

**LEGISLATIVE RESEARCH
COMMISSION ACTIVITIES
1985-1987 BIENNIUM**



**SUMMARIES PREPARED
BY
LEGISLATIVE SERVICES OFFICE**

**REPORT TO THE
1987 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
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December 12, 1986

TO THE MEMBERS OF THE 1987 GENERAL ASSEMBLY:

The Legislative Research Commission directed its staff to prepare a report outlining the work of its committees during the 1985-1987 biennium. This report contains a brief summary of each committee's progress and describes the number of committee meetings, subjects studied, findings and recommendations.

These summaries were prepared by the staff to the individual committees to provide brief overviews of the committees' work. These summaries do not modify nor should they be considered as modifying the Commission's report. The individual report by the Legislative Research Commission is authoritative. Copies of the Legislative Research Commission's reports may be obtained from the Legislative Library, Room 2126, State Legislative Building, Raleigh, North Carolina 27611. [Telephone: (919) 733-7778].

Yours truly,


Terrence D. Sullivan
Director of Research
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TABLE OF CONTENTS

	<u>Page</u>
Introduction -----	1
Legislative Research Commission Membership -----	2
Statutes -----	3
Table of Authorized Legislative Research Commission Studies -----	9
Grouping of Subjects Studied -----	13
Children -----	15
Corrections -----	23
Education -----	27
Environment -----	36
Human Resources -----	47
Justice -----	58
Local Government -----	65
Revenue -----	76
State Government Operation -----	82
State Regulation -----	100
Reports of Other Commissions to which Studies were Referred -----	109



LEGISLATIVE RESEARCH COMMISSION
INTRODUCTION

The North Carolina Legislative Research Commission is an interim study organization of the General Assembly. Authorized by North Carolina General Statutes § 120-30.10 through § 120-30.18, the Commission undertakes studies by direction of resolutions from the preceding legislative session or by direction of the commission chairmen. The Commission, in view of its limited monies, decided not to fund all authorized studies and referred some studies authorized to be conducted by the Commission and each's disposition begins on page 9.

The Commission is chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, and the chairmen appoint five members from their respective houses. By tradition, the Commission has produced its studies working through committees responsible to Commission members and made up of other members of the General Assembly assisted by advisory members from outside the General Assembly.

During the 1985 and 1986 Regular Sessions of the General Assembly, 86% (101 of 117) of the bills recommended by Legislative Research Commission committees were actually introduced. Of these introduced bills, 74% (75 of 101) were ratified in some form.

This publication contains a list of all the interim study committees funded by the Legislative Research Commission and a summary of each committee's work.

1985 - 1987

LEGISLATIVE RESEARCH COMMISSION

Senator J. J. Harrington, Cochairman
Senator Henson P. Barnes
Senator A. D. Guy
Senator Ollie Harris
Senator Lura Tally
Senator Robert D. Warren

Representative Liston B. Ramsey, Cochairman
Representative Christopher S. Barker, Jr.
Representative John T. Church
Representative Bruce Ethridge
Representative Aaron Fussell
Representative Barney Paul Woodard

GENERAL STATUTES OF NORTH CAROLINA

Article 6B.

Legislative Research Commission.

§ 120-30.10. Creation; appointment of members; members ex officio.-- (a) There is hereby created a Legislative Research Commission to consist of five Senators to be appointed by the President Pro Tempore of the Senate and five Representatives to be appointed by the Speaker of the House. The President Pro Tempore of the Senate and the Speaker of the House shall be ex officio members of the Legislative Research Commission. Provided, that when the President of the Senate has been elected by the Senate from its own membership, then the President of the Senate shall make the appointments of the Senate members of the Legislative Research Commission, shall serve ex officio as a member of the Commission and shall perform the duties otherwise vested in the President Pro Tempore by G. S. 120-30.13 and 120-30.14.

(b) The cochairmen of the Legislative Research Commission may appoint additional members of the General Assembly to work with the regular members of the Research Commission on study committees. The terms of the additional study committee members shall be limited by the same provisions as apply to regular commission members, and they may be further limited by the appointing authorities.

(c) The cochairmen of the Legislative Research Commission may appoint persons who are not members of the General Assembly to advisory subcommittees. The terms of advisory subcommittee

members shall be limited by the same provisions as apply to regular Commission members, and they may be further limited by the appointing authorities. (1965, c. 1045, s. 1; 1975, c. 692, s. 1.)

§ 120-30.11. Time of appointments; terms of office.--Appointments to the Legislative Research Commission shall be made not earlier than the close of each regular session of the General Assembly held in the odd-numbered year nor later than 15 days subsequent to the close. The term of office shall begin on the day of appointment, and shall end on December 15 of the next even-numbered year. Except for the work of the Administrative Rules Review Committee, no moneys appropriated to the Legislative Research Commission may be expended for meetings of the Commission, its committees or subcommittees held after December 15 of the next even-numbered year and before the appointment of the next Legislative Research Commission. (1965, c. 1045, s. 2; 1975, c. 692, s. 2; 1977, c. 915, s. 4; 1981, c. 688, s. 19; 1983, c. 63, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 178.)

§ 120-30.12. Vacancies.--Vacancies in the appointive membership of the Legislative Research Commission occurring during a term shall be filled for the unexpired term by appointment by the officer who made the original appointment. Vacancies in the ex officio membership shall be filled for the unexpired term by election by the remaining members of the Commission. Every vacancy shall be filled by a member of the same house as that of the person causing the vacancy.

If for any reason the office of President Pro Tempore of the Senate becomes vacant, the five Senate members of the Legislative

Research Commission shall elect one of their own number to perform and exercise the duties imposed and powers granted pursuant to this Article, and such Senator so elected shall serve until the Senate shall elect a President Pro Tempore. If for any reason the office of Speaker of the House of Representatives becomes vacant, the five members of the House of Representatives of the Legislative Research Commission shall elect one of their own number to perform and exercise the duties imposed and powers granted pursuant to this Article, and such member of the House of Representatives so elected shall serve until the House of Representatives shall elect a Speaker. (1965, c. 1045, s. 3; 1969, c. 1037.)

§ 120-30.13. Cochairmen; rules of procedure; quorum.--The President Pro Tempore of the Senate and the Speaker of the House shall serve as cochairmen of the Legislative Research Commission. The Commission shall adopt rules of procedure governing its meetings. Eight members, including ex officio members, shall constitute a quorum of the Commission. (1965, c. 1045, s. 4.)

§ 120-30.14. Meetings.--The first meeting of the Legislative Research Commission shall be held at the call of the President Pro Tempore of the Senate in the State Legislative Building or in another building designated by the Legislative Services Commission. Thereafter the Commission shall meet at the call of the chairmen. Every member of the preceding General Assembly has the right to attend all sessions of the Commission, and to present his views at the meeting on any subject under consideration. (1965, c. 1045, s. 5; 1981, c. 772, s. 1.)

§ 120-30.15. Repealed by Session Laws 1969, c. 1184, s. 8.

§ 120-30.16. Cooperation with Commission.--The Legislative Research Commission may call upon any department, agency, institution, or officer of the State or of any political subdivision thereof for such facilities and data as may be available, and these departments, agencies, institutions, and officers shall cooperate with the Commission and its committees to the fullest possible extent. (1965, c. 1045, s. 7.)

§ 120-30.17. Powers and duties.--The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5) Repealed.
- (6) Repealed. (1965, c. 1045, s. 8; 1969, c. 1184, s. 8; 1977, c. 915, s. 3; 1981, c. 688, s. 2.)
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the

provisions of G.S. 120-19 as if it were a committee of the General Assembly.

(8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.

(9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.

(1965, c. 1045, s. 3; 1969, c. 1184, s. 8; 1977, c. 915, s. 3; 1981, c. 688, s. 2; 1983, c. 905, s. 7; 1985, c. 790, s. 7.)

§ 120-30.18. Facilities; compensation of members; payments from appropriations.--The facilities of the State Legislative Building, and any other State office building used by the General Assembly, shall be available to the Commission for its work. Members of the General Assembly serving on the Legislative Research Commission or its study committees shall be reimbursed for travel and subsistence expenses at the rates set out in G.S. 120-3.1. Advisory subcommittee members shall be reimbursed and compensated at the rates set out in G.S. 138-5 (public members) and G.S. 138-6 (State officials or employees). All expenses of the Commission shall be paid from funds appropriated for the Commission. (1965, c. 1045, s. 9; 1975, c. 692, s. 3; 1981, c. 772, s. 2.)

1985-87 TABLE OF AUTHORIZED LEGISLATIVE RESEARCH COMMISSION STUDIES

The following is a list of the topics which the General Assembly (1985 and 1986 Sessions) authorized the Legislative Research Commission to study. Except where otherwise indicated, the original bill or resolution which outlines the scope of the particular study is incorporated by reference in Chapter 790 (SB 636) of the 1985 Session Laws. Footnotes indicate which unfunded studies were referred to another agency or Commission to be conducted and which group was to conduct each. Unless otherwise indicated, each Committee may report to the 1986 or 1987 Session of the General Assembly, or may make an interim report to the 1986 General Assembly and a final report to the 1987 General Assembly.

<u>STUDY</u>	<u>SPONSOR</u>	<u>AUTHORIZATION</u>	<u>STAFF</u>	<u>PAGE</u>
Adolescent Pregnancy and Pre-mature Births	Rep. Jeralds	HB 2078 ¹	Gilkeson	27
Adolescent Sexuality Teaching	Rep. Jeralds et al	HJR 275	Gilkeson	28
Aging	Rep. Greenwood et al	HJR 322	J. Young	47
Bail Bondsmen & Bail Bond Forfeiture ²	Rep. Watkins	HB 967	Lefler	58
Campaign & Election Procedures	Sen. Martin	SB 1002 ¹	Cohen	82
Child Abuse Testimony ²	Rep. Keesee-Forrester Sen. Hipps et al	HB 332 SB 165	Burthey	15
Child Protection ²	Sen. Hipps et al	SB 802	Burthey	15
Child Support	Sen. Marvin	SB 638	Dorsett	17
Coastal Water Quality Classifications	Rep. Watkins	HB 2055, § 152 ³	Johnson	36
Commercial Laboratory Water Testing ⁴	Sen. Taft	SB 573		
Community College System ⁴	Sen. W. Martin	SB 425		

Community Service Alternative Pun- ishment & Resti- tution ²	Sen. Swain	SB 495	Lefler	23
County Commissioners' Authority Over Local Boards	Rep. Holroyd et al	HJR 1405	Hubbard	50
Day Care Rate System ⁴	Sen. Plyler	Ch. 479 §97 (g)		
Haw River and Jordan Reservoir Water Quality	Rep. Hackney	HJR 1393	E. Johnson	37
High-Level Radio- active Waste Disposal	Rep. Diamont et al Sen. Hipps	HB 1373 SB 655	Walston	38
Home Schooing Programs ⁴	Sen. Winner	SJR 224		
Inmate Substance Abuse Therapy Program	Sen. Plyler	SJR 317	Dorsett	24
Inmate Work Release Centers ²	Sen. Swain et al	SB 406	Lefler	23
Interest Rate Regulation	Rep. Evans et al	HJR 1227	Harris	100
Itinerant Merchants	Rep. Lancaster	HJR 1170	Faires	65
Legislative Ethics and Lobbying	Sen. Rauch et al	SB 829	Sullivan	88
Life Care Arrangements	Rep. Locks et al	HB 1053	J. Young	52
Local Government Financing	Sen. Rauch et al	SB 670	Cohen	66
Long Term Health Care Insurance	Rep. Locks et al	HB 1103	Jones	54
Low-Level Radio- active Waste Regulation	Sen. Tally	SB 882 ¹	Walston	41
Manufactured Housing Zoning	Rep. Ballance et al	HB 1178	Rose	70

Medical Mal- practice and Liability ⁵	Sen. Taft et al Rep. Miller	SB 703 HB 1166		
Mental Patient Commitments	Rep. Miller	HJR 1313	J. Brannon	59
Municipal Incorporations	Rep. Greenwood et al	HJR 389	Cohen	72
Outdoor Advertising	Sen. R. Thomas	SB 611	Bryan	101
Perishable Food Marketing ⁶	Sen. Basnight	SB 718	Shaw	109
Premium Tax Rate on Insurance Companies	Sen. Hardison et al	SB 633	Hubbard	76
Pretrial Release ²	Sen. Winner	SJR 297	Lefler	58
Preventative Medicine	Rep. Locks et al	HB 1052	Gilkeson	55
Rental Referral Agencies	Rep. Stamey	HB 1421	Levenbook	103
Revenue Laws	Rep. Lilley et al	HJR 17	Faires	79
Roads Act Provisions ⁷	Sen. Redman	SB 866 ¹	Carter	110
Satellite Courts ⁸	Sen. Barnes	SB 850	Drennan/Brannon	113
School Discipline	Rep. Colton et al	HJR 861	Sabre	20
School Finance Act	Sen. Taft et al	SJR 848	Fuerst	29
State Employee Salaries ⁴ and Benefits	Sen. Jordan	SB 514		
State Infra- structure Needs	Sen. Royall et al	SB 541	Jones	90
State Investments with South African Investors	Rep. Locks et al	HB 744	Jones	93
State Personnel System	Rep. Wiser et al	HB 1064	J. Young	94

Stun Guns	Rep. McDowell et al	HJR 1390	Airall	62
Substantive Legislation in Appropriations Bills ⁴	Sen. Rand et al	SB 851		
Supt. of Dept. of Public Instruction and State Board of Education	Rep. Nye	HJR 1412	Lefler	34
Transportation Problems at Public Facilities ⁷	Sen. Plyler et al	SB 636	Carter	115
Underground Storage Tanks & Groundwater Hazards ²	Rep. Locks et al	HB 1281	Bryan/Givens	44
Used Tire and Waste Oil Disposal	Sen. Barnes	Amendment ¹	Davis	104
Veterans Cemetery	Rep. Lancaster	HB 2117 ¹	Burthey	106
Voting Machines Standardization	Rep. Wood	HB 1664 ¹	Gilkeson	97
Water Pollution ²	Rep. Evans et al	HJR 141	Bryan/Givens	44

¹Authorized in Chapter 1032, rather than Chapter 790.

²Consolidated with another study

³Authorized in Chapter 1014, rather than Chapter 790.

⁴Study not undertaken by LRC

⁵Referred to nonLRC Medical Malpractice and Liability Study

⁶Study referred to the Commission on Agriculture, Forestry and Seafood Awareness

⁷Study referred to Department of Transportation Study Committee

⁸Study referred to Courts Commission

GROUPING OF SUBJECTS STUDIED BY THE
LEGISLATIVE RESEARCH COMMISSION

	<u>Study Subjects</u>	<u>Commission Member Responsible</u>	<u>Page</u>
I.	Children	Sen. Tally	
	Child Abuse Testimony and Child Protection -----		15
	Child Support -----		17
	School Discipline -----		20
II.	Corrections	Rep. Woodard	
	Community Service Alternative Punishment, Restitution, and Inmate Work-Release Centers -----		23
	Inmate Substance Abuse Therapy Program -----		24
III.	Education	Rep. Fussell	
	Adolescent Pregnancy and Premature Births -----		27
	Adolescent Sexuality Teaching -----		28
	School Finance Act -----		29
	Superintendent of DPI and State Board of Education -----		34
IV.	Environment	Rep. Ethridge	
	Coastal Water Quality Classifications -----		36
	Haw River and Jordan Reservoir Water Quality -----		37
	High-Level Radioactive Waste Disposal -----		38
	Low-Level Radioactive Waste Regulation -----		41
	Underground Storage Tanks and Groundwater Hazards and Water Pollution -----		44
V.	Human Resources	Sen. Ollie Harris	
	Aging -----		47
	County Commissioners' Authority over Local Boards -----		50
	Life Care Arrangements -----		52
	Long-Term Health Care Insurance -----		54
	Preventative Medicine -----		55

	<u>Study Subjects</u>	<u>Commission Member Responsible</u>	<u>Page</u>
VI.	Justice	Sen. H. Barnes	
	Bail Bondsmen and Bail		
	Bond Forfeiture and		
	Pretrial Release -----		58
	Mental Patient Commitments -----		59
	Stun Guns -----		62
VII.	Local Government	Rep. Church	
	Itinerant Merchants -----		65
	Local Government Financing -----		66
	Manufactured Housing Zoning -----		70
	Municipal Incorporations -----		72
VIII.	Revenue	Sen. R. Warren	
	Premium Tax Rate on		
	Insurance Companies -----		76
	Revenue Laws -----		79
IX.	State Government Operation	Rep. Barker	
	Campaign and Election		
	Procedures -----		82
	Legislative Ethics and		
	Lobbying -----		88
	State Infrastructure Needs -----		90
	State Investments with South		
	African Investors -----		93
	State Personnel System -----		94
	Voting Machines Standardization -----		97
X.	State Regulation	Sen. Guy	
	Interest Rate Regulation -----		100
	Outdoor Advertising -----		101
	Rental Referral Agencies -----		103
	Used Tire and Waste Oil Disposal -----		104
	Veterans Cemeteries -----		106
XI.	Reports of Other Commissions to which Studies Were Referred		
	Perishable Food Marketing -----		109
	Roads Act Provisions -----		110
	Satellite Courts -----		113
	Transportation Problems at		
	Public Facilities -----		115

CHILDREN

I. CHILDREN

CHILD ABUSE TESTIMONY AND CHILD PROTECTION

Auth: 1985 Session Laws, Chapter 790 § 1 (23) (39) (SB 636-Sen. Plyler, et al), HB 332 (Rep. Keesee-Forrester, et al), SB 165 (Sen. Hipps, et al), SB 802 (Sen. Hipps, et al)

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CHILD ABUSE TESTIMONY AND CHILD PROTECTION

The Child Abuse Testimony and Child Protection Study Committee met four times. The specific issues covered included the State laws concerning "independent adoptions" and whether or not these placements of children in home situations with those persons other than relatives or foster parents, without the initial investigation and oversight of the Department of Social Services or another state-licensed child placement agency, are in the best interests of the children involved.

