

News from This Week's *NewsBreak!*

March 10, 2010

New EPA Lead Regulation in Effect>>

Under a new U.S. Environmental Protection Agency (EPA) rule, effective April 22 2010, all renovation work in apartments, child-care facilities and schools built before 1978 must be performed by an EPA-certified construction firm using workers trained and certified to follow the lead-safe work practice requirements of EPA's Lead-Based Paint Renovation, Repair and Painting (RRP) program. (In North Carolina, this ruling already took effect January 1, 2010.)

Specifically, the ruling requires anyone who is paid to perform work that disturbs paint in "target" housing and child-occupied facilities to have successfully completed an eight-hour initial "renovator" training course taught by an accredited training provider; the certified individual must then complete an accredited refresher course every 5 years. Those with prior relevant EPA or U.S. Department of Housing and Urban Development (HUD) training need only complete a refresher course.

Because the term "renovation" is broadly defined by the Lead-Based Paint RRP program, many contractors (*ie: general contractors and specialty trade contractors such as painters, carpenters, plumbers and electricians*) who aren't generally considered "renovators," are considered renovators under the program and therefore must follow the rule's requirements. Contractors who fail to comply could face penalties of up to \$37,500 per day per violation.

To get a list of EPA-accredited training providers in your state, [click here](#).

If more information on this or any other safety standards contact your CAGC safety director Kenny Boggs at 704-372-1450 ext. 5249 or kboggs@carolinasagc.org.

Shift Happens: Trends & Issues Affecting Our Industry>>

For members who missed CAGC's Annual Convention, view the well-received [slide-show presentation](#) by FMI's Mike Clancy, "Shift Happens." [Click here](#) for an introductory video.

Is Your Bank at Risk?>>

(From msnbc.msn.com) The number of banks with risky levels of bad loans rose only slightly in the last quarter of 2009, partly because the FDIC closed so many failing banks, according to federal data analyzed by the Investigative Reporting Workshop at American University in Washington. Here are [four ways to check your financial institution](#).

[Read the full article here](#).

Former CAGC Chair Named Charlotte Woman of the Year>>

Congratulations to 2008 Carolinas AGC Board of Directors Chair Pat Rodgers, chief executive of [Rodgers Builders Inc.](#), for being named the 2009 Charlotte Woman of the Year. The award was presented in partnership with Bank of America Corp., Duke Energy Corp., Levine Museum of the New South, Goodrich Corp., AT&T Inc. and the Charlotte Woman of the Year committee.

Rodgers currently chairs the Charlotte Symphony Orchestra and serves on the boards for Davidson College and Foundation For The Carolinas. She is past chair of the Mint Museum, the McColl Center for Visual Art and Florence Crittenton Services.

Congratulations Pat!

Construction Economy Update: News from Your AGC Chief Economist>>

The Data DIGest: Vol. 10, No. 9

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Industry jobless rate hits 27.1%; economy grows, not construction, Beige Book finds

The **unemployment rate** for construction workers jumped to 27.1% in February (industry jobless rates are not seasonally adjusted), from 21.4% a year earlier, the Bureau of Labor Statistics (BLS) reported today. The rate for all workers was 10.4% (9.7%, seasonally adjusted), up from 8.9% in February 2009. **Nonfarm payroll employment** fell by 36,000, seasonally adjusted, but would have risen if not for a 64,000-job decline in construction. Unusually widespread and severe storms and snow cover may have added to the total, but BLS noted the construction number was "about in line with the average monthly job loss over the prior six months. Job losses were concentrated in nonresidential building (-10,000) and among nonresidential specialty trade contractors (-35,000)." Since peaking at 7,725,000 in June 2006, construction employment has fallen by 2.2 million (28%) to 5,555,000 in February, a 14-year low. All five construction categories lost jobs for the 1- and 12-month periods: nonresidential specialty trade contractors, -1.7% and -16%; nonresidential building, -1.4% and -15%; heavy and civil engineering construction, -1.1% and -13%; residential building, -0.9% and -15%; and residential specialty trade contractors, -0.3% and -10%. Employment in **architectural and engineering services**, an indicator of current design activity for future construction, fell 0.2% and 6.8%. **Average hourly earnings** in construction rose to \$25.30, up 68 cents (2.8%) from a year earlier. The all-industry gain was 41 cents (1.9%).

