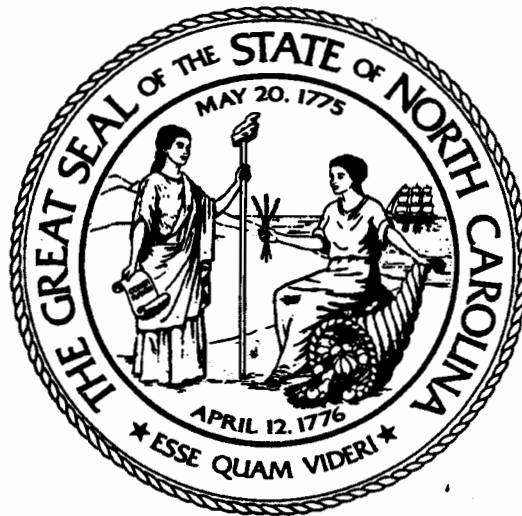


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**LEGISLATIVE RESEARCH
COMMISSION ACTIVITIES
1989-90 BIENNIUM**



**SUMMARIES
REPORT TO THE
1991 GENERAL ASSEMBLY
OF NORTH CAROLINA
1991 SESSION**

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



December 14, 1989

TO THE MEMBERS OF THE 1991 GENERAL ASSEMBLY:

The Legislative Research Commission directed its staff to prepare a report outlining the work of its committees during the 1989-1990 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,

A handwritten signature in cursive script, reading "Terrence D. Sullivan".

Terrence D. Sullivan
Director of Research
Legislative Services Office

Library
State Legislative Building
Raleigh, North Carolina

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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 12.

The Commission is chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. 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.

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.

1989-1990

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

Speaker of the House of
Representatives
Josephus L. Mavretic, Cochair

Rep. Joanne W. Bowie

Rep. J. Fred Bowman

Rep. Harold J. Brubaker

Rep. James W. Crawford, Jr.

Rep. John W. Hurley

President Pro Tempore of
the Senate
Henson P. Barnes, Cochair

Senator Ralph A. Hunt

Senator Donald R. Kincaid

Senator Robert L. Martin

Senator Lura S. Tally

Senator Russell G. Walker

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), (6) Repealed by Session Laws 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. 8; 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.)

1989 - 1990

TABLE OF AUTHORIZED LEGISLATIVE RESEARCH COMMISSION STUDIES

The following is a list of the topics which the General Assembly (1989 Session) 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 802 (SB 231) of the 1989 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 1990 Session of the 1989 General Assembly or the 1991 General Assembly, or may make an interim report to the 1990 Session of the 1989 General Assembly and a final report to the 1991 General Assembly.

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
Administrative Procedure Act Rulemaking Process	Sen. Johnson Sen. W. Martin Rep. Michaux	SB 535 SJR 1003 HB 1459	Riley	42
Agriculture	Rep. Brown Rep. Bowman	HB 1362 HB 1304	Jones	14
Bed and Breakfast Inn ⁹			N/A	N/A
Budget Restructuring and Legislative Session ¹⁰	Sen. Goldston Rep. Pope	SB 1388 HB 2293	N/A	N/A
Consumer Protection Issues and the Elderly	Sen. Barker	SB 1261	Watson	21
Drivers Education ¹¹	Sen. Goldston Rep. McLaughlin	SB 1426	N/A	N/A
Education--Higher Education Opportunity ¹³	Sen. Ward Rep. Rhyne Rep. Tart	SB 1426	Riley	49
Education--Proprietary Schools	Sen. W. Martin	SB 854	Fuerst	40
Education--Public Attorneys Education Assistance ¹⁷	Sen. W. Martin	SB 1269	Riley	49
Fallow Deer ¹	Rep. James	HJR 1924	N/A	N/A
Financial Institutions-- Credit Card Banks	Sen. Staton Rep. Locks	SB 377 HB 1910	Sullivan	18
Firefighter Benefits ²	Sen. Royall	SB 44	Carter	34

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
Hazardous Waste Management ¹²			N/A	N/A
Health Care/Insurance Costs Issues	Rep. Wiser Rep. Perdue Sen. Joe Johnson Rep. Duncan Rep. Payne Rep. Barnes Rep. Mills	HB 202 HB 961 SB 1068 HB 1159 HB 1187 HB 1014 HB 1242	Marshall	54
Health Insurance Pool ⁹	Rep. Judy Hunt	HJR 985	N/A	N/A
Homeless Persons	Rep. Greenwood Sen. W. Martin	HB 2018 SB 1290	Sabre	56
Infrastructure Bonds ¹⁴	Sen. Carpenter	SB 1582	N/A	N/A
Inheritance Tax Exemptions ¹⁰	Sen. Winner	SB 1365	N/A	N/A
Insanity--Insanity Verdict	Rep. Rhodes Rep. Sizemore	HB 1364 HB 1372	Godette	16
Legislative Activity Between Legislative Sessions and Procedures to Shorten the Legislative Session ³	Sen. Goldston Rep. Pope	SB 1388 HB 2293	N/A	N/A
License Plate Fees--Personalized and Special Plates ⁴	Sen. Basnight	SB 913	Avrette	63
Mail Order Sales Tax ¹⁵	Rep. Pope Rep. Pope	HB 296 HB 2334	N/A	N/A
Minority Business Contracts	Sen. R. Hunt Rep. Colton	SB 927 HJR 1514	Gilkeson	45
Prescription Drug Assistance ¹⁶	Rep. Green	HB 2149	N/A	N/A
Public Employee Day Care/ Medical/Dental Benefits	N/A	N/A	Timmons	32
Railroads	N/A	N/A	Dail	69
Rest Homes, ICF and SNF Facilities	Rep. Easterling	HJR 173	Young	52
Rest Home Aide Training Requirements/State Reimbursements ¹⁸	Sen. Daniel Sen. Bryan Sen. Walker	SB 1426	N/A	N/A

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
Revenue Laws	Rep. Lilley Sen. Odom	HJR 3 SB 1298	Harris	59
Salvage Motor Vehicle Titles ⁸	N/A	N/A	Godette	72
Solid Waste Management	Sen. Speed Sen. Basnight Rep. Diggs	SJR 112 SB 1214 HB 1045	Iddings	37
Sports Fishing Licenses ¹	Sen. Barker	HB 1284	N/A	N/A
State Capital Assets and Improvements	Sen. Sherron	SB 1240	Perry	47
State Information Processing Needs and Cost ³	Sen. Royall	SB 47	N/A	N/A
State Marine Patrol ³	Sen. Barker	SB 1267	N/A	N/A
State Ports Authority and International Trade	Sen. Barker Rep. Hall	SJR 96 HB 133	Dail	24
Tourism's Growth and Effect	Sen. Block Rep. Warren	SB 297 HB 379	Avrette	26
Transportation--Long-Range Needs ⁵	Rep. R. Hunter	HB 399	Levenbook	66
Transportation--Public Transportation Financing ⁶	Rep. Blue Rep. Blue	HB 694 HB 2301	Perry	67
Travel/Tourism Reorganization ¹	Rep. Perdue	HB 1132	N/A	N/A
Veterans Home ¹⁹	Rep. Hurley	HB 2139	N/A	N/A
Water Resources--Groundwater Protection	Rep. DeVane Sen. Winner	HJR 554 SJR 367	Evans-Stanton	74
Water Resources--Surface Water Quality/Resources Issues	Rep. B. Ethridge Rep. B. Ethridge Rep. Hackney Rep. Holt Rep. Payne Rep. Colton Rep. Kaplan	HJR 33 HJR 37 HB 1224 HJR 1399 HB 1945 HB 1955 SB 1182	Johnson	76
Water Resources--Water and Wastewater Needs/Individual and Small Systems ²⁰	Rep. Hardaway	HB 2373	N/A	N/A

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
"Willie M." Program ⁷	Sen. Block	SJR 88	N/A	N/A
Worker Training Trust Fund	Sen. Parnell	SB 271	Gilkeson	29

- 1 Study not funded by LRC.
- 2 Incorporated in Chapter 752, §43; report upon convening of the 1991 Session.
- 3 Referred to the Joint Legislative Commission on Governmental Operations.
- 4 Incorporated in Chapter 774, §6; may report to 1991 General Assembly.
- 5 Incorporated in Chapter 692, §1.12; reporting date not specified.
- 6 Incorporated in Chapter 740, §7; report to 1990 Session of the 1989 General Assembly. Continuation of study incorporated in Chapter 1078, §2.4, by the 1990 Session of the 1989 General Assembly; report to 1991 Regular Session.
- 7 Referred to the Mental Health Study Commission.
- 8 Authorized pursuant to G.S. 120-30.17.
- 9 Incorporated in Chapter 1078, §2.2, by the 1990 Session of the 1989 General Assembly; study not funded by LRC.
- 10 Incorporated in Chapter 1078, §2.6, by the 1990 Session of the 1989 General Assembly; referred to the LRC Revenue Laws Study Committee.
- 11 Incorporated in Chapter 1066, §145, by the 1990 Session of the 1989 General Assembly; referred by LRC to the Legislative Study Commission on the Basic Education Program.
- 12 Incorporated in Chapter 1078, §2.7, by the 1990 Session of the 1989 General Assembly; referred by LRC to the Environmental Review Commission.
- 13 Incorporated in Chapter 1066, §85, by the 1990 Session of the 1989 General Assembly; combined by LRC with the LRC Public Attorneys Education Assistance Study Committee.

- ¹⁴ Incorporated in Chapter 1078, §2.1(5), by the 1990 Session of the 1989 General Assembly; referred by LRC to the State Infrastructure Needs and Financing Study Commission.
- ¹⁵ Incorporated in Chapter 802, §2.1, by the 1990 Session of the 1989 General Assembly; referred by LRC to the LRC Revenue Law Study Committee.
- ¹⁶ Incorporated in Chapter 1078, § 2.3, by the 1990 Session of the 1989 General Assembly; referred by LRC to the Social Services Study Commission.
- ¹⁷ Incorporated in Chapter 1078, §2.1(4), by the 1990 Session of the 1989 General Assembly; combined by LRC with the LRC Higher Education Opportunity Study Committee.
- ¹⁸ Incorporated in Chapter 1066, §77, by the 1990 Session of the 1989 General Assembly; referred by LRC to the LRC Rest Homes, ICF and SNF Facilities Study Committee.
- ¹⁹ Incorporated in Chapter 1078, §2.1(3), by the 1990 Session of the 1989 General Assembly; referred by LRC to the Veterans Home Study Commission.
- ²⁰ Incorporated in Chapter 1078, §2.1(1), by the 1990 Session of the 1989 General Assembly; referred by LRC to the LRC Groundwater Protection Study Committee.

1989 - 1990
GROUPING OF STUDIES AUTHORIZED BY THE
LEGISLATIVE RESEARCH COMMISSION

	<u>Study Subjects</u>	<u>Commission Member Responsible</u>	<u>Page</u>
I.	AGRICULTURE AND CRIMINAL LAW	Rep. Bowman	
A.	Agriculture (HB 1362-Brown); and Agribusiness Plant Variances (HB 1304-Bowman)		14
B.	Insanity Verdict (HB 1364-Rhodes); and Guilty but Insane Verdict (HB 1372-Sizemore)		16
II.	CREDIT AND CONSUMER PROTECTION	Rep. Brubaker	
A.	Deregulation of Revolving Credit and Authorization of Credit Card Banks (SB 377-Staton); and Linked Deposits (HB 1910-Locks)		18
B.	Consumer Protection Issues, including those relating to the Elderly (SB 1261-Barker)		21
III.	ECONOMIC DEVELOPMENT AND TOURISM	Sen. Kincaid	
A.	State Ports (SJR 96-Barker, HB 133-Hall)		24
B.	Tourism's Growth and Effect (SB 297-Block, HB 379-Warren)		26
C.	Worker Training Trust Fund Study (SB 271-Parnell)		29
IV.	GOVERNMENT EMPLOYEES BENEFITS	Rep. J. W. Crawford	
A.	Public Employees' Day Care and Medical and Dental Benefits		32
B.	Medical, Disability, Death, Retirement and Related Benefits for Firemen Provided by Federal, State, and Local Governments (Chapter 752, §43 (SB 44))		34

	<u>Study Subjects</u>	<u>Commission Member Responsible</u>	<u>Page</u>
V.	GOVERNMENT REGULATION	Sen. Bob Martin	
	A. Development of a State Strategy for the Management of Solid Waste (SJR 112-Speed, SB 1214-Basnight); and Infectious Wastes (HB 1045-Diggs)		37
	B. Proprietary Schools (SB 854-Martin, W.)		40
	C. Administrative Procedure Act's Rule-Making Process (SB 535-Johnson); and Office of Administrative Hearings and the Administrative Rules Review Commission (SJR 1003-Martin of Guilford, HB 1459-Michaux)		42
VI.	GOVERNMENTAL CAPITAL ASSETS, CONTRACTING, AND FUNCTIONING	Sen. Ralph Hunt	
	A. State Procurement Contracts to Minority Business Enterprises (SB 927-Hunt of Durham); and Small Business Technical Assistance Programs (HJR 1514-Colton)		45
	B. State Capital Assets and Improvements (SB 1240-Sherron)		47
	C. Higher Education Opportunity and Public Attorneys Education Assistance (SB 1426-Ward; SB 1269-W. Martin)		49
VII.	HUMAN RESOURCES	Sen. Walker	
	A. Care Provided by Rest Homes, Intermediate Care Facilities, and Skilled Nursing Homes (HJR 173-Easterling); and Necessity for Certificates of Need; and Continuing Care Issues		52
	B. Health Care/Insurance Costs Issues, including but not limited to, Availability, Benefits, Costs, Portability, Long-Term Care Insurance (HB 202-Wiser); Health Insurance Costs (HB 961-Perdue, SB 1068-Johnson, Joe); Health Insurance (HJR 1159-Duncan); Infertility Treatment Coverage (HB 1187-Payne); Mammogram/Pap Smear Coverage (HB 1014-Barnes); and Health Care Insurance Coverage (HB 1242-Mills)		54
	C. Homeless Persons (HB 2018-Greenwood, SB 1290-Martin of Guilford)		56

	<u>Study Subjects</u>	<u>Commission Member Responsible</u>	<u>Page</u>
VIII.	TAXATION	Rep. Hurley	
	A. Revenue Laws (HJR 3-Lilley); Local Revenue Sources Options (SB 1298-Odom); Mail Order Sales Tax (HB 296 and HB 2334-Pope)		59
	B. Fee Structure for Personalized License Plates and Special Plates (Chapter 774, §6 (SB 913))		63
IX.	TRANSPORTATION	Rep. Bowie	
	A. Long-Range Transportation Needs of the State, Alternative Methods of Transportation, including Bikeways and Sidewalks, and the Impact of the Highway Trust Fund on Potential Revenue Sources for Alternative Transportation (Chapter 692, §1.12 (HB 399))		66
	B. Public Transportation Financing and Private Sector Contracts for Public Transportation Services (Chapter 740, §7 (HB 694))		67
	C. Lease and Renegotiation of Contracts of the North Carolina Railroad Company and the Atlantic and North Carolina Railroad Company		69
	D. Salvage Motor Vehicle Titles		72
X.	WATER	Sen. Tally	
	A. Development of a State Strategy for the Protection of All Groundwater Resources (HJR 554-DeVane, SJR 367-Winner); Water and Wastewater Needs/Individual and Small Systems (HB 2373-Hardaway)		74
	B. Surface Water Quality and Resources Issues, Including Interbasin Transfer, Albemarle-Pamlico Estuarine (HJR 33-Ethridge,B.); Coastal Water Quality (HJR 37 Ethridge,B.); Haw in Scenic River System (HB 1224-Hackney); Pesticides (HJR 1399-Holt); Water Resources Planning (HB 1945-Payne); Toxaway River (HB 1955-Colton); and Yadkin River Use and Protection (SB 1182-Kaplan)		76

I. AGRICULTURE AND CRIMINAL LAW

AGRICULTURE

Authorization: Chapter 802, §2.1, 1989 Session Laws (HB 1362, HB 1304)

LRC Member in Charge:

Rep. J. Fred Bowman
814 N. Graham-Hopedale Road
Burlington, NC 27217
(919)228-7521

Members

President Pro Tem's Appointments

Sen. James D. 'Jim' Speed
Co-Chairman
Route 6, Box 542
Louisburg, NC 27549
(919)853-2167

Sen. Charles W. 'C. W.' Hardin
67 Rhoda Street
Canton, NC 28716
(704)648-2327

Sen. Wendell H. Murphy
P.O. Box 280
Rose Hill, NC 28458
(919)289-2111

Sen. David R. Parnell
P.O. Box 100
Parkton, NC 28371
(919)858-3521

Sen. R. C. Soles, Jr.
P.O. Box 6
Tabor City, NC 28463
(919)653-2015

Mr. Norwood P. Whitley, Jr.
Route 2
Stantonsburg, NC 27883

Mr. Billy Yeargin
N.C. Sweet Potato Commission
1201 Ravens Point Circle
Raleigh, NC 27614
(919)894-2166

Speaker's Appointments

Rep. John W. Brown
Co-Chairman
Route 2, Box 87
Elkin, NC 28621
(919)835-2373

Rep. Charles W. Albertson
Route 2, Box 141-E
Beulaville, NC 28518
(919)298-4923

Mr. John C. Allen
717 Clark Road
Snow Camp, NC 27349

Rep. H. Clayton Loflin
1425 Medlin Road
Monroe, NC 28110
(704)289-4554

Rep. Edith L. Lutz
Route 3, Box 197
Lawndale, NC 28090
(704)538-7818

Rep. Leo Mercer
115 Miller Street
Chadbourn, NC 28431
(919)654-3518

Rep. John H. Weatherly
Route 3, Box 728
Kings Mountain, NC 28086
(704)487-0039

Staff:

* Linwood Jones
Research Division
(919)733-2578

Clerk:

Anne Kidd
Legislative Building, Room 1111
O: (919)733-5935
H: (919)847-3789

AGRICULTURE

The Legislative Research Commission's Agribusiness Plant Variance & Agriculture Committee, chaired by Senator Jim Speed and Representative John Brown (with Representative Fred Bowman as the LRC member), was authorized to review the regulations affecting the land application of food processing byproducts and related issues affecting the disposition or reuse of such byproducts.