Another issue of concern was the status of the N.C. Center for Missing Children. Its proven effectiveness, investigative procedures and organizational structure were studied.

The Committee primarily examined the possible use of videotaped recordings and video transmission via closed circuit television of the testimony of a child victim or witness in an effort to keep the child out of the open courtroom at trial and away from eye to eye contact with the defendant during all phases of the investigation and trial.

The major considerations of the Committee involved the procedures incorporated in the video testimony proposal and how these procedures should be detailed to give answer to and overcome defense arguments that they circumvent the defendant's constitutional right to confront his accusers. The Committee concluded that a constitutionally sound procedural alternative may be possible but it needed to continue its study of the issue in the light of similar state statutes and the case law being generated by those statutes to ensure that the procedure would survive a constitutional challenge.

The Committee studied the entire court process as it involves children to recommend various alternative procedures for judges to follow that, without prejudice to the defendant, would accommodate children that do testify or in any way participate in a court proceeding. The Committee concluded that the most important change in the court system would be laws and rules that would speed up the disposition of cases involving abused children allowing them to be finished with the court proceedings as soon as possible and to receive the necessary therapy and any other rehabilitative services that they desperately need.

The Committee's final report to the 1987 General Assembly included recommendations 1) to require judges to consider the effect of court delays on the child victim before granting continuances and whether further delay would be injurious to the child; 2) to urge the District Attorneys to expedite criminal proceedings involving child abuse victims when appropriate; 3) to encourage interagency agreements between law enforcement, medical personnel, social services, the District Attorney and others involved to coordinate the child interview process to reduce the added trauma of repeated interviews; 4) that funds be appropriated

CHILDREN

to the Child Medical Evaluation Program at UNC; 5) that funds be appropriated for the purchase of anatomically correct doll sets to be distributed to every prosecutorial district to aid the investigation and prosecution in child abuse cases; 6) that a program be developed and funded to coordinate a comprehensive strategy for the prevention, investigation, treatment and rehabilitation of the child victim; 7) to encourage the Mental Health Study Commission to provide a funding mechanism for therapeutic treatment and rehabilitation of child victims of physical and sexual abuse; and 8) that the Legislative Research Commission continue the Child Abuse Testimony and Child Protection Study.

The recommended legislative action includes the following:

1. AN ACT TO AMEND THE SPEEDY TRIAL LAW TO REQUIRE A JUDGE TO CONSIDER ADDITIONAL FACTORS WHEN GRANTING A CONTINUANCE.
2. AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR THE PURCHASE OF ANATOMICALLY CORRECT DOLLS.
3. A JOINT RESOLUTION CONTINUING THE LEGISLATIVE RESEARCH COMMISSION CHILD ABUSE TESTIMONY AND CHILD PROTECTION STUDY.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

CHILD SUPPORT

Auth: 1985 Session Laws, Chapter 790 § 1 (35) (SB 636-Sen. Plyler, et al), SB 638 (Sen. Marvin)

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CHILDREN

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CHILD SUPPORT

The Child Support Study Committee met four times prior to the 1986 Session of the General Assembly. The general focus of the deliberations concerned the mandates of the Child Support Amendments enacted by Congress in 1984 and what North Carolina must do to comply. The following matters were specifically discussed: single portal of entry, wage and income withholding, expedited process, child support guidelines, recovery of program costs, and administration of the IV-D Program.

The Study Committee recommended four bills which were enacted by the General Assembly during the 1986 Session. The following summarizes the enactments:

1. AN ACT TO AMEND THE GENERAL STATUTES TO ESTABLISH PROCEDURES FOR WITHHOLDING FROM WAGES AND OTHER INCOME IN CHILD SUPPORT CASES AS REQUIRED BY FEDERAL LAW (SB 303). The act requires automatic withholding from wages and other sources of income for child support when an arrearage equal to one month's obligation accumulates. The procedures are mandatory for cases handled by the IV-D Child Support Agency. In other cases, withholding is available as a remedy in cases handled by private attorneys or in contempt or revocation of probation hearings initiated by the clerks of court.
2. AN ACT TO PROVIDE FOR EXPEDITING CHILD SUPPORT CASES AS REQUIRED BY FEDERAL LAW (SB 939). Federal law requires that child support cases be disposed of according to certain timetables (90% of the cases in 3 months, 98% in 6 months, 100% in 12 months). This legislation requires district court judges to dispose of child support cases within 90 days from filing of the case. If the federal time mandates are not met, the act establishes a child support hearing officer (who is a magistrate or clerk or assistant clerk of court) to expedite the establishment or enforcement of child support orders. DHR

is required to pursue waivers for judicial districts that can comply with the federal timetables without the need to establish the hearing officer.

3. AN ACT TO ACHIEVE GREATER CONSISTENCY AND EQUITY IN THE SETTING OF CHILD SUPPORT OBLIGATION AMOUNTS THROUGH THE USE OF GUIDELINES (SB 924). This legislation requires the Conference of Chief District Court Judges to promulgate uniform, statewide guidelines for the computation of child support obligations of each parent. Eight factors that may be considered by the judge are included. The guidelines are to be advisory.
4. AN ACT TO AMEND THE APPLICATION FEE AND COST RECOVERY PROVISIONS RELATED TO THE IV-D CHILD SUPPORT PROGRAM (SB 925). This bill amends the present statutes related to the recovery of costs in the IV-D Child Support Program. The present application fee of \$10.00 is deleted and either a \$5.00 or \$25.00 fee will be collected, depending on the gross household income of the client. Costs of providing IV-D services will be recovered only in cases where the client's household income exceeds 200% of the federal poverty level. Three methods to recover the costs are specified: 10% deduction from support received; voluntary payments by the client or obligor; and payments by the obligor ordered by the court.

The Child Support Study Committee met twice following the 1986 Session. The Committee reviewed the implementation of the child support legislation. The following lists the recommendations contained in the final report to the 1987 Session of the General Assembly:

1. Establishment of a permanent, ongoing Commission on Child Support;
2. Consolidation and recodification of the statutes on child support;
3. Study of the advisability of transferring the handling of URESA cases from the District Attorney to the Child Support Enforcement Agency;
4. Mandatory disclosure of income in the setting and enforcement of child support;
5. Study of the cost recovery program in IV-D cases;
6. Study of automatic modification of child support amounts;
7. Study of service of process in child support matters;
8. Study of raising the statute of limitations in criminal nonsupport cases;
9. Study of child custody and visitation; and

CHILDREN

10. Modification of the income withholding statutes to set out procedures when the supporting parent requests income withholding.

The Study Committee recommends two bills for action by the 1987 General Assembly:

1. A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COMMISSION ON CHILD SUPPORT.
2. A BILL TO BE ENTITLED AN ACT TO CLARIFY PROCEDURES FOR IMPLEMENTING INCOME WITHHOLDING PURSUANT TO A SUPPORTING PARTY'S REQUEST.

THE FULL REPORTS OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

SCHOOL DISCIPLINE

Auth: 1985 Session Laws, Chapter 790 § 1 (06) (SB 636-Sen. Plyler, et al), HJR 861 (Rep. Colton, et al)

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SCHOOL DISCIPLINE

The 1985 Legislative Research Commission Study Committee on School Discipline met four times: December 11, 1985, February 26, 1986, November 13, 1986, and December 3, 1986. The Committee issued a final report to the 1987 Session.

The Committee decided at its first meeting to focus on the issue of corporal punishment in the public schools, its appropriateness as a tool of discipline, its regulation and its relationship to other discipline measures. The Committee never considered banning any reasonable force, including corporal, in the event of emergency.

Almost all interested agencies were heard from. Some few witnesses testified that corporal punishment was a positive, valuable discipline tool. But many witnesses testified that corporal punishment was not very successful even as a last resort and that it often engendered parental anger and parental law suits even though few if any of these suits resulted in a child abuse conviction. A number of witnesses, representing child advocacy agencies and child services agencies, testified against any use of corporal punishment whatever.

However, a number of witnesses, including those representing several professional educators' associations, requested that the Committee consider very carefully before permitting corporal punishment to be banned. They testified that, even though corporal punishment is in no wise the favorite form of discipline, it is needed until real, viable alternatives are in place. These witnesses testified that it is clear that these alternatives will not be in place for a while. Only about half of all high schools have in-school suspension. Teacher training programs are not yet all producing teachers trained in alternative discipline procedures. Local boards of education are not yet making available to their educators the excellent workshops in discipline that now exist. Teachers, themselves under siege, need assurance that they will not be left in that recourse, should corporal punishment be banned either by the action of an elected board of education or by legislation.

Almost all witnesses testified that, if corporal punishment were to be used, local boards of education should ensure that certain due process procedures were mandated.

The Committee considered a number of options. The proposals severally, (i) banned corporal punishment statewide, (ii) permitted local boards to ban corporal punishment, (iii) retained the present prohibition against local boards' banning corporal punishment but mandated that boards adopt procedural rules for its use, and (iv)

CHILDREN

retained the prohibition, mandated procedural rules, and specified that these rules include several specific due process safeguards.

The Committee decided that the last mentioned proposal was the strongest step it could take, given the fact that it had no assurance that alternative, last resort discipline measures were uniformly available. The proposed legislation, recommended to the 1987 Session and entitled "A BILL TO BE ENTITLED AN ACT TO MANDATE THAT LOCAL BOARDS OF EDUCATION ADOPT POLICIES REGULATING THE USE OF CORPORAL PUNISHMENT IN THE PUBLIC SCHOOLS", would guarantee due process procedures in the event corporal punishment was used. These procedures would protect children from unregulated, irregular corporal punishment and would ensure that other discipline measures be tried and found wanting before corporal punishment could be administered. It would also protect teachers and administrators by giving them clear, approved procedures to follow and by making these procedures known ahead of time to parents and the public.

The Commission also voted to notify local boards of education, the State Board of Education, and the Board of Governors of The University of North Carolina that it would like to consider banning corporal punishment in North Carolina in the future but only when it, the legislature and all educators and administrators involved in educating children in the public schools could be ensured that other satisfactory methods of discipline are available and that all involved are able to implement them. The Committee stated that it was the responsibility of these boards to teach these alternative methods to teachers using resources that they already have available.

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II. CORRECTIONS

COMMUNITY SERVICE ALTERNATIVE PUNISHMENT, RESTITUTION, AND INMATE
WORK RELEASE CENTERS

Auth: 1985 Session Laws, Chapter 790 § 1 (27) (29) (SB
636-Sen. Plyler, et al), SB 495 and SB 406 (Sen.
Swain, et al)

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COMMUNITY SERVICE ALTERNATIVE PUNISHMENT,
RESTITUTION, AND INMATE WORK RELEASE CENTERS

The Committee on Community Service Alternative Punishment,
Restitution, and Inmate Work Release Centers held four meetings.

CORRECTIONS

The Committee discussed the background, availability, and funding of the community penalty programs; the development of community service programs; the benefits of intensive probation and parole; the possibility of converting vacant public buildings into work release centers; and the programs that are administered in the Administrative Office of the Courts.

The Committee made the following recommendations in its report to the 1987 General Assembly:

1. The expansion of the community penalties program.
2. The expansion of intensive probation and parole.
3. The Special Committee on Prisons' examining the possibility of converting vacant public buildings into work release centers.
4. The continuation of the Special Committee on Prisons.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

INMATE SUBSTANCE ABUSE THERAPY PROGRAM

Auth: 1985 Session Laws, Chapter 790 § 1 (26) (SB 636-Sen. Plyler, et al), SJR 317 (Sen. Plyler)

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INMATE SUBSTANCE ABUSE THERAPY PROGRAM

The Study Committee on Inmate Substance Abuse Therapy Program met twice. At the first meeting the Committee heard from speakers regarding the need for rehabilitative efforts to treat addicts in the prison system. It is estimated that fifty to seventy-five percent of persons sentenced to prison have significant problems with alcohol and drugs.

The Committee closely reviewed an Arkansas program that provides 28-day residential treatment for offenders who are alcoholics or drug addicts. The program began in 1980 after prison officials found that seventy-one percent of the population coming into prison were telling officials they were using mind-altering substances. According to the Arkansas supervisors, the key ingredient in the program is the use of peer counselors - inmates who are alcoholics and drug addicts. Less than twenty percent of the inmates who have been through the program return to prison, as compared with sixty-five percent who have not been through the program.

In the final report the Committee made the following findings: 1) a large percentage of the prison population show a high incidence of substance abuse involvement, 2) there is a clear connection between the use of alcohol and drugs and the commission of criminal offenses, 3) alcoholism and drug addiction have long been identified as diseases which punishment alone will not cure, 4) the most effective technique for intervention is an intense, one month, inpatient therapy experience using the techniques of Alcoholics Anonymous, and 5) the State of Arkansas can demonstrate great success with its program over the last six years.

The Committee recommended the establishment of a separate, independent facility to house approximately 100 inmates for treatment. Treatment will be modeled on the principles of Alcoholics Anonymous. The Committee further recommended a Division of Substance Abuse in the Department of Correction and the use of recovering alcoholics or drug addicts.

The report to the 1987 Session includes a bill to establish the program and a Substance Abuse Advisory Council to advise the

CORRECTIONS

Secretary of the Department of Correction. The proposed bill (A BILL TO BE ENTITLED AN ACT TO ESTABLISH A SUBSTANCE ABUSE PROGRAM FOR INMATES AND TO ESTABLISH A SUBSTANCE ABUSE ADVISORY COUNCIL) provides that the facility and program be operational by January of 1988.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

EDUCATION

III. EDUCATION

ADOLESCENT PREGNANCY AND PREMATURE BIRTHS

Auth.: Chapter 1032 § 1(2) (HB 2141 - Rep. Watkins); HB 2078
(Rep. Jeralds)

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ADOLESCENT PREGNANCY AND PREMATURE BIRTHS

The Legislative Research Commission's study on Adolescent Pregnancy and Premature Births held one meeting since its creation by the 1986 Session. That meeting was devoted to hearing reports on adolescent pregnancy programs funded by the State. Ms.

EDUCATION

Barbara Pullen-Smith and Ms. Marilyn Damian of the Department of Human Resources, Division of Health Services, reported on the progress of 23 projects chosen by the Secretary of Human Resources for funding under the program established in Sections 101-102 of Chapter 479 of the 1985 Session Laws. The Department has been evaluating those programs. The Committee also heard from representatives of the 12 programs funded independently by the Department in Section 7 of Chapter 1014 of the 1986 Session Laws.

Representative Luther R. Jeralds and Senator Wanda H. Hunt, Cochair of the Committee, said they hoped the study would be continued by the 1987 General Assembly. Representative Jeralds, who sponsored the appropriation for the 12 programs, said he hoped the study would be the conduit for developing an evaluation of the programs.

The Committee decided that it did not have enough information to make a report, but voted to recommend that the study be continued by the 1987 General Assembly.

ADOLESCENT SEXUALITY TEACHING

Auth: 1985 Session Laws, Chapter 790 § 1 (03) (SB 636-Sen. Plyler, et al), HJR 275 (Rep. Jeralds, et al)

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ADOLESCENT SEXUALITY TEACHING

The Study Committee on Adolescent Sexuality Teaching held one meeting in February, 1986, at which the following topics were discussed:

*The nature and scope of the problems associated with teenage pregnancy, such as low birthweight, high infant mortality, high abortion rate, venereal disease, and possibly welfare dependence and child abuse/neglect.

*The efforts being made to reduce those problems inside and outside the public health system.

*The approach being used by the public schools toward teaching about adolescent sexuality. The discussion of this topic included a debate over the role that religious and moral values do and should play in public-school teaching about sex, particularly with regard to contraceptives. The discussion also touched on the degree to which the content of sex education should be made uniform across the state.

Representatives from the State Department of Human Resources, the State Department of Public Instruction, the State School Boards Association, and the N. C. Association of Educators addressed the Committee in response to requests from the Cochairmen of the Committee for factual presentations.

In addition, the Committee heard from representatives from a number of organizations interested in sex education. The agenda was designed to give the Committee a balance of views on the subject.

The Committee did not make a report to the 1986 or 1987 Sessions.

SCHOOL FINANCE ACT

Auth: 1985 Session Laws, Chapter 790 § 1 (43) (SB 636-Sen. Plyler, et al), SJR 848 (Sen. Taft, et al)

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SCHOOL FINANCE ACT

The School Finance Act Study Committee held four meetings prior to the adoption of its interim report to the 1986 Session of the 1985 General Assembly and two additional meetings prior to the adoption of its final report to the 1987 General Assembly. In the course of its deliberations, the Committee heard testimony from educators, State officials, education lobbyists, local government lobbyists, and other experts in school finance.

Prior to the adoption of its interim report, the Committee examined school finance in North Carolina today, the division of State and local responsibilities for financing the public schools proposed in Senate Bill 49, proposed funding by the State for school operating costs under the Basic Education Program, the funding responsibilities allocated to local governments under Senate Bill 49, and the projected impact on local governments of meeting those funding responsibilities. Prior to the adoption of

its final report, the Committee examined the projected impact of the additional 1/2% local-option sales and use tax enacted by the 1986 Session on the ability of local governments to meet the funding responsibilities assigned to them under Senate Bill 49, the projected impact of allocations of funding responsibilities other than that in Senate Bill 49, whether the State should provide funds for counties willing but unable to meet their responsibilities for financing the public schools, and the need for statewide school facility standards.

After having reviewed the information presented, the Committee made five recommendations to the 1987 General Assembly.