"Reports from the twelve Federal Reserve Districts indicated that **economic conditions** continued to expand since the last report, although severe snowstorms in early February held back activity in several Districts. Nine Districts reported that economic activity improved, but in most cases the increases were modest....**Construction-related [manufacturing]** activity remained weak in the Chicago and Dallas Districts...Adverse weather conditions also hampered home sales and construction in the New York, Philadelphia, and Atlanta Districts....**Home construction** was down or stagnant in most Districts, with the exception of the Minneapolis, Kansas City, and Dallas Districts. Atlanta said the most pronounced weakness was among Georgia homebuilders, and San Francisco attributed weak construction activity to elevated home inventory levels....All Districts reporting on **commercial construction** said that activity remained weak or slow, except for some moderate boost from federal stimulus projects and other public construction. **Credit** for commercial development and transactions was still very difficult to obtain in several Districts, though San Francisco noted a slight improvement in financing availability. New York, St. Louis, and Kansas City reported somewhat tighter credit standards on commercial real estate loans, and New York noted tighter standards for commercial and industrial loans. In other Districts, credit standards were little changed but remained tight....In the Dallas District, smaller banks reported that regulatory requirements were limiting their ability to expand real estate lending....Several manufacturing and construction firms in the Cleveland District began recalling workers.

The **RSMeans Construction Cost Index** for 30 major cities had a "negligible" -0.5% year-over-year change for the period ending January 2010, Reed Construction Data's materials price tracking service reported on Wednesday. "The quarter-to-quarter change annualized was +1.3%. The sharpest quarter-to-quarter annualized decline in the index was most recently recorded in April 2009, at -7.9%. The greatest quarter-to-quarter annualized increase in the index occurred in July 2008, at 18.5%....The year-over-year change for the **materials sub-index** in January 2010 was -4.8%. The changes were also negative as reported in October 2009 (-6.5%) and July 2009 (-4.7%). On a quarter-over-quarter annualized basis, the material component sub-index increased 0.4% in January 2010....In the most recent 12 months for material costs, weakness has been particularly noted in concrete reinforcing (-31% year over year), metal joists and decking (-26%), plaster and gypsum board (-15%), ceilings and acoustic treatment (-15%) and

*structural metal framing (-8.8%). The quarter-to-quarter price changes in those components, with the exception of ceilings and acoustic treatment, have moderated considerably to a range of -3.0% to +1.0%. The **installation or labor component** in the index was 2.4% annualized in January 2010. The year-over-year change in the 30-city average hourly rate for skilled workers (i.e. 20 trades) was 4.6%. This reflects gains that are protected under union contract, where work is available. The compensation rates for the non-unionized sector of construction are undoubtedly much lower."*

*"USG and National Gypsum sent letters to distributors on February 12 and 15, respectively, announcing a 20% **wallboard price** increase effective March 15," Thompson Research Group (www.thompsonresearchgroup.com) reported on February 23. "Feedback from a recent wallboard buying group conference confirms that all manufacturers have since approved pushing through the 20% increase."*

*"The annual rate of **construction wage and fringe** increases in 2009 was 3.9%, down from 4.4% in the prior year," the Construction Labor Research Council reported. "Based upon increases already negotiated in contracts for the next two years, wage and fringe increases will continue at a rate similar to 2009. Already-known increases to be effective in 2010 average 3.9% and for 2011," 3.8%. "As a result of the upswing in one-year agreements in 2009, the number contracts expiring in 2010 will be especially high."*

The Data DIGest is a weekly summary of economic news; items most relevant to construction are in italics. All rights reserved.

Focus On: Workforce Management>>

Want up-to-the-minute info, including interesting bits of information and conversation regarding HR issues? Then [follow your CAGC Human Resources Committee on Twitter!](#) Have news or items of interest regarding workforce management and employee relations? Email them to UnionFree@Carolinasagc.org.

CAGC Feature of the Week: CAGC Convention>>

Did you know CAGC maintains a file of "Positions Available" and "Seeking Employment" listings? It's a free service to members looking to hire, and to individuals seeking job positions.

[See our listings now.](#)

IBuild Feature of the Week: Bid Notifications>>

Did you know? Bidders invited to private Invitation—Access projects can respond directly from your bid invitation email.

