth throughout the course of the summer." A. John "Jack" Vogt, who teaches public finance at the Institute, has directed the program three times. Like Smith, Vogt said that he learns a great deal from the interns, for instance, from the often perceptive questions they ask at the weekly seminars: "I consider the seminars one of the more important activities of the program." Vogt also says he feels a personal reward when former interns enter public service. "It is rewarding to get young, bright people interested in public service careers," he notes.

The program is a busy ten weeks for the interns. They are given an inside look at some of the state's toughest problems through a "real" job. They perform work that seems to contribute to the common good of the state. They make great friends who share their interests. And they learn what government is really like, without having to rely on news briefs in newspapers and on the evening news. "It's hard to put down one thing that made the program so good," Liz Appel says. "The internship, field trips, and seminars all complemented each other."❖

For more information on the Summer Intern Program, write to: Summer Intern Program, Institute of Government, CB# 3330 Knapp Building, UNC–CH, Chapel Hill, NC 27599-3330. Telephone (919) 966-4347.

Charlotte Gill

Understanding and Changing the Culture of an Organization

Roger M. Schwarz

Imagine an invisible force in your organization so powerful and pervasive that it affects almost everything that happens in the organization—decisions people make, how people work together, how they are rewarded, even the language they use. Each organization has such a force—its culture.

Organizational culture is the set of important assumptions that members of an organization hold in common.[1] Assumptions can be either beliefs about the world and how it works (for example, that people resist change) or values worth striving for (such as honesty and loyalty).[2] The assumptions do not have to be stated explicitly. Not only are they often unstated but employees often are unaware of the assumptions they hold. In any event, a sufficient number of employees must hold an assumption for it to be part of the culture.

Why Culture Is Important

Culture has a major impact on the organization, shaping decisions about policies, procedures, and day-to-day behaviors. It can reduce effectiveness. For example, if employees believe that conflicts should not be openly confronted, the organization's behavior will reflect this. Employees who perform poorly may not be told so by their managers (although others may talk about the employees' performance behind their backs) and conflicts between departments may not be openly discussed and resolved.

Just as an organization's culture can limit effective behavior, it can also encourage effective behaviors. For example, an organization that assumes that creative ideas (and the failure that sometimes accompanies them) are necessary for its development may encourage employees to experiment with new programs and procedures and may even reward employees for taking creative risks, even if they have failed. Because employees feel free to experiment, the organization can tap their creativity in a way that nontrusting organizations cannot.

If beliefs and values determine how employees behave, then one way a manager can control the organization is to have employees share the beliefs and values that the manager thinks are important. Employees who are committed to a set of beliefs and values are more likely to put them into action than if they are merely complying with orders.[3] And they can use them to respond appropriately to a wide variety of situations, including those for which the organization has no formal rules or procedures. In fact, a set of values and beliefs often can take the place of detailed rules and procedures. By developing a strong effective culture, managers can manage with less oversight.

By changing the culture, managers can solve problems that they cannot solve in other ways. Every organization has problems that persist regardless of what managers do to solve them. Managers become frustrated when all attempted solutions fail. Yet one reason these solutions fail is that they leave unchanged the set of beliefs and values giving rise to the problem. Consequently, teaching people conflict management skills or setting up "open hours" to discuss problems will not resolve conflicts if em-

The author, an organizational psychologist, is an Institute of Government faculty member who specializes in organizational change and conflict.

ployees believe that conflict is negative. In these situations, changing part of the culture enables the manager to address the cause of the problem.

How Culture Develops and Is Maintained

How do the organization's beliefs and values emerge and how are they maintained? The process is complex but basically occurs in the following way. Each time a top-level manager establishes a policy or procedure or makes a decision, it reflects some belief or value he or she holds about organizations and people.[4] A manager who believes that clients deserve immediate attention to their problems, for instance, may require employees to let their secretaries know their whereabouts at all times, thereby enabling clients to contact employees more easily. Employees automatically will try to make sense of this policy by asking themselves why the manager established it. If they do not ask the manager directly, they may talk with coworkers or ask their immediate supervisor. In any event, they will attribute some belief to the manager based on the policy established.

For now, assume that employees have correctly attributed to the manager the belief that clients deserve immediate attention to their problems. Employees then will ask themselves whether they agree with the manager's belief. If they do, they will be committed to following the manager's policy, and, over time, the belief that clients deserve immediate attention will become part of the culture. As a result, employees will be likely to accept other policies that are based on the same belief.

Now imagine that employees attribute the correct belief but strongly disagree with it. For example, they may believe that if clients have unlimited immediate access to them, they will not be able to manage their time effectively and ultimately the clients will suffer. If there are no rewards for following the manager's policy and no negative consequences for ignoring it, employees will ignore or circumvent the policy, and the manager's belief will not become part of the culture. If, however, there are sufficient rewards or negative consequences, employees will be more likely to comply. But the belief guiding their behavior will be that following certain policies will result in rewards while not following other policies will result in negative consequences.

But what happens if employees are incorrect about the belief on which a manager's policy or decision is based? Suppose they think the manager established the policy of keeping track of employees because he or she believes they cannot be trusted. Employees will disagree with that belief, of course. Because they are wrong about the manager's belief, they will reject the policy, even if they carry it out on a pro forma basis. The irony is that the manager's true belief that clients should be able to contact employees easily might have become part of the culture if employees had known the manager's belief.

In some situations the employees may be wrong about the particular belief but agree with the belief they *think* the manager holds. For example, a manager who believes that all programs must be cost-effective may cut programs that do not meet that standard. However, the overloaded staff may think the manager cut the programs because he or she believes that staff cannot be effective if they are overworked. Because the employees agree with the belief they incorrectly have attributed to the manager, they will be committed to the program cuts. But the belief that will become part of the culture is that employees should have reasonable workloads, not that programs should be cost-effective. In creating a culture this situation is the most confusing for the manager. When employees follow a policy for the wrong reasons, the manager mistakenly will conclude that employees have accepted his or her belief as part of the culture.

Why does it matter whether employees correctly understand the manager's beliefs and values as long as they follow the policies? It matters because when employees agree with the beliefs they attribute to the manager, they use those beliefs to help them make other decisions. In the example involving program cuts, employees might decide to spend less time on very cost-effective but stressful programs, thinking they are acting consistently with the manager's beliefs.

It should be clear that an organization's culture develops, in part, as employees try to interpret the manager's beliefs and values from actions taken on a variety of issues. However, it is not just the interpretation of the manager's actions that shape the culture. The culture also develops as the employees interpret beliefs and values from the actions of one another. If the manager succeeds in getting employees to act consistently with his or her beliefs and values, then the manager has created part of the culture. Which beliefs become part of the culture depends, in part, on what the employees think the manager believes, whether those are in fact the manager's beliefs and values. The implication should also be clear—managers who do not explain the beliefs and values behind their actions risk being misinterpreted and losing an opportunity to shape the culture.

Identifying a Culture

Because most managers join an organization long after the culture has developed, their task becomes one of understanding, working with, and at times changing the culture rather than establishing one. To determine whether and how to change the culture, managers must first identify the current culture. And to do that, they need to learn what attributions employees make.

One way to identify these attributions is to have employees (including the manager) identify policies, procedures, structures, organizational rituals or stories, or perhaps technologies that they think make a strong statement—positive or negative—about the organization. For example, some employees may identify the city's drive-up window that allows residents to conduct city business from their cars. Others may note that their department does not have time clocks. Still others may notice that, when given the choice, employees would rather work alone than in groups. These policies, procedures, etc., are called artifacts because (like archaeological artifacts) they are products of the culture. These artifacts are the clues for discovering the organization's culture.

After employees identify the artifacts, they can discuss the beliefs and values they think underlie them. Employees might consider the drive-up window to reflect that the city values residents' time. They might infer from the absence

of time clocks that managers believe they can trust employees. When interpreting the artifact of choosing to work alone instead of in groups, one set of employees may think it reflects a belief among some employees that their work is of higher quality than their coworkers. Others may think it reflects a belief that the only way to get ahead in the organization is to stand out as an individual. Still others may think it reflects a belief that the organization can accomplish more through employees working alone rather than together.

To develop a detailed picture of the culture, it helps to discuss a large number and wide variety of artifacts. Some places to look for artifacts include what gets measured in the organization, how people are rewarded, and what kind of mistakes are not forgiven. Another set of good clues are physical artifacts: the kind of equipment people use (do they have the latest technology?), the way facilities are furnished and decorated (are they formal or informal?), the kinds of things employees hang (or do not hang) on their walls (performance and training certificates or travel posters), and how the offices are arranged (do they allow for privacy or encourage sharing common spaces?). The box on page 26 lists questions to help identify important artifacts and the beliefs and values underlying them.

What is missing can be just as important as what is present. The absence of a receptionist or directory in an organization with many visitors may indicate a belief that clients are not that important. Similarly, parking lots without reserved spaces for the top managers may reflect a belief that all employees are equally important.

By discussing the meaning of many artifacts, managers also can determine the strength of their organization's culture. In organizations with strong cultures, employees hold more beliefs in common, each employee believes more thoroughly in those beliefs, the beliefs are widely shared, the beliefs are clearly ranked,[5] and the beliefs and artifacts mutually reinforce each other. If beliefs are clearly ranked, employees know which ones are most important when they must choose between one belief or value and another. For example, if the culture values both honesty and loyalty to the organization, an employee who is considering whether to "blow the whistle" on a department may do so if it is clear that the organization values honesty more than loyalty.

A strong culture can be an asset if it leads the organization to adapt effectively to the demands placed on it. But a strong culture also can reduce an organization's ability to adapt to change, and therefore a strong culture can be a liability because it is harder to change.

Organizations may have subcultures that differ from the larger culture.[6] Managers often talk of departments that march to a different drummer or that "don't think like the rest of us." Departments with very different tasks, such as police and planning departments, also may have different cultures. State-level divisions may have a different culture from their county-level counterparts. And subcultures can cut across departments: younger employees may have different values and beliefs than their older coworkers, for example.

Managers can identify subcultures when employees from different departments, age groups, or backgrounds consistently interpret the same artifacts differently. Subcultures are not necessarily a problem. In fact, when a single department exemplifies the culture that the manager is striving to create, he or she can use that department as a model for changing the rest of the organization.

Identifying the organization's culture is difficult. Because the shared beliefs and values emerge from the way employees interpret different artifacts, it is very difficult to identify the culture using standard questionnaires or interviews. Also, because people's espoused beliefs and values are often different from those that actually guide their behavior,[7] one must determine whether employees (including the manager) act consistently with the beliefs and values that they claim constitute the culture. Finally, when employees try to identify their own culture, they share the weakness of the proverbial fish that is unaware it swims in water. Someone with an outsider's perspective—a consultant, a new employee, or a member of another organization—can help identify beliefs and values.[8]

Changing a Culture

To reshape a culture successfully, employees must interpret the artifacts and act in a way that reflects the manager's beliefs and values. A manager can accomplish this in two ways. First, the manager can change certain artifacts, together with how employees interpret them. Second, the manager can keep certain artifacts but change the way employees interpret them. In any case, the manager should focus on artifacts either that employees do not interpret the same way the manager does or that the manager thinks do not reflect his or her own beliefs and values. After identifying the culture, the manager should know which artifacts to focus on.

Let us examine the first case in more detail—changing a policy, structure, or other artifact in order to create a more effective belief or value in the organization. Assume that the manager wants to change the belief that conflict is negative, thereby changing the informal policy of not directly confronting those whose actions are in conflict with others or with policies. The manager might begin by talking with employees about the current belief and give some examples of how it creates more problems than it solves. The next step might be to describe the belief the manager wants to be a part of the new culture—that whether conflict is positive or negative depends on how effectively people handle it. Then the manager could describe a new policy based on this belief. The manager might say that, from now on, he or she will not resolve subordinates' conflicts with others. Anyone who has a conflict with another employee will be expected to work it out directly with that person. If that does not resolve the conflict, then the problem should be taken to the next higher level. The manager might add that this policy is to be followed at all levels of the organization.

But this may not be enough. If, after talking with the manager, employees do not accept the belief that people can resolve their conflicts, the manager needs to understand why. This information will help the manager and others create the conditions necessary for employees to be committed to the belief. The manager also may need to follow through with a training program on managing conflict and then with meetings in which the group discusses its progress in establishing the new beliefs and behaviors. This process can take time, but is worthwhile in the long run. For unless employees are committed to

Questions for Identifying an Organization's Culture

What does this organization say it stands for?*
What does it really stand for?*
How does it get its message across?*
How are the organization's common areas furnished and decorated?
How are employee's own work areas furnished and decorated?
How did this organization get to be the way it is?*
What image does this organization want to present to those outside?
If the organization were to have a motto, what would it be?
Which outside groups does the organization pay attention to?*
What stories about the organization are told to new employees?
What is the best way to get along with people in the organization?
What are the main rules that everyone has to follow?*
What kinds of things are closely measured?
What does it take to be really successful?
How do people find out what is really going on?*
How do decisions really get made?
How does the organization use a person's experience and ideas?*
What kind of behavior is really frowned on?
What is considered serious punishment?**
What kind of mistakes are not forgiven?**

*Adapted from Harry Levinson, *Organizational Diagnosis* (Cambridge, Mass.: Harvard University Press, 1972).