RECOMMENDATION 1: SENATE BILL 49 (3RD EDITION), A BILL TO BE ENTITLED AN ACT TO ESTABLISH STATE AND LOCAL FUNDING RESPONSIBILITIES FOR THE UNIFORM SYSTEM OF FREE PUBLIC SCHOOLS, WHICH WAS CONSIDERED BY THE 1985 GENERAL ASSEMBLY, SHOULD BE ENACTED BY THE 1987 GENERAL ASSEMBLY WITH TWO AMENDMENTS - THE BILL SHOULD BE AMENDED (i) TO GIVE THE STATE FULL RESPONSIBILITY FOR FUNDING ALL SCHOOL MAINTENANCE AND CUSTODIAL PERSONNEL AND (ii) TO GIVE THE COUNTIES FULL RESPONSIBILITY FOR FUNDING ALL SCHOOL UTILITY COSTS EFFECTIVE WITH THE 1987-88 FISCAL YEAR.

The Committee found that there is overwhelming support for the main purpose of Senate Bill 49 - to redefine and clarify the responsibilities of the State and local governments for funding the public schools, but that the delineation of funding responsibilities set out in the bill needed to be fine-tuned. Senate Bill 49, with the fine-tuning recommended by the Committee, would require the counties to pay for the following:

1. School buildings, related furniture, and apparatus adequate to meet the requirements of the Basic Education Program;
2. School property insurance;
3. Necessary expenses for the governing boards of the several local school administrative units such as per diem, subsistence, and mileage for local board meetings, any liability insurance they opt to have, and any legal defense of board members or employees they opt to provide; and
4. School utility costs.

The bill requires the State to pay for all other costs of the Basic Education Program, including the costs of maintenance and custodial personnel. The bill permits the counties to opt to pay for items the State is required to fund and the State to opt to pay for items the counties are required to fund.

EDUCATION

The bill also (i) requires the counties to maintain their current levels of appropriations for education until the Basic Education Program is implemented or until June 30, 1993 (the projected date for full implementation of the Basic Education Program), whichever is sooner; (ii) limits what portions of the school program the local boards of education can legally compel the boards of county commissioners to pay for; and (iii) states the intent of the General Assembly to fund school operations in categories.

RECOMMENDATION 2: THE GENERAL ASSEMBLY SHOULD CREATE A SPECIAL FUND, ADMINISTERED BY THE STATE BOARD OF EDUCATION, TO HELP THE COUNTIES WITH THE GREATEST SCHOOL FACILITY NEEDS RELATIVE TO THEIR AVAILABLE RESOURCES TO MEET THEIR MOST CRITICAL SCHOOL FACILITY NEEDS. TEN MILLION DOLLARS SHOULD BE APPROPRIATED TO THE FUND FOR THE 1987-88 FISCAL YEAR. THIS RECOMMENDATION IS CONTAINED IN "A BILL TO BE ENTITLED AN ACT TO ESTABLISH A SPECIAL FUND TO MEET CRITICAL SCHOOL FACILITY NEEDS."

Even with the new revenues the 1986 Session of the General Assembly provided to local governments in the form of the additional 1/2% local-option sales tax, the Committee's analyses indicate that certain counties will be unable to meet their financial responsibilities under Senate Bill 49. The Committee recommended that a Special Fund to Meet Critical School Facility Needs be created in the Department of Public Education. The fund would be used to target State assistance to critical projects in those counties whose school facility needs are greatest in relation to their resources. In light of the current fiscal situation in the State, the Committee recommended an appropriation of \$10 million for the 1987-88 fiscal year to the fund.

RECOMMENDATION 3: THE STATE BOARD OF EDUCATION SHOULD DEVELOP AND REPORT TO THE GENERAL ASSEMBLY ON STATEWIDE STANDARDS FOR SCHOOL FACILITIES ADEQUATE TO MEET THE REQUIREMENTS OF THE BASIC EDUCATION PROGRAM. THE STANDARDS SHOULD BE PHASED IN OVER TIME AND SHOULD "GRANDFATHER IN" OLD BUILDINGS FOR THE PROJECTED LIFE OF THOSE BUILDINGS. THIS RECOMMENDATION IS CONTAINED IN "A BILL TO BE ENTITLED AN ACT TO DIRECT THE STATE BOARD OF EDUCATION TO DEVELOP AND REPORT TO THE GENERAL ASSEMBLY ON STATEWIDE STANDARDS FOR SCHOOL FACILITIES ADEQUATE TO MEET THE REQUIREMENTS OF THE BASIC EDUCATION PROGRAM."

A major problem the Committee encountered in the course of its work is that it is impossible to determine with any degree of certainty or uniformity the school facility needs of each county. There are no clear statewide standards in force as to what are adequate facilities to accommodate the Basic Education Program. Without clear standards, it is difficult to hold the counties accountable for providing adequate school facilities or to judge the reasonableness of information on school facility needs compiled by the Department of Public

EDUCATION

Instruction. Also, since school facility needs are the greatest component of the counties' financial responsibilities under Senate Bill 49, it is difficult to analyze the ability of the counties to comply with Senate Bill 49.

RECOMMENDATION 4: THE DEPARTMENT OF REVENUE SHOULD BE REQUIRED TO PERFORM SALES-ASSESSMENT RATIO STUDIES FOR ALL 100 COUNTIES. ADDITIONAL FUNDING FOR THIS PURPOSE SHOULD BE APPROPRIATED TO THE DEPARTMENT OF REVENUE FROM INTANGIBLES TAX REVENUES. THE COUNTIES SHOULD BE REQUIRED TO ASSIST THE DEPARTMENT OF REVENUE IN PERFORMING THESE STUDIES. THIS RECOMMENDATION IS CONTAINED IN "A BILL TO BE ENTITLED AN ACT DIRECTING THE DEPARTMENT OF REVENUE TO CONDUCT CONTINUING SALES-ASSESSMENT RATIO STUDIES."

Sales-assessment ratio studies examine the relationship between the assessed value of certain classes of property and the market value of the property. There is no way under the staggered octennial revaluation schedule for real property to compare data on the current property tax base in different counties with any certainty without sales-assessment ratio studies.

One reason this Committee's conclusions regarding the fiscal capacity and tax efforts of the various counties are imprecise is that the Committee had to use a special sales-assessment ratio study performed back in 1984. The 1984 study is the only study that covered all 100 counties in North Carolina.

RECOMMENDATION 5: THE LEGISLATIVE RESEARCH COMMISSION SHOULD DIRECT THE STUDY COMMITTEE ON THE SCHOOL FINANCE ACT TO CONTINUE TO MONITOR SCHOOL FINANCE DURING THE 1987-89 FISCAL BIENNIUM. THIS RECOMMENDATION IS CONTAINED IN "A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY SCHOOL FINANCE."

Due to the complexity of the issues involved, the major commitment the General Assembly has made and continues to make to funds for the public schools, and the critical importance of school finance to the citizens of the State, the Committee recommends that the Legislative Research Commission continue the Study on the School Finance Act during the 1987-89 fiscal biennium. The Committee feels that it is extremely important that a School Finance Act be enacted by the General Assembly. If the 1987 Session fails to do so, the Committee will need to do more work on such a bill. If the 1987 Session enacts a School Finance Act, it, like any other major piece of legislation, will need monitoring and fine-tuning.

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EDUCATION

SUPERINTENDENT OF DEPARTMENT OF PUBLIC INSTRUCTION AND STATE BOARD OF EDUCATION

Auth: 1985 Session Laws, Chapter 790 § 1 (21) (SB 636-Sen. Plyler, et al), HJR 1412 (Rep. Nye)

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SUPERINTENDENT OF DEPARTMENT OF PUBLIC INSTRUCTION AND STATE BOARD OF EDUCATION

The Committee on the Superintendent of Public Instruction and the State Board of Education met six times. The Committee discussed the feasibility of redefining the duties of the Superintendent of Public Instruction, whether the Superintendent of Public Instruction should be elective or appointive, methods of restructuring the State Board of Education, the feasibility of transferring the controller under the Superintendent, and legislative alternatives to a constitutional amendment to achieve these changes.

EDUCATION

In its report to the 1987 General Assembly the Committee makes the following recommendations:

1. The Superintendent of Public Instruction should be appointed by the State Board of Education.
2. The composition of the State Board of Education should be changed to 14 members consisting of the Lieutenant Governor, the Treasurer, four members appointed by the General Assembly, and eight members appointed by the Governor.
3. The terms of the members of the State Board of Education should be reduced to four years instead of the current eight years.
4. The method of selecting the Chairman of the State Board of Education should be changed to allow the Governor to appoint the Chairman.
5. The office of the Controller should be abolished, and the fiscal affairs of the Department should be placed under the supervision of the Superintendent of Public Instruction.

These recommendations are contained in the Committee's proposed legislation, AN ACT TO AMEND THE CONSTITUTION AND THE GENERAL STATUTES TO CHANGE THE METHOD OF SELECTING THE MEMBERS OF THE STATE BOARD OF EDUCATION AND TO MAKE THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION APPOINTIVE.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

IV. ENVIRONMENT

COASTAL WATER QUALITY

Auth.: Chapter 1014 § 152 (HB 2055 - Rep. Watkins)

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COASTAL WATER QUALITY

The Coastal Water Quality Study was authorized by the 1985 General Assembly during the 1986 Regular Session. The Committee met four times.

During its study, the Committee focused on four main areas: the appropriate classification of coastal waters and water quality standards, problems created by storm water runoff and effective

ENVIRONMENT

methods of addressing those problems, statewide water quality problems that affect coastal waters, and enhancement of coastal resources.

Speakers from State and federal agencies addressed the Committee on legal and scientific principles adopted to safeguard water quality. Additional information was provided to the Committee comparing approaches adopted by other states that have addressed similar water quality issues. The Committee also provided a forum for members of the public to indicate their concerns about the State's water quality.

The Committee made a number of recommendations but proposed no legislation for consideration by the 1987 General Assembly. A list of those recommendations is included in the Committee's full report.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

HAW RIVER AND JORDAN RESERVOIR WATER QUALITY

Auth: 1985 Session Laws, Chapter 790 § 1 (19) (SB 636-Sen. Plyler, et al), HJR 1393 (Rep. Hackney, et al)

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HAW RIVER AND JORDAN RESERVOIR WATER QUALITY

The Haw River and Jordan Reservoir Water Quality Study Committee met four times. The Committee considered a number of topics but focused attention on the following issues: the need to revise the current fee scale for pollution control permits, the need to require a performance bond of package plant operators, the problems posed to water quality by locating landfills near major rivers or tributaries, the possibility of including segments of the Haw River in the State's Natural and Scenic Rivers System and the allocation of water from Jordan Reservoir to local governments requesting to share that water supply.

The Committee recommended legislation to the 1987 Session addressing the first three issues. The titles of those bills proposed by the Committee are as follows:

1. A BILL TO BE ENTITLED AN ACT TO INCREASE APPLICATION FEES FOR POLLUTION CONTROL PERMITS, AND TO AUTHORIZE AN ADDITIONAL FEE FOR GRANTING POLLUTION CONTROL PERMITS;
2. A BILL TO BE ENTITLED AN ACT TO REQUIRE A BOND OR OTHER COLLATERAL AS A CONDITION TO ISSUE A PERMIT FOR THE OPERATION OF TREATMENT WORKS; and
3. A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A SANITARY LANDFILL MAY NOT BE LOCATED WITHIN 2500 FEET OF A MAJOR RIVER OR A MAJOR TRIBUTARY.

The Committee also recommended that the Department of Natural Resources and Community Development begin a study of the Haw River to determine whether the segment of that river which flows from Swepsonville to the Chatham County line qualifies for inclusion in the Natural and Scenic Rivers System.

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HIGH-LEVEL RADIOACTIVE WASTE DISPOSAL

Auth: 1985 Session Laws, Chapter 790 § 1 (17) (SB 636-Sen. Plyler, et al), HB 1373 (Rep. Diamont, et al), SB 655 (Sen. Hipps)

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HIGH-LEVEL RADIOACTIVE WASTE DISPOSAL

The High-Level Radioactive Waste Disposal Study Committee met six times. Two major topics considered by the Committee were the State's involvement in the siting of a high-level waste repository and in the transportation of high-level waste.

At the January 3, 1986 meeting the Committee was given an overview of the Nuclear Waste Policy Act of 1982 and North Carolina's role in carrying out the Act. Two weeks after this

meeting, the U.S. Department of Energy notified the State that two areas near Asheville and Rolesville were being considered as potentially acceptable sites for a repository.

At the April 3, 1986 meeting, the Committee met in Waynesville and the Sandy Mush Community, part of the Elk River site near Asheville. The Committee heard from several experts in the area and from many concerned residents. Topics covered during this meeting included the socio-economic impact that a repository would have on the State, the lack of technology in handling high-level waste, the need for coordination of all efforts and resources in opposing the site selection, and the importance of educating the public on high-level waste activities.

At the April 16, 1986 meeting, the Committee examined high-level waste legislation in other states and heard from an expert in the area of nuclear technology who spoke on the safety of high-level waste transportation. The Committee was informed that on April 15, the Governor met with the Department of Energy and submitted the State's comments on the Draft Area Recommendation Report. In this Report the Department of Energy recommended the two North Carolina sites, and the State's comments were that both sites should be disqualified. The Committee also voted to request the Governor, Lieutenant Governor and Speaker of the House to hold a joint press conference to explain the wording of the nuclear waste referendum regarding whether a high-level waste repository should be located in the State. At the close of this meeting the Committee members toured the Rolesville site and met with residents in the area.

Due to the May 28, 1986 announcement by the Department of Energy that it was postponing indefinitely site-specific work for a second repository, the Committee at its October 23 and November 14, 1986 meetings turned its attention to transportation of high-level waste. At the October 23 meeting the Committee heard from the following state agencies regarding their roles in high-level waste transportation: the Radiation Protection Section within the Department of Human Resources, the Division of Emergency Management within the Department of Crime Control and Public Safety, and the Occupational Safety and Emergency Planning Section within the Department of Transportation. A spokesman with the Southern States Energy Board informed the Committee of the Board's work in looking at high-level waste transportation in the southern states. The Committee was also given an overview of Tennessee's involvement with the Department of Energy's plans to site a monitored retrievable storage facility in Tennessee. The Blue Ridge Environmental Defense League presented its high-level waste transportation recommendations to the Committee.

At the November 14, 1986 meeting, the various State agencies that had spoken at the previous meeting presented their recommendations on high-level waste transportation to the Committee.

ENVIRONMENT

The Committee adopted its report on December 1, 1986 and recommended the following legislation to the 1987 Session:

"A JOINT RESOLUTION STATING NORTH CAROLINA'S OPPOSITION TO THE SELECTION OF AREAS WITHIN THE STATE FOR CONSIDERATION IN THE SITING OF A HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY PURSUANT TO THE NUCLEAR WASTE POLICY ACT OF 1982; AND URGING CONGRESS TO REPEAL THE PROVISIONS OF THE NUCLEAR WASTE POLICY ACT OF 1982 REGARDING THE SITE-SELECTION WORK ON A SECOND HIGH-LEVEL RADIOACTIVE WASTE REPOSITORY."

The Committee also made the following recommendations:

1. The Radiation Protection Commission, pursuant to the authority provided in G.S. 104E-15 of the Radiation Protection Act, should consider alternate preferred highway routes for the transportation of high-level radioactive waste in the State. Any alternate route shall be in accordance with the U.S. Department of Transportation guidelines and shall be selected after comparing various routes and examining the risks involved and after consulting with neighboring jurisdictions to ensure consideration of all impacts and the continuity of designated routes. The Commission shall also explore the use of rail as a primary means of transporting high-level radioactive waste.
2. The North Carolina General Assembly may consider entering into an agreement with neighboring states regarding the transportation of high-level radioactive waste. This agreement should set out uniform inspection criteria and fee schedules and alternate preferred routes.

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LOW-LEVEL RADIOACTIVE WASTE REGULATION

Auth.: Chapter 1032 § 1(3) (HB 2141 - Rep. Watkins); SB 982
(Sen. Tally)

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LOW-LEVEL RADIOACTIVE WASTE REGULATION

The Low-Level Radioactive Waste Regulation Study Committee met three times.

At the organizational meeting the Committee was given an overview of the work of the various committees within State government that are also looking at low-level radioactive waste disposal. These committees include the Subcommittee on Low-Level Radioactive Waste Management of the North Carolina Radiation Protection Commission and the Special Interdisciplinary Committee on Low-Level Radioactive Waste. The Committee was also given a briefing on the role of the Radiation Protection Section and the Governor's Waste Management Board in the handling of radioactive waste. Captain William Briner, one of North Carolina's commissioners to the Southeast Compact Commission, gave an update on the Commission's work; Mr. John Runkle presented the Conservation Council's recommendations on radioactive waste disposal. The Committee also discussed low-level radioactive waste legislation in other states.

At the November 24, 1986 meeting the Committee was provided with information on the surcharges, fees, and taxes assessed against the Chem-Nuclear Plant in Barnwell, South Carolina. The Barnwell plant is a low-level radioactive waste disposal facility that buries waste in trenches. The Committee also heard from Dr. Earl Mac Cormac, Science Advisor to the Governor and Executive Director of the North Carolina Board of Science and Technology. Dr. Mac Cormac advised the Committee of the Governor's position on North Carolina's remaining in the Compact. The Committee then reviewed proposed legislation.