Nat'l AGC Feature of the Week: Build Now For The future, A Blueprint for Economic Growth>>

Join AGC of America March 24 for the webinar Comparing AIA and ConsensusDOCS in a Real World Setting—it's only \$20! Top construction attorneys will discuss many of the differences between ConsensusDOCS and AIA standard form construction contract documents, using real-world examples.

Government Relations-- News Impacting Your Business>>

North Carolina

Busy Times, Contacting Your Members of Congress: There's been much activity in recent weeks on the national level, including the introduction of a new health care proposal, the passage of a JOBS bill and the filibuster blockage of Craig Becker's nomination to the National Labor Relations Board (NLRB). Statewide, the deadline passed for candidates seeking office.

Meantime, the media have been working overtime on a variety of labor issues, spotlighting the Employee Free Choice Act (EFCA) and its potential viability. Some political observers are suggesting that EFCA is dead, others are concerned that organized labor will put additional pressure on President Obama and the Democrats to pass some legislation from their list prior to the November elections.

The North Carolinians to Preserve Employee Choice (NCPEC), of which Carolinas AGC is a founding member, has written letters to members of our current NC Congressional delegation and to the recently filed NC Congressional candidates, including:

- A thank you to Senator Burr for his vote in opposition to the nomination of Craig Becker.
- A letter of concern to Senator Hagan over her vote in favor of Craig Becker.
- A letter of introduction and background on NCPEC to Cal Cunningham, Kenneth Lewis, and Elaine Marshall (candidates for the US Senate).

For copies of letters that would be helpful for you to send to members of Congress, look at the article in this issue in this week's NewsBreak. For contact information for politicians who represent you, go to: [Click here.](#)

Main Street Revitalization Urged: Gov. Beverly Perdue said last Saturday that Main Street revitalization projects in many western North Carolina towns are a model for other towns across the state looking to boost their economies. "A lot of people will tell you that because Main Street won out over other places in the west, you have this resurgence of local economies that are driven by crafts and arts and food products grown locally," she said during a walk in downtown Hendersonville.

Perdue cited local revitalization efforts as her main reason for visiting the mountain town. "Twenty-five years ago it didn't look like this, and people now are supporting themselves and having a thriving economy wrapped around Main Street and local business." The visit may also be in part driven by a campaign pledge to spend more time in western North Carolina than her predecessors. The governor reportedly has been to the western part of the state about a dozen times since taking office in January 2009.

Reminder: In talking with your local legislators, please remind them of the importance of construction to bolstering the state's economy and helping improve building, transportation and utility needs. As you know, state lawmakers, who convene for the short session on May 12, are not likely in this election year to approved new funding sources for construction or other needs.

Interesting State Senate Facts: Following are some telling facts, as reported last week in the John Davis Political Report, about candidates for the 50 seats in the NC Senate, which currently has 30 Democrats and 20 Republicans, compared with the House, which has 68 Democrats and 52 Republicans:

Senate Democrats:

All Democrats have GOP opponents
6 Democrats retired leaving open seats
4 of 6 Democratic open seats are Competitive
3 Democrats are in Republican Districts
3 Appointed Democrats (first Senate run)

Senate Republicans

11 Republicans have no Democrat opponent
2 Republicans retired leaving OPEN Seats
Republican OPEN Seats are *Not* Competitive
No Republican is in a Democratic District
No Appointed Republicans

According to Davis, for the first time in years, NC voters favor Republicans over Democrats in both congressional and state legislative generic races by a margin of 44% to 41%. However, only 32% of NC voters have a favorable opinion of the GOP, with 48% having a negative opinion. The favorable opinion of Democrats is a bit higher (38%), but so is the negative opinion of Democrats (51%).

Davis notes that independent voters are behind the generic ballot results favoring the GOP, and they are driven by an anti-establishment mood -- not a pro-Republican mood. The tripwire for Republicans is thinking that independent voters are turning to their candidates for any reason other than they have lost confidence in the Democrats to solve the most important problems of the day: jobs, the economy and spending. If spending were producing jobs, independents would be for it, Davis notes in his newsletter.