The Committee has met twice and has heard several food processing industries address the issue of food byproduct disposal, with the primary focus on the land application of these wastes. The Committee has reviewed the Environmental Management Commission's "sludge application" regulations, which require permits for the land application of food processing wastes, industrial wastes, and municipal sewage sludges. The Committee is reviewing proposed legislation that would exempt the land application of food processing byproducts from the permit requirement. The legislation, entitled AN ACT TO PROVIDE FOR THE MANAGEMENT AND RECYCLING OF SECONDARY NUTRIENTS, would exempt only those byproducts that are free of domestic, toxic, and hazardous wastes and are agronomically suited for land application. These byproducts would be subject to best management practice guidelines developed by the Agricultural Extension Service. The Committee has also examined other methods of food byproduct disposal and reuse, including landfilling, rendering, and composting.

The Committee met again in late April and toured the Miller Brewery in Eden and a chicken food processing plant in Reidsville to view the types of food wastes generated at these facilities and their ultimate disposition. The Committee is reporting to the short session the above-referenced legislation.

The Agribusiness Plant Variance Committee met twice after the short session. Both meetings were devoted to the review of proposals from the Department of Environment, Health, and Natural Resources concerning the modification of EMC regulations on nondischarge permits for the land application of food processing wastes. The Committee has decided not to recommend legislation since the regulatory changes may effectuate many of the modifications sought by the Committee. The Department will make a final report on its proposed regulatory changes to the General Assembly in January, 1991. The staff and individual members of the Agribusiness Plant Variance Committee continue to work with the Department in the development of these regulations.

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.

INSANITY--INSANITY VERDICT

Authorization: Chapter 802, §2.1, 1989 Session Laws (HB 1364, HB 1372)

LRC Member in Charge:

Rep. J. Fred Bowman
814 N. Graham-Hopedale Road
Burlington, NC 27217
(919)228-7521

Members

President Pro Tem's Appointments

Sen. T. LaFontaine 'Fountain' Odom
Co-Chairman
1100 S. Tryon Street
Charlotte, NC 28203
(704)372-4800

Sen. Austin M. Allran
Box 2907
Hickory, NC 28603
(704)322-5437

Mr. Geoffrey Hulse
1313 Park Avenue B
Goldsboro, NC 27530
(919)736-2323

Sen. Wanda H. Hunt
P.O. Box 1335
Pinehurst, NC 28374
(919)295-3794

Sen. Helen R. Marvin
119 Ridge Lane
Gastonia, NC 28054
(704)864-2757

Sen. A. P. 'Sandy' Sands, III
P.O. Box 449
Reidsville, NC 27323-0449
(919)349-7041

Hon. Colon Willoughby
Wake County District Attorney
P.O. Box 31
Raleigh, NC 27602
(919)733-2600

Speaker's Appointments

Rep. Roy A. Cooper, III
Co-Chairman
P.O. Drawer 4538
Rocky Mount, NC 27803
(919)442-3115

Ms. Linda Cantrell
5620 Judy Lane
Winston-Salem, NC 27127
(919)764-2608

Rep. Theresa H. Esposito
207 Stanaford Road
Winston-Salem, NC 27104
(919)765-5176

Rep. David T. Flaherty, Jr.
228 Pennton Avenue, SW
Lenoir, NC 28645
(704)754-0961

Rep. Thomas C. Hardaway
P.O. Box 155
Enfield, NC 27823
(919)445-2371

Rep. E. David Redwine
P.O. Box 283
Shallotte, NC 28459
(919)754-4326

Rep. Frank E. Rhodes
4701 Whitehaven Road
Winston-Salem, NC 27106
(919)924-2878

Staff:

* Kristin Godette
Research Division
(919)733-2578

Ken Levenbook
Bill Drafting Division
(919)733-6660

Clerk:

Lucille Thompson
Legislative Building, Room 2202
O: (919)733-5752
H: (919)876-3916

INSANITY--INSANITY VERDICT

The Committee on the Insanity Verdict and Guilty But Insane Verdict met seven times from November 1989 through November 1990.

At its initial meeting in November, the Committee reviewed the charge to the Committee and the bills which led to the study. The Committee discussed current North Carolina laws and also considered the report of the 1985 Criminal Code Revision Study Commission which had included proposed changes in the insanity defense laws.

At the January meeting, the Committee discussed the insanity defense and focused on the issue of adopting a "guilty but mentally ill" verdict. The Committee heard from the Attorney General's Office on the laws and cases concerning the insanity defense, and also received testimony from proponents for the mentally ill. The Committee also reviewed the insanity defense laws and civil commitment procedures adopted in other states.

At its February meeting, the Committee reviewed the "guilty but mentally ill" laws as they operate in 12 other jurisdictions, and discussed the issues relating to such verdicts. The Committee heard speakers on a case where a defendant was acquitted on four murder charges by reason of insanity. State mental health officials provided information on mental health services provided to incarcerated offenders, and the Committee heard from victims' rights advocates.

At the March and April meetings, the Committee heard speakers and discussed the involuntary civil commitment laws, and the proposed American Bar Association Standards for the commitment of offenders who have been found not guilty by reason of insanity.

In September, the Committee unanimously agreed to no longer consider recommending the enactment of the "guilty but mentally ill" verdict and to recommend amendments to civil commitment procedures.

At the final meeting in November, the Committee approved the final report which recommends proposed legislation entitled: AN ACT TO PROVIDE FOR AUTOMATIC COMMITMENTS OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY OF VIOLENT CRIMES AND SHIFTING BURDEN OF PROOF. The proposed bill provides for automatic commitment to a state hospital upon acquittal by reason of insanity of a violent crime, opens discharge hearings to the public, and shifts the burden of proof for discharge from the state to the defendant.

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.

II. CREDIT AND CONSUMER PROTECTION

FINANCIAL INSTITUTIONS--CREDIT CARD BANKS

Authorization: Chapter 802, §2.1, 1989 Session Laws (SB 377, HB 1910)

LRC Member in Charge:

Rep. Harold J. 'Bru' Brubaker
138 Scarboro Street
Asheboro, NC 27203
(919)629-5128

Members

President Pro Tem's Appointments

Sen. James C. 'Jim' Johnson, Jr.
Co-Chairman
247 Church Street, NE
Concord, NC 28025
(704)784-8404

Sen. Robert C. 'Bob' Carpenter
180 Georgia Road
Franklin, NC 28734
(704)524-5009

Mr. Robert Gage
305 College Street
Morganton, NC 28655
(704)438-4000

Sen. A. D. Guy
P.O. Box 340
Jacksonville, NC 28541-0340
(919)346-4171

Sen. Ralph A. Hunt
1005 Crete Street
Durham, NC 27707
(919)682-5259

Mr. John R. Jordan, Jr.
P.O. Box 2021
Raleigh, NC 27602
(919)828-2501

Sen. William W. 'Bill' Staton
P.O. Box 1320
Sanford, NC 27330
(919)775-5616

Speaker's Appointments

Rep. Joe H. Hege, Jr.
Co-Chairman
P.O. Box 833
Lexington, NC 27292
(704)249-9141

Rep. W. W. 'Dub' Dickson
718 Avondale Road
Gastonia, NC 28054
(704)864-1231

Rep. Lyons Gray
P.O. Box 10887
Winston-Salem, NC 27108-0887
(919)773-1600

Rep. Sidney A. Locks
200 Dupont Circle
Greenville, NC 27834
(919)752-7501

Rep. H. Clayton Loflin
1425 Medlin Road
Monroe, NC 28110
(704)289-4554

Rep. R. Eugene 'Gene' Rogers
908 Woodlawn Drive
Williamston, NC 27892
(919)792-2310

Rep. Edward N. 'Ed' Warren
227 Country Club Drive
Greenville, NC 27834
(919)758-1543

Staff:

Terrence D. Sullivan
Research Division
(919)733-2578

Clerk:

Cindy Coley
Legislative Building, Room 1403
O: (919)733-5788
H: (919)782-7437

FINANCIAL INSTITUTIONS--CREDIT CARD BANKS

The Legislative Research Commission's Committee on Credit Card Deregulation, Credit Card Banks, and Linked Deposit Programs has met six times. Private citizens and the following individuals and representatives of the following groups have testified before the Committee during its deliberations: the State Banking Commissioner, the State Treasurer, the North Carolina Bankers Association (NCBA), the North Carolina Retail Merchants Association (NCRMA), the North Carolina League of Savings Institutions, the North Carolina Attorney General's Office's Consumer Protection Section, the North Carolina Association of Community Development Corporations, the North Carolina Legal Services Resource Center, Inc. (NCLSRC), the North Carolina Life Underwriters, the North Carolina Department of Insurance, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners; and Legal Services of the Cape Fear.

Linked Deposit Programs

Representatives of the North Carolina Legal Services Resource Center and others testified on programs ("linked deposit programs") in other states and localities. These programs encourage private financial institutions receiving deposits of public funds to invest within the particular city or state. The NCLSRC presented information on the various types of linked deposit programs and recommended that the Committee consider these programs as a method to further public purposes by leveraging private funds without collecting additional revenue. The State Treasurer stated his opposition to linking of deposits of State and local governments in financial institutions on any basis other than the safety of principal and rate of return. A representative of the NCLSRC, at the February 1 meeting, proposed that an appropriation be made to hire one person in State government to track the investments in the State, by purpose and locale, made by depository institutions and to distribute that information to local governments in the State so that they may use that information in determining where to deposit their funds. The Committee decided to take no action on the issue of linked deposits.

**Deregulation of Revolving Credit and
Credit Card Banks**

Representatives of NCBA at the February 1, 1990 committee meeting recommended the complete deregulation of open-end revolving credit for domestic lenders, while retaining the 1 1/2% per month maximum (the so-called 18% per year) credit card rate for open end revolving credit for all others, and the establishment of credit card banks. At that same meeting, the representative of the NCRMA recommended for retail revolving credit, retaining the present grace period in which to repay loans without interest; raising of the interest chargeable from 1 1/2 to 1 3/4 % per month (the so-called 21% per year) with a minimum \$0.50 charge on the unpaid balance; imposing a late payment fee of 5% of the payment due or \$10, whichever is less, with a minimum payment of \$1; and granting the authority to contract

for credit life, accident, health or loss of income insurance in any consumer credit sale. The elimination of the interest rate maximum, the grace period and the limitation of a \$20 maximum annual fee in the NCBA's proposal, and the raising in the interest maximum and minimum fee, the late charge, the authorization of solicitation and payment of certain insurance on consumer credit sales as proposed by the NCRMA were opposed by the Attorney General's Office and legal services representatives. At the Committee's meeting on March 8, the representative of the NCRMA said that his association would ask the Committee to recommend to the 1990 Session only the first one of his earlier recommendations, i.e. the raising of the interest rate in retail revolving credit from 18 to 21% with the minimum \$0.50 charge on the unpaid balance.

The Committee recommended the following two pieces of legislation:

1. A BILL TO BE ENTITLED AN ACT TO MODIFY FINANCE CHARGE RATES FOR REVOLVING CHARGE ACCOUNT CONTRACTS.
2. A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CREDIT CARD BANKS, TO AMEND THE RATE OF INTEREST AND FEES APPLICABLE TO CREDIT CARD ACCOUNTS, OPEN-END CREDIT, AND REVOLVING CHARGE ACCOUNTS.

The legislation would:

1. Deregulate present restrictions on interest rates and fees which may be charged in open-end credit and credit cards extended by domestic lenders (state and federally-chartered financial institutions having their principal place of business in North Carolina), and retain present grace period for these extensions of credit other than for a direct loan;
2. Retain the present restrictions on the grace period, and fees and interest chargeable in open-end credit extensions by other than domestic lenders and retail merchants;
3. Authorize the establishment of credit card banks within this State, give them and domestic lenders the power to charge any interest, fees and charges agreed to by the parties to a credit card account while retaining the present 25-day grace period to pay the bill without interest or other penalty and make various corresponding changes;
4. Would limit credit card issuers other than credit card banks, to interest fees and charges allowable under the present statutes: i.e. 1 1/2 percent per month on the unpaid balance for unsecured credit, 1 1/4 percent on secured credit, the 25-day grace period and a maximum annual charge of \$20;
5. Deregulate discount fees chargeable to merchants and others under credit card plans (now limited to six percent of purchase); and
6. Separate revolving charge accounts under the Retail Installment Sales Act (RISA) from the general interest and fee open-end credit restrictions contained in Chapter 24, set in RISA maximum interest and fees for revolving charge accounts at 1 3/4 percent per month on the unpaid balance, retain the present grace period, and prohibit an annual fee.

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.

CONSUMER PROTECTION ISSUES AND THE ELDERLY

Authorization: Chapter 802, §2.1, 1989 Session Laws (SB 1261)

LRC Member in Charge:

Rep. Harold J. 'Bru' Brubaker
138 Scarboro Street
Asheboro, NC 27203
(919)629-5128

Members

President Pro Tem's Appointments

Sen. A. D. Guy
Co-Chairman
P.O. Box 340
Jacksonville, NC 28541-0340
(919)346-4171

Sen. Wanda H. Hunt
P.O. Box 1335
Pinehurst, NC 28374
(919)295-3794

Mr. Bentley Leonard
274 Merrimon Avenue
Asheville, NC 28801
(704)255-0456

Sen. T. LaFontaine 'Fountain' Odom
1100 S. Tryon Street
Charlotte, NC 28203
(704)372-4800

Mr. Jim Parker
4137 Brewster Drive
Raleigh, NC 27606
(919)733-2220

Sen. Robert G. 'Bob' Shaw
P.O. Box 8101
Greensboro, NC 27419
(919)855-7533

Sen. James D. 'Jim' Speed
Route 6, Box 542
Louisburg, NC 27549
(919)853-2167

Speaker's Appointments

Rep. John C. 'Pete' Hasty
Co-Chairman
P.O. Box 945
Maxton, NC 28364
(919)276-8680

Rep. Ruth M. Easterling
811 Bromley Road, Apt. #1
Charlotte, NC 28207
(704)377-6555

Rep. Bradford V. 'Brad' Ligon
Route 12, Box 460
Salisbury, NC 28144
(704)279-3059

Rep. Albert S. Lineberry, Sr.
P.O. Box 630
Greensboro, NC 27402
(919)272-5157/(919)288-1278

Rep. Coy C. Privette
306 Cottage Drive
Kannapolis, NC 28081
(704)933-3734

Mr. Frank Richardson
Anson Senior High School
P.O. Box 513
Wadesboro, NC 28170

Rep. Barney P. Woodard
Box 5
Princeton, NC 27569
(919)936-3151

Staff:
Gann Watson
Bill Drafting Division
(919)733-6660

Clerk:
Lillie Pearce
Legislative Building, Room 1220
O: (919)733-5746
H: (919)876-3484

CONSUMER PROTECTION ISSUES AND THE ELDERLY

The Consumer Protection Study Committee met six times during 1990. The Committee devoted most of its attention to consumer problems in the home construction industry, and to regulation of reverse mortgages, a consumer issue of interest exclusively to elderly citizens. Over the course of its study the Committee heard from several speakers who addressed different areas of consumer concerns. Among the speakers who addressed the committee were representatives from: the Attorney General's office, the Department of Insurance, the Agricultural Extension Service, the Division of Aging of the Department of Human Resources, and members of the general public, private business and industry, and professional associations.