ENVIRONMENT

At the final meeting on December 1, 1986 the Committee considered more proposed legislation and adopted a report. The Committee recommends the following legislation to the 1987 Session of the General Assembly:

1. "A BILL TO BE ENTITLED AN ACT TO AMEND THE POWERS OF THE RADIATION PROTECTION COMMISSION TO PROVIDE FOR THE DEVELOPMENT AND ADOPTION OF CRITERIA AND STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE FACILITIES." The current North Carolina law does not set out criteria and standards for siting a low-level radioactive waste facility. This bill authorizes the Commission to consider hydrological and geological factors, natural resources, transportation and other items in adopting siting standards and criteria.
2. "A BILL TO BE ENTITLED AN ACT TO AMEND THE LICENSING PROCESS FOR A LOW-LEVEL RADIOACTIVE WASTE FACILITY BY FIRST REQUIRING THE APPLICANT TO SATISFY THE STATE DEPARTMENT OF HUMAN RESOURCES OF HIS FINANCIAL AND TECHNICAL CAPABILITIES." This bill would require that approval of a low-level radioactive waste facility permit be contingent upon the applicant's first satisfying the Department of Human Resources that (1) any prior facility constructed or operated by the applicant has been operated in accordance with sound waste management practices and in substantial compliance with federal and State laws and regulations and (2) the applicant is financially qualified to operate the subject low-level radioactive waste facility.
3. "A BILL TO BE ENTITLED AN ACT TO PROHIBIT SHALLOW LAND BURIAL OF RADIOACTIVE WASTE AND TO REQUIRE ENGINEERED BARRIERS AT ANY NEAR-SURFACE DISPOSAL FACILITY." This bill amends the Radiation Protection Act by setting out definitions of "shallow land burial" and "engineered barriers" and by prohibiting shallow land burial of low-level radioactive waste. The bill further requires that engineered barriers be incorporated in the design of any near-surface disposal facility and that the bottom of the disposal facility be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and environment.

The Committee also adopted the following recommendations:

1. If North Carolina decides to remain in the Southeast Interstate Compact for Low-Level Radioactive Waste Management and a regional low-level radioactive waste facility is constructed in the State, then no other commercial low-level radioactive waste facility should be licensed in the State.
2. Legislation should be enacted giving the Radiation Protection Commission authority to enforce volume reduction of low-level radioactive waste as a condition of providing access to a low-level radioactive waste facility. The Department of Human

ENVIRONMENT

Resources should impose fees that would encourage volume reduction.

3. A study should be conducted on a fee structure for low-level radioactive waste disposal. This study should examine the need for fees, the types of fees to be authorized, and incentives derived from fees.

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UNDERGROUND STORAGE TANKS AND GROUNDWATER HAZARDS; AND WATER POLLUTION

Auth: 1985 Session Laws, Chapter 790 § 1 (02) (15) (SB 636-Sen. Plyler, et al), HB 1281 (Rep. Locks, et al)

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UNDERGROUND STORAGE TANKS AND GROUNDWATER HAZARDS; AND WATER POLLUTION

The LRC Committee on Underground Storage Tanks and Groundwater Hazards met three times and adopted a report to the 1987 General Assembly.

The Committee focused its study on groundwater contamination from underground storage tank leakages. The Committee heard from officials of the U.S. Environmental Protection Agency, the State's Department of Natural Resources and Community Development Division of Environmental Management, the State's Department of Human Resources Division of Health Services, and local health departments. The Committee also heard from associations representing petroleum producers and marketers, underground storage tank owners, conservation groups, and the N.C. Farm Bureau Federation.

Committee discussion included the nature and extent of groundwater contamination in North Carolina from underground storage tank leakages; federal law; proposed State regulations to implement a federally-approved comprehensive underground storage tank program; and the need to respond promptly and adequately to groundwater contamination from underground storage tank leakages.

The Committee recommends that the 1987 General Assembly take the following action:

1. Appropriate \$1,000,000 from the General Fund to establish the Underground Storage Tank Remedial Action Fund. The Fund would be used to abate and clean up underground storage tank leakages that threaten human health or the environment. The Department of Natural Resources and Community Development would administer the Fund and would be authorized to seek reimbursement from persons responsible for underground storage tank releases necessitating such remedial action. The Fund could be used to match moneys made available to the State for the purposes of the Fund. (See "A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE UNDERGROUND STORAGE TANK REMEDIAL ACTION FUND" in the Committee's report.)
2. Appropriate \$67,100 for the estimated start-up costs associated with laboratory analyses of petroleum samples from underground storage tank leakages submitted by local health departments.
3. Support expansion budget requests by the Department of Human Resources to fund two additional toxicologist positions for the interpretation of instances of water supply contamination.

ENVIRONMENT

4. Continue the study of groundwater contamination from underground storage tank leakages.

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V. HUMAN RESOURCES

AGING

Auth: 1985 Session Laws, Chapter 790 § 1 (04) (SB 636-Sen. Plyler, et al), HJR 322 (Rep. Greenwood, et al)

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AGING

The Legislative Research Commission's Committee on Aging held four meetings before the 1986 Session. Many groups and persons were heard and many issues were brought to the attention of the

Committee. The Committee was particularly concerned with those aging bills which were eligible for consideration in the 1986 Session. The Committee recommended passage of the following bills which were pending:

1. HB 289 - AN ACT TO PROVIDE A PARTIAL EXCLUSION FROM INCOME FOR RETIREMENT PAY RECEIVED BY AN ELDERLY TAXPAYER FROM A PRIVATE EMPLOYER PROGRAM. This bill did not pass.
2. HB 824 - AN ACT TO PROVIDE STATE FUNDING FOR MEDICALLY NECESSARY TRANSPORTATION FOR MEDICAID RECIPIENTS. This bill did not pass.
3. HB 1377 - AN ACT TO APPROPRIATE FUNDS TO INCREASE THE PERSONAL NEEDS ALLOWANCE OF RESIDENTS AT FAMILY CARE HOMES AND HOMES FOR THE AGED. The bill passed with a \$5.00 increase in the personal needs allowance for these residents.
4. HB 1158 - AN ACT TO APPROPRIATE FUNDS FOR RESPITE CARE. \$300,000 was included in the appropriations bill for respite care.

The committee recommended the following new legislation to the 1986 Session:

1. AN ACT TO APPROPRIATE FUNDS FOR HOME HEALTH CARE FOR INDIGENTS OF NORTH CAROLINA. \$275,000 was included in the appropriations bill.
2. AN ACT TO PROVIDE FUNDS FOR THE STATE ADULT DAY CARE PROGRAM. \$375,000 was included in the appropriations bill.

After the 1986 Session, the Legislative Research Commission's Committee on Aging held three meetings. The Committee recommends the following legislation to the 1987 Session:

1. A JOINT RESOLUTION TO CONTINUE THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY OF THE PROBLEMS OF AGING. The resolution would continue the LRC study on aging.
2. AN ACT TO PROVIDE A PARTIAL EXCLUSION FROM INCOME FOR RETIREMENT PAY RECEIVED BY AN ELDERLY TAX PAYER FROM A PRIVATE EMPLOYER RETIREMENT PROGRAM. Currently those persons who receive state retirement pay no income tax. Those persons who receive federal retirement receive a \$3,000 exemption from state income tax. Those persons who receive retirement from private retirement funds receive no state income tax exemption. The bill would allow a \$3,000 exemption on state income tax for those persons who receive nongovernmental pensions.

HUMAN RESOURCES

3. AN ACT TO PROVIDE THAT NURSING HOME AND DOMICILIARY HOME COMMUNITY ADVISORY COMMITTEE MEMBERS MAY BE DEFENDED PURSUANT TO CHAPTER 143 OF THE GENERAL STATUTES. This bill would amend state law to allow the Attorney General to represent members of the Nursing Home and Domiciliary Home Advisory Committees in cases of liability arising from the exercise of their duties.
4. AN ACT THAT WOULD PERMIT THOSE ELDERLY OR DISABLED INDIVIDUALS WHOSE RESIDENCE QUALIFIES FOR THE "HOMESTEAD EXEMPTION" TO DEFER PAYMENT OF AD VALOREM TAX ON THIS PROPERTY UNTIL THE PROPERTY IS TRANSFERRED. This bill would allow property tax deferral for the elderly and handicapped who also qualify for the homestead exemption.
5. AN ACT TO PROVIDE FOR AN ELDERLY AND HANDICAPPED TRANSPORTATION ASSISTANCE PROGRAM TO BE ADMINISTERED BY THE DEPARTMENT OF TRANSPORTATION. The legislation would appropriate \$2,000,000 to improve transportation services for the elderly and handicapped. It would supplement monies from federal and local governments by providing operating resources for needed services.
6. AN ACT TO ESTABLISH A STUDY COMMISSION ON ALZHEIMER'S DISEASE. There would be established an independent, joint legislative, executive study on Alzheimer's Disease to make recommendations for improvement of services to patients and families affected with the disease.
7. AN ACT TO APPROPRIATE \$60,000 FOR THE NORTH CAROLINA SENIOR GAMES. The bill would appropriate \$60,000 for the North Carolina Senior Games as a preventive health measure for the elderly.
8. AN ACT TO APPROPRIATE \$300,000 IN EACH YEAR OF THE 1987-89 BIENNIUM FOR RESPITE CARE. This bill would continue funding for respite care in North Carolina, which is one of the services that supports the impaired elderly person who wishes to remain at home.
9. AN ACT TO PROVIDE FOR AUTOMOBILE INSURANCE PREMIUM DISCOUNTS FOR CERTAIN PERSONS WHO COMPLETE ACCIDENT PREVENTION COURSES. This bill would provide a reduction in automobile insurance premiums for those 55 years of age and older who voluntarily complete an approved driver improvement program.
10. AN ACT TO AMEND THE NURSING HOME PATIENTS' BILL OF RIGHTS. The penalty for violation of the Nursing Home Bill of Rights in cases where the violation resulted in the death of a patient or the violation placed the patient in substantial danger of death would be changed from \$10.00 per day for the first day of violation to \$200.00 per affected patient for the first day of violation.

11. AN ACT TO PROVIDE FUNDS FOR SENIOR CITIZENS' CENTERS. This bill would appropriate \$250,000 for the establishment of new senior centers and also would appropriate \$250,000 to help with the operation of those centers already in existence.

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COUNTY COMMISSIONERS' AUTHORITY OVER LOCAL BOARDS

Auth: 1985 Session Laws, Chapter 790 § 1 (20) (SB 636-Sen. Plyler, et al), HJR 1405 (Rep. Holroyd, et al)

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COUNTY COMMISSIONERS' AUTHORITY OVER LOCAL BOARDS

The Legislative Research Commission (LRC) Study Committee on County Commissioners' Authority Over Local Boards met three times. The Committee reviewed G.S. 153A-77, which authorizes boards of county commissioners in counties with populations in excess of 400,000 to assume direct control of the functions of local boards authorized or appointed by the commissioners. These boards include local boards of health, mental health, and social services. House Joint Resolution 1405 directed the Committee to study the advisability of further implementation of G.S. 153A-77.

Mecklenburg County, the only county that meets the population criterion required to implement the statute, currently operates its human services board structure pursuant to G.S. 153A-77. The Committee's purpose was to determine whether Mecklenburg County should continue operating the board structure it established under G.S. 153A-77 and, if so, whether other North Carolina counties should be permitted to do the same.

The first two meetings provided opportunities for the Committee members to compare traditional local board structure with the centralized, consolidated, human services board structure authorized by G.S. 153A-77. The Committee members also studied the cost effectiveness of implementation of G.S. 153A-77 and the relationship between the State Department of Human Resources and local human services departments, boards, and programs. The Committee members debated the constitutionality of the statute and reviewed an Attorney General's Opinion requested by the cochairmen, which ruled that G.S. 153A-77 does not violate Article II, Section 24 of the North Carolina Constitution. The Committee also heard from a number of interested groups, associations, and individuals.

After discussion at the second meeting, the Committee members voted to recommend that the population criterion in G.S. 153A-77 be increased to 425,000. This increase would permit Mecklenburg County to continue its efforts to consolidate and streamline its human services system. It would also preclude other counties from implementing G.S. 153A-77 for several years, during which time the experience of Mecklenburg County will become clearer and the advisability of implementation of G.S. 153A-77 easier to ascertain.

The Committee convened for a third time to adopt its report to the 1987 Session, which recommends that Mecklenburg County be permitted to continue implementation of G.S. 153A-77, that counties attaining a population in excess of 425,000 be allowed to implement G.S. 153A-77, and that all other counties continue operating under a traditional board system. The Committee approved draft legislation, "A BILL TO BE ENTITLED AN ACT TO INCREASE THE POPULATION CRITERION FOR COUNTIES THAT SEEK TO EXPAND COUNTY COMMISSIONERS' AUTHORITY OVER LOCAL BOARDS," which would amend G.S. 153A-77 to increase the population criterion from 400,000 to 425,000 and would abolish the sunset provision applicable to the current population criterion.

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LIFE CARE ARRANGEMENTS

Auth: 1985 Session Laws, Chapter 790 § 1 (09) (SB 636-Sen. Plyler, et al), HB 1053 (Rep. Locks, et al)

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LIFE CARE ARRANGEMENTS

From 1970-1980 North Carolina's over 65 population increased by 46 percent, the 8th highest rate nationwide. During the same decade North Carolina ranked as the 7th most attractive state for an in-migration of retirees. In just 13 years one in six North Carolinians will be 65 or older. Far more people will also be

living into their 80's. Where will this growing number of old - and very old - adults live, especially in a society where their children are often scattered around the country?

One approach gaining in popularity is the continuing care retirement community. This alternative is increasingly attractive to many middle class elderly because it guarantees them lifetime care as well as housing and other services. A 1984 Wharton School of Business study, considered the definitive work in the field, says that a continuing care retirement community must have three components:

- A campus with independent living units and some health care facilities such as congregate living, personal care, intermediate or skilled nursing care;
- A contract that lasts for more than one year and guarantees shelter and various health care services; and
- Fees for health care that are less than the full cost of such services and have been partly prepaid by the resident.

The very nature of the life care arrangement, however, brings with it serious financial risk not only for the community and its developers, but especially for the residents. Since life care is generally regarded as a social and health insurance plan for the elderly, the question of the need for state oversight comes to the fore. After four meetings, the Committee was convinced by the weight of the evidence presented to it that state regulation of life care facilities was necessary and appropriate for North Carolina. This state regulation should protect the financial security of citizens who participate in this form of long term care.

The Committee recommended a bill to the 1987 General Assembly entitled "AN ACT TO REQUIRE ADEQUATE DISCLOSURE BY CONTINUING CARE FACILITIES". The proposed continuing care legislation provides comprehensive guidelines to protect existing continuing care beneficiaries as well as prospective residents through its emphasis on full disclosure, adequate planning, restricted use of initial funds, and early warning of financial difficulty. At the same time, the proposed act is flexible enough to accommodate varying programs, facilities, and financing concepts necessary for continuing care programs to become available to the greatest possible number of people. The self-enforcing nature of the act, with its emphasis on financial program review and warnings by private parties, civil liabilities, and the general involvement of persons in addition to the provider and the state, also serves to carry out its purposes without the creation of additional bureaucratic mechanisms with their attendant costs.

HUMAN RESOURCES

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LONG-TERM HEALTH CARE INSURANCE

Auth: 1985 Session Laws, Chapter 790 § 1 (11) (SB 636-Sen. Plyler, et al), HB 1103 (Rep. Locks, et al)

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LONG-TERM HEALTH CARE INSURANCE

The Committee on Long-Term Health Care Insurance met once prior to the 1986 Session. The Committee heard presentations from Mr. Laurence Lane, Director of the American Health Care Association, on the need for long-term health care insurance and what other states were doing on this subject. The Committee also

HUMAN RESOURCES

heard from Ms. Barbara Matula, State Medicaid Director, on the need for such insurance and the expected savings for the State in Medicaid payments if enough consumers purchase policies. The Committee also reviewed a booklet by the Capital Health Services Agency, Inc., comparing several long-term health care policies available in North Carolina.

The Committee made no recommendations to the 1986 Session and did not meet again after the 1986 Session.

PREVENTATIVE MEDICINE

Auth: 1985 Session Laws, Chapter 790 § 1 (08) (SB 636-Sen. Plyler, et al), HB 1052 (Rep. Locks, et al)

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PREVENTATIVE MEDICINE

The Preventative Medicine Study Committee held seven meetings during the biennium and heard a variety of speakers on subjects related to promoting healthy lifestyles and preventing chronic disease and accidents.

The study was requested by Dr. Ronald Levine, State Health Director, and local officials of the public health system. They advocated using the public health system as a framework for building a Statewide program of health promotion and disease prevention. "Health promotion and disease prevention" (HPDP) is the popular name for an approach to health care that has gained strength throughout the nation in recent years, especially since issuance of a 1979 U.S. Surgeon General's report called "Healthy People." This approach entails, among other things, identifying population groups whose behavior puts them at high risk for preventable health problems and using the techniques of sociology to induce changes in that behavior.

Dr. Levine and others presented facts about the preventable health problems prevalent in North Carolina. Cancer, cardiovascular disease and accidents are the top three. They discussed the phenomenon of the "Stroke Belt" in eastern North Carolina.

The Committee heard diverse proposals to deal with the problem. They included: expanding the roles of Cardiac Rehabilitation Centers, giving tax breaks to businesses, and encouraging use of prevention-oriented nurse practitioners by removing barriers to their direct reimbursement by third parties. Some of the proposals proved to be controversial.

After the first four meetings, the Committee made an interim report to the 1986 Short Session, but with no findings or recommendations.

Finally, in its report to the 1987 General Assembly, the Committee settled upon a plan, put forth by Dr. Levine and others, to build a network of community HPDP programs through grants to local agencies, primarily local health departments. The distribution formula would assure a base amount to each county and give additional amounts to programs based on needs of the population and on merit.

The Committee recommends to the 1987 General Assembly:

1. A BILL TO BE ENTITLED AN ACT TO ESTABLISH A STATEWIDE HEALTH PROMOTION AND DISEASE PREVENTION PROGRAM, establishing the program outlined above, and appropriating for it \$3,284,000 in 1987-88 and \$4,453,200 for 1988-89, all from the General Fund. The Committee decided not to recommend a much-debated proposal to finance the program with revenues from health-premium taxes.

HUMAN RESOURCES

2. A BILL TO BE ENTITLED A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY REIMBURSEMENT FOR PREVENTIVE HEALTH CARE, a study in 1987 of issues related to reimbursement by third parties for preventive health care, including direct reimbursement to certain non-physician professionals. The Committee decided not to endorse direct reimbursement of nurses but contemplated that that subject would be a part of the recommended new study.