**Adapted from Vijay Sathe, *Culture and Related Corporate Realities* (Homewood, Ill.: Richard D. Irwin, 1985).

the manager's beliefs and values, they will follow them only if they are indifferent or if there are sufficient negative consequences for not following them. In either case, the manager will not be able to create a strong culture.

When a policy, structure, or other artifact is effective but employees misinterpret the belief or value that led the manager to establish it, the manager needs to clear up the misunderstanding. To return to an earlier example, the manager would need to convince employees that the reason they need to let secretaries know their whereabouts at all times is because clients deserve immediate attention to their problems, not because the manager mistrusts employees. If the manager can do this, the artifact will remain, but its meaning will change and so will a part of the culture.

These two methods of changing culture are time consuming but essential. Once the new beliefs and values are determined, the manager can take several steps to reshape the organization's culture. Every time the manager establishes a policy, changes a structure, or makes a significant decision, he or she can explain the beliefs and values that underlie it. In this way, employees continually hear the manager's beliefs directly from the manager, which reduces the chance of misinterpretation. By measuring and rewarding behaviors that reflect the most important beliefs and values, the manager can reinforce the new culture.[9] Most important, the manager must model the espoused beliefs and values. Toward that end, employees can be encouraged to tell the manager when his or her behavior does not match those beliefs. To do this, the manager must invite constructive criticism from employees and the employees must trust that the manager will not use their criticism against them. These conditions are essential because ultimately the manager must rely on the employees to know whether the manager has created the intended culture.

Managers who want their actions to be correctly interpreted by employees should take these steps whether or not they have identified the culture or decided to change it. The essence of leadership is the ability of one person to get others to interpret events and actions as that person does and to respond to those events and actions accordingly. By continually explaining how actions are designed to implement certain beliefs and values and by acting consistent with them, the manager methodically strengthens the culture, whether it is a new one or existing one.

Conclusion

The culture of an organization comprises many beliefs and values, each of which can help or hinder the manager in achieving his or her vision. A strong, effective culture serves as an internal guidance mechanism; an ineffective culture establishes invisible and impassable barriers. Because an organization's culture is taken for granted, it is difficult to identify and more difficult to change. Yet, when the culture is a major cause of the organization's problems, changing only policies, structures, or other artifacts will not solve the problem.

Understanding the culture of an organization means identifying the basic beliefs and values that employees share and that guide their behavior. Changing the culture requires changing some of those beliefs and values, either by changing the policies, procedures, and other artifacts that generate those beliefs or by changing the meaning of the artifacts without changing the artifacts themselves. This is one of the most difficult organizational changes to create. It requires a large investment of time and energy as well as daily attention on the part of the manager and employees. Yet the results are worth the effort because at the heart of an effective organization is an effective culture.

Notes

1 Adapted from Vijay Sathe, *Culture and Related Corporate Realities* (Homewood, Ill.: Richard D. Irwin, 1985).

2 Milton Rokeach, *Beliefs, Attitudes, and Values* (San Francisco: Jossey-Bass, 1968).

3 Herbert Kelman, "Compliance, Identification and Internalization. Three Processes of Attitude Change," *Journal of Conflict Resolution* 2 (1958): 51–60.

4 Chris Argyris and Donald Schön, *Theory in Practice: Increasing Professional Effectiveness* (San Francisco: Jossey-Bass, 1974).

5 The preceding four characteristics are based on Vijay Sathe's description of the strength of a culture.

6 Joanne Martin and Caren Siehl, "Organizational Culture and Counterculture: An Uneasy Symbiosis," *Organizational Dynamics* 12 (Autumn 1983): 52–64.

7 Argyris and Schön, *Theory in Practice*.

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Exploring User Fees and Charges for Local Governments

Wally Hill

In an era of stagnant federal aid and local tax-base trimming at the state level, local officials are increasingly hard-pressed to finance their ambitious service agendas. And in the tightly regulated world of local government, the hunt for financing options is like a search for water in the middle of the Sahara. Increasingly this search is including an examination of user fees and charges as a means of financing programs. Will user fees and charges quench the thirst for local government revenues, or are they a mirage? And whether salvation or mirage, what are their advantages and disadvantages?

What are User Fees and Charges?

Most economic activity takes place in the private marketplace. When we purchase a good or receive a service, we pay a price. When users or beneficiaries of governmental services pay prices for the goods or services they receive, we call these prices user fees or user charges.

While governmental fees and charges have much in common with private market prices, they have at least two distinguishing features. First, they do not always cover the full cost of the services or products—a practice few private sector enterprises could long endure. This practice stems both from the lack of a profit motive in government and from the recognition that some services benefit the general public as well as the individual user. For example, individual property owners may benefit from an analysis of their lot's well water and thus could be asked to bear the full cost of the analysis. However, others drawing water from the same groundwater would also benefit from knowing whether the water supply is safe or contaminated. In such a case, it might be reasonable to reflect this generalized benefit by charging less than the full cost to the property owner.

Second, governmental fees are not always related to voluntarily consumed services. A property owner may be charged a fee for a grading permit that he might have chosen to forgo had the regulatory process not required him to obtain one. Similarly, a prisoner may have to pay part of the cost of a stay in jail but is unlikely to have wanted to be there.

User fees at the local level can take a variety of forms, ranging from a building inspection fee to a charge for psychiatric counseling. In North Carolina cities, the most significant fees are typically charges for water and sewer services. For counties, particularly for those that do not provide utilities, the most substantial sources of fees are likely to be client payments and third-party reimbursements for health care. In Wake County these payments for health care constitute 44.5 percent of the fees we expect to receive in fiscal year 1988–89 (see Table 1).

Among North Carolina local governments, user fees are far more substantial sources of revenues for cities than for counties. In fiscal year 1986–87, fees constituted an average of 40.6 percent of revenues in cities, ranging fully from no fees in some small cities to a high of 92.1 percent in the Wilson County town of Lucama.[1] Higher contributions from

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Table 1
Expected Wake County User Fees and Charges
in Fiscal Year 1988–89

Source	Expected Revenue	Percentage of Total
Patient and third-party charges (emergency medical, patient health, mental health, and substance abuse services)	$5,215,451	44.5%
Landfill tipping fees	1,630,100	13.9
Court facilities and law enforcement fees	1,137,000	9.7
Register of deeds (excludes excise tax stamps)	782,000	6.7
Building permits and inspections	712,940	6.1
Land-use, community development, and environmental health fees	589,400	5.0
Rentals and parking charges	558,770	4.8
Transportation system charges	500,000	4.3
Other	590,400	5.0
	11,717,961	100.0

Table 2
Expected Wake County General Fund Revenues
in Fiscal Year 1988–89

Source	Expected Revenue	Percentage of Total
Property tax	$133,361,000	60.8%
Sales tax	34,408,000	15.7
State and federal grants	22,135,000	10.1
User fees and charges	12,215,000	5.6
Intangibles tax	4,678,000	2.1
Interest earnings	3,515,000	1.6
Other	8,878,000	4.1
	219,190,000	100.0

Note: Excludes fund balance.

fees in cities typically reflect the water and sewer systems operated by most municipalities, and the electric services offered by some.

In contrast, user fees play a relatively minor role in financing county governments in North Carolina. In fiscal year 1986–87, fees constituted an average of only 6.3 percent of county revenues.[2] Reliance on fees ranged from a low of 1.2 percent in Martin County to a high of 22.6 percent in Dare County.[3] In Wake County, fees are expected to constitute 5.6 percent of revenues in fiscal year 1988–89 (see Table 2). Clearly, revenues derived from property, sales, and other taxes are the mainstays for most county governments in North Carolina.

Obstacles

For a variety of reasons, it is unlikely that user fees will become a major revenue source for North Carolina counties, or that their importance will increase significantly in our cities. Many traditional local government activities, particularly among counties, evolved as public enterprises for the very reason that they could not survive in a private marketplace. For example, the large social services and economic assistance programs offered by local governments cannot pay for themselves because they exist to redistribute resources from those who have to those who have not. Other services may have general as well as individual benefits, encouraging a reliance on general tax revenues to help finance them. As examples, crime prevention, communicable-disease control, public education, and land-use regulations have broad benefits, whose costs would be difficult to cover fully by fees to individuals. Although Wake County generated about $1 million in additional fees after a comprehensive in-house study in 1988, still the additional fees only equal about $.006 of our tax rate of $.72. And all of our fees, both old and new, produce revenues equivalent to only $.07 of the tax rate.

There are also a variety of legal obstacles to user fees. At the county level, the state constitution requires that public schooling be free,[4] eliminating the ability to collect fees to help finance the single largest portion of most counties' budgets. Also by state statute[5] library services must be free, as must certain state health programs carried out at the local level.[6] Reimbursements for local provision of courts and jails are also restricted by statute.[7] Somewhat paradoxically, fees are encouraged for mental health services,[8] at least for patients able to pay them, as they are for solid waste collection and disposal services.[9] Also, while there is no general law allowing development impact fees,[10] through local acts some municipalities have gained the authority to use them.

Different attitudes toward user fees can block their use. Although some board and council members may be inclined toward fees, others may see greater merit in tax-supported operations. Department heads, whose support is essential to making fees work, also vary in their philosophies. And user acceptance is paramount. Frequently, one hears the complaint, "I already paid for this with my taxes; why do I have to pay again when I want to use it?"

User fees also tend to be more administratively inefficient than taxes. This is particularly true for services for which payment is not received before or at the time of service delivery. These cases require a billing and collection system, which can be cumbersome.

Finally, user fees can block access to services by the poor, who might be unable to pay for the services they need. Sliding fee scales can alleviate this equity problem to some extent, although these provisions can also increase the administrative complexity of the fees. Wake County has tried to resolve the dilemma by using sliding fee scales for basic public health and mental health clinical services, but we expect full payment for services of a more discretionary nature, such as use of park facilities or requests for criminal records checks for civilian job applicants.

Advantages

The most easily recognized advantage of having a fee for a service is that it helps to defray the cost of providing the service. While user fees represent but

a small sliver of most county revenues, they are quite significant at the decision-making level. The fate of a particular departmental program or service may hinge on its ability to support itself, in whole or part, through fees. In Wake County, revenues from fees have helped to gain approval for and to fund improvements to our register of deeds services, institution of a new well ordinance, improvements in our environmental health services, and start-up of a program to combat our relatively high infant mortality rate.

User fees also are appealing for their ability to link the beneficiaries of services to the costs of providing them. While the number of governmental services in which a link can be made is limited, this characteristic can be an important factor in determining how services should be financed. In fact, it was the principal motivation for Wake County's 1988 study of its user fee policies.

The price that users are willing to pay for a service offers the best indicator of how much they value it. Too often, government officials must rely on their own judgments as to what services are desired by their residents, as well as how, where, and when they are provided. However experienced these officials may be, their judgments are poor substitutes for the verdict from the marketplace. In July, 1988, Wake County raised fees in a variety of areas, but there has been no appreciable decline in demand, even though some of the increases were quite high. Thus, for those affected services that are voluntarily consumed, we can conclude that the county's residents think they are worth the cost. And while Wake County's fees for park facilities are still too new to evaluate, we expect them to offer us a valuable measure of demand for the specific recreational options we are providing.

The impact of fees on consumer behavior can be important for another reason. Governmental services are not limitless, of course, and some mechanism is needed to encourage conservation and reduce waste. People tend to value what they pay for more than what they get for free. And when people have to pay directly for services they receive, they tend to be more judicious in their use of them. For that reason, fees can help to control unnecessary use of services and can allow our limited resources to be devoted to more valued needs.

Raising revenues at the department level can encourage more cost-conscious and client-driven behavior in staff as well. Looking at our own organization in Wake County, our more cost-conscious agencies are consistently those that either raise revenues for the whole organization or that support their own operations from fees. This should not be surprising. How businesslike would we expect Lee Iacocca to be if he gave cars away for free and all his expenses were paid by a tax levy under his control?