The Committee heard from many persons regarding problems in the home construction industry, particularly with respect to professional incompetence and lack of enforcement of professional standards. The Committee requested the State Auditor to conduct a performance audit report of State established Boards and Commissions whose duties and powers relate to home construction. Staff from the State Auditor's office presented the final report to the Committee at its November meeting.

Based on the concerns brought to its attention, the Committee reviewed and adopted recommendations and legislative proposals for action by the 1991 General Assembly. The legislative proposals adopted by the Committee are as follows:

1. AN ACT TO INCREASE PENALTIES FOR VIOLATIONS OF THE DEBT COLLECTION PRACTICES ACTS.
2. AN ACT TO ABOLISH USE OF THE RULE OF 78s AS IT PERTAINS TO INSTALLMENT LOANS SECURED BY MOBILE HOMES.
3. AN ACT TO REGULATE REVERSE MORTGAGES.
4. AN ACT TO AMEND CHAPTER 66 OF THE GENERAL STATUTES REGULATING PREPAID ENTERTAINMENT CONTRACTS TO INCLUDE SALES OF CAMPGROUND MEMBERSHIPS.
5. AN ACT TO EQUALIZE THE DAMAGE DISCLOSURE REQUIREMENTS FOR AUTO MANUFACTURERS AND NEW CAR DEALERS.
6. AN ACT TO REGULATE THE BUSINESS OF PROVIDING CREDIT REPAIR SERVICES.
7. AN ACT TO AMEND CHAPTERS 160A AND 153A OF THE GENERAL STATUTES RELATING TO DUTIES OF LOCAL BUILDING INSPECTORS.
8. AN ACT TO REQUIRE AWARDING REASONABLE ATTORNEYS FEES TO PREVAILING PLAINTIFFS IN CLAIMS INVOLVING HOME CONSTRUCTION.
9. AN ACT TO REQUIRE THE GENERAL CONTRACTORS LICENSING BOARD AND THE CODE OFFICIALS QUALIFICATION BOARD TO IMPLEMENT RECOMMENDATIONS OF THE STATE AUDITOR.
10. AN ACT TO DECREASE PROJECT COST MINIMUM FOR APPLICABILITY OF CONTRACTORS LICENSURE REQUIREMENTS AND TO CLARIFY EXEMPTION PROVISIONS.

11. AN ACT TO CLARIFY THE DISCIPLINARY AUTHORITY OF GENERAL CONTRACTORS LICENSING BOARD, AND TO PROVIDE THAT A PERSON WHO PREFERS CHARGES AGAINST A LICENSEE IS AN AGGRIEVED PARTY UNDER CHAPTER 150B.
12. AN ACT TO ESTABLISH THE HOMEOWNERS RECOVERY FUND UNDER THE SUPERVISION OF THE GENERAL CONTRACTORS LICENSING BOARD.
13. AN ACT TO ESTABLISH THE RESIDENTIAL CONTRACTORS REVIEW COMMITTEE.

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.

III. ECONOMIC DEVELOPMENT AND TOURISM

STATE PORTS AUTHORITY AND INTERNATIONAL TRADE

Authorization: Chapter 802, §2.1, 1989 Session Laws (SJR 96, HB 133)

LRC Member in Charge:

Sen. Donald R. 'Don' Kincaid
P.O. Box 988
Lenoir, NC 28645
(704)758-5181

Members

President Pro Tem's Appointments

Sen. Robert L. 'Bob' Martin
Co-Chairman
P.O. Box 387
Bethel, NC 27812
(919)825-4361

Sen. Franklin L. 'Frank' Block
520 Princess Street
Wilmington, NC 28401
(919)763-3463

Sen. George B. Daniel
P.O. Box 179
Yanceyville, NC 27379-1108
(919)694-4363

Sen. Wendell H. Murphy
P.O. Box 280
Rose Hill, NC 28458
(919)289-2111

Mr. Joe M. Parker
310 S. Colony Avenue
Ahoskie, NC 27910
(919)332-2556

Mr. Bobby Porter
Route 2
Roseboro, NC 28382
(919)564-4138

Sen. Robert G. 'Bob' Shaw
P.O. Box 8101
Greensboro, NC 27419
(919)855-7533

Speaker's Appointments

Rep. Robert Grady
Co-Chairman
107 Jean Circle
Jacksonville, NC 28540
(919)353-3579

Rep. J. Vernon Abernethy
P.O. Box 38
Gastonia, NC 28053
(704)865-2906

Rep. Gerald L. Anderson
117 Creekview Road
New Bern, NC 28562
(919)633-5100

Rep. Howard B. Chapin
212 Smaw Road
Washington, NC 27889
(919)946-3480

Rep. Lawrence E. 'Larry' Diggs
5001 Matthews - Mint Hill Road
Charlotte, NC 28212
(704)545-4966

Rep. E. David Redwine
P.O. Box 283
Shallotte, NC 28459
(919)754-4326

Rep. Clarence P. 'C. P.' Stewart
Route 3, Box 718
Lillington, NC 27546
(919)893-8966

Staff:
Sean Dail
Bill Drafting Division
(919)733-6660

Clerk:
Sarah Murphy
Room 525
Legislative Office Building
O: (919)733-5705
H: (919)828-6735

STATE PORTS AUTHORITY AND INTERNATIONAL TRADE

The State Ports Authority and International Trade Study Committee met seven times. At its first meeting in Raleigh and in a two-day meeting on the coast, the Committee heard from officials of the State Ports Authority about the Authority's future plans and funding needs, and toured the ports facilities at both Wilmington and Morehead City. The Committee was also informed of an advisory council to the Ports Authority that has been formed of representatives of major international companies located in North Carolina. The goal of this advisory council is to suggest methods of attracting more North Carolina industry to the North Carolina ports.

The Committee also devoted several meetings to the issue of promoting international trade in North Carolina. The Committee heard from representatives of the Virginia Department of World Trade and the International Trade Division of the Department of Economic and Community Development. Members of the North Carolina World Trade Association supplied the Committee with its ideas on development of trade policy in North Carolina and its opinion as to the strengths and weaknesses of the State Ports Authority.

The Committee makes the following recommendations to the 1991 Session:

1. **That the General Assembly enact A BILL TO BE ENTITLED AN ACT TO PROVIDE A TAX CREDIT FOR THE USE OF NORTH CAROLINA PORTS, which provides for a state income tax credit to any corporation or individual using the Wilmington or Morehead City ports for the export of cargo.**

The Committee finds that a full seventy percent of North Carolina exporters and importers use ports in other states to move their cargo. This is true in spite of the fact that both ports have the capacity to accommodate additional vessels and cargo. The Committee believes that an increase in the volume of cargo will attract the shipping lines necessary to move that cargo.

The Committee feels that one way of encouraging industries and businesses to use North Carolina's ports is to provide a tax incentive to corporations and individuals using the ports. Any increase in the volume of cargo moving through the State Ports would enhance and accelerate economic development throughout the State.

2. **That the General Assembly enact A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE NORTH CAROLINA STATE PORTS AUTHORITY MAY RECEIVE REFUNDS OF SALES AND USE TAXES PAID ON DIRECT PURCHASES OF TANGIBLE PERSONAL PROPERTY, which adds the Ports Authority to the list of governmental entities entitled to such refunds.**

The Committee finds that the Ports Authority pays an average of \$120,000 each year in state sales taxes. This figure increases drastically whenever the Ports Authority purchases equipment. In 1990, for example, the purchase of two container cranes brought the total tax liability for that year to \$535,600.

3. That the General Assembly enact A BILL TO BE ENTITLED AN ACT TO EXEMPT THE STATE PORTS AUTHORITY FROM THE PROVISIONS OF CHAPTER 143 OF THE GENERAL STATUTES IN THE SELECTION OF ARCHITECTS, ENGINEERS, AND OTHER PROFESSIONAL CONSULTANTS WHERE THE FEE FOR SUCH SERVICES IS LESS THAN THIRTY THOUSAND DOLLARS.

The Committee finds that the State Ports Authority is greatly hampered by the requirement that it follow the procedures set forth in Chapter 143 of the General Statutes whenever it wishes to retain architects, engineers, or other professional consultants. The Committee finds that the Ports Authority needs greater flexibility in its operations than most state agencies, because it is in essence a business which is in competition with the ports authorities of other states.

4. That, if the present budget shortfall precludes the General Assembly from meeting the State Ports Authority's funding request for capital improvements and major maintenance, the General Assembly should consider a general obligation bond referendum as a method for funding the program.

The Committee finds that the improvements proposed for the Wilmington and Morehead ports are vital to the long-range success of the State Ports Authority and to economic development in the State of North Carolina. The Ports Authority is in a turnaround mode, and the improvements requested are essential to efforts to increase the volume of cargo flowing through the ports.

5. That the General Assembly cooperate with the Department of Transportation to expedite the reassembly of the abandoned railroad corridor between the towns of Wallace and Castle Hayne.

The Committee finds that the reacquisition of the abandoned rail route linking Wilmington with Raleigh and the northern Piedmont is crucial to the future success of the State Ports. In addition to providing increased rail access to the Wilmington port, the reassembled corridor would serve as a mechanism for connecting the two ports by rail.

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.

TOURISM'S GROWTH AND EFFECT

Authorization: Chapter 802, §2.1, 1989 Session Laws (SB 297, HB 379)

LRC Member in Charge:
Sen. Donald R. 'Don' Kincaid
P.O. Box 988
Lenoir, NC 28645
(704)758-5181

Members

President Pro Tem's Appointments

Sen. Ted Kaplan
Co-Chairman
P.O. Box 729
Lewisville, NC 27023
(919)722-6713

Mr. Paul Comer, Executive Director
Fayetteville Area Convention
and Visitors Bureau
Fayetteville, NC 28302
(919)483-5311

Mr. James 'Jim' Fulghum
Executive Vice President
Eastern N.C. Chamber of Commerce
P.O. Drawer 757
Greenville, NC 27835
(919)237-5151

Sen. Donald R. 'Don' Kincaid
P.O. Box 988
Lenoir, NC 28645
(704)758-5181

Sen. Aaron W. Plyler, Sr.
2170 Concord Avenue
Monroe, NC 28110
(704)289-3541/(704)283-1293

Sen. Joseph B. 'Joe' Raynor
345 Winslow Street
Fayetteville, NC 28301
(919)483-5948

Sen. William W. 'Bill' Staton
P.O. Box 1320
Sanford, NC 27330
(919)775-5616

Staff:

* Cindy Avrette
Research Division
(919)733-2578

Speaker's Appointments

Rep. Pryor A. Gibson
Co-Chairman
Route 2, Box 382
Wadesboro, NC 28170
(919)572-3761

Rep. Marie W. Colton
392 Charlotte Street
Asheville, NC 28801
(704)253-7350

Rep. Narvel J. 'Jim' Crawford
15 Edgemont Road
Asheville, NC 28801
(704)252-6972

Rep. Robert Grady
107 Jean Circle
Jacksonville, NC 28540
(919)353-3579

Rep. John J. 'Jack' Hunt
Box 277
Lattimore, NC 28089
(704)482-7431

Rep. Annie B. Kennedy
3727 Spaulding Drive
Winston-Salem, NC 27105
(919)724-9207

Rep. Marty E. Kimsey
48-A Pine Lane
Franklin, NC 28734
(704)524-6432

Clerk:

Judy Britt
Room 523
Legislative Office Building
O: (919)733-5660
H: (919)772-8837

TOURISM'S GROWTH AND EFFECT

The LRC Committee on Tourism's Growth and Effect met once prior to the 1990 Session and once after the 1990 Session. The Committee heard presentations from the public sector, the academic sector, and the private sector interest groups. It received many suggestions for improving and increasing the travel and tourism industry in North Carolina. The recommendations voiced most often include:

1. An increase in the tourism matching grants program from the current level of \$225,000 to \$500,000.
2. The establishment of a statutory Travel and Tourism Commission. The purpose of the Commission would be to provide input from the travel and tourism industry and the legislature into policy decisions of the Department of Economic and Community Development regarding promotion and development of travel and tourism in the State.
3. The continuation of an LRC Committee on Tourism's Growth and Effect.
4. Additional funding for the Division of Travel and Tourism.
5. The creation of a standing committee or subcommittee on Travel and Tourism in both the House of Representatives and the Senate.
6. The development of a State tourism policy.

The Committee learned that the tourism industry generates approximately 252,000 jobs for the State's citizens and contributes approximately \$160 million annually in tax revenues to the State's General Fund. Although the industry is growing, North Carolina's market share of the tourism business among the southeastern states has decreased over the last four years. Mr. Dick Trammell, the Director of the Division of Travel and Tourism, Department of Economic Development, presented the Division's Marketing Plan to the Committee. Under the Plan, the Division hopes to regain and increase the State's market share of the industry. Its short term goal is to show a consistent pattern of market share growth by the year 2000. To fully implement the Plan, the Division needs to increase its operating budget by \$4,650,000.

Dr. Larry Gustke, with the Department of Parks, Recreation, and Tourism Management at North Carolina State University, briefed the Committee on the impact of tourism in the State and on how the State can insure the effective and managed growth of the industry. The tourism industry generates approximately \$6.7 billion annually in North Carolina. The State's unique market position of natural beauty and uncrowded character has outstanding potential for growth. To realize this growth, he stressed the need for a Tourism Policy Act which can help reinforce the importance of tourism in the State and establish an agenda that will encourage cooperation and support between government agencies and private industries.

Dr. Kathleen Andereck, Assistant Professor in the Department of Leisure Studies at the University of North Carolina at Greensboro, presented a tourism planning model that can be used by local governments. Presently, most rural areas begin a tourism business with no idea why they want it and with no plan for its growth. This lack of planning often results in dissatisfaction by both the local government and the citizens. The planning model can help a rural area effectively plan the type of tourism industry it desires and achieve the economic benefits of the industry without the local dissatisfaction.

The Committee also heard presentations from the private sector on the needs of the State's travel and tourism industry. The speakers included Pat Corso, Chair of

the North Carolina Tourism Coalition, Judy Grizzel, President of the Travel Council of North Carolina, T. Jerry Williams, Executive Vice President of the North Carolina Restaurant Association, Allen Strong, President of the North Carolina Hotel & Motel Association, David Heintz, President of the North Carolina Association of Convention & Visitor Bureaus, and Anita Green, Co-President of the North Carolina Bed & Breakfast Association.

The Committee decided not to make any recommendations to the 1991-92 General Assembly. As of December 4, 1990, the Committee only spent \$1,773.10 of its \$15,000 budget, leaving unspent a total of \$13,226.90.

WORKER TRAINING TRUST FUND

Authorization: Chapter 802, §2.1, 1989 Session Laws (SB 271)

LRC Member in Charge:

Sen. Donald R. 'Don' Kincaid
P.O. Box 988
Lenoir, NC 28645
(704)758-5181

Members

President Pro Tem's Appointments

Sen. Joseph B. 'Joe' Raynor
Co-Chairman
345 Winslow Street
Fayetteville, NC 28301
(919)483-5948

Sen. Howard F. Bryan
P.O. Box 1654
Statesville, NC 28677
(704)873-0501

Mr. Glenn Jernigan
P.O. Box 1863
Fayetteville, NC 28302
(919)323-0415

Sen. David R. Parnell
P.O. Box 100
Parkton, NC 28371
(919)858-3521

Mr. Christopher 'Chris' Scott
N.C. AFL-CIO
P.O. Box 10805
Raleigh, NC 27605
(919)833-6678

Speaker's Appointments

Rep. W. Eugene 'Gene' Wilson
Co-Chairman
704 Queen Street
Boone, NC 28607
(704)264-8657

Rep. Howard B. Chapin
212 Smaw Road
Washington, NC 27889
(919)946-3480

Rep. Billy J. Creech
P.O. Box 148
Wilson's Mills, NC 27593
(919)934-6586

Rep. Ruth M. Easterling
811 Bromley Road, Apt. #1
Charlotte, NC 28207
(704)377-6555

Rep. Vernon G. James
Route 4, Box 251
Elizabeth City, NC 27909
(919)330-5561

Sen. R. C. Soles, Jr.
P.O. Box 6
Tabor City, NC 28463
(919)653-2015

Sen. Russell G. Walker
1004 Westmont Drive
Asheboro, NC 27203
(919)625-2574

Staff:
Bill Gilkeson
Research Division
(919)733-2578

Rep. Albert S. Lineberry, Sr.
P.O. Box 630
Greensboro, NC 27402
(919)272-5157/(919)288-1278

Ms. Deborah B. Warren
Legal Services of N.C., Inc.
112 S. Blount Street
P.O. Box 27343
Raleigh, NC 27611
(919)832-2046

Clerk:
Nancy Pulley
Legislative Building, Room 2005
O: (919)733-5623
H: (919)851-3241

WORKER TRAINING TRUST FUND

The Study Committee on the Worker Training Trust Fund (WTTF) was charged with studying uses to which the WTTF should be put. The WTTF was created by the 1987 General Assembly as a repository for interest from unemployment-insurance taxes retained by the State rather than forwarded to Washington. The money in the WTTF is to be appropriated by the General Assembly for (1.) local offices of the Employment Security Commission (ESC), (2.) job training to deal with unemployment, or (3.) refunds to employers.