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VI. JUSTICE

BAIL BONDSMEN, BAIL BOND FORFEITURE, AND PRETRIAL RELEASE

Auth: 1985 Session Laws, Chapter 790 § 1 (07) (25) (SB
636-Sen. Plyler, et al), HB 967 (Rep. Watkins)

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BAIL BONDSMEN, BAIL BOND FORFEITURE, AND PRETRIAL RELEASE

The Committee on Bail Bondsmen, Bail Bond Forfeiture, and Pretrial Release has held three meetings. The Committee examined the current statutes in North Carolina and other states relating to bail bondsmen and pretrial release.

JUSTICE

In its report to the 1987 General Assembly, the Committee makes the following recommendations:

1. A person should be 21 years of age or over before he can be licensed as a professional bondsman or runner.
2. No person should be licensed as a professional bondsman or runner if he has any outstanding bail bond obligations incurred while previously licensed as a professional bondsman.
3. A person submitting an application for a license to be a runner should disclose all prior employment as a professional bondsman or runner and list any outstanding judgments.
4. No professional bondsman should be allowed to act as a surety on any bail bonds for any one individual pertaining to any charges arising out of one transaction or related transactions whose principal sum is in excess of one fourth of the value of the securities deposited with the Commissioner of Insurance.
5. The number of auditors in the Special Services Division of the Department of Insurance should be increased.
6. The Fair Sentencing Act should be amended to list as an aggravating factor that the defendant willfully failed to appear before any court or judicial official while on pretrial release.

These recommendations are contained in the Committee's proposed legislation, AN ACT TO AMEND THE STATUTES RELATING TO PROFESSIONAL BAIL BONDSMEN AND RUNNERS.

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MENTAL PATIENT COMMITMENTS

Auth: 1985 Session Laws, Chapter 790 § 1 (16) (SB 636-Sen. Plyler, et al), HJR 1313 (Rep. Miller)

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MENTAL PATIENT COMMITMENTS

The Mental Patient Commitments Study Committee held four meetings and heard from numerous speakers who represented persons who were familiar with all different aspects of the involuntary commitment process, including family members of patients, attorneys who represented the State and the patients at court hearings, magistrates, judges, patients' advocates, local physicians, State hospital physicians, and representatives of the Division of Mental Health, Mental Retardation and Substance Abuse Services. The following subject matters were among those discussed: the role of the magistrate in the commitment process, the criteria for involuntary commitment, the reasons for release of patients after very short periods, whether family members should be more directly involved in the process after the custody order is issued, whether sufficient evidence is brought forth at court hearings, the role of the hospital physician in releasing patients after a court-ordered commitment, lack of cooperation among all groups that are involved in the process and a lack of common understanding of the process by all the groups involved.

After listening to all of the testimony, the Committee recognized that the complexity of the commitment process is a result of the need to balance the interests of the patient in not being held against his will and the interest of society in protecting itself from dangerous patients and in helping those mentally ill persons who cannot take care of themselves. The Committee believes that many of the problems with the commitment process lie outside the statutory provisions and that basically North Carolina's commitment law is a good one. The Committee filed

JUSTICE

an Interim Report in the spring of 1986 with a series of nonstatutory recommendations.

The Committee made the following recommendations in its Interim Report:

1. Expand community services for the chronically mentally ill.
2. Request the Division of Mental Health, Mental Retardation and Substance Abuse Services to discontinue pressure on area programs to reduce their use of State facilities by threatening to cut the State and federal funds coming to the program if their utilization of the State facility does not decrease.
3. Recommend greater involvement of families in the planning process for what will happen to an involuntarily committed patient after release from the hospital.
4. Recommend that area authority staff participate in the planning process for after release care for involuntarily committed patients.
5. Recommend increased communication between the regional hospital psychiatrists and the local community physicians.
6. Recommend better and joint education about commitment laws for all persons involved in the process.
7. Recommend that the Attorney General study evidence used at involuntary commitment court hearings.

In its Final Report to the 1987 Session, the Committee recommended the following legislation: AN ACT TO GIVE NOTICE TO TRIAL JUDGE OF CIVIL COMMITMENT HEARING OF DEFENDANT FOUND NOT GUILTY BY REASON OF INSANITY OR INCAPABLE OF PROCEEDING; AN ACT TO GIVE NOTICE TO NEXT OF KIN AND PETITIONER BEFORE RELEASE OF INVOLUNTARILY COMMITTED PERSON; and AN ACT TO ALLOW THE PHYSICIAN'S EXAMINATION IN AN INVOLUNTARY COMMITMENT PROCEEDING TO PRECEDE THE ISSUANCE OF A CUSTODY ORDER.

The Committee also made the following nonstatutory recommendations:

1. Increase staffing at offices of Assistant Attorney General in state psychiatric hospitals.
2. Encourage development of local family support groups.

JUSTICE

3. Equalize funding for community mental health services.
4. Increase the direct care staff at the State psychiatric hospitals.

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STUN GUNS

Auth: 1985 Session Laws, Chapter 790 § 1 (18) (SB 636-Sen. Plyler, et al), HJR 1390 (Rep. McDowell, et al)

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STUN GUNS

The Stun Gun Study Committee met on March 13, 1986 and again on April 10, 1986. The Committee issued a final report to the 1986 Session. It studied the general nature of electric weapons, focusing on four types -- the Taser, the NOVA XR 5000, the Zapper, and the Equalizer. The common feature of these weapons is that they are capable of delivering up to a 50,000 volt electric shock. The shock interrupts the neurological impulses that normally travel through the body to control and direct voluntary muscle movement. When this occurs the person experiences instant disorientation and loss of balance and usually remains in a dazed, disoriented, somewhat passive condition for several minutes after the contact ceases.

Various studies, according to the manufacturers of the weapons, have concluded that the shock delivered by these weapons is not dangerous. A person will not die from an encounter with a stun gun. Some medical experts commenting on the NOVA XR 5000 have cautioned that severe injury could occur if it is used on a person's face or eyes.

The Committee noted the published reports of misuse of stun guns by private individuals and law enforcement officers. The legislative responses in various states were studied. After a public hearing and considerable debate of the competing of issues of the right of the general public to possess stun guns versus the danger that the weapons pose to law enforcement officers, the Committee decided that the protection of law enforcement officers, when acting in discharge of their official duties, was paramount. It recommended legislation to the 1986 Session that would prohibit the possession and sale of stun guns to all persons except law enforcement officers. The recommended legislation, AN ACT TO PROHIBIT THE POSSESSION AND SALE OF ELECTRIC WEAPONS OR DEVICES, was modified in the 1986 Session by committee substitute to limit the manufacturing, importing, or otherwise dealing in the business of stun guns to those persons who are licensed under federal law and to require manufacturers' identification marks on the weapons that are sold. The bill, however was not passed by the Senate.

On another matter, the Cumberland County Sheriff's office expressed to the Committee its concern over the sale of a weapon called the "ballistic knife". This is a spring loaded projectile knife which is capable of firing a blade a distance of about 20 feet and inflicting serious injury to a person.

The Committee recommended legislation to the 1986 Session to totally prohibit the sale, ownership, or any form of possession of this weapon for all persons including law enforcement officers. The only exception would be where a law enforcement agency has to possess it for evidentiary, educational or training purposes. The recommended legislation, AN ACT TO PROHIBIT THE POSSESSION AND SALE

JUSTICE

OF SPRING LOADED KNIVES, was enacted into law as Chapter 810 of the 1985 Session laws.

The Committee did not meet after the 1986 Session.

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VII. LOCAL GOVERNMENT

ITINERANT MERCHANTS

Auth: 1985 Session Laws, Chapter 790 § 1 (12) (SB 636-Sen. Plyler, et al), HJR 1170 (Rep. Lancaster)

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ITINERANT MERCHANTS

The Legislative Research Commission's Itinerant Merchants Study Committee met two times. It held its first meeting on October 22, 1986, and held its second and last meeting on November 10, 1986.

At its first meeting, the Committee identified those merchants considered to be "itinerant merchants," examined the current law concerning itinerant merchants, heard presentations from numerous retail merchants who have fixed retail establishments concerning the problems created by itinerant merchants, and heard from two itinerant merchants. At the Committee's second meeting, the Committee considered two drafts of proposed legislation and entertained comments on these drafts from the North Carolina Retail Merchants Association, several retailers, numerous itinerant merchants, the Department of Revenue, and the Consumer Protection Division of the Attorney General's Office.

After discussing the drafts at length and considering the comments on the drafts made by all interested parties, the Committee adopted the drafts, as changed by it. The titles of the two draft bills recommended to the 1987 Session by the Committee are:

1. AN ACT TO CLARIFY THE PRIVILEGE LICENSE TAX ON PEDDLERS, ITINERANT MERCHANTS, AND FLEA MARKET OPERATORS.
2. AN ACT REGULATING ITINERANT MERCHANTS.

Proposal 1 rewrites the existing statutes that impose a privilege license tax on itinerant merchants; it does not change the current law as it is applied. The Committee recommended that the privilege license tax statute be rewritten because the statute is hard to understand and contains contradictory, archaic, and unconstitutional provisions.

Proposal 2 changes the current law by imposing new requirements on itinerant merchants. Generally, it requires these merchants, who are defined as peddlers and other persons who sell goods at a place other than a permanent retail store, to register with a local law-enforcement agency before selling their goods and to report certain information about themselves and the goods they have for sale. In addition, it requires an itinerant merchant to pay a fee of \$10.00 when registering with a local law-enforcement agency and makes it a misdemeanor punishable by imprisonment for up to 30 days, a fine of up to \$200, or both, for an itinerant merchant to fail to register or to knowingly give false information when registering.

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LOCAL GOVERNMENT FINANCING

Auth: 1985 Session Laws, Chapter 790 § 1 (36) (SB 636-Sen. Plyler, et al), SB 670 (Sen. Rauch, et al)

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LOCAL GOVERNMENT FINANCING

The Committee on Local Government Financing met four times prior to the 1986 Session. The first meeting was on December 4, 1985. The Committee heard statements from the city and county associations. Committee staff presented information on current sources of local government revenue.

The second meeting was held on January 27, 1986. State Treasurer Harlan Boyles made a presentation. Committee staff presented information on home rule and tax alternatives to the property tax.

The third meeting was February 26, 1986. The Committee heard statements on local government needs and adopted two bills. The

Committee discussed proposals made by Committee member Harvey Gantt, Mayor of Charlotte.

At the fourth meeting on March 26, 1986, the Committee adopted a third bill, discussed additional proposals of Mayor Gantt and adopted its report.

The Committee recommended three bills in its report to the 1986 Session. The first recommendation was a bill to allow counties to levy an additional half cent sales tax to be distributed on a per capita basis, as is the half cent authorized by the 1983 General Assembly. Funds would not be earmarked for any specific purpose.

Second, the Committee recommended a bill to allow cities and counties to levy an occupancy tax up to three percent. If a county levied the tax, receipts would be distributed to local governments within that county on the same basis as the current local option sales tax. The bill would not earmark any funds.

If a county did not levy the tax, any municipality within that county could levy a tax up to three percent, receiving the revenues collected. If the county did not levy the full three percent tax, the city could levy the tax as long as the total rate did not exceed three percent.

Counties could take action to levy the tax beginning August 1, 1986, except that if a city within that county had a local act tax, the county tax could not take effect until July 1, 1987, unless the city consented to an earlier date. Cities could levy a tax beginning November 1, 1986, if the county had not levied the full three percent. If a city was levying the tax and the county levied it later, the next tax could not be effective until the beginning of a fiscal year, unless the city consented to an earlier date.

Any levy would supercede any local act. If a county levied a tax, any local act levy by that county or a city within that county would be eliminated. If a city levied a tax, any local act levy by that city would be eliminated.

Lastly, the Committee recommended a bill to allow cities to levy a motor vehicle tax of \$20.00 per motor vehicle. Current law allowed all cities except Durham to levy a tax of \$5.00 per motor vehicle. Durham is limited to \$1.00.

The titles of the bills recommended to the 1986 Session were:

1. A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CITIES AND COUNTIES TO LEVY OCCUPANCY TAXES.
2. A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COUNTIES TO LEVY ADDITIONAL ONE-HALF PERCENT LOCAL AND SALES AND USE TAXES.

3. A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CITIES TO LEVY A MOTOR VEHICLE TAX NOT TO EXCEED TWENTY DOLLARS.

The first of these three bills did not pass. The latter two were ratified as amended.

Subsequent to adjournment of the 1985 General Assembly sine die, the Committee met two times. At the first meeting Mayor Harvey Gantt of Charlotte made presentations on five areas of local option taxation carried over from committee meetings before the 1986 Short Session.

At the Committee's second meeting on October 22, 1986, the Committee approved two proposals, a local option occupancy tax and a local option land transfer tax.

RECOMMENDATIONS TO THE 1987 SESSION

The first bill is a local option land transfer tax. Land transfer taxes are more commonly known as "deed stamp" taxes. North Carolina already has a statewide land transfer tax of one tenth of one percent (.1%), with the funds being collected by the register of deeds of the county and retained by the county where the land is located. The current law exempts from the calculation of the tax the value of any liens or encumbrances assumed by the buyer.

The 1985 Session of the General Assembly passed four local acts authorizing counties to levy land transfer taxes. Those acts were applicable to Dare, Currituck, Camden, and Chowan Counties. The proposal in this report is entitled A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COUNTIES TO LEVY A SUPPLEMENTAL TAX ON INSTRUMENTS CONVEYING REAL PROPERTY. It is modeled after those four local acts, and provides the following:

1. The maximum tax rate is one percent (1%), stated as one dollar per \$100.00 or fraction thereof.
2. The tax does not exempt assumed liens and encumbrances.
3. Revenue from the tax is distributed by the county between itself and municipalities in the county on the same basis that local option sales tax is distributed by the county. The funds may be used for any purpose authorized by law.

The recommended second bill is entitled A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CITIES AND COUNTIES TO LEVY OCCUPANCY TAXES and would provide for a local option occupancy tax. This is the committee substitute presented at the Senate Finance Committee during the 1986 Short Session and is a modification of the Committee's similar proposal made in its earlier interim report. The primary difference between this recommendation and the recommendation in the interim report is that the new bill preserves

local acts, whereas the original bill would have prevailed over any local acts.

The new proposal will allow cities and counties to levy an occupancy tax of one, two, or three percent. If a county levied the tax, receipts would be distributed to local governments within that county on the same basis as the current local option sales tax. The bill would not earmark any funds. A county could not levy any tax under the bill if the county had an authorized occupancy tax by local act or if any city in that county had an authorized local act occupancy tax. The effect of this restriction is to "protect" any local acts from the general law.

If a county did not levy the tax and if neither the county nor the city had a local act occupancy tax authorized, any city may levy a tax of one, two, or three percent. If the county levied a one or two percent tax, the city could levy a tax so long as the total tax did not exceed three percent. Special provisions are made for cities in more than one county.

Counties could take action to levy the tax beginning August 1, 1987. Cities can levy the tax beginning November 1, 1987. If the city levies the tax and the county decides to do so later, the county tax would not be effective until the beginning of the next fiscal year.

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MANUFACTURED HOUSING ZONING

Auth: 1985 Session Laws, Chapter 790 § 1 (13) (SB 636-Sen. Plyler, et al), HB 1178 (Rep. Ballance, et al)

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MANUFACTURED HOUSING ZONING

The Committee elected to concentrate on the question of the location of manufactured housing in "traditional" residential zones. More specifically, the question was whether or not the present statutes should be changed so as to limit the ability of local governments to establish specific zones for manufactured housing and to require local governments to permit manufactured housing in "traditional" single family residential zones. The Committee concluded that the statutes should be amended to produce that result, although local governments should be allowed to impose requirements making manufactured homes compatible in appearance and value with surrounding properties. The Committee also felt that if manufactured homes are to have the status of site-built homes, they should be taxed as real property, rather than personal property as is the current practice. To accomplish these ends specific legislation, entitled AN ACT TO PROMOTE THE USE OF AFFORDABLE HOUSING AND TO PROVIDE FOR FAIR ZONING REGULATION OF RESIDENTIAL MANUFACTURED HOMES AND FOR TAXATION OF MANUFACTURED HOMES AS REAL PROPERTY, is recommended to the 1987 Session.

The Manufactured Housing Zoning Study Committee held four meetings. The Committee reviewed North Carolina's statutory and case law concerning manufactured housing zoning. It also reviewed the state and federal laws and regulations relating to the construction of manufactured housing and has compared those laws and regulations to those governing conventionally built homes.

To further familiarize itself with manufactured housing, the Committee traveled to the manufacturing facility of a manufactured home builder and received first-hand information on construction from that company's engineer. In addition, it toured the factory and was able to see various types of manufactured homes in different stages of construction.

LOCAL GOVERNMENT

The Committee solicited the views of many different interested parties and in the course of its meetings heard from the Manufactured Housing Institute, the North Carolina Association of Home Builders, the North Carolina Legal Services Resource Center, the North Carolina Housing Commission, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners. The Committee received and reviewed statistical profiles comparing the size and cost of manufactured housing with conventional housing, and the make-up of the households occupying both types of housing. The Committee also conducted a survey of the zoning laws of North Carolina's 100 counties and 477 municipalities, to determine how manufactured homes are treated.

The Committee believes that manufactured homes have changed and are now more attractive and better constructed, offering a chance for home ownership to people who could not otherwise own a home. Yet there are barriers to locating manufactured homes in many of North Carolina's municipalities and counties.

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MUNICIPAL INCORPORATIONS

Auth: 1985 Session Laws, Chapter 790 § 1 (05) (SB 636-Sen. Plyler, et al), HJR 389 (Rep. Greenwood, et al)

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MUNICIPAL INCORPORATIONS

The 1983 General Assembly authorized a study of the procedure for incorporating municipalities. The Study Committee on Municipal Incorporations met and took up the question of the status of inactive cities. Legislative staff surveyed the legislative delegations and county officials about the status of close to 50 inactive cities, asking whether the charters should be repealed. Almost without exception, the local officials and community residents opposed charter repeal, largely for historical reasons. The Study Committee made no report to the 1985 Session of the General Assembly.