Candidates Filings and Analysis: Meantime, as reported last week by NC FreeEnterprise Foundation, in an excellent overview:

By the time the candidate filing period closed at noon (on Feb. 26), nearly 500 candidates had registered to run for the U.S. Congress, state appellate courts and the General Assembly in North Carolina. (For a comprehensive listing of all these candidates, be sure to download the North Carolina FreeEnterprise Foundation's updated [Election Tracker](#) and read our initial analysis of the 2010 candidate filings below.)

A major factor contributing to the remarkably high numbers this year was the turnout of Republican candidates, seemingly bolstered by notable GOP gubernatorial victories last fall in Virginia and New Jersey, as well as Republican Scott Brown's surprising capture of the Massachusetts U.S. Senate seat long held by Democrat stalwart Ted Kennedy in January.

In fact, of the 184 congressional and state legislative races up for election this year in North Carolina, Republicans are contesting all but 10, and the GOP registered three times as many candidates as the Democratic Party in the state's 13 U.S. House races, fielding as many as six candidates in three of these contests. In addition, Republican candidates are contesting every State Senate seat.

Democrats may have been more pragmatic than Republicans when weighing their chances of capturing seats in strong opposition territory, but Republicans fondly recall the "landslide" victories of 1994 and do not want to let another potential opportunity like that pass them by.

The last week of candidate filing brought some familiar faces back to North Carolina's political scene, including former Republican Co-Speaker of the N.C. House Richard Morgan, who filed to run against fellow Moore County Republican Sen. Harris Blake. Incidentally, we heard several weeks ago that polling was being conducted around the Southern Pines region seemingly to gauge the level of support for a Morgan candidacy.

Also in last-day filing, Larry Linney, a former Republican House member (1995-96) and attorney who was disbarred after being convicted of embezzlement, filed as a candidate for the U.S. Senate.

Please read on! Much more is covered in the following analysis of 2010 candidate filings.

A Look at the Different Races: NC FreeEnterprise Foundation also sizes up specific races as follows:

U.S. SENATE RACES:

Eleven candidates filed: six Democrats, four Republicans and one Libertarian.

- *Republican Sen. Richard Burr has a healthy campaign war chest (\$4.3 million on hand at the beginning of the year) that will overwhelm his primary challengers.*
- *Democrats will have a spirited primary battle to see who will face Burr in the fall. Front runners Cal Cunningham and Elaine Marshall will have to raise substantial funds to make it through the primary and then be competitive in the general election.*

U.S. HOUSE RACES:

Seventy candidates filed: 17 Democrats, 49 Republicans and four Libertarians

- *All 13 U.S. House races are contested;*
- *Rep. Sue Myrick is the only Republican incumbent to avoid a primary;*

- Five of 8 incumbent Democrats do not have a primary (Etheridge, Price, McIntyre, Watt and Miller), and four non-incumbent Democrats do not have a primary (Johnny G. Rouse in District 3, Billy Kennedy in District 5, Sam Turner in District 6, and Jeff Doctor in District 9);
- The GOP has fielded six candidates in each of the following U.S. House Districts: 6 (Coble-R), 8 (Kissell-D), and 11 (Shuler-D). This is the first contested primary Rep. Coble has faced since first being elected to the U.S. House in 1984.

N.C. APPELLATE COURT RACES:

Twelve candidates filed in these non-partisan judicial races.

- Two sitting N.C. Court of Appeals judges (Robert C. "Bob" Hunter and Barbara Jackson) will face each other in the Nov. 2 General Election to determine who will succeed retiring Justice Ed Brady on the N.C. Supreme Court.
- Of the four State Court of Appeals seats up for election, only Judge Sanford Steelman has avoided a contested election. Both incumbents Ann Marie Calabria and Rick Elmore will face a primary and general election, while incumbent Martha Geer has only a general election.

N.C. SENATE RACES:

One-hundred-and-thirty-five candidates filed for North Carolina's 50 State Senate seats: 55 Democrats, 77 Republicans and three Libertarians.