The Committee met five times before the 1990 Short Session and twice after. The Committee recommended in its Interim Report to the Short Session that the General Assembly appropriate from the WTTF for the 1990-91 fiscal year only as much money as was on hand in the WTTF at the beginning of that fiscal year, an estimated \$10.75 million, and that the money be distributed in the following ways:

- * \$5 million to ESC to keep local offices open at the 1986-87 level of service;
- * \$1 million to the Department of Community Colleges for the Focused Industrial Training (FIT) program;
- * \$2 million to the Employment and Training Division of the Department of Economic and Community Development to train the working poor and to deliver to more people the basic services of the Job Training Partnership Act (JTPA).
- * \$250,000 to the Department of Public Instruction to use in its Tech Prep program;
- * \$500,000 to the Department of Labor for customized training;
- * \$2 million to the Social Services Division of the Department of Human Resources for the Job Opportunities and Basic Skills (JOBS) program.

At the Short Session, the General Assembly approved all those recommendations, except that the General Assembly added \$1,459,673 to the \$5 million appropriation for ESC, effective not on July 1, 1990 with the rest of the appropriations, but on October 1, 1990, in anticipation that the money would be available then. This anticipatory appropriation of \$1,459,673 went beyond the Committee's recommendation that appropriations be limited to cash on hand at the beginning of the fiscal year.

On November 8, Ms. Ruth Sappie of the Fiscal Research Division gave the Committee her estimate of the amount that will be in the WTTF at the beginning of next fiscal year: \$10,671,783 on June 30, 1991. She arrived at that figure in consultation with ESC, she said, by taking the balance predicted to be earned during the current fiscal year, and accounting for the \$1,459,673 appropriation to ESC that was to be paid out October 1.

The Committee heard brief reports from the 1990-91 grantees of the WTTF, most of whom were not far enough along in the development of their programs to report results. Chairman Ann Q. Duncan of ESC indicated that, although ESC's federal-funding picture is cloudy, ESC feels it will need at least a continuation in FY 1991-92 of its current funding level of \$6.4 million from the WTTF (plus its current \$2 million from the Special Employment Security Administration Fund) to keep local offices open at the 1986-87 level of service. That adds up to \$8.4 million for 1991-92. For 1992-93, she said, the projected figure is \$8.7 million.

After hearing the grantees' reports, the members of the Committee voted to recommend in their Final Report to the 1991 General Assembly the same distribution of the WTTF's money for 1991-92 as the Committee recommended in its Interim Report to the 1990 Session for 1990-91, except for a \$40,000 reduction in both the \$2 million appropriations--to DHR and to Employment and Training--to stay within the \$10,671,783 first-of-the-fiscal-year figure. The Committee voted to use \$10,671,783 as its bottom line for 1991-92; it did not recommend appropriating an additional amount for ESC using revenues anticipated to materialize during the fiscal year, as the General Assembly voted to do in 1990. It was mentioned during the debate that the General Assembly could resort to anticipatory financing if, during the appropriations process in 1991, it deemed that device necessary.

For the 1992-93 fiscal year, the Committee recommended using a bottom line of approximately \$12.1 million for appropriations: i.e., the \$10.67 million of the first year plus the \$1.45 million mid-year appropriation for ESC. Senator Howard Bryan, who made the motion to use such a figure rather than the \$15 million or \$16 million now being projected, said he felt the Committee should take a conservative approach in projecting revenues.

The Committee also recommended that the 1991 General Assembly:

- * Clear up a dispute over how unused WTTF appropriations are to revert by specifying that unused WTTF appropriations shall revert to the WTTF, not to the General Fund.
- * Authorize another study committee for the WTTF.

The Committee's Final Report contains two proposed bills:

- * A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FROM THE WORKER TRAINING TRUST FUND AND FROM THE SPECIAL EMPLOYMENT SECURITY ADMINISTRATION FUND, and
- * A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE WORKER TRAINING TRUST FUND.

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. GOVERNMENT EMPLOYEES BENEFITS

PUBLIC EMPLOYEE DAY CARE/MEDICAL/DENTAL BENEFITS

Authorization: Chapter 802, §2.1, 1989 Session Laws

LRC Member in Charge:

Rep. James W. 'Jim' Crawford, Jr.
509 College Street
Oxford, NC 27565
(919)693-6119

Members

President Pro Tem's Appointments

Sen. Wanda H. Hunt
Co-Chair
P.O. Box 1335
Pinehurst, NC 28374
(919)295-3794

Sen. Austin M. Allran
Box 2907
Hickory, NC 28603
(704)322-5437

Sen. A. P. 'Sandy' Sands, III
P.O. Box 449
Reidsville, NC 27323-0449
(919)349-7041

Sen. J. K. Sherron, Jr.
4208 Six Forks Road, Suite 302
Raleigh, NC 27609
(919)781-8721

Mr. George Silver
206 Maplewood Drive
Goldsboro, NC 27530
(919)751-2821

Sen. Thomas F. 'Tom' Taft
P.O. Box 566
Greenville, NC 27835
(919)752-2000

Sen. Marvin M. Ward
641 Yorkshire Road
Winston-Salem, NC 27106
(919)724-9104

Speaker's Appointments

Rep. Milton F. 'Toby' Fitch, Jr.
Co-Chair
615 E. Nash Street
Wilson, NC 27893
(919)291-6500

Rep. Stephen G. 'Steve' Arnold
1610 Bridges Drive
High Point, NC 27260
(919)887-8383

Rep. Charlotte A. Gardner
1500 W. Colonial Drive
Salisbury, NC 28144
(704)636-5775

Rep. James P. Green, Sr., MD
P.O. Box 1739
Henderson, NC 27536
(919)492-2161

Mr. George Knight
Southern Correctional Center
P.O. Box 786
Troy, NC 27371
(919)572-3784

Rep. R. M. 'Pete' Thompson, Sr.
P.O. Box 351
Edenton, NC 27932
(919)482-8431

Rep. Peggy Wilson
214 W. Hunter Street
Madison, NC 27025
(919)548-6075

Staff:

* Sandra Timmons
Research Division
(919)733-2578

Gerry Cohen
Bill Drafting Division
(919)733-6660

Stanley Moore
Fiscal Research
(919)733-4910

Clerk:

Claire Reimers
Legislative Building, Room 1415
O: (919)733-6659
H: (919)787-3674

PUBLIC EMPLOYEE DAY CARE/MEDICAL/DENTAL BENEFITS

The LRC study committee on Public Employees' Day Care and Medical and Dental Benefits held a total of eight meetings and reviewed data for each one of the three assigned subject areas. The Committee examined the following outstanding concerns and issues: the effect of the Dependent Care Assistance and Flexible Benefits Plans on the cost of benefits paid by employees; alternative means of prescription drug reimbursement; potential cost containment and/or savings through the use of a mail order pharmacy or prescription drug card program; the most effective treatment and payment structure for dental insurance plans and the estimated cost for the State to provide coverage of that type; trends in employer-sponsored day care; day care program alternatives and practices in other states; and the question of increasing the maximum lifetime health care benefit from \$500,000 to one million dollars.

On the subject of day care, the Committee found that over half the other states have some level of on- or near-site day care program in place for employees and felt that a mechanism should be provided to encourage North Carolina agencies to develop and implement similar measures within their current budgetary structures.

In the medical benefits area, the Committee concluded that an increasing cost for the State Health Plan is in prescription drug reimbursements. It was determined that savings could be gained through the use of alternative prescription programs. Upon hearing the Plan's funding needs for the 1991-93 biennium, the Committee further concluded that specific benefit items should be studied in detail, as a total package.

The Committee found that employees will be given the option to pay health and dental insurance premiums out of pre-tax dollars beginning January 1, 1991, as provided by Chapter 1059 (House Bill 1314).

The Committee, therefore, recommends the following to the 1991 legislative session:

1. Draft legislation entitled A BILL TO BE ENTITLED AN ACT TO ENCOURAGE STATE AGENCIES AND PUBLIC SCHOOLS TO DEVELOP ON- OR NEAR-SITE DAY CARE FACILITIES FOR THEIR EMPLOYEES.
2. That the legislative Committee on Employee Hospital and Medical Benefits take appropriate action which results in the realization of cost savings in the prescription drug benefit of the State Health Plan.
3. That the following issues be reviewed collectively and in detail, with input from representatives of the State Employees Association of North Carolina and the North Carolina Association of Educators:
 - a. Encouraging generic use; Consider requiring employees to pay the difference, if a generic is available and they request or receive the brand name drug instead of its generic form;
 - b. Levels of deductibles and copayments;

- c. Costwise Program;
 - d. Feasibility and practicality of using a sliding scale of charges;
 - e. Increasing the current lifetime hospitalization benefit cap from its present \$500,000 level;
 - f. The possible use of mail order pharmacy as an option to access the potential savings in the prescription drug area.
4. That the LRC empower a similar committee to continue to monitor and review the benefits of public employees.
 5. That no changes be made in the State's present dental program.

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.

FIREFIGHTER BENEFITS

Authorization: Chapter 752, §43, 1989 Session Laws (SB 44)

LRC Member in Charge:

Rep. James W. 'Jim' Crawford, Jr.
509 College Street
Oxford, NC 27565
(919)693-6119

Members

President Pro Tem's Appointments

Sen. Frank W. Ballance, Jr.
Co-Chairman
P.O. Box 616
Warrenton, NC 27589
(919)257-1012

Mr. Richard Bennett
111 Hildale Lane
Goldsboro, NC 27530
(919)734-4488

Mr. Jerry A. Brooks
6010 Bluebonnet Lane
Winston-Salem, NC 27103
(919)766-4114

Sen. Robert C. 'Bob' Carpenter
180 Georgia Road
Franklin, NC 28734
(704)524-5009

Speaker's Appointments

Rep. E. A. 'Alex' Warner, Jr.
Co-Chairman
3610 Frierson Street
Hope Mills, NC 28348
(919)424-5350

Rep. Ray C. Fletcher
P.O. Box 68
Valdese, NC 28690
(704)874-0701

Rep. Pryor A. Gibson
Route 2, Box 382
Wadesboro, NC 28170
(919)572-3761

Rep. Howard J. Hunter, Jr.
P.O. Box 506
Murfreesboro, NC 27855
(919)398-5630

Sen. James C. 'Jim' Johnson, Jr.
247 Church Street, NE
Concord, NC 28025
(704)784-8404

Sen. James D. 'Jim' Speed
Route 6, Box 542
Louisburg, NC 27549
(919)853-2167

Sen. Herbert L. Hyde
P.O. Box 7266
Asheville, NC 28802
(704)255-0975

Staff:
Doug Carter
Fiscal Research Division
(919)733-4910

Ken Levenbook
Bill Drafting Division
(919)733-6660

Rep. Marty E. Kimsey
48-A Pine Lane
Franklin, NC 28734
(704)369-6822

Rep. Doris L. Lail
904 S. Aspen Street
Lincolnton, NC 28092
(704)735-3868

Rep. W. Eugene 'Gene' Wilson
704 Queen Street
Boone, NC 28607
(704)264-8657

Clerk:
Becky Hedspeth
Legislative Building, Room 2303
O: (919)733-5608
H: (919)851-4603

FIREFIGHTER BENEFITS

The Firefighters' Benefits Study Committee met five times with the last being a teleconference meeting. The Committee spent many hours studying the issues related to the State and Local Firemen's Relief funds, firemen's pension funds, firemen's medical, disability and death benefits. The committee received advice from the following: Mr. Ed Renfrow, State Auditor; Mr. Phil Riley, Deputy Commissioner of the Department of Insurance; Mr. B. H. Whitehouse, Executive Secretary of the Industrial Commission, Mr. Jack Pruitt with the Local Governmental Employees Retirement System; Mr. Horace Moore, Executive Secretary of the North Carolina State Firemen's Association, and several fire chiefs and officers of Local Firemen's Relief Funds.

Two subcommittees were appointed, and reviewed in depth the issues related to Local and State Relief Funds and State Firemen's Pension Fund.

The Committee makes the following findings and recommendations in its Report to the 1991 Session:

1. The firemen's pension should be increased from \$100 per month to \$150 per month. The cost to the General Fund annually to provide this increase is \$8,079,000. AN ACT TO INCREASE THE MONTHLY BENEFITS FROM THE NORTH CAROLINA FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND is recommended.
2. Statutes should be amended to permit voluntary contributions by members of the Firemen's Pension program to provide additional benefits. AN ACT TO PERMIT VOLUNTARY CONTRIBUTIONS TO THE NORTH CAROLINA FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND is recommended.

3. The statutes should be amended to permit a paid fireman to receive his pension when he has served twenty years as a member of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund and has attained 55 years of age, even though he is still on a local payroll. AN ACT TO PERMIT PAID FIREMEN TO RECEIVE PENSION BENEFITS FROM THE NORTH CAROLINA FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND WHETHER OR NOT THEY STAY ON A LOCAL PAYROLL is recommended.
4. The statutes should be amended to allow injured firefighters who are members of the NC Local Governmental Employees' Retirement System, to be eligible for disability payments after one year of service. AN ACT TO PERMIT INJURED FIREMEN TO RECEIVE DISABILITY PAYMENTS UNDER THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AFTER ONE YEAR'S SERVICE is recommended.
5. The statutes governing the method of collecting, disbursing, and accounting for the fire and lightning insurance premium taxes providing benefits for firemen in this state in the form of local and state firemen relief funds needs modifying. AN ACT TO MODIFY THE STATUTES GOVERNING FIRE RELIEF FUNDS is recommended.
6. The statutes should be amended to reinstate the exemption for firemen and rescue squad members to allow them to operate the fire trucks and ambulances and other public safety vehicles with their Class C licenses. AN ACT TO REINSTATE THE EXEMPTION FOR CERTAIN DRIVER'S LICENSES FOR PUBLIC SAFETY WORKERS is recommended.

It is anticipated that the above proposed bills will be introduced in the 1991 Session of the General Assembly.