After the 1985 Session, the Study Committee was reauthorized and looked at two areas, incorporation procedures and the status of inactive cities.

The Committee met four times. At its first meeting on December 16, 1985, Committee Counsel presented a report on incorporation procedures in 36 states responding to a survey and the N.C. League of Municipalities presented a position paper on the issue. The Committee directed staff to present a proposal at the next meeting based on ideas discussed at the first meeting.

At the Committee's second meeting on February 12, 1986, the Committee made tentative decisions to recommend establishment of a permanent legislative commission to review incorporation proposals and decided to recommend that no incorporation bill could be introduced in the General Assembly until the Commission had made a recommendation. It was felt that such a procedure would allow the General Assembly as well as incorporation proponents to have better information both about the proposed incorporation and its consequences, as well as establishing objective criteria for the Commission to use so as to identify proposed incorporations which might have a negative impact on nearby cities or could not be sustained under financial analysis.

The Committee also asked its cochairmen to speak to the chairs of the Local Government Committees and urge that no local bills be considered in the General Assembly if the various home rule acts

would allow the local government to take the requested action without legislative approval. The Committee asked staff to bring back a proposal to require local governments to file with the State copies of home rule charter amendments that are adopted. Currently, no central registry exists.

At the third meeting on March 13, 1986, the Committee took up a draft bill, adopted amendments, and directed staff to bring back a final draft for approval at the fourth and final Committee meeting. The Committee also adopted a draft bill concerning filing notice of home rule charter amendments. The Committee adopted a bill to make the definition of a city the same for the city law as well as the county law. The effect of such a bill would be to resolve the legal problems of inactive cities not by repealing their charters but by giving them no recognition under the municipal corporation law or the revenue act. This would resolve problems with county zoning, annexation, and distribution of funds, as well as eliminate ambiguity in the privilege license tax area. The bill would also codify a law relating to Powell Bill distributions for cities incorporated before 1945. That section is still valid, although it was dropped from the code in 1965, and its absence has caused some confusion.

At the Committee's final meeting on April 3, 1986, the Committee adopted a bill and two resolutions relating to incorporation procedures and adopted its report to the 1986 Session.

In a 1982 report to the General Assembly recommending abolition of the Municipal Board of Control, the Legislative Research Commission stated that it "...believes that the granting of a municipal charter is a legislative power which should not be delegated..."

Within three years of experience since abolition of the municipal board of control, the Committee believes existence of a permanent commission to review incorporation proposals, accompanied by statutory standards and guidelines, would assist the General Assembly in carrying out its legislative power to incorporate new cities.

The Committee felt that such an approach was better at this time than proposing a constitutional amendment to forbid the General Assembly from chartering by local act, even though having such a constitutional prohibition is a widespread practice in the rest of the country.

The Committee recommended the following legislation to the 1986 Session:

1. A BILL TO BE ENTITLED AN ACT TO CREATE A JOINT LEGISLATIVE COMMISSION ON MUNICIPAL INCORPORATIONS, AND TO REQUIRE A RECOMMENDATION OF THAT COMMISSION BEFORE A BILL MAY BE INTRODUCED IN THE GENERAL ASSEMBLY TO INCORPORATE A NEW MUNICIPALITY.

LOCAL GOVERNMENT

2. A SENATE RESOLUTION AMENDING THE PERMANENT RULES OF THE SENATE TO IMPLEMENT THE JOINT LEGISLATIVE COMMISSION ON MUNICIPAL INCORPORATIONS.
3. A HOUSE RESOLUTION AMENDING THE PERMANENT RULES OF THE HOUSE TO IMPLEMENT THE JOINT LEGISLATIVE COMMISSION ON MUNICIPAL INCORPORATIONS.
4. A BILL TO BE ENTITLED AN ACT TO REQUIRE CITIES AND COUNTIES TO FILE COPIES OF HOME RULE CHARTER AMENDMENTS WITH THE SECRETARY OF STATE AND THE LEGISLATIVE LIBRARY.
5. A BILL TO BE ENTITLED AN ACT TO MAKE THE DEFINITION OF A CITY THE SAME UNDER THE CITY AND COUNTY LAWS, AND TO CONFORM TO AN ATTORNEY GENERAL'S OPINION AS TO THE ELIGIBILITY OF CITIES INCORPORATED BEFORE 1945 FOR POWELL BILL ALLOCATIONS.

In the 1986 Session, bills 1, 4 and 5 were ratified with amendments. Bills 2 and 3 did not pass.

The Committee finished its work and did not meet after the 1986 Short Session.

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REVENUE

VIII. REVENUE

PREMIUM TAX RATE ON INSURANCE COMPANIES

Auth: 1985 Session Laws, Chapter 790 § 1 (34) (SB 636-Sen. Plyler, et al), 1985 Session Laws, Chapter 719 (SB 633-Sen. Hardison, et al)

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PREMIUM TAX RATE ON INSURANCE COMPANIES

The Legislative Research Commission (LRC) Study Committee on the Premium Tax Rate on Insurance Companies met four times prior to the 1986 Session of the General Assembly.

REVENUE

The Committee reviewed North Carolina's premium tax statute, G.S. 105-228.5, which levies a tax on gross premium receipts collected by insurance companies from business done in North Carolina. Prior to 1985, the premium tax rates applied to domestic insurers were lower than the rates applied to foreign insurers. As amended in 1985, the statute taxed both domestic and foreign insurers at the same rates but reduced the rates for insurers that qualified for credits through maintaining their corporate headquarters or principal place of business in North Carolina.

The Committee heard testimony from both foreign and domestic insurers concerning the constitutionality of G.S. 105-228.5, in question due to a recent U.S. Supreme Court decision. In Metro-politan Life Insurance Company, et al v. Ward, 105 S.Ct. 1676(1985), the Court construed Alabama's premium tax law, which taxes domestic insurers at lower rates than foreign insurers, as a potential violation of the 14th Amendment right to equal protection.

Foreign insurers, eleven of which filed suit against North Carolina seeking refunds of premium taxes paid in 1982, 1983 and 1984, contended that, in light of Ward, North Carolina's pre-1985 and 1985 premium tax laws were unconstitutional because they discriminated against foreign insurers solely on the basis of residence. The foreign insurers requested that the Committee seek amendment of the 1985 statute to eliminate differential treatment by applying uniform, blended tax rates to both foreign and domestic insurers, with no credits.

The domestic insurers supported the constitutionality of G.S. 105-228.5 and encouraged the Committee to leave the statute as amended in 1985. They indicated that any revision of the statute prior to final adjudications of the Ward case, now on remand to the Alabama state courts, and the suit against North Carolina would be premature.

The Committee collected data from the Office of State Budget and the Department of Insurance that predicted potential economic impact if either North Carolina's pre-1985 or 1985 premium tax law was deemed an unconstitutional violation of equal protection. Opinions varied on the extent of North Carolina's potential liability.

The Committee considered all the testimony and data and reviewed a draft report to the LRC which included the following alternative legislative proposals:

1. Tax rates and credits as provided in the 1985 law, plus credits for qualified regional home offices; mandatory retaliatory provision; or
2. Uniform, blended tax rates for both domestic and foreign insurers; no credits; or

REVENUE

3. Uniform, blended tax rates for both domestic and foreign insurers; no credits; mandatory retaliatory provision; new rates applicable only to premiums collected from insurance contracts issued on or after the date of effectiveness. (Alternative (3) (a): Require quarterly tax payments by companies which paid at least \$10,000 in premium taxes for business done during the preceding year.); or
4. Uniform, blended tax rates for both domestic and foreign insurers; credits for Guaranty Association fees and assessments, examination fees and retaliatory taxes paid to other jurisdictions; mandatory retaliatory provision; new rates applicable to premiums collected from all contracts except those contracts issued by domestic insurers on or before the date of ratification.

The Committee determined that the premium tax issue warranted further study, with an emphasis on new approaches such as basing premium tax rates on the size of the insurer. The Committee decided to postpone any decision on the offered proposals, acknowledging that it was not necessary to report to the LRC since any legislator could introduce premium tax legislation (a revenue bill) during the 1986 Session.

The Committee took no further action on the premium tax issue. The General Assembly, however, enacted House Bill 2103, Chapter 1031 of the 1985 Session Laws (1986 Session), amending G.S. 105-228.5 to:

- apply a uniform premium tax rate of 1.75% to both foreign and domestic insurers;
- permit domestic insurers to take a credit against premium taxes for 50% of any retaliatory tax paid to other states;
- authorize the Commissioner of Insurance to reduce the premium tax rates for a line of insurance determined through a hearing to be a depressed line;
- require quarterly premium tax payments by those insurance companies that have a premium tax liability of \$10,000 or more for business done in North Carolina during the immediately preceding year; and
- require an insurer to pay premium taxes on a premium for the purchase of annuities at the time the premium is collected rather than at the time the contract holder elects to commence annuity benefits.

The bill also provides that G.S. 105-228.5 will be repealed as of January 1, 1988. This sunset provision ensures that the General

REVENUE

Assembly will address the premium tax issue in 1987 to structure a premium tax system that will be revenue neutral.

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REVENUE LAWS

Auth: 1985 Session Laws, Chapter 790 § 1 (01) (SB 636-Sen. Plyler, et al), HJR 17 (Rep. Lilley, et al)

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REVENUE LAWS

The Legislative Research Commission's Revenue Laws Study Committee met nine times; five meetings were held before the 1986 Legislative Session, and four meetings were held after that

REVENUE

session. Before the 1986 Session the Committee devoted its time to considering numerous small changes in the revenue laws. After the 1986 Session the Committee continued its consideration of various small changes in the revenue laws and also considered the major issues of permitting joint rather than combined individual income tax returns and the effects of the federal Tax Reform Act of 1986.

The Committee made an interim report to the 1986 Session and a final report to the 1987 General Assembly. The interim report contained twenty-one proposed bills, seventeen of which were enacted. The final report contained the seventeen bills or resolutions listed below. The Committee's report contains an explanation for each proposal and a fiscal note for each proposed bill. Most of the proposals make technical or clarifying amendments. Proposals 2, 11, 13, 15, and 16 make the most significant changes.

1. AN ACT TO REPEAL OBSOLETE LOCAL ACTS CONCERNING PROPERTY TAXES.
2. AN ACT MAKING ADVERTISING AGENCIES LIABLE FOR SALES TAX ON ALL ITEMS PURCHASED BY THEM AND EXCLUDING ITEMS PRODUCED BY ADVERTISING AGENCIES FROM SALES TAX, THEREBY ENSURING THAT ADVERTISING SERVICES ARE NOT SUBJECT TO SALES TAX.
3. AN ACT TO ELIMINATE SEASONAL PRIVILEGE LICENSES.
4. AN ACT TO PERMIT ALCOHOLIC BEVERAGE LICENSEES WHO ARE REQUIRED TO FURNISH A BOND TO PLEDGE GOVERNMENT BONDS AS COLLATERAL RATHER THAN OBTAIN A BOND FROM A CORPORATE SURETY.
5. AN ACT TO MAKE THE LAW CONCERNING STATE PRIVILEGE LICENSE TAXES ON GUN DEALERS MORE EQUITABLE.
6. AN ACT TO TRANSFER THE RESPONSIBILITY FOR ISSUING BINGO LICENSES AND ESTABLISHING AUDIT PROCEDURES FOR BINGO ACCOUNTS FROM THE DEPARTMENT OF REVENUE TO THE ATTORNEY GENERAL'S OFFICE.
7. AN ACT TO ELIMINATE THE REQUIREMENT THAT A NONRESIDENT RETAIL OR WHOLESALE MERCHANT REGISTER WITH THE DEPARTMENT OF REVENUE FOR SALES TAX PURPOSES.
8. AN ACT TO CLARIFY THE SALES TAX EXEMPTION FOR MATERIALS USED TO CONSTRUCT OR REPAIR CERTAIN FARM BUILDINGS.

REVENUE

9. AN ACT TO CONFORM THE PENALTIES FOR LATE PAYMENTS OF INHERITANCE TAX TO THOSE APPLICABLE TO LATE PAYMENTS OF ALL OTHER TAXES.
10. AN ACT MAKING TECHNICAL AND CLARIFYING AMENDMENTS TO THE REVENUE LAWS.
11. AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DETERMINING CERTAIN TAXABLE INCOME AND TAX EXEMPTIONS, AND TO MAKE TECHNICAL CHANGES IN THE INCOME TAX STATUTES NECESSITATED BY THE TAX REFORM ACT OF 1986.
12. AN ACT TO CONFORM THE TREATMENT OF ALL INCOME TAX CREDITS RECEIVED BY A CORPORATION TO THE TREATMENT OF AN INCOME TAX CREDIT FOR PROPERTY TAXES.
13. AN ACT TO CONVERT THE SALES TAX ON CERTAIN UTILITY SERVICES TO A GROSS RECEIPTS TAX.
14. AN ACT TO EXPAND THE INCOME TAX DEDUCTION FOR EXPENSES TO MAINTAIN A PARENT.
15. AN ACT TO EXPAND THE PROPERTY TAX EXEMPTION FOR GOODS STORED IN A PUBLIC WAREHOUSE AND TO GRANT A SIMILAR EXEMPTION FOR GOODS STORED IN A PRIVATE WAREHOUSE.
16. AN ACT TO CONFORM STATE INDIVIDUAL INCOME TAX LAW ON DEPRECIATION ALLOWANCES TO FEDERAL LAW BY PERMITTING TAXPAYERS TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.
17. A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY THE REVENUE LAWS OF NORTH CAROLINA.

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IX. STATE GOVERNMENT OPERATION

CAMPAIGN AND ELECTIONS PROCEDURES

Auth.: Chapter 1032 § 1(4) (HB 2141 - Rep. Watkins); SB 1002
(Sen. W. Martin)

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CAMPAIGN AND ELECTION PROCEDURES

The Committee on Campaign and Election Procedures held four meetings. The Committee heard about the redistricting data program

of the U.S. Census Bureau and from the counsel to the State Board of Elections concerning needed election law changes. Committee Counsel also made a presentation on several election law issues. The Committee heard from Professor Thad Beyle of the University of North Carolina at Chapel Hill concerning his recommendations on changes in the election year for the Governor and other statewide officers. The Committee made 16 recommendations to the 1987 Session, accompanied by 15 draft bills, as follows:

1. Only nine of the 47 states with four-year terms for Governor conduct their statewide elections in the Presidential election year. Presidential elections tend to drown out the gubernatorial competition in those cases. The Committee recommends that North Carolina elect its Governor and Council of State in even-numbered non-presidential years, beginning in 1998. As a transition, there will be a six-year term from 1992 to 1998. This six-year term from 1992 to 1998 can be served in conjunction with a four-year term either before or after in the case of the Governor and Lieutenant Governor. This six-year rather than a two-year transitional term will provide for a sharp reduction in campaign and election expenses in contrast with a transitional two-year term.
2. North Carolina purges voters from the rolls for failure to vote in two successive presidential elections, and any election between. A purge process is the simplest way to keep the rolls up to date. The current system leaves too many former residents on the voter list, while at the same time not making it as easy as possible to keep persons on the list who still remain residents. Inaccurate lists result in unnecessary expenditures by candidates and election boards and invite election fraud.

The Committee recommends there be a second purge period after the mid-term election, where voters would be removed for failure to vote for six years. This would give a better list for the following presidential election. This has the added benefit of spreading out the purge process for the counties. In order to implement the bill in the current election cycle, there will be a purge at the end of 1987 of those who last voted in the 1980 Presidential election.

The Committee also recommends two changes to allow residents who choose not to vote to remain on the books. The process of replying to the purge notice is simplified and the county party chairmen will receive a copy of the purge list, so as to be able to assist voters who are known to still be in the county remain voters.

3. Current law provides that in single-county elections, if a candidate wants to withdraw, the county board of elections must approve the request. No such discretion is allowed the State Board of Elections in a multi-county race. The

STATE GOVERNMENT OPERATION

Committee recommends a candidate be allowed to withdraw without receiving county approval.

4. Current North Carolina statutes limit curbside voting for the disabled to 7:00 a.m. to 6:00 p.m. Under federal law, this restriction is not allowed. The Committee recommends that curbside voting be allowed during the entire time the polls are open.
5. Current North Carolina law and administrative rule requires all absentee ballots to be notarized except for those coming from overseas or from disabled voters. The Committee feels that the same ground rules should apply to all applicants for absentee ballots and that notarization is unnecessary. It recommends elimination of the requirement of notarization and substitutes a requirement that two persons aged 18 or over witness the ballot envelope and sign their names and addresses. This is identical to Florida law. False statements are a felony.
6. Current state law allows temporary compliance with the Federal Voting Accessibility for the Elderly and Handicapped Act until July 1, 1987. The Committee recommends an extension until August 31, 1987, when other Committee proposals take effect. The draft allows the State Board to promulgate transfer rules for handicapped persons assigned to inaccessible polling places but provides for requests to be made in advance of election day. Current administrative regulations provide for the request to be made only on election day.
7. Voters can report address changes by mail, but the statute has the effect of not allowing postcards to be used. There is no reason to require the voter to write a letter, and the Committee recommends allowing postcards.
8. The general election ballot lists candidates in alphabetical order within each political party, but there is no statute mandating this. The Committee would give the force of law to this policy.
9. State law provides for certain required meetings of the county boards of elections to pass on applications for absentee ballots. The law is complex, ambiguous, and confusing. The Committee recommends a readable statute.
10. North Carolina allows a person to vote in a primary election if the person will be 18 years of age by the date of the general election but provides a special period beginning 60 days before the primary and ending with the close of the books for the primary. Questions have arisen about registration of such voters after this deadline. The practice among counties is inconsistent. The Committee would let voters register after the special period if they will be 18 by general

election day. This policy is believed to be the practice in most counties now.