- At least one Republican candidate has filed in every Senate race;
- There are eight Open Seat races in the Senate after Sen. Katie Dorsett (D-Guilford) withdrew her candidacy on the last day of the filing period. Those open seats are: Districts 8 (Soles-D), 9 (Boseman-D), 10 (Albertson-D), 21 (Shaw-D), 28 (Dorsett-D), 35 (Goodall-R), 43 (Hoyle-D), and 44 (Jacumin-R).
- In addition, there are three Senate Democrats who were appointed during the current term and have yet to face an election in the district: Michael Walters who replaced David Weinstein in District 13, Dan Blue who replaced Vernon Malone in District 14, and Margaret Dickson who replaced Tony Rand in District 19. Walters faces both a primary and general election, while Blue and Dickson only have general election opposition.
- Eleven GOP senators face no Democratic opposition. Of those:
 - Three have contested primaries: Districts 22 (Blake), 34 (Brock), and 41 (Forrester).
 - The remaining eight incumbent Republicans face no opposition: Districts 6 (Brown), 26 (P. Berger), 29 (Tillman), 31 (Brunstetter), 33 (Bingham), 39 (Rucho), 42 (Allran), and 46 (Clary).
- There are 12 Democratic primaries and 20 Republican primaries in State Senate races.

N.C. HOUSE RACES:

Two-hundred-and-sixty-five candidates have filed to run for North Carolina's 120 State House seats: 115 Democrats, 146 Republicans, and four Libertarians.

- Republican candidates have filed to run in all but 10 House seats, while Democrats have left 30 House seats uncontested.
- There are 11 Open Seat races in the House after Rep. Bob England (D-Rutherford) decided last week not to file for re-election. These open seats are: Districts 4 (Tucker-D), 15 (Grady-R), 18 (Hughes-D), 61 (Wiley-R), 66 (Goodwin-D), 68 (Blackwood-R), 88 (Warren-D), 103 (Gulley-R), 108 (Neumann-R), 112 (England-D) and 117 (Justus-R).
- Four Democrats and two Republicans were appointed to the House during the current term and have yet to face an election in the district: Rosa Gill (D) who replaced Dan Blue in District 33, Darren Jackson (D) who replaced Linda Coleman in District 39, Chris Heagarty (D) who replaced Ty Harrell in District 41, and Diane Parfitt (D) who replaced Margaret Dickson in District 44, as well as Frank Iler (R) who replaced Bonner Stiller in District 17 and Dan Ingle (R) who replaced Cary Allred in District 4. Gill, Jackson and Iler face both a primary and general election, Heagarty and Parfitt have only general election opposition, and Ingle is unopposed.
- Of nine House Democrats who have no general election opponent, three face primary opposition: Districts 8 (E. Warren), 43 (Floyd), and 55 (Wilkins). The other six have no primary or general election opponent: Districts 7 (Bryant), 27 (Wray), 29 (Hall), 42 (Lucas), 56 (Insko), and 71 (Womble). In addition, Nelson Cole in District 65 has no official opposition in the primary or general election, but an unaffiliated candidate is reportedly collecting signatures in an effort to appear on the ballot in the fall.

- *Thirty House seats are uncontested by the Democratic Party. Of those:*
 - *Four incumbent Republicans have contested primaries: Districts 70 (Hurley), 78 (Brubaker), 80 (Dockham), and 82 (Barnhart).*
 - *Twenty incumbent Republicans face no primary or general election opposition: Districts 11 (Sager), 14 (Cleveland), 19 (McComas), 26 (Daughtry), 52 (Boles), 64 (Ingle), 73 (Brown), 75 (McGee), 76 (Steen), 79 (Howard), 83 (Johnson), 84 (Frye), 87 (Starnes), 89 (Setzer), 92 (McCormick), 95 (Mills), 97 (Rhyne), 105 (Killian), 109 (Current), and 113 (Guice).*
 - *Two non-incumbent Republicans in open seats have no primary or general election: Districts 108 (John Torbett) and 117 (Chuck McGrady).*
 - *Three other open seat House races will be decided in the Republican primary because no Democratic challenger filed: Districts 15, 61 and 68.*
 - *And, finally, in District 62 (Blust-R) the winner of a Republican primary will face a Libertarian candidate in the fall.*

There are 22 Democratic primaries and 27 Republican primaries in State House races.

South Carolina

Tort Reform: Last week the full House debated and gave 2nd reading to H. 3489, the tort reform legislation. The bill was the compromise amendment proposed by Speaker Bobby Harrell and Judiciary Chairman Jim Harrison, which passed by a vote of 104-9. During the debate on the bill, the trial lawyers offered 9 different amendments, most of which increased the cap on punitive damages. However, none of the amendments were adopted. The House failed to give the bill a third and final reading on Thursday, but will take care of that vote this week.