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V. GOVERNMENT REGULATION

SOLID WASTE MANAGEMENT

Authorization: Chapter 802, §2.1, 1989 Session Laws (SJR 112, SB 1214, HB 1045)

LRC Member in Charge:

Sen. Robert L. 'Bob' Martin
P.O. Box 387
Bethel, NC 27812
(919)825-4361

Members

President Pro Tem's Appointments

Sen. Lura S. Tally
Co-Chair
3100 Tallywood Drive
Fayetteville, NC 28303
(919)484-4868

Sen. Richard E. Chalk, Jr.
427 Wright Street
High Point, NC 27262
(919)883-0444

Sen. J. Richard Conder
1401 Carolina Drive
Rockingham, NC 28379
(919)997-5551

Mr. Charles H. Edwards
P.O. Box 295
Lewiston Woodville, NC 27849
(919)348-2332

Sen. James C. 'Jim' Johnson, Jr.
247 Church Street, NE
Concord, NC 28025
(704)784-8404

Sen. James D. 'Jim' Speed
Route 6, Box 542
Louisburg, NC 27549
(919)853-2167

Sen. Thomas F. 'Tom' Taft
P.O. Box 566
Greenville, NC 27835
(919)752-2000

Speaker's Appointments

Rep. Harry C. Grimmer
Co-Chair
4000 High Ridge Road
Charlotte, NC 28226
(704)847-8823

Rep. Daniel H. 'Danny' DeVane
P.O. Drawer 500
Raeford, NC 28376-0500
(919)875-2528

Rep. David H. Diamont
P.O. Box 784
Pilot Mountain, NC 27041
(919)368-4591

Rep. Lawrence E. 'Larry' Diggs
5001 Matthews - Mint Hill Road
Charlotte, NC 28212
(704)545-4966

Rep. Joe Hackney
P.O. Box 1329
Chapel Hill, NC 27514
(919)929-0323

Rep. Bradford V. 'Brad' Ligon
Route 12, Box 460
Salisbury, NC 28144
(704)279-3059

Rep. H. M. 'Mickey' Michaux, Jr.
P.O. Box 2152
Durham, NC 27702
(919)596-8181

Staff:

* Susan Iddings
Bill Drafting Division
(919)733-6660

Sherri Evans-Stanton
George F. Givens
Research Division
(919)733-2578

Clerk:

Surena Henderson
Room 520
Legislative Office Building
O: (919)733-5748
H: (919)448-3131

SOLID WASTE MANAGEMENT

The Legislative Research Commission Study Committee on the Development of a State Strategy for the Management of Solid Waste and Infectious Wastes met ten times, five times before the 1990 Session and five times after the 1990 Session. The Committee reviewed the progress in the Departments of Environment, Health, and Natural Resources; Administration; Economic and Community Development; and State Transportation in implementing enacted Senate Bill 111, Chapter 784 of the 1989 Session Laws. The Committee also discussed: a Statewide waste stream analysis; local recycling efforts; composting; the cost of fully implementing Senate Bill 111; needed changes and additions to Senate Bill 111; a State procurement policy; markets for recycled goods; staff needs within the Solid Waste Section; the newly created Office of Waste Reduction; and the need to develop a permanent source of funding to support solid waste management programs.

In its interim report, the Committee recommended that the 1990 Session of the General Assembly appropriate \$1,000,000 to establish twenty additional positions in the Solid Waste Section, DEHNR. This bill failed. The Committee also endorsed three bills that had been recommended by the former solid waste study committee and introduced during the 1989 Session; Senate Bills 58, 113, and 114. All bills were enacted, although the version of SB 58 that was enacted was completely different from the one recommended by this Committee.

In its final report, the Committee made the following recommendations that are not accompanied by legislative proposals:

1. The General Assembly should institute a State procurement policy that gives a preference to the purchase of products with recycled content.
2. The General Assembly should appropriate sufficient funds to establish and support one hundred additional positions for the Solid Waste Section and the Office of Waste Reduction together in DEHNR.
3. The General Assembly is urged to continue to search for appropriate revenue measures to raise approximately \$15,000,000 per year, to be apportioned equally among the Solid Waste Section, the Solid Waste Management Trust Fund, and the Solid Waste Management Loan Fund.

In addition to the above recommendations, the Committee submitted twelve recommendations that include the following legislative proposals:

1. A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO USE, CONSISTENT WITH APPLICABLE ENGINEERING STANDARDS AND ECONOMIC FEASIBILITY, CERTAIN RECYCLED GOODS FOR CERTAIN SPECIFIED PURPOSES.
2. A BILL TO BE ENTITLED AN ACT TO ESTABLISH FEES FOR PROCESSING APPLICATIONS FOR PERMITS GOVERNING THE ESTABLISHMENT AND OPERATION OF SOLID WASTE MANAGEMENT FACILITIES AND RENEWALS OF SUCH PERMITS.

3. A BILL TO BE ENTITLED AN ACT TO REQUIRE A CERTIFIED TRANSPORTER OF USED OIL TO MARK ALL ITS VEHICLES OR CONTAINERS OF USED OIL ON THE VEHICLES WHICH TRANSPORT USED OIL.
4. A BILL TO BE ENTITLED AN ACT TO REQUIRE A COUNTY TO TRANSFER THE SCRAP TIRE FEES RECEIVED BY THE COUNTY TO ANY UNIT OF LOCAL GOVERNMENT THAT OPERATES THE SCRAP TIRE DISPOSAL SITE, WHEN A COUNTY DESIGNATES A UNIT OF LOCAL GOVERNMENT OTHER THAN THAT COUNTY TO PROVIDE A SITE FOR THE DISPOSAL OF SCRAP TIRES.
5. A BILL TO BE ENTITLED AN ACT TO APPLY THE REQUIREMENT THAT PLASTIC BAGS DISTRIBUTED AT RETAIL OUTLETS HAVE WRITTEN NOTIFICATION OF RECYCLABILITY ON THE BAG ONLY TO BAGS PURCHASED BY THE RETAILER AFTER JANUARY 1, 1991.
6. A BILL TO BE ENTITLED AN ACT TO PROHIBIT CERTAIN ACTS REGARDING ANTIFREEZE.
7. A BILL TO BE ENTITLED AN ACT TO EXTEND THE DEADLINE TO APRIL 1, 1991 FOR THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO MAKE ITS FIRST REPORT ASSESSING THE RECYCLING INDUSTRY AND MARKETS FOR RECYCLABLE MATERIALS IN THE STATE.
8. A BILL TO BE ENTITLED AN ACT TO PROHIBIT THE DISPOSAL OF CERTAIN CLASSES OF SOLID WASTE BY INCINERATION.
9. A BILL TO BE ENTITLED AN ACT TO REQUIRE DEHNR TO CONDITION THE ISSUANCE OF A PERMIT FOR AN INCINERATOR AND A MATERIALS RECOVERY FACILITY UPON A FINDING THAT A SUFFICIENT WASTE STREAM IS AVAILABLE TO SUPPORT THE FACILITY.
10. A BILL TO BE ENTITLED AN ACT AUTHORIZING A COUNTY TO ENACT AN ORDINANCE REQUIRING PRIVATE RECYCLERS TO SUBMIT A REPORT TO THE COUNTY ON THE RECYCLABLE MATERIALS SUBJECT TO THE GOAL SET FORTH IN G.S. 130A-309.04 THAT ARE BEING RECOVERED BY THE RECYCLER WITHIN THE COUNTY.
11. A BILL TO BE ENTITLED AN ACT TO APPLY THE TIRE TAX, USED TO PAY FOR THE DISPOSAL OF SCRAP TIRES, TO NEW TIRES FOR ROAD CONSTRUCTION EQUIPMENT AND OTHER NEW TIRES.
12. A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY SOLID WASTE AND MEDICAL WASTE MANAGEMENT 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.

EDUCATION--PROPRIETARY SCHOOLS

Authorization: Chapter 802, §2.1, 1989 Session Laws (SB 954)

LRC Member in Charge:

Sen. Robert L. 'Bob' Martin
P.O. Box 387
Bethel, NC 27812
(919)825-4361

Members

Pres. Pro Tem's Appointments

Sen. William N. 'Bill' Martin
Co-Chairman
P.O. Box 21363
Greensboro, NC 27420
(919)373-1108

Sen. Richard E. Chalk, Jr.
427 Wright Street
High Point, NC 27262
(919)883-0444

Sen. J. Richard Conder
1401 Carolina Drive
Rockingham, NC 28379
(919)997-5551

Sen. James E. 'Jim' Ezzell, Jr.
P.O. Box 8225
Rocky Mount, NC 27804-1225
(919)443-1505

Ms. Nina Freeman
107 King Circle
Louisburg, NC 27549
(919)496-5322

Sen. James F. 'Jim' Richardson
1739 Northbrook Drive
Charlotte, NC 28216
(704)399-1555

Sen. Lura S. Tally
3100 Tallywood Drive
Fayetteville, NC 28303
(919)484-4868

Staff:

Sarah Fuerst
Bill Drafting Division
(919)733-6660

Speaker's Appointments

Rep. Michael P. 'Mike' Decker
Co-Chairman
6011 Bex Hill Drive
Walkertown, NC 27051
(919)595-4864

Rep. Gordon H. Greenwood
P.O. Box 487
Black Mountain, NC 28711
(704)669-7961

Rep. John B. McLaughlin
P.O. Box 158
Newell, NC 28126
(704)596-0845

Rep. Edd Nye
P.O. Box 8
Elizabethtown, NC 28337
(919)862-3679

Rep. John L. Tart
Route 1, Box 125-A
Goldsboro, NC 27530
(919)934-0200

Rep. Lois S. Walker
611 Woods Drive
Statesville, NC 28677
(704)873-2221

Mrs. Rachel Wright
556 Glorenia Street
Eden, NC 27288
(919)623-2881

Clerk:

Connie Altman
Legislative Building, Room 2007
O: (919)733-5658
H: (919)859-2536

EDUCATION--PROPRIETARY SCHOOLS

The Committee on Proprietary Schools met five times before making its interim report to the Legislative Research Commission for transmittal to the Regular 1990 Session of the 1989 General Assembly and three times after making its interim report.

Before making its interim report, the Committee heard from representatives of State agencies that regulate proprietary schools about the current regulatory scheme and about the regulators' recommendations for improving it. The current regulatory scheme includes the Board of Governors of The University of North Carolina, which regulates all instruction at the associate degree level and above for nonpublic institutions; the Department of Community Colleges, which regulates instruction below the level of associate degree; the State Board of Nursing, which regulates instruction related to licensure as a Licensed Practical Nurse, a Registered Nurse, and other nursing occupations; the Board of Cosmetic Arts, which regulates instruction leading to licensure as a cosmetologist; the Division of Motor Vehicles, which regulates instruction leading to approval as a commercial truck driver; the Board of Barber Examiners, which regulates instruction leading to licensure as a barber; the Attorney General's Office, which investigates consumer complaints regarding proprietary schools; the Division of Archives and History of the Department of Cultural Resources, which is the repository of some student records from some proprietary schools; and the North Carolina State Education Assistance Authority, which provides financial assistance to students who elect to enroll in proprietary schools. The Committee also heard from representatives of proprietary schools and their professional organizations regarding the operation of the schools, the current regulatory scheme, and their recommendations for improving it. The Committee also heard from proprietary school students and their parents regarding problems they had at various proprietary schools.

In its interim report, the Committee on Proprietary Schools recommended the following three bills to the Regular 1990 Session of the 1989 General Assembly:

1. **A BILL TO BE ENTITLED AN ACT TO AMEND THE LAWS RELATING TO THE REGULATION OF PROPRIETARY SCHOOLS.**

This bill, which made technical changes to the statute under which the Department of Community Colleges regulates proprietary schools, was ratified as Chapter 877 of the 1989 Session Laws.

2. **A BILL TO BE ENTITLED AN ACT TO INCREASE THE BOND REQUIREMENTS FOR PROPRIETARY SCHOOLS.**

This bill, which increased the bond requirement for most proprietary schools operating in North Carolina, was ratified as Chapter 824 of the 1989 Session Laws.

3. **A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF COMMUNITY COLLEGES FOR PROPRIETARY SCHOOL LAW ENFORCEMENT.**

This bill would have provided additional funding from the General Fund to enable the Department of Community Colleges to regulate proprietary schools more effectively. A committee substitute bill, which increased fees to provide part of the additional funding, was ratified as Chapter 1030 of the 1989 Session Laws.

After making its interim report, the Committee heard testimony on four additional issues. The Committee decided not to make any findings or recommendations on these issues; therefore, it did not make a report to the Legislative Research Commission for transmittal to the 1991 General Assembly. These four issues are as follows:

1. No State agency stores or provides access to student records from defunct, non-degree granting, proprietary schools. Former students who cannot produce official copies of their records may be denied jobs or promotions as a result. The Division of Archives and History, which stores the records of defunct degree-granting schools, does not have the space or the personnel to accept the records. Representatives of proprietary schools opposed fees to provide funds for these records.
2. The State Auditor found that the State Board of Barber Examiners, an agency that regulates barber schools, was not in compliance with State law and regulations. The Committee asked the Attorney General to assure that the Board came into compliance and that he report to the Committee chairman any legislative actions necessary to resolve the problems. The Committee also asked the General Government Subcommittee of the Joint Legislative Commission on Governmental Operations to consider the need for training courses for members of this and other licensing boards. The Committee discussed the idea of consolidating the accounting and other administrative functions of various licensing boards.
3. The Department of Community Colleges requested additional funds for the regulation of proprietary schools. Representatives of proprietary schools opposed any fee increases to provide the funds.
4. Representatives of private business and trade schools recommended that the current regulatory scheme be scrapped in favor of a new, independent board to regulate all private, post-secondary, for-profit schools that are currently regulated by the Department of Community Colleges. The new board would be made up of representatives of the schools, business and industry, and the general public. They feel this would avoid the potential for conflicts of interest on the part of State agencies. Representatives of State agencies currently regulating proprietary schools opposed the change saying the current system is working well and that they saw no evidence that the change would improve consumer protection or governmental efficiency.

ADMINISTRATIVE PROCEDURE ACT RULEMAKING PROCESS

Authorization: Chapter 802, §2.1, 1989 Session Laws (SB 535, SJR 1003, HB 1459)

LRC Member in Charge:

Sen. Robert L. 'Bob' Martin
P.O. Box 387
Bethel, NC 27812
(919)825-4361

Members

President Pro Tem's Appointments

Sen. Joseph E. 'Joe' Johnson
Co-Chairman
P.O. Box 31507
Raleigh, NC 27622
(919)787-5200

Speaker's Appointments

Rep. Donald M. 'Don' Dawkins
Co-Chairman
P.O. Box 757
Rockingham, NC 28379
(919)895-6331

Sen. William H. 'Bill' Barker
P.O. Box 1339
New Bern, NC 28560
(919)638-1901

Sen. Franklin L. 'Frank' Block
520 Princess Street
Wilmington, NC 28401
(919)763-3463

Hon. Charles W. 'Charlie' Hipps
505 N. Main Street
Waynesville, NC 28786
(704)452-2866

Mr. Ralph McDonald
P.O. Box 12865
Raleigh, NC 27605-2865
(919)828-0731

Sen. A. P. 'Sandy' Sands, III
P.O. Box 449
Reidsville, NC 27323-0449
(919)349-7041

Sen. Daniel R. 'Dan' Simpson
P.O. Drawer 1329
Morganton, NC 28655
(704)437-9744

Staff:
* Barbara Riley
Research Division
(919)733-2578

Louise Young
Fiscal Research Division
(919)733-4910

Rep. Daniel T. 'Dan' Blue, Jr.
P.O. Box 1730
Raleigh, NC 27602
(919)833-1931

Rep. Roy A. Cooper, III
P.O. Drawer 4538
Rocky Mount, NC 27803
(919)442-3115

Rep. David T. Flaherty, Jr.
228 Pennton Avenue, SW
Lenoir, NC 28645
(704)754-0961

Rep. J. Arthur 'Art' Pope
3401 Gresham Lake Road
Raleigh, NC 27615
(919)876-6000

Rep. Johnathan L. Rhyne, Jr.
P.O. Box 38
Lincolnton, NC 28093-0038
(704)735-1423

Rep. Sharon A. Thompson
P.O. Box 2164
Durham, NC 27701
(919)688-9646

Clerk:
Blanche Critcher
Legislative Building, Room 2001
O: (919)733-5651
H: (919)942-6932

ADMINISTRATIVE PROCEDURE ACT RULEMAKING PROCESS

The Legislative Research Commission Study Committee on the Administrative Procedure Act's (APA) Rule-Making Process, the Office of Administrative Hearings, and the Administrative Rules Review Commission met four times. The Committee addressed a number of issues including developing a comprehensive procedure for rule-making, agencies exempt from the rule-making provisions of the APA, and the nature and scope of rules review conducted by the Administrative Rules Review Commission (ARRC). Also considered was the issue of the cost-effectiveness of moving the publications function for the North Carolina Administrative Code from the Office of Administrative Hearings to the Secretary of State. The Committee heard from representatives of the N.C. Bar Association, The Office of Administrative Hearings, the Administrative Rules Review Commission, and several Departments and Commissions within State government in developing its recommendations to the 1991 General Assembly.