11. Recommendations are made on further implementation of the 1990 redistricting data program. 1985 implementing legislation calls for the 37 counties with a population of 55,000 or over to participate in the program which will provide census data by precinct. The problem lies in changes in the township and municipal boundaries between the 1988 and 1990 Census Bureau boundary and annexation surveys. If a precinct boundary follows a township or municipal boundary on the 1988 survey which is not a visible feature and the township or municipal boundary changes on the 1990 survey, there is a problem, because the precinct boundary will then be unacceptable. Additionally, the Census Bureau has informally asked for a freeze on township boundaries because of the difficulty of keeping up with changes in those boundaries.

The State has two alternatives, either to freeze township and/or municipal boundaries in 1988 and 1989 or risk significant delays in getting census data in 1991 and also get data for fewer building blocks. If boundaries are frozen, the April 1, 1991 data from the Census Bureau would be immediately usable. If there is no freeze and if a precinct boundary is merely a former city or township line and is not a visible feature, Census will give the State the alternative of combining precincts or moving the precinct line. The former involves some delay and will result in fewer building blocks for redistricting, while the latter could result in significant delays in getting data.

The North Carolina Association of County Commissioners has no objection to freezing township boundaries. A freeze on municipal boundaries would have a negative impact on municipalities. Because Charlotte, Winston-Salem, Greensboro, Fayetteville and Wilmington have township boundaries which change with municipal annexations, this unique factor means a township freeze eliminates the need for a city annexation freeze there.

The Committee recommends that, on a statewide basis, township boundaries be frozen for 1988 and 1989. In all counties with a population of 55,000 or over, city annexations may not become effective during 1988 and 1989 if the annexation changes a municipal boundary which is a precinct boundary, unless the boundary being changed is either a township boundary or a visible feature to be used as a block boundary for the 1990 census. To minimize the impact, cities will be able to satellite annex noncontiguous areas with greater flexibility. If the area is between 100 and 300 feet from the city at its closest point, it will be contiguous. No area within 100 feet of the fixed two-year boundary can be annexed. These satellite areas can be annexed in 1990 or after under a simplified procedure.

STATE GOVERNMENT OPERATION

In addition the Committee recommends that in counties with a population of 55,000 or over, all precincts must consist solely of contiguous territory, so they will be usable for districting.

12. The Committee recommends that all election offenses be standardized either as Class I felonies or misdemeanors with a maximum six months in jail and/or \$1000 fine.
13. North Carolina statutory law provides that if a voter marks a straight-ticket and votes for an individual candidate of another party, the straight-ticket prevails. A federal court order compels the opposite result, and the recommendation is to amend the statutes to follow the court order.
14. North Carolina law provides that for a write-in vote to be counted, the voter must write-in the name of the person, but to vote for a candidate printed on the ballot, the voter makes a mark in the appropriate voting square or circle. On computer counted ballots, however, some machines are programmed to count write-in votes only if the voter marks or punches the write-in box. This conflicts with the statutory requirement. The Committee recommends that for electronically counted ballots, the voter be allowed to merely write-in the name, but somewhere on each ballot will be a box to be marked or punched to indicate to the computer that there is a write-in somewhere on the ballot. The write-in will only be counted if this box is marked.
15. Current law concerning recounts of election results causes needless administrative procedures. The Committee recommends that the law allow recounts at the request of the runner-up where the margin is less than one percent.
16. When a county changes a voting place, there is no requirement the voter receive actual notice. While some counties do mail notices, others only run legal ads. While the Committee recommends no legislation, it suggests further study.

RECOMMENDED LEGISLATION

1. A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE GOVERNOR AND COUNCIL OF STATE TO BE ELECTED IN 1998 AND QUADRENNIALLY THEREAFTER, WITH A ONE-TIME SIX-YEAR TERM ELECTION IN 1992 SO AS TO PROVIDE TRANSITION.
2. A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR PURGING THE VOTER REGISTRATION OF PERSONS AFTER EACH NON-PRESIDENTIAL GENERAL ELECTION WHO FAILED TO VOTE IN THE SECOND PRECEDING PRESIDENTIAL ELECTION, AND MAKE IT EASIER FOR PERSONS TO REMAIN VOTERS IF THEY FAIL TO VOTE.

3. A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE REQUIREMENT THAT THE COUNTY BOARD OF ELECTIONS MUST APPROVE THE WITHDRAWAL OF ANY CANDIDATE IN A SINGLE COUNTY ELECTION.
4. A BILL TO BE ENTITLED AN ACT TO ALLOW CURBSIDE VOTING DURING THE ENTIRE TIME THE POLLS ARE OPEN, SO AS TO COMPLY WITH THE FEDERAL VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT.
5. A BILL TO BE ENTITLED AN ACT TO REMOVE THE REQUIREMENT THAT AN ABSENTEE BALLOT BE NOTARIZED AND SUBSTITUTE A REQUIREMENT THAT IT BE WITNESSED BY AT LEAST TWO PERSONS.
6. A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR CONTINUED COMPLIANCE WITH THE FEDERAL VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT.
7. A BILL TO BE ENTITLED AN ACT TO PERMIT VOTERS TO REPORT CHANGES OF ADDRESS WITHIN THE COUNTY BY POSTCARD.
8. A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT ON GENERAL ELECTION BALLOTS, NAMES IN MULTI-SEAT RACES ARE PRINTED ON THE BALLOT WITHIN A POLITICAL PARTY IN ALPHABETICAL ORDER.
9. A BILL TO BE ENTITLED AN ACT TO CLARIFY THE POWER OF COUNTY BOARDS OF ELECTIONS TO HOLD REQUIRED MEETINGS FOR APPROVAL OF ABSENTEE BALLOTS AT ALTERNATE TIMES.
10. A BILL TO BE ENTITLED AN ACT TO CLARIFY WHEN SEVENTEEN YEAR OLDS CAN REGISTER TO VOTE FOR THE PARTY PRIMARY ELECTION.
11. A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR CONTINUING PARTICIPATION IN THE 1990 REDISTRICTING DATA PROGRAM OF THE U.S. BUREAU OF THE CENSUS.
12. A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR STANDARDIZATION OF CRIMINAL PENALTIES FOR ELECTION LAW VIOLATIONS.
13. A BILL TO BE ENTITLED AN ACT TO BRING NORTH CAROLINA INTO COMPLIANCE WITH A COURT DECISION CONCERNING STRAIGHT-TICKET VOTING.
14. A BILL TO BE ENTITLED AN ACT TO PROVIDE A PROCEDURE FOR COUNTING WRITE-IN BALLOTS IN VOTING SYSTEMS WHERE BALLOTS ARE ELECTRONICALLY COUNTED.
15. A BILL TO BE ENTITLED AN ACT TO ALLOW FOR RECOUNTS IN PRIMARIES AND ELECTIONS WHERE THE MARGIN IS LESS THAN ONE PERCENT.

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LEGISLATIVE ETHICS AND LOBBYING

Auth: 1985 Session Laws, Chapter 790 § 1 (40) (SB 636-Sen. Plyler, et al), SB 829 (Sen. Rauch, et al)

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LEGISLATIVE ETHICS AND LOBBYING

The Committee on Legislative Ethics and Lobbying held four meetings at which the following subject matters were discussed: Legislative Ethics Committee powers and procedures; existing ethical guidelines for legislators; the Rotary 4-Way Test; problems associated with legislative agent registration and reporting; gift-giving by legislative agents to legislators; and legislators' law partners and other business associates serving as legislative agents.

The Committee makes the following findings and recommendations in its Report to the 1986 Session:

FINDINGS

1. An awareness of ethical concerns is an indispensable part of conducting the public's business in a responsible manner. With the exception of an ethics program presented to the North Carolina General Assembly in the late 1970's by Legis 50, a public interest group, there has not been a comprehensive and systematic presentation of ethical concerns and principles in the legislative process to newly-elected and incumbent legislators. Many newly elected legislators may be unaware of ethical principles and concerns which are particular to the legislative process.
2. When legislators receive gifts, other than those of nominal value, from legislative agents or their employers, an appearance of impropriety attaches to the act, regardless of later legislative action or inaction. The present statutes do not address the issue of legislative agents or their employers giving gifts to legislators.
3. The present law regulating lobbying in North Carolina, Article 9A of Chapter 120 of the North Carolina General Statutes (G.S. 120-47.1 et seq.), is ambiguous, confusing and difficult to administer. The following particular problems were identified:
 - a. As the work of the General Assembly in recent years has expanded beyond the limits of the actual legislative session, the work and activities of legislative agents have similarly expanded. Lobbying activities conducted throughout the year should be covered by the lobbying act.
 - b. The present biennial legislative agent registration and the filing of expense reports after each year's regular session results in some legislative agents, who are inactive during the short session, being remiss in submitting expense reports after that session. Additionally, the current \$10 penalty in G.S. 120-47.6 and G.S. 120-47.7 for late filings of expense reports is too low to assure that expense reports will be submitted in a timely fashion.
 - c. In order that public confidence and trust be retained in the legislative process, the public should be assured that private financial dealings of legislators present no conflict of interest between the public trust and private interests. A legislative agent who is a business associate or spouse of a legislator could be perceived as having a disproportionate amount of influence in the legislative decision-making process.

RECOMMENDATIONS

1. The Committee recommended that the Legislative Services Commission, as a part of its orientation process for new legislators prior to the convening of each General Assembly, and in conjunction with the Legislative Ethics Committee, present a seminar for all legislators to promote awareness of ethical concerns in the legislative process.
2. The Committee recommended that the 1986 Session of the General Assembly enact AN ACT TO REGULATE THE GIFT GIVING AND RECEIPTS OF GIFTS IN LOBBYING, which would limit the solicitation and receipt of gifts by legislators from legislative agents and the giving of gifts to legislators by legislative agents.
3. The Committee recommended that the 1986 Session of the General Assembly enact AN ACT TO STRENGTHEN AND CLARIFY THE LAW ON LOBBYING which would amend Article 9A of Chapter 120 of the General Statutes by:
 - a. requiring legislative agent registration for any legislative lobbying activities whether or not the General Assembly is in session;
 - b. allowing either biennial or annual registration of lobbyists;
 - c. prohibiting business associates and spouses of legislators from acting as legislative agents;
 - d. increasing the late filing fee for late submission of expense reports to encourage compliance with the expense reporting requirements;
 - e. clarifying the law by resolving ambiguity and eliminating confusing language and provisions in the law;
 - f. strengthening various reporting provisions in the law.

The above two bills were introduced during the 1986 Session of the General Assembly as House Bill 1550 and Senate Bill 937 respectively and were not passed because of the time limitations of the short session. It is anticipated that the proposals will be reintroduced in the 1987 General Assembly.

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STATE INFRASTRUCTURE NEEDS

Auth: 1985 Session Laws, Chapter 790 § 1 (31) (SB 636-Sen. Plyler, et al), SB 541 (Sen. Royall, et al)

STATE GOVERNMENT OPERATION

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STATE INFRASTRUCTURE NEEDS

The Committee on State Infrastructure Needs met four times prior to the 1986 Session to examine the infrastructure needs of public schools, wastewater treatment and water supply facilities, community colleges, public universities, highways, and State-owned buildings. The Committee found that the current needs for these infrastructure items were approximately \$13 billion, according to assessments made by various State agencies.

The Committee recommended to the 1986 Session that the State-Owned Property Study Commission and the General Assembly continue the study of issues concerning the construction, maintenance, and repair of state-owned buildings and issues

STATE GOVERNMENT OPERATION

concerning city and county right-of-way authority over streets outside municipal boundaries.

The Committee held three meetings after the 1986 Session. The purpose of the meetings was to update the Committee on the progress made by the General Assembly during the 1986 Session in addressing the infrastructure needs identified earlier.

The Committee found that infrastructure needs at the State and local level had been addressed as follows during the 1986 Session:

<u>Facility</u>	<u>1986 Legislation</u>
Public Schools	Enactment of local option sales tax, with earmarked portion for schools.
Wastewater Treatment	Reserve fund (\$39 m.) for wastewater treatment projects and enactment of local option sales tax, with earmarked portion to wastewater treatment.
Water Supply	Reserve fund (\$21 m.) for water supply projects and enactment of local option sales tax, with earmarked portion for water supply projects.
Universities	Capital appropriations (\$51 m.).
Community Colleges	Capital appropriations (\$22 m.).
Highways & Bridges	Increase in gas tax of 2 cents/gal. + 3% of AWP will yield \$115 m. in new revenues for highway projects 1986-87.
State-Owned Buildings	Appropriation (\$250,000) for maintenance surveys of State buildings.

The Committee made the following recommendations to the 1987 General Assembly:

1. That the General Assembly should create a revolving loan fund from which local governments may borrow to finance water and sewer projects and that the funds should be distributed on a needs basis rather than a per capita basis;
2. That the Joint Legislative Commission on Governmental Operations should continue the study begun by the Committee on State Infrastructure Needs on the infrastructure conditions and needs of the State and local governments;
3. That agencies responsible for inventories of infrastructure components should have accurate and timely information on infrastructure needs for review by the Joint Legislative Commission on Governmental Operations; and

STATE GOVERNMENT OPERATION

4. That the General Assembly should create a State Building Division and abolish the Capital Building Authority.

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STATE INVESTMENTS WITH SOUTH AFRICAN INVESTORS

Auth: 1985 Session Laws, Chapter 790 § 2.1 (SB 636-Sen. Plyler, et al), HB 744 (Rep. Locks, et al)

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STATE INVESTMENTS WITH SOUTH AFRICAN INVESTORS

The Committee on State Investments in South Africa held two meetings prior to the 1986 session to consider House Bill 744, a

STATE GOVERNMENT OPERATION

bill introduced during the 1985 session that would have required divestment of State pension and university trust funds from financial institutions with loans outstanding to the Republic of South Africa and from companies doing business in or with the Republic of South Africa. Future investment would also have been prohibited under the bill. The Committee examined the financial effect of such a bill on the State's pension and university trust funds. The Committee made no recommendations to the 1986 session.

The Committee met once after the 1986 session to consider four different courses of action:

1. require full divestiture from any company doing business in South Africa and from any financial institution with loans outstanding to the government of South Africa;
2. require divestiture from financial institutions with loans outstanding to the South African government and from those companies that have failed to sign the Sullivan Principles, a voluntary code of business practices calling for desegregated work facilities, equal pay, minimum wages, training and increasing the number of non-whites for supervisory jobs, and aiding nonwhites' living conditions;
3. require divestiture from financial institutions with loans outstanding to the South African government and from those companies who have not signed the Sullivan Principles AND have not achieved an acceptable performance rating on implementing the Principles, as measured by the Arthur Little Co., the official monitor for compliance with the Sullivan Principles; or
4. take no action.

The Committee recommended the third option listed above to the 1987 General Assembly with a bill entitled AN ACT TO PROHIBIT INVESTMENT OF RETIREMENT AND UNIVERSITY TRUST FUNDS IN CERTAIN COMPANIES INVOLVED WITH SOUTH AFRICA. This option would affect more companies than the second option but fewer companies than the first option. Although the precise number of companies and financial institutions from which divestment would be required under the recommended option is difficult to determine, the Committee estimated that probably no more than 3 to 5 companies and banks would be affected by the recommendation if it were enacted now.

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STATE PERSONNEL SYSTEM

Auth: 1985 Session Laws, Chapter 790 § 1 (10) (SB 636-Sen. Plyler, et al), HB 1064 (Rep. Wiser, et al)

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STATE PERSONNEL SYSTEM

The State Personnel System Committee convened for four meetings in order to complete its report to the 1987 General Assembly. The initial efforts of the Committee were devoted to establishing priorities for the study which included:

1. The structure and function of the Personnel Commission and personnel operations;
2. The classification system for state employees;
3. The salary and benefit system for state employees;
4. Personnel policies, including those relating to hiring, training, promotion, and tenure; and
5. The procedure for grievances and appeals.

STATE GOVERNMENT OPERATION

From this framework the Committee used its limited time in gathering data and comparing the various state personnel systems, listening to interested parties and trying to learn about a very complex system.

The Committee recommends the following legislation to the 1987 Session:

1. A JOINT RESOLUTION TO CONTINUE THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON STATE PERSONNEL. The Committee barely began to address the many complex issues affecting state employment and therefore suggests that more time is needed to complete the study.
2. AN ACT TO ESTABLISH A STATE EMPLOYEES OCCUPATIONAL HEALTH CLINIC PILOT PROGRAM. This bill would appropriate \$200,000 for each year of the biennium to initiate an occupational health clinic on a pilot basis to be located in the governmental complex in Raleigh. Employees would be able to walk in for short term illnesses, first aid, and job injuries. The Committee believes that such a pilot program could demonstrate a positive impact on productivity and medical care utilization.
3. AN ACT TO PROVIDE FOR A COMPREHENSIVE STUDY OF THE STATE PERSONNEL CLASSIFICATION SYSTEM. Of the many issues brought to the Committee, the one item that was consistently at the top of almost everyone's list was the issue of concern about the State Personnel Classification System. Many suggested that the current System may need revision. The objective of such an independent analysis of conduct and administration of the system would be to determine if the System can be clearly communicated, readily understood by employees and administered in a timely and objective manner.

The Committee also recommends that the 1987 General Assembly should adequately fund the Salary Adjustment Fund Reserve at one percent of wages paid to all employees who are under the State Personnel Act. The purpose of the Fund is to provide funds for labor market related increases to allow the State to be competitive for occupations whose salaries are rising at rates exceeding the average in the marketplace. In the past these funds have been used to help State Government overcome employment crises for nurses, computer programmers, physical therapists, accountants and secretaries. This Fund has usually been underfunded and occasionally not funded at all, as was the case for 1986-87.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

VOTING MACHINES STANDARDIZATION

Auth.: Chapter 1032 § 1(1) (HB 2141 - Rep. Watkins); HB 1664
(Rep. Wood)

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VOTING MACHINES STANDARDIZATION

The LRC Committee on Voting Machines Standardization held three meetings after its authorization by the 1986 Short Session.