Selected Services Provided by Wake County with User Fees and Charges

City-County Bureau of Identification
- Fingerprinting of applicants for jobs and licenses
- Criminal records checks for job applicants

Emergency Medical Services
- Basic life support
- Advanced life support

Health
- Home health visits
- Milk analyses
- Vital statistics
- Pregnancy tests
- Immunizations for foreign travel
- Animal vaccinations
- Animal reclamation and adoptions
- Orthodontic appliances
- Comprehensive orthodontics
- Family planning visits
- Maternity care coordination
- Childbirth and parenting classes
- Maternal health clinic visits

Substance Abuse
- Individual and family therapy
- Family forum
- Professional evaluation (emergency)
- Psychological testing
- Medical status checks
- Medically supervised observation
- Drug screenings
- Alcohol and drug education (traffic school)
- Acute medical detoxification (room and physician charges)

Mental Health
- Screening, admission, and psychological and psychiatric evaluations
- Individual therapy
- Emergency services
- Group therapy
- Medication administration
- Hospitalization

Environmental Health
- Septic tank site evaluations
- Septic tank permits
- Recertification for lending agencies
- Sewage system repair permits
- Operational permits for low pressure systems
- Mobile home relocation permits
- Water analyses
- Well permits
- Mobile home park annual permits
- Swimming pool permits
- Radon test kits

Social Services
- Domestic custody studies

Juvenile Treatment System
- Individual and family therapy, assessments, and in-home services
- Vocational services
- Respite care
- Specialized foster care and group homes

Planning and Land Use
- Rezoning petitions
- Board of Adjustment petitions
- Property descriptions
- Subdivision reviews
- Building inspections
- Land-use permits
- Reinspections
- Grading permits–erosion control plan
- Grading and erosion inspections
- Road closings
- Flood studies
- Demolition landfill licenses
- Solid waste collector licenses
- Landfill tipping fees

Tax Records
- Microfilm and microfiche copies
- Property record card copies

Developing User Fees

Establishing user fees can be an interesting process for a local govern-

Table 3
Effects of Critical Pricing Considerations in Wake County

Service	Critical Considerations	Fee Policy
Emergency medical transport—advanced life-support level	1) Individual benefit 2) Need to provide indigent care 3) No other providers at same service level	Set fee at 100 percent of cost. Provide for indigent care by taxpayer subsidy, not by higher charges to paying patients.
Well water analyses	1) Mixed individual and public benefit because of possible groundwater contamination 2) Desire not to discourage voluntary testing	Set fee at 50 percent of cost for both voluntary and required testing.
Grading permits—erosion control plan reviews	1) Mixed individual and public benefit 2) No expected effect on economic development	Set fee at 70 percent of cost.
Landfill disposal of solid waste	1) Individual benefit 2) May lead to illegal dumping if fee too high 3) May attract waste from outside county if fee much lower than in neighboring areas	Set fee at 100 percent of disposal cost (higher than some neighbors; lower than others). Absorb cost of hauling from county's containers to landfill with general tax revenues.
Criminal records checks for civilian job applicants	1) Costs $1.05, but clerk of court also provides service for statutorily set fee of $5.00 2) Incidental to true mission of agency and draws staff time from other activities	Continue to provide as public service but set fee at $5.00 to prevent unwarranted diversion from clerk of court.

ment. There are several basic steps in any user fee development effort.

Feasibility study. A good starting point is a survey of departmental services to identify current and potential fees. Engaging department heads and staff at this time can encourage cooperation and responsibility for the work as well as generate a greater sensitivity to the market potential for public services. This feasibility study should include a review of the statutory basis for the fees and any grant-related restrictions. The preliminary study should also consider whether it is feasible to identify the users or beneficiaries of the services being considered. It may be easy to isolate the users of some services, such as parks, emergency medical services, and land-use permits; it may be impossible or impractical to identify the users of others, such as unpatrolled solid-waste container sites.

Costing the services. For services deemed appropriate for fees, a useful next step is to figure out how much each service costs. Sophisticated cost accounting is not essential, but it is important to prepare estimates of all related expenses. The cost should include funds directly budgeted for the activity as well as the indirect or overhead expenses associated with it. For instance, the accounts set up for a particular service may not include the value of the space and utilities used in providing it, equipment depreciation, or the support of personnel, finance, computer, legal, and other administrative services. If the organization does not have a formal plan to allocate these indirect costs to different functions, gross estimates can be prepared.

Pricing. Setting a price for a service requires considering an interesting set of issues, which are governed by the fundamental values of the organization. Should the price be set at full cost recovery, partial cost recovery, or at a profit-making level? The following questions should be considered in setting a fee:

- To what extent is the benefit enjoyed by an individual, or shared by others? Emergency medical treatment may exclusively benefit an individual; an immunization shot for a communicable disease clearly has a broader public health benefit. The organization may attempt to set the fee at a percentage of its cost, based on the perceived balance of individual and public benefits.
- What effect will the fee have on the demand for the service? The organization may wish to adjust the fee according to its likely impact. If the service needs to be carefully rationed, the price may be set high enough to encourage conservation. If the unit desires to encourage use of the service, as in animal adoptions or family planning, the fee may be set low enough not to deter use.
- What allowances, if any, will be made for individuals who are unable to pay the fee? And if some consumers are not charged, or are charged only a partial rate, will the other consumers of that service pay more to make up the difference?
- Is the same service offered by other public or private providers or accessible to users in other jurisdictions? If so, the organization may need to be sensitive to market prices. For example, a gross disparity in landfill tipping fees in two neighboring jurisdictions may encourage unwanted cross-jurisdictional hauling of solid waste.

To illustrate the interplay of these pricing considerations, a few of Wake County's fee policies are shown in Table 3. In considering charges for emergency medical services, it seemed apparent that the treated patient received essentially all of the benefit of the service. Therefore we thought that the patient should pay the full cost of this service (except indigent patients). At the same time, we did not believe that paying patients should have to absorb the cost of indigent or uncompensated care, and we chose to subsidize these costs through general tax revenues.

For both well water analyses and grading permits, it was clear that adjacent property owners also benefited to some extent from the service. In those cases, we set the fees at less than 100 percent of cost to reflect mixed individual and general benefits.

In setting landfill tipping fees, we were

particularly conscious of charges in neighboring jurisdictions because we did not wish to attract waste from them as a lower-cost alternative for disposal. We also were able to recover the full cost of the disposal service, although we are using tax revenues to finance the hauling of waste from the county's container boxes.

The setting of charges for criminal records checks for civilan job applicants posed a somewhat similar problem. While our costs were only $1.05 per search, the clerk of court charged a statutorily set fee of $5.00 for the same service. Because this service is incidental to the mission of the providing agency, and because we did not want to encourage use by cheaper prices, we chose to set our fee at the same rate as that of the clerk of court.

Clearly, there is no magical formula for deriving the proper price. Each organization must decide for itself what considerations are relevant and the extent to which each affects the pricing decision. Furthermore, the role user fees should play in financing services should be decided by each local government, based on its particular needs and values. While the conclusions will vary, the process of considering fees promises to be both interesting and rewarding, addressing a most basic governmental function—deciding how public services should be financed. ❖

Notes

1. From Annual Municipal Financial Information reports for 1986–87 filed with the N.C. State and Local Government Finance Division. User fees are defined as court and jail costs, all permits and fees, all sales and services, utilities charges, special assessments, and sales of materials and assets. Percentages of all reported revenue receipts are used in this article.

2. From Annual Municipal Financial Information reports for 1986–87 filed with the N.C. State and Local Government Finance Division. User fees defined as shown in note 1.

3. Dare County's relatively high proportion of fees is due to water and sewer services provided by the county, along with an unusually high proportion of development-related fees.

4. N.C. Constitution, art. I, § 15; art. IX, § 2(1).

5. N.C. Gen. Stat. § 153A-264.

6. N.C. Gen. Stat. § 130A-39(g).

7. N.C. Gen. Stat. §§ 7A-304(a)(2), 7A-305(a)(1), and 148-32.1.

8. N.C. Gen. Stat. § 122C-146.

9. N.C. Gen. Stat. § 153A-292.

10. Development impact fees are fees on new developments for the costs of public improvements generated by them.

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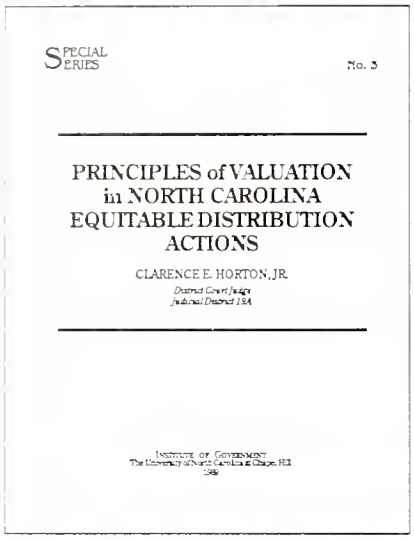

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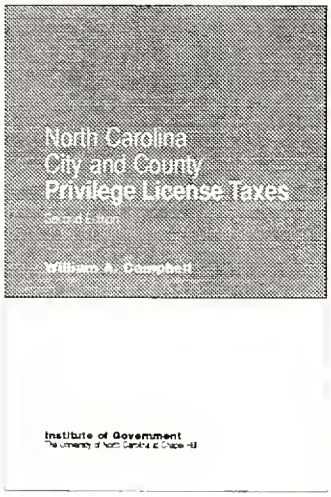

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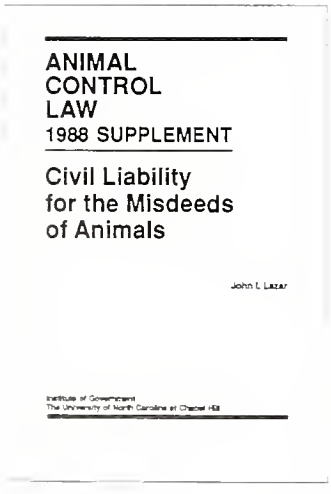

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Fund Balance in Local Government Budgeting and Finance

Lee Carter and A. John Vogt

Accurate estimation and effective management of fund balance are central to local government budgeting and finance. Generally speaking, fund balance is excess, surplus, or unbudgeted money. At the end of a fiscal year, it is that portion of a unit's money that can be carried forward to finance budgeted expenditures during the next fiscal year and therefore is called available fund balance. Fund balance that is unappropriated after enactment of the budget and that is not designated for specific purposes serves as a general operating reserve for the budget.

A local government with inadequate fund balance may be unable to pay vendors and contractors on time or to meet emergency or unforeseen needs. The unit also may be unable to take advantage of financial opportunities that arise, such as refunding bonds to take advantage of lower rates. A small fund balance may affect credit ratings and result in a higher interest rate on the unit's bonds. Because a unit with a small fund balance would have little investment income on excess funds, it could have to rely more heavily on the property tax. Perhaps most important, a revenue shortfall might force the unit to reduce services or increase property taxes or other revenues more than would be necessary if there were adequate fund balance.

This article examines the role of fund balance in local government budgeting and finance in North Carolina. Specifically, it:

1. Discusses the concept of available fund balance, based on the statutory formulas for calculating it.
2. Discusses how available fund balance may be used.
3. Explains the guidelines used by staff members of the Local Government Commission, Department of State Treasurer, in advising local governments and school systems about their fund balances.
4. Presents data on available fund balances of North Carolina's counties, cities, and public school systems.

The article focuses on available fund balance in county and city general funds and in school system local current expense funds. North Carolina counties and cities finance most services from their general funds and maintain significant available operating balances in them. Moreover, cash-flow problems tend to be more severe in general funds than in other operating funds. For example, enterprise funds for utilities have constant revenue streams from monthly charges that can be changed at any time, while general funds depend heavily on the property tax, most of which is paid in the middle of the fiscal year and usually cannot be changed once it is established in the annual budget ordinance. About two thirds of public school expenditures are financed with state moneys that the school systems budget in their state public school funds. But these funds do not have significant fund balances, because receipts deposited into them and expenditures made from them occur almost simultaneously. Generally, school system operating expenditures financed from sources other than federal or state sources or enterprise fund revenues are budgeted in their local current expense funds, and nearly all of the systems' balances for operating purposes are maintained in these funds.

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Calculating Available Fund Balance

The Local Government Budget and Fiscal Control Act includes a formula that counties and cities must use to calculate the maximum fund balance that is available at the end of one fiscal year for appropriation in the next year's budget. This formula provides that fund balance appropriated in a budget shall not exceed "the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year."[1] The School Budget and Fiscal Control Act has a similar formula that differs only in that all deferred revenues, not just those arising from cash receipts, are included in the calculations.[2]

The amount calculated with these formulas is fund balance that is legally available for the next year's budget, whether or not it is actually appropriated into that budget. If unappropriated, this available fund balance remains available for appropriation throughout the year. Both formulas are based on a conservative premise that fund balance available for the next year's budget should include only moneys on hand that are not owed or that have not been committed by contract or agreement to other parties or to other funds.

Available fund balance is very different from fund balance, or "equity," as shown in the balance sheet in the annual financial report. Available fund balance for budget purposes may include only cash and investments in excess of liabilities, encumbrances, and certain deferred revenues. Fund balance (or equity) in the balance sheet equals all assets, including receivables as well as cash and investments, minus liabilities. Thus fund balance calculated for budget purposes is only a portion of fund balance in the balance sheet.

Cash and Investments. The starting point for calculating available fund balance is cash and investments. *Cash* refers to cash on hand and on deposit in bank accounts, including checking, savings, and money market accounts. *Investments* include certificates of deposit and the other legal investments.[3]

Two important questions arise concerning the treatment of investments in the statutory formula. One question concerns the term or maturity of investments. The statute presumes that available fund balance includes all investments regardless of their term or maturity. However, if the proceeds of long-term investments are not expected to be available during the coming year, officials may wish to exclude them from the calculation. The statute does not prohibit this and indeed seems to encourage it by the phrase "appropriated fund balance in any fund *shall not exceed . . .*" (emphasis added). Because the formula permits appropriated fund balance to be less than available fund balance, the value of investments whose proceeds are not expected to be available in the coming year need not, and probably should not, be included in the calculation of available fund balance.