H. 3849 includes punitive damages at 3 times compensatory damages or \$350,000, whichever is greater; establishes a sliding scale ranging from 23% to 4% on the amount of attorneys' fees that outside counsel receives when employed by the Attorney General or a solicitor; establishes an appeal bond cap of \$25 million for large businesses and \$1 million for small businesses in a civil action; clarifies that building code violations do not constitute per se fraud, gross negligence, or recklessness, and while they may be introduced as evidence in a case, they do not change the State of Repose back to 13 years; and allows the admissibility of the non-use of seat belts. Once the bill receives a final reading in the House, it will be sent to the Senate Judiciary Committee for further consideration.

Card Check Legislation: H. 3305, the constitutional amendment that would protect the rights of workers in South Carolina to vote by secret ballot, was discussed on the Senate floor all last week. Sen. Brad Hutto held the floor most the week, questioning the constitutionality of the legislation.

The passage of H. 3305 would allow a constitutional amendment to be placed on the election ballot, this year, to allow voters in SC the option to amend the state constitution to protect an individual's right to vote by secret ballot in a union election. In order to approve adding a constitutional amendment to the ballot, we needed 31 votes in the Senate. The vote, on second reading, was 30-15. The Senate will take a third and final vote on H. 3305 again this week and we plan to have more than 31 votes when they take that vote.

Economic Development Competitiveness Act: The House approved H.4478, the Economic Development Competitiveness Act, late last week last week. They adopted a 105 page committee amendment that, among other things, allows awards to research universities by the Department of Commerce; allows counties to extend fee-in-lieu agreements for 30 years; manufacturing real property is to be taxed at the fair market value; and there is an extension of an investment period for a qualified nuclear plant facility.

The bill also repeals the corporate income tax by ½ of a percentage point until totally repealed; includes jobs development credits; requires the use of rural infrastructure funds for economic development; calls for an alternative energy credit, and allows for a renewable energy tax incentive program to encourage business development in the state. The bill is headed to the Senate for further consideration.

Economic Update: Last week Dr. Don Schunk, an economist with the College of Charleston, reported to the Senate Finance Committee that the state unemployment rate of 12.6% does not tell the whole story because it does not take into consideration underemployed workers or those who have dropped off the reporting scale after looking for a job for the last 3 to 4 years. He said, realistically, the rate would be around 21%. Schunk informed the committee that 110,000 South Carolina jobs had been lost in one year and that that state unemployment numbers were higher than the national average because of the manufacturing element and the loss of those jobs.

During the meeting, Schunk pointed out that during past downturns the retail industry has "sailed through" but he added, "South Carolinians have really scaled back during this recession. We have bottomed out. When sales do recover, businesses will still feel the squeeze." Schunk told the members that he did not see the unemployment rate falling below the national average and pointed out that North Carolina and Georgia faced the same issues but had better luck in replacing manufacturing jobs with higher technology and a better trained work force.

Schuck concluded by saying that the national growth will be what helps South Carolina turn things around. As far as specific industries, he noted that healthcare jobs will spring back first and residential and commercial construction last.

Announcements for Members by Members>>

M-III Engineering, PLLC announces that it has acquired the BSC Group's land surveying operations in North Carolina. BSC Group is a civil/site development and land surveying company based out of Boston, MA. The acquisition includes field crews, surveying equipment, and lease space (970 Trinity Road, Raleigh, NC 27607). M-III also welcomes Mark Yarbrough to the company. Mark brings with him 27+ years of experience in land surveying in North Carolina. His responsibilities will be in marketing and helping the managerial team operate the company.

In Memoriam

Mr. Herb McKim, March 3, 2010, Wilmington, NC, Ballard, McKim & Sawyer Architects. He is credited for designing North Carolina's three aquariums, as well as the Legislative Office Building in Raleigh and buildings at NC State, UNC-Chapel Hill and Cape Fear Community College. McKim also was a former mayor of Wrightsville Beach and involved in the civil rights movements in the 1960's.

Submit announcement briefs to Lori Tharp via fax 704/332-5032, e-mail ltharp@carolinasagc.org or mail: PO Box 30277, Charlotte, NC 28230-0277. Deadline is 5:00 PM each Thursday for the following week's Bulletin.