The Committee recommends the following legislation:

1. **A BILL TO BE ENTITLED AN ACT TO IMPROVE THE ADMINISTRATIVE RULE-MAKING PROCESS.** This bill establishes a new Article 2A of Chapter 150B of the General Statutes entitled "Rules". Among its provisions, the bill shortens the process for permanent rule-making, requires an agency to hold a public hearing on a proposed rule change only if a person requests a public hearing, permits the agency to publish subject matter notice of a proposed rule change, changes the method for reviewing temporary rules by requiring the Codifier of the Rules to review the agency's statement of need for the temporary rule, strengthens the force of an objection to a rule by the ARRC, and requires the N.C. State Bar and other agencies exempt from the rule-making provisions of the Administrative Procedure Act publish their rules in the North Carolina Administrative Code.
2. **A BILL TO BE ENTITLED AN ACT TO MAKE CHANGES TO THE LAWS GOVERNING ADMINISTRATIVE HEARINGS AND TO REPEAL THE SUNSET ON THE REVISED ADMINISTRATIVE PROCEDURE ACT.** This bill makes a number of changes to the hearings provisions of the Administrative Procedure Act. The changes include: replacing the requirement that a petition be verified with a requirement that a petition be signed by a party or his representative; permitting subpoenas to be issued by the parties in accord with the Rules of Civil Procedure; permitting parties to file affidavits of personal bias or disqualification of the person making the final agency decision, and providing that an administrative law judge's decision is final where an order is entered pursuant to a prehearing motion dismissing the case for failure of the plaintiff to prosecute, an order granting requested relief when a party does not comply with procedural requirements, or an order entered on a prehearing motion to dismiss pursuant to Rule 12(b) when such an order disposes of all issues in a case.

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.

VI. GOVERNMENTAL CAPITAL ASSETS, CONTRACTING, AND FUNCTIONING

MINORITY BUSINESS CONTRACTS

Authorization: Chapter 802, §2.1, 1989 Session Laws (SB 927, HJR 1514)

Members

President Pro Tem's Appointments

Sen. Ralph A. Hunt
Co-Chairman (LRC Member in Charge)
1005 Crete Street
Durham, NC 27707
(919)682-5259

Sen. N. Leo Daughtry
141 N. 2nd Street
Smithfield, NC 27577
(919)934-7265

Sen. Robert L. 'Bob' Martin
P.O. Box 387
Bethel, NC 27812
(919)825-4361

Sen. William N. 'Bill' Martin
P.O. Box 21363
Greensboro, NC 27420
(919)373-1108

Mr. Bob Quinn, Assistant Director
Neuse River Council of Governments
P.O. Box 1717
New Bern, NC 28560
(919)638-3185

Sen. J. K. Sherron, Jr.
4208 Six Forks Road, Suite 302
Raleigh, NC 27609
(919)781-8721

Hon. Wilma C. Woodard
P.O. Box 189
Garner, NC 27529
(919)772-2339

Staff:

* Bill Gilkeson
Research Division
(919)733-2578

Speaker's Appointments

Rep. Thomas C. Hardaway
Co-Chairman
P.O. Box 155
Enfield, NC 27823
(919)445-2371

Rep. Charles F. 'Monroe' Buchanan
Route 1, Box 273
Green Mountain, NC 28740
(704)688-3544

Rep. W. Pete Cunningham
3121 Valleywood Place
Charlotte, NC 28216
(704)394-9499

Rep. Harry C. Grimmer
4000 High Ridge Road
Charlotte, NC 28226
(704)847-8823

Rep. Howard J. Hunter, Jr.
P.O. Box 506
Murfreesboro, NC 27855
(919)398-5630

Rep. Annie B. Kennedy
3727 Spaulding Drive
Winston-Salem, NC 27105
(919)724-9207

Rep. Timothy N. 'Tim' Tallent
230 Palaside Drive, NE
Concord, NC 28025
(704)782-5983

Clerk:

Janet Puryear
Legislative Building, Room 2009
O: (919)733-5963
H: (919)552-8224

Beth Christensen
Fiscal Research Division
(919)733-4910

MINORITY BUSINESS CONTRACTS

The Committee's Final Report recommends that the 1991 General Assembly do the following:

- * Establish a comprehensive program of goals for the inclusion in public contracts of businesses owned by minorities, women, and disabled persons, along the lines of current goals that the N.C. Attorney General has opined do not violate the ruling of the U.S. Supreme Court in Richmond v. Croson;
- * Set uniform goals for state agencies (10% for minorities, 5% for women, and 2% for disabled), but direct local governments to adopt a set of goals appropriate to the locality but not below a statutory floor (half the percentages set for state agencies);
- * Direct the Department of Administration to coordinate (with the cooperation of other state agencies and local governments) a program of outreach, solicitation, and certification of businesses owned by minorities, women and the disabled; direct the Department to publish a central directory of certified businesses; and require the Department to report annually to the General Assembly on participation rates in public contracts;
- * Heed the recommendations of a report by the State Auditor on duplication in small-business assistance programs funded by the State; and
- * Take note of a general definition of the term "small business" (set out in the Final Report) that might be adopted where appropriate.

The Committee was charged with conducting a study based on:

- * Senate Bill 927, which proposed a 10% goal for participation by minority businesses in all State contracts; and
- * House Joint Resolution 1514, which proposed a study of duplication in small business assistance programs.

The Committee met nine times: four times before the 1990 Short Session and five times after the Short Session. In an Interim Report to the Short Session, the Committee recommended the passage of a bill to direct the Department of Administration to gather information about participation by minority-owned, women-owned, and disabled-owned businesses in public contracts for the purchase of goods and services. The General Assembly passed House Bill 2263 (Chapter 1051 of the 1989 Session Laws), which contains the Committee's basic recommendation with certain changes.

The Department made a preliminary report to the Committee on October 25 of the data it collected pursuant to the new act from the State agencies, University and community college campuses, and local boards of education (Available in Committee Notebook in Legislative Library).

After the Short Session, the Committee, at the behest of the Co-Chairs, spend its time primarily working out a proposed bill to establish a comprehensive goals program for the State. The Committee heard from representatives of minority-owned, women-owned, and disabled-owned business, from local government, from the Department of Administration, and from other interested groups. The Committee approved the proposed bill, A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COMPREHENSIVE GOALS PROGRAM FOR INCLUSION OF BUSINESSES OWNED BY MINORITIES, WOMEN, AND THE DISABLED IN PUBLIC CONTRACTS, at its final meeting November 29.

The other aspect of the study, according to its charge, was duplication in the State's effort to assist small business. The Committee attempted to coordinate its study with an audit of the same area that was being conducted by the State Auditor's office. The editing process within the Auditor's office took longer than expected, however, and the Committee's deadline for a Final Report arrived before the Auditor could release the audit. Nonetheless, the Committee heard a report at the October 25 meeting from Mr. Glenn Waters of the Auditor's Office outlining the audit's general findings.

Also on the topic of small business, the Committee voted on November 14 to recommend a standard definition of the term "small business" to be used where appropriate in State government. Rep. W. Pete Cunningham urged the need for such a definition; he was named to head a subcommittee to work one out, and that subcommittee's definition was adopted by the full Committee.

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STATE CAPITAL ASSETS AND IMPROVEMENTS

Authorization: Chapter 802, §2.1, 1989 Session Laws (SB 1240)

LRC Member in Charge:

Sen. Ralph A. Hunt
1005 Crete Street
Durham, NC 27707
(919)682-5259

Members

President Pro Tem's Appointments

Sen. J. K. Sherron, Jr.
Co-Chairman
4208 Six Forks Road, Suite 302
Raleigh, NC 27609
(919)781-8721

Sen. Betsy L. Cochrane
Box 517
Advance, NC 27006
(919)998-8893

Sen. George B. Daniel
P.O. Box O
Yanceyville, NC 27379-1108
(919)694-4363

Mr. Elton Edwards
201 W. Market Street, Suite #409
Greensboro, NC 28401
(919)373-8764

Speaker's Appointments

Rep. George M. Holmes
Co-Chairman
Route 1, Box 14
Hamptonville, NC 27020
(919)468-2401

Rep. Daniel T. 'Dan' Blue, Jr.
P.O. Box 1730
Raleigh, NC 27602
(919)833-1931

Mr. Anthony E. Foriest
1831 Broadway Drive
Graham, NC 27253
(919)227-3011

Rep. Walter B. Jones, Jr.
P.O. Box 668
Farmville, NC 27828
(919)753-2549

Sen. William D. 'Bill' Goldston, Jr.
P.O. Box 307
Eden, NC 27288
(919)627-1495

Mrs. Louise McCall
2531 Confederate Drive
Wilmington, NC 28405
(919)392-1440

Sen. William W. 'Bill' Staton
P.O. Box 1320
Sanford, NC 27330
(919)775-5616

Staff:
Giles Perry
Research Division
(919)733-2578

Linda Powell
Fiscal Research Division
(919)733-4910

Rep. Leo Mercer
115 Miller Street
Chadbourn, NC 28431
(919)654-3518

Rep. W. Eugene 'Gene' Wilson
704 Queen Street
Boone, NC 28607
(704)264-8657

Rep. Betty H. Wiser
404 Dixie Trail
Raleigh, NC 27607
(919)821-3818

Clerk:
Judy Britt
Room 523
Legislative Office Building
O: (919)733-5660
H: (919)772-8837

STATE CAPITAL ASSETS AND IMPROVEMENTS

The LRC State Capital Assets and Improvements Study Committee was authorized by Section 2.3 of Chapter 802 of the 1989 Session Laws (1989 Session). The Committee met four times, did not report to the 1990 General Assembly, but is reporting to the 1991 General Assembly.

The LRC State Capital Assets and Improvements Study Committee met for its first meeting on Tuesday February 13, 1990. At this meeting, the State Construction Office made a presentation on its new Facilities Condition Assessment Program, and the State Property Office gave an overview and explanation of its functions.

The second meeting of the Committee was held on April 25, 1990. The Committee heard from Secretary Lofton of the Department of Administration, and Speros Fleggas of the State Construction Office, on strategies in surrounding states to fund maintenance and repair for state buildings. The Committee discussed the concept, used in several states, of charging a square footage fee of all state agencies, to be used as a source of funds for continued and regular repair and maintenance.

The third meeting of the Committee was held on November 15, 1990. The meeting began with a presentation by Mr. James S. Rhodes, Deputy Secretary of the Department of Administration, which included an update on the Facility Condition Assessment Program. Speros Fleggas of the State Construction Office discussed the life-cycle cost of operating state buildings. Mr. Fleggas pointed out that the cost of a building includes not only construction, but continuous maintenance, repairs, replacement of what cannot be repaired, alterations to accommodate changing needs, operation, and finally, replacement. During discussion, the committee voted to proceed with two recommendations. These recommendations, and the final report, were approved at the Committee's fourth and final meeting on December 3, 1990.

First, the committee recommended that each department be required to budget 50¢ for each square foot of space occupied for repairs and renovations, in order to create a fund for repairs and renovations that would be apportioned using the priorities derived from the Facility Condition assessment program. Second, the Committee recommended that a second survey team be funded to expedite the implementation of the Facility Condition Assessment Program of the Office of State Construction. These recommendations are included in the final report as:

1. A special provision to be included in the Capital Improvements Appropriations Act, entitled REPAIR AND RENOVATION BUDGET ITEM, and
2. An appropriation, A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR THE STATE CONSTRUCTION OFFICE FOR ADDITIONAL STAFF TO EXPAND THE FACILITY CONDITION ASSESSMENT PROGRAM.

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HIGHER EDUCATION OPPORTUNITY/PUBLIC ATTORNEYS EDUCATION ASSISTANCE

Authorization: Chapter 1066, §145, 1989 Session Laws, 1990 Session (SB 1426); Chapter 1078, §2.1(4), 1989 Session Laws, 1990 Session (SB 1269)

LRC Member in Charge:

Sen. Ralph A. Hunt
1005 Crete Street
Durham, NC 27707
(919)682-5259

Members

President Pro Tem's Appointments

Sen. Marvin M. Ward
Cochairman
641 Yorkshire Road
Winston-Salem, NC 27106
(919)724-9104

Sen. James E. 'Jim' Ezzell, Jr.
P.O. Box 8225
Rocky Mount, NC 27804-1225
(919)443-1505

Sen. Ralph A. Hunt
1005 Crete Street
Durham, NC 27707
(919)682-5259

Speaker's Appointments

Rep. Johnathan L. Rhyne, Jr.
Cochairman
P.O. Box 38
Lincolnton, NC 28093-0038
(704)735-1423

Rep. Howard B. Chapin
212 Smaw Road
Washington, NC 27889
(919)946-3480

Rep. H. Clayton Loflin
1425 Medlin Road
Monroe, NC 28110
(704)289-4554

Sen. Kenneth C. Royall, Jr.
Leg. Office Building, Room 300
300 N. Salisbury Street
Raleigh, NC 27603-5925
(919)733-5870

Mr. F. H. 'Buzz' Shackleford, Jr.
P.O. Box 38
Hookerton, NC 28538
(919)747-2642

Governor's Recommendations

Mr. George Autry
Route 2, Box 148C
Raeford, NC 28376
(919)875-3787

Mr. Olin H. Broadway
2126 Pinewood Circle
Charlotte, NC 28211
(704)372-4281

Dr. Jimmy Jenkins, Chancellor
Elizabeth City State University
P. O. Box 10
Elizabeth City, NC 27909
(919)335-3230

Mr. Jerry Swicegood
Route 9, Box 504
Mocksville, NC 27028
(704)634-5997

Miss Sondra Wise
1842 Asheville Place
Charlotte, NC 28203
(704)373-8537

Rep. George S. Robinson
P.O. Box 1315
Lenoir, NC 28645
(704)728-2902

Rep. E. A. 'Alex' Warner, Jr.
3610 Frierson Street
Hope Mills, NC 28348
(919)424-5350

Designees Suggested in Authorizing Legislation

Mr. Kenneth R. Harris
(State Board of Education)
Harris Plans
P.O. Box 30457
Charlotte, NC 28230-0457

Mr. John T. Henley
NC Association of Independent
Colleges and Universities
879-A Washington Street
Raleigh, NC 27605
(919)832-5817

Dr. John L. Kinlaw
Assistant State Superintendent
for Personnel Services
NC Dept. of Public Instruction
Education Building
116 W. Edenton Street
Raleigh, NC 27603-1712
(919)733-2480

Mr. Hal M. Miller
Assistant for Federal
Governmental Affairs
NC Dept. of Community Colleges
200 W. Jones Street
Raleigh, NC 27603-1337
(919)733-7051

Dr. Jay M. Robinson
Vice President for Public Affairs
UNC General Administration
P.O. Box 2688
Chapel Hill, NC 27515-2688
(919)962-1000

Staff: Clerk:
Barbara Riley
Research Division
(919)733-2578

Becky Hedspeth
Legislative Building, Room 2303
O: (919)733-5608
H: (919)851-4603

**HIGHER EDUCATION OPPORTUNITY/
PUBLIC ATTORNEYS EDUCATION ASSISTANCE**

The Study Committee on Higher Education Opportunity/Public Attorneys Education Assistance met three times. At the first meeting, a subcommittee was formed to study the issue of public attorneys education assistance. The subcommittee met twice before submitting its report to the full committee.

The full committee addressed a range of issues surrounding the establishment of a state funded program to provide tuition, fees, and book expenses at institutions of higher education for those students who can prove their ability to benefit from higher education. The Committee considered criteria for eligibility for such a program including: minimum grade point average; required core curriculum; scholastic aptitude test scores; avoidance of criminal or delinquent behavior; and financial need. Other topics of discussion included the administration of the proposed program and its funding.

The subcommittee collected and reviewed data on the number of attorney positions vacant in State agencies, the length of time and difficulty in filling vacancies, turnover rates and salary data. The subcommittee determined that it did not have sufficient data to make a recommendation on offering loan repayment assistance as an incentive for attorneys to enter State employment, but did recommend a salary study for attorneys employed four or more years in State government.

The Committee recommended the following legislation and proposed study to the 1991 General Assembly:

1. A BILL TO BE ENTITLED AN ACT TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR NORTH CAROLINIANS--This bill establishes the North Carolina Education Improvement Grants to provide tuition, fees, and book expenses for eligible students at institutions of higher education. The Education Improvement Commission is established to make eligibility determinations. Funding for the grant program is to be handled by the Education Assistance Authority.
2. A BILL TO BE ENTITLED AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR CONTRIBUTIONS FOR NORTH CAROLINA EDUCATION IMPROVEMENT GRANTS--This bill provides that corporations making a contribution for N. C. Education Improvement Grants may claim a credit against the corporate income tax equal to 50% of the amount of the contribution, up to a maximum of \$1,000. A similar credit is allowed an individual taxpayer against the individual income tax, up to a maximum of \$100.
3. The Committee recommended that State government should undertake a study of attorney salaries for those attorneys who have four or more years of service with the State.

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.