The second question concerning investments is whether they should be valued at cost (the amount paid for a security) or at market value (the amount that would be received if a security were sold). Traditionally investments have been valued at cost. In recent years, however, local governments have invested more in longer-term securities. When interest rates change, the price fluctuations for longer-term securities are greater than the price fluctuations of shorter-term securities, and differences between cost and market value can be significant. If investments will be liquidated before maturity, they should be valued at the lower of cost or market value for the purpose of calculating available fund balance. Otherwise, they can continue to be valued at cost for this calculation.

Receivables. Local governments may not include receivables in the calculation of available fund balance. Receivables include prior years' property taxes. Even though such taxes, if collected during the budget year, would be available to finance expenditures, they may not be counted in fund balance available for that year. Instead, they should be included among estimated revenues for the year in which they will be collected.

Usually the largest portion of receivables is payments due from other governments. For example, in August the state distributes local sales tax revenue collected in the previous quarter. Under generally accepted accounting principles, counties and cities may count this distribution as accrued revenue for the fiscal year in which the state collects it even though they do not receive it until the following fiscal year. If this procedure is followed, the funds are not a revenue for the budget year in which they are received, because they have been included in the prior year's budget. Furthermore they may not be counted in available fund balance at the end of the prior year, because they are a receivable at that point. Sales tax revenue in the budget year will include the next three quarterly payments (November, February, and May) plus an accrued amount equal to the payment to be received in August of the following year.[4]

The balance sheet recognizes the exclusion of receivables in the statutory calculation of available fund balance by referring to the portion of fund balance attributable to receivables with the designation *reserved by state statute.* This reserved amount should include all receivables except those arising from prior years' property taxes and occasionally other revenues, which are offset by their inclusion as deferred revenues among liabilities rather than in fund balances.

The general fund often includes moneys that are due from other funds of the unit. A *due from* is a receivable of a particular fund, but not of the unit as a whole. A due from that will be available to finance general fund expenditures in the coming budget year may not be included in the available fund balance carried forward to that year. Generally, it should be included instead as an estimated revenue or "transfer-in" of other resources to the general fund for the budget year. These receivables and payables between funds should be paid off before June 30 of each year if possible. Alternatively, before June 30 the board may declare the transaction a transfer rather than a liability, thereby eliminating the receivables and payables.

Liabilities. Liabilities must be subtracted from cash and investments in calculating available fund balance. The general fund and other annually budgeted governmental funds have only current liabilities—those that fall due within a year. Enterprise and internal service funds include long-term as well as current liabilities. However, because North Carolina local governments budget and account for all funds on a modified accrual basis, which considers only

current liabilities, only current liabilities must be subtracted from cash and investments. Moreover, long-term liabilities, such as debt repayments due after the next budget year, will be met from revenues raised in those years, and available fund balance does not have to be reserved during the budget year to pay such liabilities.

The most common current liabilities are accounts payable, accrued payroll, employer and employee tax- and benefit-payment obligations, amounts due to other funds, and deferred revenues. Accounts payable is the amount owed for goods and services already received. Accrued payroll is the amount owed for work already performed by employees, and it exists at the end of a year when a payroll period extends into the following year. Employee tax- and benefit-payment obligations arise from federal and state income taxes, social security taxes, employee retirement systems, health insurance plans, and other employee benefit programs.

The general and other funds of a unit may owe money to one another at the end of a year. Each of these is recorded as a *due to*. Amounts due to other funds are liabilities and therefore must be subtracted from cash and investments in calculating available fund balance.

Encumbrances. Encumbrances are created by purchase orders and other contracts for goods or services that have yet to be fulfilled by delivery of the goods and services. Because they have not been fulfilled, the value of the purchase orders and contracts may not be counted as expenditures or as liabilities. Instead, they must be recorded as encumbrances, which will become expenditures when the goods are delivered or the services are performed.

In the past, most units charged encumbrances outstanding at the end of a year to the budget for that year. The statutory formula for fund balance accommodated this practice by requiring units to reserve enough cash and investments at year's end to cover the outstanding encumbrances. The amount represented by this reserve was held back for the budget in the year just ending and was not available to finance expenditures in the coming year's budget.

Procedure 25 of the Local Government Commission's *Uniform Accounting System: Systems and Procedures Manual* provides that, with certain exceptions, encumbrances outstanding at the end of a year should be charged to the next year's budget. Most North Carolina units follow this procedure. When this is done, the money reserved for encumbrances should be carried forward as a separate financial resource for the coming year's budget. In effect, the reserve for encumbrances is a financial source. Therefore, when encumbrances are handled in this way, available fund balance should exclude encumbrances outstanding at year end. These funds are available for appropriation but only to pay for the encumbrances that existed at year end.

Deferred revenues. Deferred revenues are classified as a liability on the balance sheet. They are offsetting or balancing accounts (1) to taxes and other revenues that are collected in advance of the year in which they are due and (2) to taxes receivable (but not yet collected) from current and past years.

Deferred revenues arising from *taxes and other revenues collected in advance* are deferred revenues arising from cash receipts. Such deferred revenues present at the end of a fiscal year must be deducted from end-of-year cash and investments in calculating available fund balance. These revenues will be available for budgets in coming years. However, the statute governing calculation of available fund balance requires that they be counted among estimated revenues for those years rather than as part of available fund balance.

Because deferred revenues attributable to *taxes and other revenues receivable* are recorded as liabilities, the question might arise whether they should be subtracted from cash and investments in calculating available fund balance. Such a deduction is not necessary, because they are an offset to taxes receivable rather than to cash and investments with which the statutory calculation of available fund balance begins (except for school systems, which must subtract all deferred revenues from cash and investments).

Designating and Budgeting Available Fund Balance

Designations. Once available fund balance is calculated, a portion of it can be designated for special "nonbudgetary" purposes. For instance, some cities and counties accumulate available general fund balance from year to year as a capital reserve to finance future capital improvements. Although the statutes do not preclude this practice, they authorize a different procedure for cities and counties—such moneys can be transferred into a separate capital reserve fund.[5] Still, many units designate a part of available general fund balance as a capital reserve to maintain flexibility in the use of the accumulated moneys—if officials later wish to divert some or all of this money to finance operating expenditures, they are free to do so. Once moneys are placed in a separate capital reserve fund, they can be spent only for capital purposes.[6]

Many units have started self-insurance programs or have joined insurance pools established by the North Carolina League of Municipalities, North Carolina Association of County Commissioners, or North Carolina Public School Boards Association. In doing so, some units have designated portions of their available fund balances as self-insurance reserves, while others have set up separate self-insurance reserve funds.

Units may designate portions of available fund balance for other purposes as well. For example, they may designate a part of fund balance to cover a planned mid-year budget amendment to create a new program. There are no legal restrictions on the purposes for which available fund balances may be designated, as long as those designations are for activities that local governments or school systems are authorized to undertake.

Appropriated fund balance. Once the available fund balance is calculated and any designations are deducted, the unit must decide how much of the remaining balance will be appropriated to the coming year's budget and how much will be held back as "unbudgeted" or "unappropriated" fund balance. With one exception, the statutes give local officials full discretion in deciding how much available fund balance to appropriate. The exception arises from the balanced-budget provisions of the Local Government Budget and Fiscal Control Act and the School Budget and Fiscal Control Act.[7] The local government act's provision states: "A budget ordinance is balanced when the sum of estimated net revenues and

appropriated fund balances is equal to appropriations." If appropriations for expenditures exceed estimated revenues and if, for political or other reasons, appropriations cannot be cut and revenues cannot be raised, this statute, by implication, requires the appropriation of enough available fund balance to balance the budget. Except in this situation, local officials may appropriate all, none, or some portion of available and undesignated fund balance.

If available fund balance originates from a legally restricted revenue collected but not spent in a prior year, it may be appropriated and spent only for the purposes for which the restricted revenue may be spent. For example, if some appropriated fund balance in a city's general fund is attributable to prior years' gasoline tax revenue, which is earmarked by law for street and road improvements, it may be spent only for such improvements.

In the balance sheet that appears in a unit's annual financial report, appropriated fund balance is typically designated by the label *fund balance designated for subsequent year's expenditures.*

Unappropriated fund balance. The amount of available fund balance that is not budgeted is usually called unappropriated fund balance. This term originates from common usage. It is not found in the general statutes, and it does not arise from generally accepted accounting principles.

After enactment of the budget, unappropriated fund balance is equal to available fund balance minus designations and appropriations. During the fiscal year, unappropriated fund balance can be decreased by budget amendments that appropriate part of it. Unappropriated fund balance cannot be increased during the year above the amount shown in the annual financial report, except by budget amendments that reduce appropriated fund balance and correspondingly increase estimated revenues or reduce appropriations for expenditures.

During the year, if actual tax and revenue collections exceed the estimates shown in the budget, the extra revenues are recorded as revenues rather than as additions to unappropriated fund balance. And if actual spending is less than the appropriations, no portion of the underspending lapses to fund balance until the end of the year. At the end of the year, available fund balance is recalculated, and it includes any unspent appropriations that lapsed and revenues collected that were not included in the budget or that exceeded budgeted revenues for the year.

Contingency Appropriations. Unappropriated fund balance serves in part as an operating reserve for the budget. However, an alternative to relying on unappropriated fund balances for this purpose is to use a contingency appropriation. The local government and school budget and fiscal control acts explicitly authorize contingency appropriations but limit them to 5 percent of "all other" appropriations in a fund.[8] Because officials generally consider 5 percent too little for an operating reserve and because Local Government Commission (LGC) staff members recommend a minimum operating reserve of 8 percent of expenditures for tax-levying units, local units generally maintain operating reserves in unappropriated fund balance rather than in, or in addition to, contingency appropriations.

Internal service funds. Some units keep significant unappropriated fund balances in one or more internal service funds.[9] The general statutes authorize such funds for services that are provided by one part of a unit to other parts—for example, a central garage. An internal service fund may be budgeted in the annual budget ordinance or, if the governing board adopts a separate financial plan for the fund,[10] it may be removed from the annual budget. Such a fund may have its own unappropriated fund balance to finance replacements of equipment or other major expenditures in future years. According to generally accepted accounting principles, however, such a fund should generally operate on a cost reimbursement basis and should not build available fund balances beyond the fund's needs.

State Guidelines

LGC staff members review annual financial reports of all local units and school systems pursuant to statutes that require the LGC to oversee the annual independent audit and generally to regulate local government finance. One of many procedures performed to verify that the reports present information fairly is to calculate the available general fund balance as of the end of the fiscal year. In this way, staff members identify units that have less than minimal balances, and officials in these units are advised to build fund balances at least to a minimal level. If the situation is serious enough, this advice is given in writing.

Minimum recommended balance

The most basic LGC staff guideline is that counties and cities should have an available general fund balance of at least 8 percent of general fund expenditures at the end of the fiscal year. This is considered to be a *minimum* level—a floor below which the balance should not fall. To calculate whether the minimum is met, LGC staff members divide available general fund balance at the end of a fiscal year by general fund expenditures for that year, using the figures in the annual financial report. It would be better if the 8 percent minimum were calculated by dividing the available general fund balance at the end of the year by budgeted expenditures for the next year, not for the year just ended. LGC staff members cannot do this, because they do not have access to budgeted expenditures for the next year, but local officials can use this alternative method in preparing the budget.

Eight percent of annual expenditures is roughly equal to one month's operating expenditures. For most counties and cities, that is probably just enough of a reserve to enable a unit to pay current obligations on time and to meet cash-flow needs that recur monthly. It is unlikely to be enough to meet unforeseen needs or to take advantage of opportunities that require significant amounts of cash. A larger reserve may be needed also because of the cash-flow problems that many counties and cities face. Because most taxpayers do not pay their property taxes until December, cash receipts may be insufficient to cover cash disbursements for the July-to-December period. Such units risk not having enough cash during this period to pay obligations when they are due if they have only the minimum balance and no other operating reserves.

Although a city or county may resort to tax- or revenue-anticipation borrowing to fund a cash-flow shortfall, this is

Table 1
Average Available Fund Balances of Counties, Cities, and School Systems, June 30, 1987 (in Thousands of Dollars)

Type of Unit by Size[a]	Number of Units[b]	Average Available Fund Balance[c]	Average 1986–87 Expenditures[c]	Average Balance As a Percentage of Average 1986–87 Expenditures
Counties				
All	98	$ 4,599	$23,318	20%
100,000 or more	15	14,448	81,828	18
50,000–99,999	28	4,720	22,014	21
25,000–49,999	26	2,301	11,610	20
Under 25,000	29	1,448	4,809	30
Cities—non-electric				
All	415	676	2,007	34
50,000 or more	7	14,810	69,680	21
10,000–49,999	20	2,697	6,965	39
2,500–9,999	77	782	1,580	50
1,000–2,499	106	323	519	62
500–999	101	191	175	109
Under 500	104	89	109	82
Cities—electric				
All	69	982	3,814	26
50,000 or more	3	4,785	24,565	19
10,000–49,999	16	2,325	8,608	27
2,500–9,999	24	512	1,732	30
1,000–2,499	14	187	562	33
500–999	7	163	257	63
Under 500	5	40	96	42
School systems				
All	135	581	7,324	8
12,000 or more	24	1,652	25,921	6
6,000–11,999	32	432	5,568	8
3,000–5,999	43	390	3,144	12
Under 3,000	36	226	1,481	15

Source: The data in this and the following tables were compiled by LGC staff members from the audited 1986–87 annual financial reports that counties, cities, and school systems must submit to the LGC.