Representative Stephen Wood, who introduced House Bill 1664 to create the study, told the Committee he was concerned about the variety of voting machines used in North Carolina because of the potential inequities among voters and candidates in different counties. He said he was especially concerned about the differ-

ences in capacity for cross-over voting on some types of machines, differences that were pointed up in the federal court case of Hendon v. State Board of Elections.

The Hendon case arose out of the close 1982 contest in the 11th Congressional District of North Carolina. It resulted in a ruling that if a voter marks a straight party ticket, but then also marks a candidate of the other party (i.e., does "cross-over voting"), the latter vote must be counted. Before the ruling, State law was otherwise. The Statutes still reflect the invalidated rule, and state elections officials have issued provisional instructions to be followed instead.

Upon request, Alex K. Brock, the State Director of Elections, gave the Committee a report about the five main types of voting machines ("voting systems" is the current term, he said) used in the State. The three basic categories, he said, are the lever-type machine, the optical-scan system, and the computer-based punch card system. All have been approved by the State Board of Elections for use in the State. The State Board has broad rulemaking authority over voting systems. Brock said the Board has been studying more futuristic voting systems for possible approval. He is concerned that the voting-systems business is moving toward monopoly control, he said, and he wants local governments to avoid being vulnerable to that situation.

Mr. Brock would not say which voting system, if any, is best for the entire State. He advised against hasty decisions to make large-scale purchases of equipment. He estimated the cost of installing a Statewide system at \$12 million to \$15 million.

The Committee discussed the instructions that should appear on ballots, in light of 1) the mandates of the Hendon case, 2) problems with write-in votes that have arisen in the 44th State House District, and 3) the special problems caused by cross-over voting in multi-seat races.

The Committee recommends to the 1987 General Assembly:

1. That the standardization of voting machines not be attempted now.
2. That A BILL TO BE ENTITLED AN ACT TO REGULATE THE ADOPTION OF VOTING SYSTEMS BY LOCAL GOVERNMENTS be enacted. The bill, drafted at the suggestion of Mr. Brock, rewrites Article 14 of Chapter 163 of the General Statutes. It updates the chapter to include newer types of voting systems, and makes statutory some of the guidelines Mr. Brock has suggested to local governments and local boards of elections before voting equipment is purchased.
3. That the counting of write-in votes be made contingent on the write-in candidate's filing with the appropriate board of elections a Petition of Intent with a minimal number of

signatures. This is a proposal of Mr. Brock, who recommended that the procedure be patterned after that for "Unaffiliated Candidates." Because of time pressure, no draft bill is endorsed in the Committee's final report. But counsel was directed to draft a bill embodying the Committee's recommendation and circulate it among the Committee members who serve in the 1987 General Assembly for their consideration.

4. That A BILL TO BE ENTITLED AN ACT TO PROVIDE A SEPARATE BALLOT FOR MULTI-SEAT RACES be enacted. This bill, proposed by Representative Beall, would put on a separate ballot or ballots all races where more than one office is to be filled. This separate ballot would contain a mechanism for voting a straight party ticket, with instructions clearly telling the voter the alternative ways of voting a split ticket and the consequences of using each method. The Committee chose this form of separate multi-seat ballot over one that did not provide for straight-ticket voting.
5. That A BILL TO BE ENTITLED AN ACT TO BRING NORTH CAROLINA INTO COMPLIANCE WITH A COURT DECISION CONCERNING STRAIGHT-TICKET VOTING be enacted, on the condition that the bill be amended to reflect the Committee's recommendations in #3 and #4 above. The bill, without such amendments, was endorsed by the LRC Committee on Campaign and Election Procedures and appears in that Committee's report. The bill was based on a draft done for both Committees by Assistant Attorney General James M. Wallace, Jr. Mr. Wallace told both Committees such a bill is needed because what now appears in the statutes was held invalid by Hendon and he fears local elections officials may follow the statute rather than the provisional instructions issued by the State Board of Elections.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

X. STATE REGULATION

INTEREST RATE REGULATION

Auth: 1985 Session Laws, Chapter 790 § 1 (14) (SB 636-Sen. Plyler, et al), HJR 1227 (Rep. Evans, et al)

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INTEREST RATE REGULATION

The Interest Rate Regulation Study Committee held five meetings between February and November 1986. Before the first meeting the Cochairmen surveyed interested parties in the State to learn their views on simplifying and clarifying Chapter 24 of the General Statutes, which regulates interest. They then instructed

Committee counsel to use these suggestions to redraft current Chapter 24 to make it clear and coherent without modifying its substantive content.

At its five meetings, the Committee carefully considered the current law, the redraft of current law, other drafts submitted by interested parties, and all of the issues raised by interested parties, Committee members, and staff. The committee found that current law is extraordinarily complex and confusing, as well as ambiguous in a number of important areas. The Committee also identified a number of substantive changes that it felt need to be made in current law.

The Committee incorporated all of its recommendations and many of the technical suggestions it received into a bill that recodifies current Chapter 24. The bill is entitled "A BILL TO BE ENTITLED AN ACT TO REPLACE CHAPTER 24 OF THE GENERAL STATUTES WITH A NEW CHAPTER REGULATING INTEREST." The bill, which the Committee recommends to the 1987 General Assembly, reorganizes, simplifies, and clarifies the law relating to interest rate regulation and makes certain substantive changes all of which the Committee feels should be considered by the 1987 General Assembly.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

OUTDOOR ADVERTISING

Auth: 1985 Session Laws, Chapter 790 § 1 (33) (SB 636-Sen. Plyler, et al), SB 611 (Sen. R. Thomas)

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OUTDOOR ADVERTISING

The LRC Committee on Outdoor Advertising met four times and adopted a report to the 1987 General Assembly.

The Committee examined the federal and State laws on outdoor advertising along the Interstate and federal-aid primary highways; the N.C. Department of Transportation's enforcement of State laws; and the State's specific information (logo) sign project along the Interstate highways. The Committee also studied the relationship between local and State regulation of outdoor advertising.

To receive as much input as possible from the public, the Committee met not only in Kaleigh, but also in Southport, on the coast, and Hendersonville, in the mountains - areas in which the tension between those concerned with preserving the natural scenic beauty of the surroundings and those favoring outdoor advertising as a legitimate means of enhancing their business activities is often most acute. At each meeting, Committee members heard extensive comments from people favoring stricter laws on outdoor advertising and from people opposing stricter laws.

The Committee recommends that the 1987 General Assembly enact the following proposed legislation, included in the Committee report:

1. A BILL TO BE ENTITLED AN ACT TO INCREASE CERTAIN RESTRICTIONS ON OUTDOOR ADVERTISING ALONG THE INTERSTATE HIGHWAYS, FEDERAL-AID PRIMARY HIGHWAYS, AND SECONDARY ROADS. This bill would:
 - a. Reduce the maximum permissible size of new billboards along the Interstate and federal-aid primary highways from 1,200 to 800 square feet; and
 - b. Double the required minimum distance between new outdoor advertising signs along all primary and secondary roads.
2. A BILL TO BE ENTITLED AN ACT TO CLARIFY THE RELATIONSHIP BETWEEN STATE AND LOCAL REGULATION OF OUTDOOR ADVERTISING ALONG INTERSTATE AND FEDERAL-AID PRIMARY HIGHWAYS. This bill

would amend the General Statutes to remove ambiguities in the statutes and to conform the statutes with case law on local government authority to regulate outdoor advertising along the Interstate and federal-aid primary corridor in North Carolina.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

RENTAL REFERRAL AGENCIES

Auth: 1985 Session Laws, Chapter 790 § 1 (22) (SB 636-Sen. Plyler, et al), HB 1421 (Rep. Stamey)

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STATE REGULATION

RENTAL REFERRAL AGENCIES

The Legislative Research Commission's Study Committee on Rental Referral Agencies, during its two meetings (on March 4, 1986 and April 2, 1986), heard testimony and discussed various issues concerning rental referral agencies in North Carolina.

The Committee studied, in detail, Article 23 of Chapter 66 of the General Statutes, the laws regulating rental referral agencies, and related statutes.

The Committee heard testimony from proponents and opponents of changes to the current statutes, and from the North Carolina Attorney General's Office.

The Committee considered the results of a survey of the other states concerning their regulation of rental referral agencies to compare this State's statutes with similar statutes from other jurisdictions to determine whether or not North Carolina's laws were more restrictive than those found in other states.

The Committee solicited comments from the five existing rental referral agencies concerning their operations under the existing statutes.

Finally, the Committee was informed by the proponents of changes to the current statutes that they no longer were supporting changes to the current law.

Based on the study, the Committee found that Article 23 of Chapter 66 of the General Statutes does not overregulate rental referral businesses, and therefore the Committee recommended in its final report to the 1986 Session that there was no need for the General Assembly to amend Article 23 of Chapter 66 of the General Statutes, at the present time.

The Committee did not meet again after the 1986 Session.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

USED TIRE AND WASTE OIL DISPOSAL

Auth.: Chapter 1032 § 12.2 (HB 2141 - Rep. Watkins),
amendment by Sen. Barnes

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USED TIRE AND WASTE OIL DISPOSAL

The Used Tire and Waste Oil Disposal Study Committee met two times. At the Committee's first meeting, an overview was presented on the manner in which used tires and waste oil are currently disposed of, the environmental problems surrounding current disposal practices, and possible solutions to these problems. The Committee also learned about the North Carolina Pollution Prevention Pays Program and the workshops with which the Program has been involved in the area of used tire and waste oil disposal. At its second meeting, the Committee looked more closely at the problems associated with the disposal of used tires and their possible solutions. Among the matters specifically covered at that meeting were alternative uses for discarded tires, the use of rubber from tires in asphalt paving applications, statewide regulation of tire disposal, tax incentives for recovering or recycling solid waste such as tires, and the need to educate the public about how and where to dispose properly of waste oil. At both meetings, persons and groups interested in the disposal of

STATE REGULATION

used tires and/or waste oil were invited to comment and offer their suggestions.

The Committee made the following recommendations to the 1987 Session:

1. That State and local officials, private industry, academicians, and the public commit themselves to work together to help alleviate the environmental problems associated with the disposal of used tires and waste oil;
2. That the State encourage efforts to recover or recycle used tires and waste oil;
3. That the public be better educated about the proper disposal of waste oil and informed of places that accept waste oil from the public;
4. That no additional regulations concerning the disposal of waste oil be imposed;
5. That the existing tax incentives for recycling and recovering solid waste such as tires be retained but not expanded;
6. That the N.C. Department of Transportation continue to study the use of rubber in asphalt paving applications, as it deems appropriate, but that such use not be mandated;
7. That the N.C. Mosquito and Vector Control Association continue to monitor the public health and nuisance problems associated with the improper storage and disposal of tires in this State;
8. That local governments continue to be allowed to regulate tire disposal for themselves and that statewide regulation of tire disposal not be pursued at this time; and
9. That a committee be set up to continue the study of the problems associated with the disposal of tires and their possible solutions.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

VETERANS CEMETERY STUDY

Auth.: Chapter 1032 § 1(5) (HB 2141 - Rep. Watkins); HB 2117 (Rep. Lancaster)

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VETERANS CEMETERY STUDY

The Veterans Cemetery Study Committee met three times before adopting its final report. The Committee found that the cemetery capacity for burial of veterans in the four national cemeteries in North Carolina is inadequate with the Wilmington cemetery closing within the next two months. The Raleigh and New Bern cemeteries will close by the year 1992 and the Salisbury cemetery will remain open until 2015. Once the State cemeteries are filled, the regional national veterans cemetery serving North Carolina veterans will be in Fort Mitchell, Alabama.

Instead of building new national cemeteries in the states, the Veterans Administration has developed a State Cemetery Grants Program that will approve grants for up to 50% of the total costs for states to acquire land and construct veterans cemeteries. The State would have to pay the ongoing costs of operation and maintenance.

STATE REGULATION

The Committee recommended two legislative actions to the 1987 General Assembly:

1. AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION FOR A STATE VETERANS CEMETERY OFFICE. This appropriation would create and staff an office to identify sites around the State for cemetery development, to acquire federal grant funds, to visit cemetery programs in other states, to contract with consultants, architects and engineers, to recommend development costs, to administer the program and to report to the Legislative Research Commission Veterans Cemetery Study its findings and recommendations.
2. A JOINT RESOLUTION CONTINUING THE LEGISLATIVE RESEARCH COMMISSION VETERAN CEMETERY STUDY. This resolution would continue the Study Committee in order for it to receive a working plan from the veterans cemetery office and formulate funding recommendations that will fully implement a State veterans cemetery program from now on.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.



OTHER COMMISSIONS

XI. REPORTS OF OTHER COMMISSIONS TO WHICH STUDIES WERE REFERRED
MARKETING OF PERISHABLE FOOD

Auth.: 1985 Session Laws, Chapter 790, Section 1 (38) (SB
718-Sen. Basnight)

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MARKETING OF PERISHABLE FOODS

The Commission on Agriculture, Forestry and Seafood Awareness will not issue a report to the 1986 or 1987 Sessions on the issue of marketing of perishable food.

ROADS ACT PROVISIONS

Auth: Chapter 1032 § 2 (HB 2141 - Rep. Watkins); SB 866
(Sen. Redman)

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ROADS ACT PROVISIONS

By Section 2 of Chapter 1032 of the 1985 Session Laws the Legislative Research Commission was authorized to study the actions proposed in the various portions in Senate Bill 866 of the 1985 General Assembly as introduced by Senator Redman relating to the Department of Transportation.

The Legislative Research Commission requested on August 29, 1986 that the Joint Special Committee to Study the Department of Transportation undertake the review of the matter addressed in Senate Bill 866, as introduced.

At its meeting held on October 1, 1986 the Joint Special Committee to Study the Department of Transportation reviewed a detailed analysis of Parts I, VII-XIII, and XV of SB 866 summarized below:

Part I Transportation Trust Fund

This part creates a Transportation Trust Fund and four accounts (Highway account, Aviation account, Rail account, and Public Transportation account) within that fund.

Part VII Additional City and County Authority

This Part contains eight sections which deal with additional city and county authority over the acquisition and construction of new roadways and related improvements.

Part VIII Transfer of Rights

This Part contains six sections which deal with the transfer of rights to development of property which is contained within corridors for proposed streets or highways.

Part IX Driveway Permit Processes

This Part contains one section that authorizes the Department of Transportation to make rules regulating driveway connections into streets and highways on the State Highway System and to require construction and dedication of medians, acceleration and deceleration lanes, and traffic storage lanes for these driveway connections.

Part X Official Roadway Corridor Map-Property Tax Relief

This Part contains six sections that create roadway corridor official maps and provide for their filing and functions. Require that the Department of Transportation and district engineers review all subdivisions that affect land within the roadway corridors and provide tax relief for land that is within the roadway corridors, allowing it to be taxed at a rate of 20% of the general property tax rate.

Part XI Withdrawal Of Right-Of-Way Dedication

This Part contains one section which amends G.S. 136-96 which deals with the abandonment or withdrawal of roadway dedications and the procedures that are to be followed to revest the property rights to that land in the appropriate parties.

Part XII Right Of Condemnation For Future Roads

This Part contains one section which amends G.S. 40A-3(b) (1) which allows the right of condemnation to be exercised by local governments for future rights-of-way for streets contained in the coordinated street system.

Part XIII Local Roadway Protection And Construction

This Part contains six sections which grant the Department of Transportation, cities, and counties additional powers to restrict and control the

OTHER COMMISSIONS

construction of roadways related to the coordinated street system or the State highway system.

Part XV State Funded Roads

This Part contains one section which repeals the requirement for the Department of Transportation to consult with the Joint Legislative Commission on Governmental Operations before funding federally eligible construction projects.

During its meetings held on November 6, 1986 and December 3, 1986 the Committee deliberated extensively on the above listed Parts of SB 866. After much discussion the Committee decided that each of the following Parts should be submitted as separate bills to the 1987 General Assembly for consideration:

1. Continuing Appropriation for Highways
2. Additional City/County Authority
3. Transfer of Rights
4. Driveway Permit Processes
5. Official Roadway Corridor Map - Property Tax Relief
6. Withdrawal of Right-of-Way
7. Right of Condemnation For Future Roads
8. Local Roadway Protection and Construction
9. Department of Transportation Participation in Private Contracts

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

SATELLITE COURTS

Auth: 1985 Session Laws, Chapter 790, Section 1 (41) (SB 850-Sen. Barnes)

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SATELLITE COURTS

The Courts Commission has discussed the issue of satellite courts and will be including a recommendation in its 1987 report to the General Assembly which will be issued at a later date.

TRANSPORTATION PROBLEMS AT PUBLIC FACILITIES

Auth.: 1985 Session Laws, Chapter 790 Section 2 (SB 636-Sen. Plyler, et al)

Members of Department of Transportation Study Committee: See membership list on page 110.

TRANSPORTATION PROBLEMS AT PUBLIC FACILITIES

On October 21, 1986 the Legislative Research Commission requested that the Joint Special Committee to Study the Department of Transportation review the matter of transportation problems at public facilities as addressed in Section 2 of Chapter 790.

Representative Allen Barbee and Senator Robert Warren of the Joint Special Committee appointed a subcommittee to review this problem. The members of the subcommittee are Representative Marie Colton, Chairperson, Representative David Bumgardner and Senator Ollie Harris.

RDU Airport Director James Brantley and Secretary James Harrington met with the subcommittee and discussed motor vehicle traffic patterns around RDU Airport, motor vehicle traffic studies at or around RDU and general considerations concerning State supported airport development.

Chairperson Colton gave her subcommittee report to the Joint Special Committee to Study the Department of Transportation on January 22, 1986.

This Committee will not issue a report to the General Assembly.