VII. HUMAN RESOURCES

REST HOMES, ICF AND SNF FACILITIES

Authorization: Chapter 802, §2.1, 1989 Session Laws (HJR 173); Chapter 1066, §77, 1989 Session Laws, 1990 Session, (SB 1426)

LRC Member in Charge:

Sen. Russell G. Walker
1004 Westmont Drive
Asheboro, NC 27203
(919)625-2574

Members

President Pro Tem's Appointments

Sen. George B. Daniel
Co-Chair
P.O. Box 0
Yanceyville, NC 27379-1108
(919)694-4363

Sen. William H. 'Bill' Barker
P.O. Box 1339
New Bern, NC 28560
(919)638-1901

Mrs. Judy Harrison
Florence Crittenton Home
P.O. Box 36392
Charlotte, NC 28236
(704)372-4663

Sen. Robert L. 'Bob' Martin
P.O. Box 387
Bethel, NC 27812
(919)825-4361

Sen. James F. 'Jim' Richardson
1739 Northbrook Drive
Charlotte, NC 28216
(704)399-1555

Hon. Mary P. Seymour
1105 Pender Lane
Greensboro, NC 27408
(919)288-5631

Sen. Paul S. Smith
P.O. Box 916
Salisbury, NC 28145
(704)633-9463

Speaker's Appointments

Rep. Theresa H. Esposito
Co-Chair
207 Stanaford Road
Winston-Salem, NC 27104
(919)765-5176

Rep. Howard C. Barnhill
2400 Newland Road
Charlotte, NC 28216
(704)392-4754

Rep. Charles L. Cromer
Route 4, Box 362
Thomasville, NC 27360
(919)472-5111

Rep. Liston B. Ramsey
Box 337, Walnut Creek Road
Marshall, NC 28753
(704)649-3961

Mr. James E. Raynor
Heritage Hospital
111 Hospital Drive
Tarboro, NC 27886

Rep. Paul B. 'Skip' Stam, Jr.
714 Hunter Street
Apex, NC 27502
(919)362-8873

Rep. Betty H. Wiser
404 Dixie Trail
Raleigh, NC 27607
(919)821-3818

Staff:
John Young
Research Division
(919)733-2578

Manny Marbet
Fiscal Research Division
(919)733-4910

Clerk:
Sarah Murphy
Room 525
Legislative Office Building
O: (919)733-5705
H: (919)828-6735

REST HOMES, ICF AND SNF FACILITIES

The Committee on Care Provided By Rest Homes, Intermediate Care Facilities, and Skilled Nursing Homes: and Necessity for Certificate of Need; and Continuing Care Issues was first authorized by the 1987 and was continued by the 1989 Session. The Committee met five times: January 4, 1990, February 15, 1990, April 5, 1990, October 18, 1990, and November 19, 1990. These meetings were planned to give the membership some understanding of the complex administrative, statutory, and regulatory structure that the State and federal governments have developed to try to insure availability, access, and quality of care in long-term care facilities.

Based upon information gathered during the course of its study, the Committee submits the following findings and recommendations:

1. The federal government has significantly pre-empted the states' authority to regulate nursing homes. Therefore the Committee recommends no new legislation related to nursing homes but does recommend that the Study Commission on Aging closely monitor the developments in nursing home regulation.
2. The June 22, 1990 meeting of the Administrative Rules Review Commission invalidated long-standing rules of the Social Services Commission affecting minimum education requirements for certain employees of domiciliary homes. The Committee recommends AN ACT TO REQUIRE THE SOCIAL SERVICES COMMISSION TO ADOPT RULES PERTAINING TO THE EDUCATION FOR STAFF OF DOMICILIARY HOMES. This act would give the Social Services Commission specific statutory authority to set minimum educational requirements for the administrator, the supervisor-in-charge, and the activities coordinator.
3. The Committee finds that there is no clarity of responsibility, authority, and accountability at the State level for the licensing, regulation and monitoring of domiciliary homes. A number of Divisions within the Department of Human Resources have responsibility: therefore no one is in charge. The Secretary has taken steps under his authority to implement the transfer of all functions related to domiciliary homes to the Division of Facility Services. Although this action takes no legislative action, the Committee suggests that the actions of the Department should be reviewed by a legislative Committee. The Committee is recommending AN ACT TO REQUIRE THAT THE DEPARTMENT OF HUMAN RESOURCES REPORT CHANGES IN DOMICILIARY HOME REGULATING, LICENSING, AND MONITORING TO THE NORTH CAROLINA STUDY COMMISSION ON AGING
4. The questionable timeliness and appropriateness of the Division of Facility Services actions on penalties recommended by local departments of social services is the major issue raised by these local departments.

Therefore the Committee recommends that DFS be statutorily required to complete its staff review of local DSS recommendations for penalties and to prepare recommendations for the Penalty Review Committee within 60 days. This recommendation would be implemented through AN ACT TO REQUIRE THAT THE DEPARTMENT OF HUMAN RESOURCES COMPLETE STAFF REVIEW OF LOCAL PENALTY RECOMMENDATIONS WITHIN 60 DAYS.

5. GS-131D-3, passed by the 1981 General Assembly, established cost reporting requirements for domiciliary homes that receive funds under State/County Special Assistance. The Committee recommends AN ACT TO REQUIRE THAT DOMICILIARY HOME COST REPORTS BE CERTIFIED. This would verify all required cost report information by obtaining a independent certification of the cost report before reporting to the Department of Human Resources.
6. Historically, the General Assembly has directly established the State/County Special Assistance for Adults Program reimbursement rate for domiciliary homes in the Appropriations Act. This is an informal system and may not be consistently based upon data supplied from cost reports as required by statute. Therefore the Committee recommends that the General Assembly pass a bill entitled AN ACT TO REQUIRE THE DEPARTMENT OF HUMAN RESOURCES STUDY THE CURRENT REIMBURSEMENT SYSTEM FOR DOMICILIARY HOMES. The bill requires that the Department of Human Resources study the issue of reimbursement for domiciliary homes and report its findings to the Commission of Governmental Operations.
7. The Committee suggest that the General Assembly should take steps to better control the possible misuse of the appeals process which is available to homes related to actions of the Penalty Review Committee. While domiciliary homes are entitled to due process, mechanisms should be established to prevent its abuse and trivialization. Therefore the Committee recommends AN ACT TO PROTECT DOMICILIARY HOME PENALTY REVIEW COMMITTEE PROCEDURE FROM ABUSE OF PROCESS.

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.

HEALTH CARE/INSURANCE COSTS ISSUES

Authorization: Chapter 802, §2.1, 1989 Session Laws (HB 202, HB 961, SB 1068, HJR 1159, HB 1187, HB 1014, HB 1242)

LRC Member in Charge:

Sen. Russell G. Walker
1004 Westmont Drive
Asheboro, NC 27203
(919)625-2574

Members

President Pro Tem's Appointments

Sen. William H. 'Bill' Barker
Co-Chairman
P.O. Box 1339
New Bern, NC 28560
(919)638-1901

Sen. Frank W. Ballance, Jr.
P.O. Box 616
Warrenton, NC 27589
(919)257-1012

Mr. Preston N. Comeaux, III
Wayne Memorial Hospital
2700 Wayne Memorial Drive
Goldsboro, NC 27530
(919)736-1110

Sen. Joseph E. 'Joe' Johnson
P.O. Box 31507
Raleigh, NC 27622
(919)787-5200

Sen. Helen R. Marvin
119 Ridge Lane
Gastonia, NC 28054
(704)864-2757

Ms. Catherine Perkinson
312 Kensington Drive
Tarboro, NC 27886
(919)823-3020

Sen. Paul S. Smith
P.O. Box 916
Salisbury, NC 28145
(704)633-9463

Staff:

* Sally Marshall
Research Division
(919)733-2578

Sam Byrd
Fiscal Research Division
(919)733-4910

Speaker's Appointments

Rep. R. D. 'Don' Beard
Co-Chairman
2918 Skye Drive
Fayetteville, NC 28303
(919)484-9935

Rep. Bobby H. Barbee, Sr.
P.O. Box 656
Locust, NC 28097
(704)888-4423

Rep. John T. Church
420 Woodland Road
Henderson, NC 27536
(919)492-8111

Rep. Donald M. 'Don' Dawkins
P.O. Box 757
Rockingham, NC 28379
(919)895-6331

Rep. W. Stine Isenhower
P.O. Box 425
Conover, NC 28613
(704)464-0811

Rep. Doris L. Lail
904 S. Aspen Street
Lincolnton, NC 28092
(704)735-3868

Mr. I. Richard Verrone
Planters National Bank
P.O. Box 1220
Rocky Mount, NC 27802
(919)977-8211

Clerk:

Sarah Murphy
Room 525
Legislative Office Building
O: (919)733-5705
H: (919)828-6735

HEALTH CARE/INSURANCE COSTS ISSUES

The Committee on Health Care/Insurance Costs Issues met four times between January and November, 1990. At its first meeting in January, Committee members gave their reasons for being interested in serving on this Committee and related specific issues of concern to them. The Committee decided to review bills introduced during the 1989 Session that were referred to this Committee, and asked that the bill sponsors be invited to explain their bills. At its February and March meetings, the Committee heard explanations from the bill sponsors and testimony from other interested parties on the following bills: HB 1187 (Infertility Health Insurance Coverage), HB 1014 (Mammogram/Pap Smear Coverage), SB 281 (Child Health Supervision Coverage), HB 1159 (Health Insurance Incentives), and HB 1242 (Health Insurance Mandates). The Committee also looked at existing insurance mandates and the history of mandates.

At its final meeting in November, the Committee heard Dr. Lawrence Cutchin, President and Medical Director of Carolina Doctors Care in Tarboro, present the suggestions of the North Carolina Medical Society on health care cost containment. The Committee also approved a report to the 1991 Session which outlined the activities of the Committee but made no recommendations.

The Legislative Research Commission failed to accept this Report for transmittal to the 1991 General Assembly.

HOMELESS PERSONS

Authorization: Chapter 802, §2.1, 1989 Session Laws (HB 2018, SB 1290)

LRC Member in Charge:

Sen. Russell G. Walker
1004 Westmont Drive
Asheboro, NC 27203
(919)625-2574

Members

President Pro Tem's Appointments

Sen. James F. 'Jim' Richardson
Co-Chairman
1739 Northbrook Drive
Charlotte, NC 28216
(704)399-1555

Sen. Frank W. Ballance, Jr.
P.O. Box 616
Warrenton, NC 27589
(919)257-1012

Sen. N. Leo Daughtry
141 N. 2nd Street
Smithfield, NC 27577
(919)934-7265

Speaker's Appointments

Rep. Charles F. 'Monroe' Buchanan
Co-Chairman
Route 1, Box 273
Green Mountain, NC 28740
(704)688-3544

Rep. Anne C. Barnes
313 Severin Street
Chapel Hill, NC 27516
(919)967-7610

Rep. Aaron E. Fussell
1201 Briar Patch Lane
Raleigh, NC 27609
(919)876-0240

Sen. Wanda H. Hunt
P.O. Box 1335
Pinehurst, NC 28374
(919)295-3794

Rev. O'Clee Lewis
Ballance Road
Fremont, NC 27830
(919)242-5289

Ms. Linda Shaw, Executive Director
N.C. Low Income Housing Coalition
P.O. Box 27863
Raleigh, NC 27611
(919)833-6201

Sen. Lura S. Tally
3100 Tallywood Drive
Fayetteville, NC 28303
(919)484-4868

Staff:
Susan Sabre
Bill Drafting Division
(919)733-6660

Rep. James P. Green, Sr., MD
P.O. Box 1739
Henderson, NC 27536
(919)492-2161

Rep. Gordon H. Greenwood
P.O. Box 487
Black Mountain, NC 28711
(704)669-7961

Rep. Edith L. Lutz
Route 3, Box 197
Lawndale, NC 28090
(704)538-7818

Rep. Coy C. Privette
306 Cottage Drive
Kannapolis, NC 28081
(704)933-3734

Clerk:
Irma Avent
Room 522
Legislative Office Building
O: (919)733-5620
H: (919)821-4108

HOMELESS PERSONS

The Legislative Research Commission Study Committee on Homeless Persons met a total of eight times, six times in Raleigh and twice at public hearings in Fayetteville and Charlotte. The Raleigh meetings were held on December 13, 1989, March 1, 1990, March 29, 1990, September 20, 1990, November 13, 1990, and November 29, 1990. The public hearing in Fayetteville was held on October 17, 1990, at Fayetteville Community College and Technical Institute. The public hearing in Charlotte was held on October 18, 1990, at the Charlotte-Mecklenburg Government Center. During the course of its eight meetings, the Committee heard from all State agencies involved in serving the homeless, including the Department of Human Resources, the Department of Economic and Community Development, the Department of Public Instruction, and the Housing Finance Agency, from many of the local public and private agencies serving the homeless, and from homeless people themselves. The representatives of the agencies set forth to the Committee the various pieces of the federal McKinney funds that they handled and made very clear to the Committee at the outset of its study the grave fragmentation of agency responsibility and the clear need for coordination at the State level of services and programs for the homeless that did not violate the integrity of the local programs. But Congress itself must address many of the problems generated by the "McKinney" bureaucracy. Without some changes at the federal level, no State coordinative effort can be totally successful. The representatives of local agencies and the individuals who advocate for and serve the homeless also stressed the need for coordination of existing services and information. Homeless people and formerly homeless people testified to the need for coordination as well as to refocussing from shelter provisions to prevention of homelessness. The majority of the testifiers appearing before the Committee noted the need

for State-funded and administered new programs but also acknowledged that the existing programs and services are underutilized, partly because of problems with the federal legislation, partly because of the related fragmentation of fund provisions at the State level, and partly because too many homeless people in North Carolina don't know where to go to get the help that is already available to them.

The Committee developed, from all the testimony presented, twenty-five proposals addressing specific problems of the homeless. Its selection of several of the proposals from the many excellent ones that were presented was influenced (i) by the severe financial strain the State will be under for the foreseeable future and the concomitant need to make the most use of programs and services that already exist, (ii) by the expectation that the federal McKinney legislation would soon be reexamined by Congress to eliminate some of the coordination and administration problems North Carolina, and most other States, are experiencing, (iii) by the expectation that, with encouragement, the various State agencies involved will develop the further coordination needed to make existing programs and services as effective and far-reaching as possible, (iv) by the need to respect the local service and program providers as the agencies and individuals most knowledgeable about how to serve homeless people, (v) by recommending small new State programs that will aid local providers and that will begin several loan programs that will aid in the prevention of homeless, and (vi) by recommending zoning changes that will preserve existing housing stock for development into affordable housing.

The Committee recognized that its 1989-90 study was just the beginning of a State-focussed examination of the problems of homelessness in North Carolina. The specific recommendations that it could make to the Legislative Research Commission for transmittal to the 1991 General Assembly, given concern for the severe economic forecast and for the need for further examination of the coordination problems inherent in the existing federally-dictated fragmented pattern of State and local programs and services, should be considered only a beginning.

The Committee made nine formal recommendations and submitted six legislative proposals, whose titles read as follows:

1. **A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE THE STUDY OF HOMELESS PERSONS**
2. **A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO ESTABLISH STATE-FUNDED GRANTS TO LOCAL AGENCIES PROVIDING PROGRAMS AND SERVICES TO THE HOMELESS**
3. **A BILL TO BE ENTITLED AN ACT TO REQUIRE STATE AGENCIES STUDY HOW BEST TO COORDINATE STATE AGENCIES' PROGRAMS AND SERVICES**
4. **A BILL TO BE ENTITLED AN ACT TO REQUIRE A VIGOROUS STATE OUTREACH TO THE HOMELESS AND TO APPROPRIATE FUNDS**
5. **A BILL TO BE ENTITLED AN ACT TO ENCOURAGE MAINTAINING AFFORDABLE HOUSING STOCK**
6. **A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE HOUSING FINANCE AGENCY TO AID IN THE PREVENTION OF HOMELESSNESS**

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.