[a]For counties and cities, the measure is population; for school systems, it is enrollment.

[b]The coverage of units for each type of government in this table and in tables 2 and 3 is nearly complete. Units for which data are missing had not submitted their audited 1986–87 annual financial reports to the Local Government Commission by the time data for this study were compiled in March, 1988.

[c]For counties and cities, the average available fund balances and expenditures are for their general funds. For school systems, they are for the system's local current-expense funds.

extremely rare in North Carolina. The LGC considers the maintenance of an adequate fund balance a superior way to fund cash-flow needs for several reasons. First, tax- or revenue-anticipation borrowing results in issuance costs and interest expenses that otherwise could be avoided. Second, although the statutes require repayment of this kind of debt within thirty days of the close of the fiscal year,[11] use of such debt presents the spector of local units converting such short-term borrowing into long-term debt, as some units in other states have done. Furthermore, bond rating agencies may frown on short-term borrowing for tax- or revenue-anticipation purposes.[12]

Having an available fund balance that is less than the recommended minimum could have an adverse impact on a unit's credit rating, causing it to pay more in interest when issuing bonds. Although available fund balance is only one factor that the bond rating agencies consider in assigning a rating, it is one of the more important factors.[13] Moreover, a less-than-minimum balance can indicate other financial problems.

Adequate recommended balance

LGC staff members recommend that counties and cities generally have more than the minimum available general fund balance. What, then, is an *adequate* available general fund balance to meet operating needs, cash-flow shortfalls, and unforeseen needs and to take advantage of unexpected opportunities?

LGC staff members consider the average available general fund balance of comparable-sized North Carolina counties or cities to be a good guide to what is adequate. Table 1 shows average fund balances by size and type of unit as of the end of fiscal year 1986–87. A later section discusses the implications of the data for each type of unit.

LGC staff members recommend that local officials also consider the central range about this average. For units of a particular type and size, half the units fall within this range and half outside it. For example, the central range for non-electric cities with populations between 10,000 and 49,999 is 18 to 53 percent (see Table 2, page 38); half of these cities have balances between 18 and 53 percent of general fund expenditures.

Generally, LGC staff members consider a percentage near the lower end of the central range for comparable-sized units to represent a *minimally adequate* available general fund balance. This is ordinarily enough to provide an operating and cash-flow reserve to cover a limited amount of unforeseen needs. However, as Table 2 shows, the lower end of the central range for certain classes, such as electric cities with populations of 50,000 or more and those with populations of 1,000 to 2,499, is less than 8 percent of expenditures. Therefore, in these cases the lower end of the central range is not a good indicator of a minimally adequate fund balance.

In determining whether the available general fund balance of a particular unit is adequate, LGC staff members consider not only that balance but also available balances in other funds. For example, a city might have an available general fund balance equal to only 8 percent of expenditures but have a substantial uncommitted balance in its water-sewer fund that could be transferred to the general fund. The unit's overall fund balance position would be considered. But even if one or more other funds have large available balances, the general fund still should have an available balance of at least 8 percent of expenditures. That amount

Table 2
Central Range for Available General Fund Balances
As a Percentage of Expenditures, June 30, 1987

Type of Unit by Size	Central Range
Counties	
100,000 or more	14–24%
50,000–99,999	11–31
25,000–49,999	12–27
Under 25,000	16–43
Cities—non-electric	
50,000 or more	19–23
10,000–49,999	18–53
2,500–9,999	25–66
1,000–2,499	30–104
500–999	48–168
Under 500	66–362
Cities—electric	
50,000 or more	6–38
10,000–49,999	17–37
2,500–9,999	13–39
1,000–2,499	6–45
500–999	46–67
Under 500	24–58

Source: These central ranges were calculated by LGC staff members from fund balance and expenditure data appearing in units' audited annual financial reports for 1986–87.

is needed to serve as an operating and recurring cash-flow reserve, and ordinarily moneys should not be drawn from other funds to provide operating capital for the general fund.

School systems

School systems do not need available operating fund balances as large as those of counties and cities, for several reasons. First, as already mentioned, school systems receive most of their operating revenues in monthly installments or as needed to match cash disbursements and therefore do not need large balances to cover cash-flow shortfalls. Second, if a school system confronts an unexpected need requiring expenditures in excess of its available balance, it can turn for additional funds to the county, which is responsible for providing them if the need is legitimate. On the other hand, because counties and cities are tax-levying entities with authority to incur debt, they are expected to stand on their own fiscally and therefore need to maintain significant fund balance to meet major unforeseen needs. Third, school systems, unlike counties and cities, must finance all capital improvements and outlays from their capital outlay funds, and their current expense funds may not include moneys for capital outlays. Finally, because counties, not school systems, issue bonds for school capital improvement projects, the bond rating agencies do not rate the school systems. Consequently, school systems can carry smaller balances than those recommended by the rating agencies without risking a lower rating.

What then is an adequate level of available current expense fund balance for school systems? Most school systems can operate with a balance equal to about 8 percent of current expense fund expenditures. This should be enough money to provide needed operating or working capital and to finance modest unforeseen needs. Larger school systems spending more than $20 million annually for current expenses probably can be safe with a relatively smaller balance than smaller systems spending only several million dollars for current expenses and having only limited resources for financial management.

LGC staff members generally recommend that school systems *not* accumulate large available fund balances for future capital improvements. Although school systems expend large sums of money for capital improvements and outlays from their capital outlay funds, LGC staff members recommend that counties transfer this money to the school systems as the expenditures are made. If large fund balances are needed for future school capital purposes, the statutes suggest that counties, rather than school systems, hold the moneys. Counties have express legal authority for capital reserve funds,[14] while school systems do not. The statutes require that unspent sales tax revenue earmarked legally for school construction or retirement of school debt be kept in county capital reserve funds.

Inadequate balance

Negative available fund balance. Under the statutes, a negative available fund balance exists when the sum of cash and investments is exceeded by the sum of (current) liabilities, encumbrances, and deferred revenues arising from cash receipts (all deferred revenues for school systems). As of June 30, 1987, one county, six non-electric cities, and five electric cities had negative available general fund balances, and fourteen school systems had negative available balances in their local current-expense funds. These negative balances ranged from 1 to 22 percent of 1986–87 expenditures.[15]

Fund deficit. A fund deficit occurs when the liabilities of a fund exceed its assets, which indicates extremely serious financial problems. When a deficit exists in a budgeted fund at the end of a fiscal year, the statutes require the local governing board or school board to appropriate sufficient moneys in the coming year's budget to cover the full amount of the deficit.[16] However, the School Budget and Fiscal Control Act absolves the board of county commissioners from having to fund a school system deficit incurred in violation of that act or of rules and interpretations issued pursuant to it.[17]

Overappropriation. An overappropriation of fund balance occurs when the amount of fund balance appropriated exceeds the amount that is available for appropriation at the close of the prior fiscal year. One county, four non-electric cities, two electric cities, and five school systems appropriated more fund balance than was actually available on June 30, 1987.[18]

Overappropriation of fund balance is

Table 3
Counties, Cities, and School Systems Distributed by
Size of Available Fund Balance Relative to Expenditures, June 30, 1987

Type of Unit by Size[a]	Number of Units	Available Fund Balance As a Percentage of 1986–87 Fund Expenditures						
		Under 10%	10%–19%	20%–29%	30%–39%	40%–49%	50%–99%	100% or more
Counties								
All	98	17	31	22	12	8	8	0
100,000 or more	15	3	5	4	1	1	1	0
50,000–99,999	28	6	9	5	4	2	2	0
25,000–49,999	26	5	10	5	5	0	1	0
Under 25,000	29	3	7	8	2	5	4	0
Cities—non-electric								
All	415	18	30	42	37	36	92	160
50,000 or more	7	0	3	3	0	1	0	0
10,000–49,999	20	1	5	3	0	3	7	1
2,500–9,999	77	5	7	14	10	12	19	10
1,000–2,499	106	3	10	13	13	10	26	31
Under 1,000	205	9	5	9	14	10	40	118
Cities—electric								
All	69	13	12	13	11	7	9	4
50,000 or more	3	1	1	0	1	0	0	0
10,000–49,999	16	3	4	3	3	1	2	0
2,500–9,999	24	4	5	6	4	2	2	1
1,000–2,499	14	4	1	3	2	2	1	1
Under 1,000	12	1	1	1	1	2	4	2
School systems								
All	135	63	42	18	6	3	3	0
12,000 or more	24	12	6	4	1	0	1	0
6,000–11,999	32	20	8	4	0	0	0	0
3,000–5,999	43	18	15	7	1	1	1	0
Under 3,000	36	13	13	3	4	2	1	0

Source: Same as Table 1.

Note: For general funds of counties and cities and for current expense funds of school systems.

[a]For counties and cities, the measure is population; for school systems, it is enrollment.

a violation of the statutes.[19] It typically occurs when available fund balance is very low and when officials either do not understand the statutory formula for calculating available fund balance or are overly optimistic in making budget forecasts. When there is an overappropriation, the law and LGC policies require correction by a budget amendment that either increases estimated revenues (provided the additional revenue will actually be forthcoming) or reduces appropriations.

LGC staff guidelines are designed to help local units avoid negative available fund balances, fund deficits, and overappropriation of fund balance. If a unit has a negative available fund balance or overappropriates fund balance, the audit review letter prepared by LGC staff members and sent to the governing board strongly urges the board to correct the problem immediately. If the problem is not corrected in a timely fashion, LGC staff members may be sent to work with local officials. If this still does not work, and if there is a risk that debt service payments will not be made, the LGC has authority to take action on its own, including the levying of additional property taxes. In nearly sixty years of operation, the LGC has never had to take unilateral action to correct fund balance or other fiscal problems in a local government.

North Carolina Units

Fund balance data for counties, cities, and school systems are presented in tables 1 through 3 by size and type of unit. As noted earlier, Table 1 shows average available fund balances on June 30, 1987, as percentages of average 1986–87 expenditures for county and city general funds and for school system local current expense funds. Cities with municipally owned electric systems (*electric cities*) are shown separately from cities without them (*non-electric cities*). Central ranges, discussed earlier, are shown in Table 2. Table 3 distributes individual units by relative size of available fund balance.

Counties. For all counties, the average balance equaled 20 percent of average expenditures, and the average balance was close to this percentage in all population classes except the smallest one (populations less than 25,000), where it equaled 30 percent of average expenditures (see Table 1).

The overwhelming majority of North Carolina's counties were carrying at least "minimal" balances (see Table 3). Eighty-one counties had balances of at least 10 percent of expenditures. Of the remaining seventeen counties, five had

balances that were 8 to 9 percent of expenditures, just meeting guidelines for minimum available general fund balance. Fifty-three counties had balances that ranged from 10 to 29 percent of expenditures—a range that can be considered adequate for operating purposes. A large county with sophisticated financial management that is experiencing only average growth can probably manage with a balance toward the lower end of this range. However, a small county with only limited resources for financial management or a large one that is experiencing rapid growth would probably want to maintain a balance for operating purposes near 20 percent of expenditures, or, in some cases, closer to 30 percent. For small counties, an available fund balance that is large in comparison to expenditures still may not be very large in relation to unexpected expenditures that might be required.

Twenty-eight counties had balances that were greater than what is generally considered to be the maximum needed for operating purposes alone—30 percent or more of expenditures. Counties of all sizes were represented in this group, although eleven of them had populations of 25,000 or less. At least some (and probably many) of the twenty-eight counties had accumulated large balances in anticipation of future capital improvements. Several maintained them to have the resources to meet any emergency or unforeseen need, or to increase investment income and hold down the property tax rate.

Cities without municipal electric systems. Of all the units studied, these had the largest available general fund balances relative to expenditures: an average of 34 percent of expenditures (see Table 1). The largest non-electric cities, those with 50,000 or more people, had average balances of the same relative size as the larger counties—about 20 percent of expenditures. The non-electric units below 1,000 in population had extraordinarily large balances. For units with 500 to 999 people, the average balance was 109 percent of average expenditures, and for units with less than 500 people, it was 82 percent of average expenditures. Moreover, as many as 118 of the 205 units with less than 1,000 population had balances equal to 100 percent or more of expenditures.

Although the balances of small non-electric units were exceptionally large relative to expenditures, the balances in actual dollars were modest: $191,000 on average for units with 500 to 999 people and $89,000 on average for units with less than 500 people.

A very strong inverse relationship was found between the size of non-electric cities and their balances as a percentage of expenditures—that percentage constantly increased as the population decreased. Also, as shown in Table 3, the number of units in each percentage category exceeding 30 percent of expenditures generally increased as size decreased.

Some of the relatively large balances in the small non-electric units are being accumulated to fund future capital improvements, but most of them are probably the result of a felt need on the part of officials to provide substantial reserves for operating purposes and unforeseen needs. These balances are not especially large in relation to the major unforeseen needs that a unit of this size must occasionally face. Of course, some of these units—perhaps about fifty—are inactive, or relatively so, and for them state-shared or other revenues accumulate faster than the units can spend the revenues.

Relatively few of the non-electric cities had balances that were minimal or inadequate. Only eighteen (4 percent) of the units had balances that were less than 10 percent of general fund expenditures, compared with seventeen of the ninety-eight counties that had balances that low.

Cities with municipal electric systems. The electric cities had an average available general fund balance equal to 26 percent of average 1986–87 expenditures (see Table 1), a percentage that was less than the corresponding percentage for the non-electric cities (34 percent) and more than that for the counties (20 percent). Except for the largest cities (population of 50,000 or more), the electric cities had balances that were much smaller than the non-electric cities. Moreover, this difference was more pronounced in the smaller units. On the other hand, some electric cities had very substantial balances—thirteen of sixty-nine electric units had balances of 50 percent or more of expenditures, and another eighteen had balances between 30 and 49 percent (see Table 3).

The generally smaller balances in the electric cities can be attributed mainly to their municipally owned electric utilities. The utilities generally produce large cash surpluses, significant portions of which are transferred to the cities' general funds. These transfers are made regularly throughout the year, typically monthly, which lessens the need for large general fund balances. Indeed, even if an electric city does not transfer any electric-system surplus to the general fund, its presence tends to cause officials to be comfortable with a smaller general fund balance.

Relatively more non-electric units had minimal or less-than-minimal balances. Thirteen of the sixty-nine electric units had balances of less than 10 percent of general fund expenditures. In comparison, eighteen of the 415 non-electric units (only 4 percent) had balances that small. Again, the presence of profitable electric utilities and their contributions to the general funds in electric cities probably explains most of this difference.

Public school systems. North Carolina's public school systems had relatively modest available balances in their local current expense funds. For all school systems, the average balance on June 30, 1987, equaled 8 percent of average 1986–87 expenditures (see Table 1).[20] Moreover, sixty-three of the 135 school systems (47 percent) had balances that were less than 10 percent of expenditures (see Table 3).

The larger school systems maintained relatively less available balances in their current expense funds than the smaller ones. The average balance was 6 percent of expenditures for systems with enrollments of 12,000 or more students, but 15 percent for systems with less than 3,000 students (see Table 1). This difference reflects in part the fewer resources that smaller systems have for financial management.

Summary. According to these data, the overwhelming majority of our counties and cities have adequate to very substantial fund balances, and most school systems in the state have adequate current expense fund balances. The fact that our local governments

have generally carried at least adequate fund balances has contributed to their strong fiscal condition and the very good reputation that they have for sound financial management. ❖

Notes

1. N.C. Gen. § 159-8(a). Hereinafter the General Statutes will be cited as G.S.

2. G.S. 115C-425(a).

3. Cash should not include money that a local government places on deposit with a bank or agent to make debt service payments, unless such payments are included among the liabilities deducted from cash and investments in the calculation.

4. If a unit does not accrue the August sales tax distribution as a revenue in the year prior to the budget year, it is not recorded as a receivable at the end of the prior year and would be included among estimated revenues in the budget year.

5. G.S. 159-18 through -22.

6. Because cities and counties may establish capital reserve funds only for purposes for which they may issue bonds, moneys in a capital reserve fund, like bond proceeds, may be spent only for capital purposes except in emergency situations—for example, to meet an emergency threatening public health and safety [attorney general's opinion, 19 March 1982].

7. G.S. 159-8(a) and 115C-425(a).

8. G.S. 159-13(b)(3) and 115C-432(b)(3)

9. Internal service funds are explicitly authorized for cities and counties under G.S. 159-26(b)(5). Although there is no explicit statutory authorization for school systems to establish such funds, they may do so under generally accepted accounting principles.

10. G.S. 159-13.1. School systems may not adopt separate financial plans for internal service funds.

11. G.S. 159-169 and -170

12. Standard & Poor's, *Debt Rating Criteria: Municipal Overview* (New York, 1986), 33.

13. Standard & Poor's, *CreditWeek* September 30, 1985:9.

14. G.S. 159-18 through -22.

15. This information is compiled from audited annual financial reports.

16. G.S. 159-13(b)(2) and 115C-432(b)(2)

17. G.S. 115C-429(d).

18. This information is compiled from audited annual financial reports.

19. G.S. 159-8(a) and 115C-425(a)

20. In calculating available fund balance, school systems, unlike counties and cities, must subtract deferred revenues arising from receivables from cash and investments. Did this difference in method of calculation affect the results in tables 2 and 3? Apparently not. We examined a subsample of twelve school systems to check for this. For ten of the systems, the 1986–87 financial report showed no deferred revenues attributable to receivables. Thus, available current expense fund balance for them would have been the same under either formula. Deferred revenues attributable to receivables in the other two systems were small enough to be immaterial.

Joseph Ferrell Awarded Albert Coates Professorship

Allen Weed/UNC Photo Lab

Joseph S. Ferrell, an Institute of Government faculty member since 1964, has been named Albert Coates Professor of Public Law and Government. This chair, formerly held by Philip P. Green, Jr., was endowed in 1979 by Paul and Margaret Johnson, who also endowed the Gladys Hall Coates professorship currently held by Warren Jake Wicker.

Ferrell is widely known among state and local officials for his teaching, research, and writing in a broad range of areas. His primary assignments are the property tax, especially legal aspects of listing and assessing property; and general county government, including the structure, powers, and duties of the board of county commissioners. In addition, he is known for his knowledge of and research in issues regarding the state constitution; the General Assembly, especially local legislation and local government representation; and legal aspects of public finance. Since 1986 he has been editor of the Legislative Reporting Service.

Like Albert Coates, founder of the Institute of Government, Ferrell has a strong devotion to the university and has been active in its governance since joining the faculty. He has been a frequent advisor to university officials and has served as a member of the Faculty Council and numerous university committees, including the Faculty Committee on University Governance, which he headed for several years.

A native of Elizabeth City, Ferrell attended The University of North Carolina at Chapel Hill, where he was elected to Phi Beta Kappa, and received his law degree there in 1963. He received the LL.M. from Yale University before joining the Institute of Government. ❖

Phil Green Retires from the Institute


UNC Photo Lab

At the end of December, 1988, Philip P. Green, Jr., Albert Coates Professor of Public Law and Government, retired from the Institute of Government after almost forty years of continuous service to North Carolina governmental officials and the general public. This year thus marks the end of an era. Green has been the state's pre-eminent expert in planning and zoning law. His publications have defined the topic; his teaching has inspired and informed attorneys, planners, and inspectors; and his consulting has enabled local governments to prevail in the controversies that have always characterized planning and zoning in this state.

Green came to the Institute of Government in 1949, fresh out of the Harvard Law School. While in school, he had considered the ideas and legal issues involved in community planning rather quaint and exotic—certainly not something he would ever want to become involved with permanently. But fortunately for all, his career was redirected in a serendipitous way. Albert Coates, the Institute's founder, convinced him that he should call North Carolina home and develop the field of local government planning.

Green's career has been marked by a series of firsts. Soon after he came to the Institute, he discovered that there were three professional planners employed by local governments in the entire state. In 1950 he organized the first regular meetings of professional planners in the state, leading to the formation in 1951 of the North Carolina section of the American Institute of Planners. During the same period, a growing number of cities had established planning boards and zoning boards of adjustment. In 1952 Green organized a series of regional conferences for those boards, the first training of this sort to be offered in the state. Some of the growing number of professional planners also needed training, and in 1954 he organized and conducted the first short course in city planning techniques for planners on the job. A few years later, in the spring of 1958, he and Robert Stipe, a former Institute faculty member, organized and conducted the First Annual North Carolina Planning Conference. In so doing, he began a tradition that has been repeated every year.

In 1963 his work in teaching, research, and writing was recognized by his selection as a Fulbright fellow to study at the London School of Economics and Political Science. The fellowship offered a wonderful opportunity to learn about the British planning system, to pursue some special research interests, to reflect on his career, and to return to North Carolina with renewed energy to educate North Carolinians about planning and land-use matters.

Another highlight in Green's career came in 1980 when he was the first faculty member to be named Albert Coates Professor of Public Law and Government. This endowed chair was also the first such chair established at the Institute of Government.

Green's contribution to planning and planning law have come in many forms. A conscientious and energetic teacher, he has taught in over 600 courses, programs, and conferences for North Carolina officials and staff members. He taught the planning law course in the Department of City and Regional Planning no less than twenty-two times. He also has done his share of teaching for groups that may have attracted less attention. He organized courses and wrote manuals for housing inspectors, building inspectors, and zoning administrators when others in the planning, legal, and academic community were ignoring these groups.

Green's influence on the North Carolina General Statutes has been substantial. He has had some responsibility in drafting over 100 bills enacted by the General Assembly. Perhaps his most significant legacy is the development of the state's planning and development control enabling legislation, adopted with respect to municipalities in 1971 and to counties in 1973. That legislation authorizes local governments to zone, enforce the State Building Code, adopt subdivision regulations, and engage in a wide range of planning and regulatory activities. The portion of that legislation that defines the extraterritorial planning jurisdiction of cities and allows cities and counties to define their respective planning jurisdictions by agreement is recognized as a model.

In the summer of 1988 the North Carolina Supreme Court vindicated another idea bearing Green's stamp. In Chrismon v. Guilford County [322 N.C. 611, 370 S.E.2d 579 (1988)], the court upheld Guilford County's use of conditional-use district (CUD) zoning. This technique (also called special-use district zoning) allows local governing boards to combine in one procedure the discretion that derives from the zoning amendment power with the control that conditional-use permits provide. Green developed the technique, which is now used in Charlotte, Mecklenburg County, Winston-Salem, Forsyth County, Greensboro, and a number of other North Carolina local governments.

Yet it is as a coach and advisor that Green's influence may have been the greatest. He has not merely informed but also guided and inspired. He has prodded, cajoled, assisted, commiserated, and laid down the law—but always with perspective and good humor. One of his contributions has been simply to energize those of us in planning-related work: to give us the energy to do what needs to be done, to make us remember that ours is important work and well worth doing. If the greatest use of a life is to spend it for something that outlasts it, his indeed is being well spent: the excellence of his work and his spirit and good humor will continue to influence us for years to come—*Richard D. Ducker*

Around the State

The Coming Reversal in Public School Enrollment Trends

Charles D. Liner
Institute of Government

During the 1970s and 1980s, public school enrollment declined steadily in North Carolina, and most school administrative units experienced substantial declines. Since the 1976–77 school year, statewide enrollment, as measured by average daily membership (ADM), has fallen almost 9 percent. Between that year and the 1987–88 school year, total ADM fell in 127 of the current 139 school units, and in more than half of the units ADM declined by more than 10 percent.

But this downward trend in statewide enrollment will be reversed, at least temporarily, during the 1990s. According to projections made by the Department of Public Education, by 1997–98 statewide ADM will be 10 percent greater than in 1987–88 and nearly equal to the peak enrollment of 1976–77 (see Figure 1).[1]

This projected reversal in statewide enrollment will not affect individual school units equally, however, and many school units will not have increased enrollments (see Table 1). Although forty-five of the state's 139 school units (32 percent) can expect increases in total ADM of 10 percent or more during the coming decade, forty-eight units (35 percent) will have lower total ADM in 1997–98 than in 1987–88, and an additional thirty-four units (24 percent) will have increases of less than 5 percent. While nine units can expect increases of 20 percent or more in total ADM, nine units are expected to have decreases of more than 10 percent.

Although only fifty-seven (41 percent) of the state's school units can expect increases in total ADM of 5 percent or more during the next decade, many of the other units will also have to cope with increasing enrollments in the

Figure 1
North Carolina Public School Enrollment, 1973–74 to 1987–88 (Actual) and 1988–89 to 1997–98 (Projected)

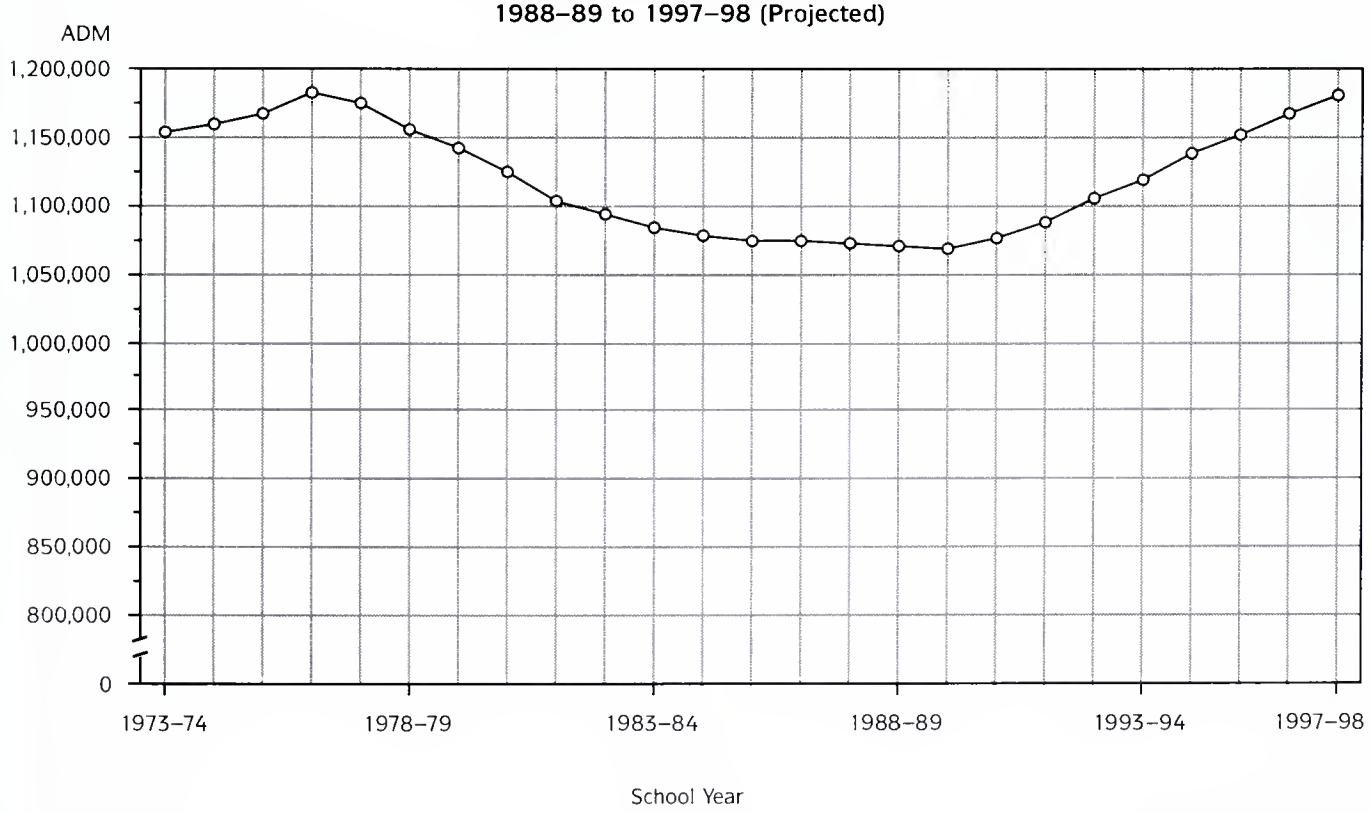


Figure 2
Annual Number of Births in North Carolina, 1945 to 1987 (Actual) and 1988 to 1992 (Projected)

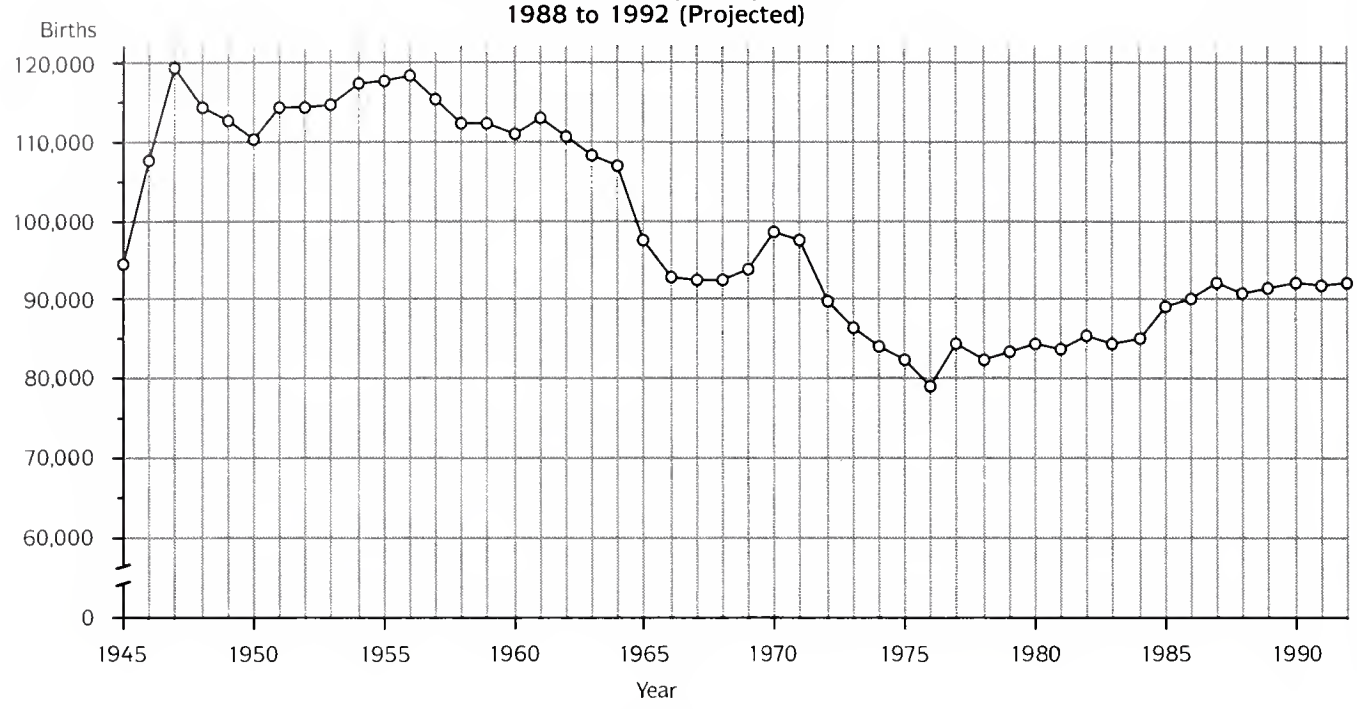


Table 1
Projected Percentage Change in Average Daily Membership in 139 School Units, 1987–88 to 1997–98

Increases of 20 percent or more:		Lee	12.2	Rutherford	2.4	Western Rockingham	-2.3
		Johnston	12.1	Bertie	2.3	Polk	-2.4
Dare	82.5	Union	12.1	Hertford	2.2	Greene	-2.6
Wake	37.9	Pamlico	12.1	Wayne	2.0	Shelby	-3.0
Onslow	32.5	Forsyth	11.8	High Point	1.9	McDowell	-3.0
Durham	27.9	Craven	11.7	Transylvania	1.4	Wilkes	-3.1
Chapel Hill–Carrboro	27.1	Carteret	11.0	Lumberton	1.4	Saint Pauls	-3.2
Mecklenburg	23.8	Lincoln	11.0	Scotland	1.3	Tyrrell	-3.3
Alamance	21.9	Roanoke Rapids	10.9	Cleveland	1.3	Whiteville	-3.4
Currituck	21.6	Buncombe	10.9	Columbus	0.9	Clinton	-3.6
Randolph	20.1	Stanly	10.4	Stokes	0.4	Montgomery	-4.5
				Red Springs	0.3	Kings Mountain	-5.3
Increases of 10 to 20 percent:		Increases of 10 percent or less:		Martin	0.3	Surry	-5.6
				Robeson	0.1	Jackson	-6.0
Franklin	19.8	Cumberland	8.4	Camden	0.1	Swain	-6.1
Hendersonville	18.1	Watauga	8.4	Eden	0.1	Caswell	-6.1
Salisbury	17.9	Catawba	7.4	Macon	0.1	Yancey	-6.1
Brunswick	17.7	Asheville	7.2	Rockingham	0.1	Kinston	-6.8
Albemarle	17.4	Henderson	7.2	Weldon	0.1	Northampton	-7.2
Orange	16.8	Washington City	6.9	Goldsboro	0.1	Avery	-7.3
Asheboro	16.3	New Hanover	6.8	Statesville	0.0	Madison	-7.9
Pasquotank	15.6	Gaston	6.7			Jones	-8.9
Mooresville	15.6	Yadkin	6.0	Decreases of 10 percent or less:		Bladen	-9.1
Granville	15.5	Chatham	5.6			Sampson	-9.7
Iredell	15.4	Hoke	5.5	Caldwell	-0.2		
Durham City	15.3	Lexington	5.4	Halifax	-0.3	Decreases of 10 percent or more:	
Gates	14.9	Elkin	4.7	Monroe	-0.8		
Pender	14.9	Newton	4.4	Kannapolis	-0.9	Edgecombe	-10.4
Rowan	14.8	Burke	4.3	Cherokee	-0.9	Anson	-10.4
Perquimans	14.5	Haywood	3.9	Warren	-1.0	Fairmont	-10.7
Davidson	14.2	Person	3.8	Mitchell	-1.1	Beaufort	-11.2
Franklinton	13.9	Wilson	3.5	Burlington	-1.2	Hyde	-12.4
Harnett	13.4	Alexander	3.5	Reidsville	-1.3	Alleghany	-15.6
Pitt	13.2	Mount Airy	3.3	Washington	-1.3	Clay	-16.3
Guilford	13.1	Davie	3.1	Lenoir	-1.5	Ashe	-17.9
Nash	12.8	Hickory	3.0	Duplin	-1.5	Graham	-18.6
Cabarrus	12.8	Greensboro	2.8	Rocky Mount	-1.7		
Moore	12.3	Tarboro	2.8	Thomasville	-2.1		
Chowan	12.2	Vance	2.6	Richmond	-2.3		

Table 2
Summary of Percentage Changes in Actual and Projected Average Daily Membership (ADM) in 139 North Carolina School Units

Percentage Change	Actual Changes in Total ADM, 1983–84 to 1987–88[a]	Number of Units with Percentage Change: Projected Change in ADM by Grade Level							
		1987–88 to 1992–93				1987–88 to 1997–98			
		K–6	7–9	10–12	K–12	K–6	7–9	10–12	K–12
Increase									
30% or more	0	2	2	0	1	13	5	1	3
20% to 30%	1	4	2	0	0	16	8	0	6
10% to 20%	1	33	8	0	7	37	29	4	36
5% to 10%	9	24	23	0	24	20	18	9	12
0% to 5%	23	27	27	5	26	20	21	21	34
Percentage of units with projected higher ADM		64.7%	44.6%	3.6%	41.7%	76.3%	58.3%	25.2%	65.5%
Decrease									
0% to -5%	59	30	32	17	50	14	23	17	26
-5% to -10%	36	11	27	36	25	11	18	35	13
-10% to -20%	8	8	17	64	6	6	17	38	9
-20% to -30%	0	0	1	16	0	2	0	12	0
-30% or more	0	0	0	1	0	0	0	2	0
Percentage of units with projected lower ADM		35.3%	55.4%	96.4%	58.3%	23.7%	41.7%	74.8%	34.5%

Source: Projections made by the Department of Public Education.

[a]For 137 units. Figures for the Rockingham County and Western Rockingham districts do not reflect normal enrollment changes.

elementary grades and later in the middle and upper grades—sixty-six units (47 percent) can expect ADM in grades K–6 to increase by 10 percent or more, and eighty-six units (62 percent) can expect increases of 5 percent or more in these grades.

Underlying Trends

Because projected enrollment changes vary considerably among school units and at different grade levels, it is important for county and school officials to understand the underlying trends and how these trends may affect enrollments in their units.

The reversal in enrollment trends is the result of an increase in births that has occurred since 1976, as shown in Figure 2. However, enrollment trends in individual school units depend also on population growth trends, which vary considerably among units. Some units will have to accommodate not only the increased number of children born there in recent years but also the increased number of children who will move into the units with their families. Other units will not experience substantial in-migration or may actually lose population, and those units will be affected mainly by the increased births that have occurred within the unit in recent years.

Figure 2 shows the most basic trends underlying school enrollments in the period since World War II—the number of babies born in North Carolina since 1945. Birth trends in this period can be divided into three phases.

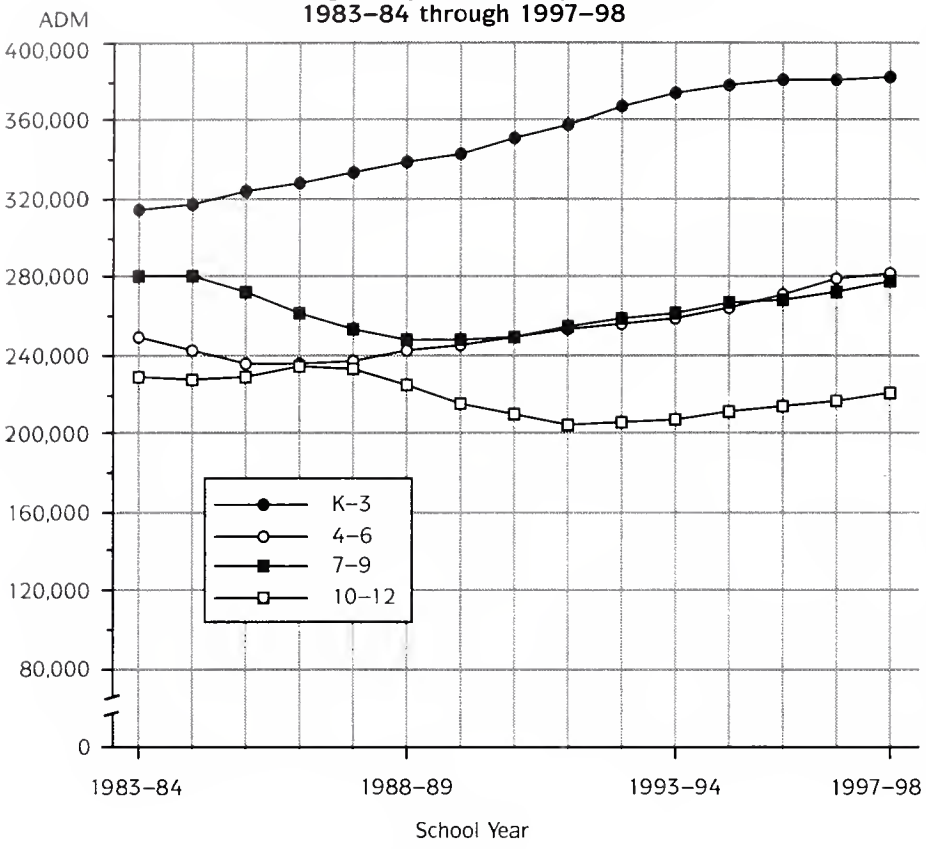
The first phase was the post-war baby boom, which began in the 1940s and lasted until about 1961. The second phase was the "baby bust"—births fell from more than 112,000 in 1961 to 80,000 in 1976, a drop of 29 percent. This drop occurred despite the large number of women born at the beginning of the baby boom who reached childbearing age during the 1960s. If these women had had the same birth rate as their mothers, they would have produced a secondary baby boom during the late 1960s and early 1970s. Instead, the birth rate dropped dramatically during that period, and the number of births each year fell precipitously.

The third phase began in 1977, when annual births began to increase. The birth rate stabilized somewhat during the late 1970s, and the large number of women born during the latter stages of the baby boom increased the number of women of childbearing age. By 1987 the annual number of births was about 16 percent above the low of 1976, increasing from 80,549 to 93,481.

When this third phase will end is an important question that has significant implications for the validity of enrollment projections for the mid- to late-1990s and particularly for school planning over the longer term. The enrollment projections for the latter part of the coming decade are based partly on a projection of births in years 1987 to 1992. For the state as a whole, births during those years are projected to increase slightly, as shown in Figure 2.

But that chart also shows that the number of women born each year fell dramatically after 1961. A woman born

Figure 3
Actual and Projected Changes in Statewide Average Daily Membership (ADM), 1983–84 through 1997–98



in 1961 would be in the early childbearing years during the early 1980s but statistically would be beyond the prime childbearing years in 1991 at age thirty. Population projections show how the baby bust will affect the number of women of childbearing age during the 1990s. Between 1990 and 2000, the statewide population age eighteen to thirty-four is expected to fall 5.3 percent.[2] And during that period eighty-two of the 100 counties are expected to see population in that age group fall, by an average of 9.5 percent.

It therefore seems likely that, barring a dramatic increase in birth rates or in-migration, this third phase is about to end and that we can expect the number of children born each year to fall during the 1990s.

Projected Enrollments by Grade Level

As Figure 1 shows, statewide total ADM is expected to fall until the 1990–91 school year and then increase in the years through 1997–98 (the last year covered by the projections). However, the trend varies with the grade level, as Figure 3 shows. ADM in grades K–3 will increase steadily until about 1993–94, when it will begin to level off. ADM in grades 4–6 will increase steadily throughout this period. Whereas ADM in grades 7–9 has been falling in recent years, it will begin to rise in 1990–91. ADM in grades 10–12 will continue to decline until 1991–92, after which it also will rise. Thus in the mid-1990s ADM at all grade levels will be rising.

Table 2 shows how many units can expect increases and decreases in ADM in the various grade levels for two periods—the five-year period 1987–88 to 1992–93 and the ten-year period 1987–88 to 1997–98. As Table 2 shows, the majority of school units (103, or 74 percent) had declines in total ADM during the five-year period before 1987–88, and a majority (eighty-one, or 58 percent) can also expect declining enrollments during the subsequent five-year period. However, only forty-nine (35 percent) of the units can expect declining ADM in grades K–6 during this period, and thirty-nine units (28 percent) can expect increases of 10 percent or more in those grades. Most units will have decreases in the higher grades. Seventy-seven (55 percent) of the units can expect declines in grades 7–9, and all but five (96 percent) can expect declines in grades 10–12. Of the latter, eighty-one units (58 percent) can expect ADM in grades 10–12 to fall by 10 percent or more.

As noted earlier, for the ten year period beginning in 1987–88, ninety-one units (65 percent) can expect increased total ADM. However, 106 units (76 percent) will have increased ADM in grades K–6, and in sixty-six of those units (47 percent of the total) the increases will equal 10 percent or more. On the other hand, a large number of units will have declines in grades 7–9 and 10–12 during the ten-year period. Fifty-eight units (42 percent) will see ADM in grades 7–9 fall, and 104 units (75 percent) will see ADM in grades 10–12 fall. Of the latter, fifty-two units (37 percent of the total) can expect declines of 10 percent or more.

The Longer Term

What will be the trend of statewide enrollments beyond 1997-98? This is an important question in planning school construction, of course, because schools built now will last well into the twenty-first century. As discussed earlier, the recent phase of increased births will probably end soon because, as a result of the baby bust of the 1960s and early 1970s, the number of women of childbearing age will fall. The enrollment projections already show elementary-grade enrollments leveling off during the mid-1990s. But the children born during the boom that began in 1977 will continue to increase upper-grade enrollments during the first decade of the next century—a child born in 1989, for example, will graduate from high school in 2007. ❖

1. The projections reported here were made by Evan Sun of the North Carolina Department of Public Education. Detailed projections are available from the department. Projected percentage changes by grade level can be found in Charles D. Liner, "Update. Public School Enrollment during the 1990s," *School Law Bulletin* 20 (Winter 1989): 1–8.

2. North Carolina Office of State Budget and Management, *North Carolina Population Projections: 1988–2010* (Raleigh, 1988).

Voting Rights Litigation Update

Michael Crowell
Tharrington, Smith & Hargrove

The Summer 1988 issue of *Popular Government* contained an article entitled "North Carolina Local Government after *Gingles*" (pages 15–20). It described recent litigation under the federal Voting Rights Act requiring local boards to change their methods of election. Later developments in one of those cases warrant this update.

The case concerns the Granville County Board of Commissioners. As reported in the article, the county's at-large election system had been conceded to deny black voters an equal opportunity to elect candidates. The remedy proposed by the county was to divide the county into seven single-member districts. The black paintiffs objected because only two districts with black majorities could be created even though black residents represented over 40 percent of the county's population.

The plaintiffs preferred, and persuaded the district court to order, a limited-voting remedy. The court ordered all commissioners to be elected at-large with each voter limited to two votes each election. That is, although four seats might be on the ballot at one time—the terms were staggered—an individual voter could cast only two votes. This procedure, the first time such a remedy had been ordered, was intended to provide proportional representation for minority voters.

Since the article was published, the United States Court of Appeals for the Fourth Circuit has reversed the district court's decision and ordered the district court to accept Granville County's plan [McGhee v. Granville County, 860 F.2d 110 (4th Cir. 1988)]. This decision is important for establishing (1) that the trial court must accept the local government's remedial election plan unless the plan itself violates the Constitution or Voting Rights Act and (2) that a districting plan can comply with the Voting Rights Act even though it does not provide proportional representation for black voters. The Granville plan was fairly drawn but could not provide more black-majority districts, because the minority population was too dispersed. The decision also reduces the chances that successful Voting Rights Act challenges can be brought against at-large election systems in counties where the black population is too small to draw a black-majority district. ❖

Update: Certificate of Achievement for Excellence in Financial Reporting

S. Grady Fullerton
Institute of Government

"How a Local Government Can Upgrade Its Financial Reporting," an article in the Fall 1987 issue of *Popular Government* (pages 27–31), described how units can achieve the Certificate of Achievement for Excellence in Financial Reporting. This annual award is the highest form of professional recognition for financial reporting and is granted through a program administered by the Government Finance Officers Association of the United States and Canada.

At the time that article was written, twenty-two North Carolina units had been awarded the coveted certificate for the previous fiscal year. An additional five units have now received it for their annual financial reports for the fiscal year ended June 30, 1987. Those units are Asheville City Schools, Davidson County, Lumberton, Salisbury, and the City of Wilson. Interest in the program has increased in recent years: as recently as 1984 only sixteen units received the certificate.

The following units received the certificate for their 1987 reports:

Counties:
- Buncombe
- Cabarrus
- Catawba
- Davidson
- Durham
- Forsyth
- Guilford
- Mecklenburg
- New Hanover
- Orange
- Transylvania
- Wake County

Cities:
- Asheville
- Cary
- Chapel Hill
- Charlotte
- Durham
- Greensboro
- Lumberton
- Newton
- Raleigh
- Salisbury
- Sanford
- Wilmington
- Wilson

School Systems:
- Asheville
- Charlotte-Mecklenburg

In Memoriam
Lewis Poindexter Watts, Jr.
1928–1989

Lewis Poindexter Watts, Jr., professor of public law and government and an assistant director of the Institute of Government, died in Chapel Hill on January 1, 1989, following a lengthy illness.

Dexter was a 1949 graduate of Wofford College in Spartanburg, South Carolina, where he earned an A.B. in English. Following two years service in the United States Army, he entered The University of North Carolina at Chapel Hill School of Law and received a J.D. with honors in 1957. While in law school he was associate editor of the *North Carolina Law Review* and a member of the Order of the Coif (an honorary law school society for academic achievement). Following graduation, Dexter joined the Institute staff as a research associate and was promoted to full professor in 1969.

His principal field was criminal law and procedure, and he provided research, consultation, and teaching for a broad range of students and clients, from wildlife officers to judges. Dexter also had a long-standing interest in laws concerning impaired driving and chemical tests for intoxication. He helped draft North Carolina's original implied consent (breathalyzer) law and was a member of the executive board of the Committee on Alcohol and Drugs of the National Safety Council. Other legislative research and drafting projects included work with the Criminal Code Commission, which drafted a new code of criminal procedure for North Carolina during the 1970s. Dexter also coauthored a book for wildlife protectors and wrote several law review articles, including one dealing with the administration of tests for intoxication.

For over two decades Dexter served as coordinator of training for North Carolina prosecutors and as their legal advisor. He organized and conducted the educational sessions of the North Carolina District Attorneys Association, which includes all elected district attorneys and assistant district attorneys in the state. He also conducted specialized legal seminars and drafted the district attorneys' legislative proposals for submission to the North Carolina General Assembly. Dexter was recognized as having established one of the finest prosecutor training programs in the nation and was widely admired for his extraordinary diligence in providing valuable training and offering sound legal advice whenever needed.

In recent years, it was probably the wildlife laws and wildlife protectors that received his closest attention. He spent endless hours over and above assigned classroom time working with the new wildlife recruits to ensure that they acquired adequate knowledge of the laws and regulations to perform their duties. And for present as well as former wildlife students, he was always available to answer legal inquiries or to research complicated legal issues. Dexter also devoted much of his time to rewriting and updating the statutes dealing with the conservation of marine and wildlife resources. His appearance before legislative committees dealing with these laws often drew very favorable news media and editorial comment.

Dexter's greatest love other than the law was music, particularly opera and the vocal arts. This strong interest was immediately apparent on entering his office, where one usually found him typing away while listening to classical music through large earphones. He also would go to Saturday afternoon ball games with his portable radio so that he would not miss the weekly performance of the Metropolitan Opera. Dexter supported the arts generously—not only local performing groups but also the major opera houses. He was a member of the inner circles of Chicago's Lyric Opera and the Metropolitan Opera Company and regularly flew to Chicago and New York for performances.

However, he gave to the performing arts far more than he received. His service on the Chapel Hill Board of the North Carolina Symphony was distinguished by his scholarly contributions to the program. Dexter's outstanding service on the board was recognized by his appointment in 1988 as a state symphony trustee. Appointed to a four-year term, Dexter was immediately chosen for the board's Artistic Committee. Except for the conductor and artistic director, no one brought to this committee greater knowledge of the orchestral repertoire than he.

For the last few years of his life, Dexter suffered from a debilitating illness, which he seldom acknowledged and to which he never surrendered. His steadfastness and tranquility in the face of such adversity marked him as a truly unique individual.—*Ben F. Loeb, Jr.*

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