VIII. TAXATION

REVENUE LAWS

Authorization: Chapter 802, §2.1, 1989 Session Laws (HJR 3, SB 1298); Chapter 1078, §2.6, 1989 Session Laws, 1990 Session, (SB 1388, HB 2293); Chapter 1078, §2.1, 1989 Session Laws, 1990 Session, (HB 2334)

LRC Member in Charge:

Rep. John W. 'Bill' Hurley
304 Mason Street

Fayetteville, NC 28301
(919)483-6210

Members

President Pro Tem's Appointments

Sen. Dennis J. Winner
Co-Chairman
81-B Central Avenue
Asheville, NC 28801
(704)258-0094

Sen. A. D. Guy
P.O. Box 340
Jacksonville, NC 28541-0340
(919)346-4171

Mayor Oscar Harris
P.O. Box 578
Dunn, NC 28335
(919)892-1021

Sen. Donald R. 'Don' Kincaid
P.O. Box 988
Lenoir, NC 28645
(704)758-5181

Sen. Marshall A. Rauch
Box 609
Gastonia, NC 28053-0609
(704)867-5000

Sen. William W. 'Bill' Staton
P.O. Box 1320
Sanford, NC 27330
(919)775-5616

Mrs. Margaret Tennille
P.O. Box 5988
Winston-Salem, NC 27113
(919)722-7617

Speaker's Appointments

Rep. Daniel T. 'Dan' Lilley
Co-Chairman
P.O. Box 824
Kinston, NC 28502
(919)523-4309

Rep. J. Vernon Abernethy
P.O. Box 38
Gastonia, NC 28053
(704)865-2906

Rep. C. Robert Brawley
P.O. Box 1322
Mooresville, NC 28115
(704)664-1502

Rep. James M. 'Jim' Craven
P.O. Box 44
Pinebluff, NC 28373
(919)281-3322

Rep. John C. 'Pete' Hasty
P.O. Box 945
Maxton, NC 28364
(919)276-8680

Mr. Earle H. 'Pete' Ward
McGladrey & Pullen
P.O. Box 670
Shelby, NC 28151
(704)487-4391

Rep. Betty H. Wiser
404 Dixie Trail
Raleigh, NC 27607
(919)821-3818

Staff:

* Martha H. Harris
Bill Drafting Division
(919)733-6660

Dave Crotts
Sabra Faires
Warren Plonk
Fiscal Research Division
(919)733-4910

Clerk:

Ada Edwards
Legislative Building, Room
O: (919)733-5191
H: (919)872-7880

REVENUE LAWS

Before the 1990 Session

The Legislative Research Commission's Revenue Laws Study Committee met four times before the 1990 Session. A list of the Study Committee's recommendations to the 1990 Session of the 1989 General Assembly and their disposition follows:

Legislative Proposal 1: Failed--SB 1360 and HB 2069, A BILL TO BE ENTITLED AN ACT TO REINSTATE SALES TAX ON CERTAIN VEHICLES AND VEHICLE PARTS, TO MODIFY THE HIGHWAY USE TAX AND THE ALTERNATE GROSS RECEIPTS TAX, AND TO MAKE TECHNICAL CHANGES IN THE LAWS AFFECTED BY THE HIGHWAY TRUST FUND, were introduced by Senator Winner and Representative Lilley, respectively. This proposal was postponed indefinitely in the House and was re-referred to Appropriations in the Senate.

Legislative Proposal 2: Enacted in modified form--SB 1364 and HB 2067, A BILL TO BE ENTITLED AN ACT TO AMEND THE TAX FAIRNESS ACT OF 1989 TO PROVIDE TRANSITIONAL ADJUSTMENTS RELATING TO SUBCHAPTER S CORPORATIONS AND DEPRECIATION DEDUCTIONS, TO CORRECT AN ERROR THAT INADVERTENTLY DISALLOWED DEDUCTIONS FOR SOME MORTGAGE INTEREST PAYMENTS, AND TO PROVIDE ADDITIONAL TAX RELIEF FOR TAXPAYERS WITH DEPENDENTS WHO ARE PERMANENTLY AND TOTALLY DISABLED, were introduced by Senator Winner and Representative Lilley, respectively. Neither of these bills was enacted but House Bill 2138, which contained most of the recommendations of Proposal 2, was ratified as Chapter 984 of the 1989 Session Laws.

Legislative Proposal 3: Enacted in modified form--SB 1359 and HB 2067, A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED TO DETERMINE CERTAIN TAXABLE INCOME AND TAX EXEMPTIONS AND TO ADOPT THE FEDERAL STANDARD DEDUCTION AND PERSONAL EXEMPTION AMOUNTS FOR 1990, were introduced by Senator Winner and Representative Lilley, respectively. House Bill 2067 was amended to delete the provisions adopting the 1990 federal standard deduction and personal exemption amounts and revising the tax thresholds. Ratified as Chapter 981, the act updates the reference to the Internal Revenue Code.

Legislative Proposal 4: Enacted--SB 1363 and HB 2071, A BILL TO BE ENTITLED AN ACT TO MODIFY THE TIME ALLOWED FOR FILING CERTAIN PROPERTY TAX APPEALS AND TO MAKE TECHNICAL CORRECTIONS TO THE PROPERTY TAX STATUTES, were introduced by Senator Winner and Representative Lilley, respectively. The Senate Bill was amended to add two provisions relating to penalties for submitting a bad check in payment of taxes and was ratified as Chapter 1005 of the 1989 Session Laws.

Legislative Proposal 5: Enacted in modified form--SB 1365 and HB 2068, A BILL TO BE ENTITLED AN ACT TO PROVIDE AN INHERITANCE TAX EXEMPTION FOR STATE AND LOCAL GOVERNMENT RETIREMENT BENEFITS PAID TO LINEAL DESCENDANTS AND ANCESTORS AND TO LIMIT THE CURRENT INHERITANCE TAX EXEMPTION FOR FEDERAL GOVERNMENT RETIREMENT BENEFITS TO ONLY THOSE BENEFITS PAID TO LINEAL DESCENDANTS AND ANCESTORS, were introduced by Senator Winner and Representative Lilley, respectively. The Senate Bill was rewritten and ratified as Chapter 970 of the 1989 Session Laws. As rewritten, the bill repeals the inheritance tax exemption for federal government retirement benefits and authorizes the Legislative Research Commission to study existing inheritance tax exemptions.

Legislative Proposal 6: Enacted--SB 1367 and HB 2074, A BILL TO BE ENTITLED AN ACT TO INCREASE THE MAXIMUM BOND THAT MAY BE REQUIRED OF FUEL DISTRIBUTORS AND SUPPLIERS, were introduced by Senator Winner and Representative Lilley, respectively. The House Bill was amended to provide a minimum bond of \$2,000 and was ratified as Chapter 908 of the 1989 Session Laws.

Legislative Proposal 7: Enacted--SB 1366 and HB 2073, A BILL TO BE ENTITLED AN ACT TO ALLOW A SALES TAX EXEMPTION FOR FUEL USED BY A SMALL POWER PRODUCER TO GENERATE ELECTRICITY, were introduced by Senator Winner and Representative Lilley, respectively. The House Bill was amended to change the effective date from July 1, 1990, to July 1, 1991, and was ratified as Chapter 989 of the 1989 Session Laws.

Legislative Proposal 8: Enacted in modified form--SB 1362 and HB 2072, A BILL TO BE ENTITLED AN ACT TO REVISE THE TAXATION OF A NORTH CAROLINA ENTERPRISE CORPORATION AND TO EXTEND THE TAX CREDIT FOR INVESTMENT IN AN ENTERPRISE CORPORATION, were introduced by Senator Winner and Representative Lilley, respectively. The Senate Bill was amended to provide that investments in a partnership in which the N.C. Enterprise Corporation is the general partner will be treated as investments in the Corporation for purposes of the tax credit and to delete the provisions revising the taxation of N.C. Enterprise Corporations. The amended bill was ratified as Chapter 848 of the 1989 Session Laws.

Legislative Proposal 9: Enacted--SB 1361 and HB 2070, A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL CHANGES TO THE REVENUE LAWS, were introduced by Senator Winner and Representative Lilley, respectively. The Senate Bill was ratified as Chapter 814 of the 1989 Session Laws.

After the 1990 Session

The Legislative Research Commission's Revenue Laws Study Committee met four times after the 1990 Session. The Revenue Laws Study Committee recommended the following legislation to the 1991 General Assembly. The Committee's legislative proposals consist of twenty-four bills and one resolution. The proposals cover a broad range of topics, including revisions to the new Highway Use Tax that applies when a title is issued for a motor vehicle; repeal of inheritance tax exemptions; indemnification of tax officials for collecting a tax that is found to be unconstitutional; simplification and clarification of existing taxes; and technical amendments to the revenue laws.

The Revenue Laws Study Committee also recommended that the amount budgeted annually by the State for recurring expenditures should be based on the prior calendar year's receipts. The Committee did not adopt specific legislation outlining this proposal but instead recommended that legislation be developed by the Economic Future Study Commission.

1. AN ACT TO REINSTATE SALES TAX ON MOPEDS, TOW DOLLIES, AND CERTAIN VEHICLE BODIES AND TO ESTABLISH A UNIFORM LONG-TERM LEASING RATE.
2. AN ACT TO IMPROVE THE ADMINISTRATION OF THE HIGHWAY TRUST FUND AND TO MAKE TECHNICAL CHANGES TO THE LAWS AFFECTED BY THE HIGHWAY TRUST FUND.
3. AN ACT TO ALLOW LESSORS AND RENTERS OF MOTOR VEHICLES TO ELECT TO PAY HIGHWAY USE TAX ON MOTOR VEHICLES OWNED ON OCTOBER 1, 1989, AND TO CLARIFY THAT THESE MOTOR VEHICLES ARE OTHERWISE SUBJECT TO THE GROSS RECEIPTS TAX.
4. AN ACT TO LOWER THE MINIMUM HIGHWAY USE TAX AND TO EXEMPT CERTAIN TRANSFERS OF VEHICLES FROM THE TAX.
5. AN ACT TO APPLY THE TIRE TAX, USED TO PAY FOR THE DISPOSAL OF SCRAP TIRES, TO NEW TIRES FOR ROAD CONSTRUCTION EQUIPMENT AND OTHER NEW VEHICLE TIRES.
6. AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED TO DETERMINE CERTAIN TAXABLE INCOME AND TAX EXEMPTIONS.
7. AN ACT TO REPEAL INHERITANCE TAX EXEMPTIONS FOR CERTAIN TYPES OF PROPERTY.
8. AN ACT TO PROVIDE FOR PAYMENT OF EXCESS DAMAGES AGAINST A STATE EMPLOYEE FOR COLLECTING OR ADMINISTERING AN UNCONSTITUTIONAL TAX.
9. AN ACT TO ALLOW A NONRESIDENT COUPLE TO FILE A JOINT INCOME TAX RETURN IF ONLY ONE SPOUSE HAS INCOME FROM NORTH CAROLINA SOURCES.
10. AN ACT AUTHORIZING NONRESIDENT TAXPAYERS TO CLAIM THE TAX CREDIT FOR CHILD CARE AND CERTAIN EMPLOYMENT-RELATED EXPENSES.
11. AN ACT TO CLARIFY SUBCHAPTER S CORPORATION LOSS CARRYFORWARDS.
12. AN ACT TO ELIMINATE A TAXPAYER'S DEDUCTION FOR CERTAIN CONTRIBUTIONS OF LAND OR CROPS TO ACCOUNT FOR TAX CREDITS ALLOWED FOR THE SAME CONTRIBUTIONS.
13. AN ACT TO ELIMINATE THE FRANCHISE TAX INITIAL RETURN AND TO INCREASE THE MINIMUM FRANCHISE TAX.
14. AN ACT TO SIMPLIFY THE ADMINISTRATION OF THE EXCISE TAX ON SOFT DRINKS.
15. AN ACT TO MODIFY THE FUEL TAX STATUTES TO ENABLE NORTH CAROLINA TO ENTER THE INTERNATIONAL FUEL TAX AGREEMENT.
16. AN ACT TO IMPROVE THE ADMINISTRATION OF THE TAXES ON MOTOR FUELS, SPECIAL FUEL, AND MOTOR CARRIERS.
17. AN ACT TO MAKE ANNUAL SPECIAL FUEL REPORTS DUE THE SAME TIME AS ANNUAL MOTOR CARRIER REPORTS AND TO MAKE CONFORMING CHANGES TO THE MOTOR CARRIER LAWS TO FACILITATE ANNUAL MOTOR CARRIER REPORTS.
18. AN ACT TO ALLOW A PERCENTAGE DISCOUNT TO MERCHANTS FOR COLLECTING STATE SALES AND USE TAXES.
19. AN ACT TO SIMPLIFY LICENSE TAX FILING FOR RETAILERS AND WHOLESALERS.
20. AN ACT TO CONSOLIDATE THE LAWS CONCERNING REPORTS BY THE DEPARTMENT OF REVENUE.

21. AN ACT TO SIMPLIFY AND MODERNIZE CERTAIN PRIVILEGE LICENSE TAXES TO IMPROVE ADMINISTRATION OF THE TAXES.
22. AN ACT TO IMPROVE ADMINISTRATION OF THE SALES AND USE TAX BY INCREASING THE LICENSE TAXES, ALLOWING MORE SMALL RETAILERS TO FILE QUARTERLY SALES TAX RETURNS, AND EXTENDING THE LIMITATIONS PERIOD FOR ENFORCING LIABILITY AGAINST CERTAIN TRANSFEREES AND CORPORATE OFFICERS.
23. AN ACT TO CLARIFY THE PROHIBITION AGAINST DISCLOSING TAX INFORMATION, TO ALLOW THE EXCHANGE OF TAX INFORMATION WITH ALL FEDERAL AGENCIES CHARGED WITH COLLECTING TAXES, AND TO ALLOW THE EXCHANGE OF CERTAIN TAX INFORMATION WITH THE STATE'S BUSINESS LICENSE INFORMATION OFFICE.
24. AN ACT TO MAKE TECHNICAL CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.
25. A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY THE REVENUE LAWS OF 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.

LICENSE PLATE FEES--PERSONALIZED AND SPECIAL PLATES

AUTHORIZATION: CHAPTER 774, § 6, 1989 SESSION LAWS (SB 913)

LRC Member in Charge:
Rep. John W. 'Bill' Hurley
304 Mason Street
Fayetteville, NC 28301
(919)483-6210

Members

President Pro Tem's Appointments

Sen. R. C. Soles, Jr.
Co-Chair
P.O. Box 6
Tabor City, NC 28463
(919)653-2015

Sen. William D. Goldston, Jr.
P.O. Box 307
Eden, NC 27288
(919)627-1495

Sen. Charles W. 'C. W.' Hardin
67 Rhoda Street
Canton, NC 28716
(704)648-2327

Speaker's Appointments

Rep. Doris R. Huffman
Co-Chair
Route 4, Box 81
Newton, NC 28658
(704)464-5246

Rep. Charles W. Albertson
Route 2, Box 141-E
Beulaville, NC 28518
(919)298-4923

Rep. Howard C. Barnhill
2400 Newland Road
Charlotte, NC 28216
(704)392-4754

Sen. Ralph A. Hunt
1005 Crete Street
Durham, NC 27707
(919)682-5259

Sen. Robert L. 'Bob' Martin
P.O. Box 387
Bethel, NC 27812
(919)825-4361

Sen. Robert S. 'Bob' Swain
612 Northwestern Bank Building
Asheville, NC 28801
(704)255-7703

Ms. Martha R. Taylor
P.O. Box 334
Snow Hill, NC 28580
(919)747-3193

Staff:
* Cindy Avrette
Research Division
(919)733-2578

Richard Bostic
Fiscal Research Division
(919)733-4910

Rep. Arlie F. Culp
Route 2, Box 529
Ramseur, NC 27316
(919)824-2218

Rep. Aaron E. Fussell
1201 Briar Patch Lane
Raleigh, NC 27609
(919)876-0240

Mrs. Carrie Thompson
521 Oakwood Lane
Graham, NC 27253

Rep. Stephen W. 'Steve' Wood
P.O. Box 5172
High Point, NC 27262
(919)886-4641

Clerk:
Mary Lee Robinson
Room 604
Legislative Office Building
O: (919)733-5858
H: (919)876-3548

LICENSE PLATE FEES

The LRC Committee on License Plate Fees--Personalized and Specialized met three times following the 1990 Session. The Committee recommends one legislative proposal to the Legislative Research Commission that will consolidate and simplify the special license plate statutes. The proposal consolidates the fourteen statutes concerning special license plates into one statute and it simplifies the statutes by establishing a uniform fee structure, a single revenue account, and a uniform method of distribution for the excess revenue in the account.

The Committee devoted its first meeting on October 10, 1990, to studying the present special license plate system and reviewing the administrative problems associated with it. On November 14, 1990, the Committee held a working session to examine and edit a proposed piece of legislation incorporating many of the recommendations and ideas discussed at its first meeting. The Committee met a final time on November 29, 1990, to complete the work it began at its second meeting and to approve its final report.

The Committee members learned that special license plates are registration plates bearing a combination of letters, numbers, or both, other than those normally issued sequentially by the Division of Motor Vehicles. A personalized license plate is one kind of special license plate. Examples of other special license plates include official plates, purple heart recipient plates, and amateur radio plates.

Donnie Wheeler, an auditor in the State Auditor's Office, briefed the Committee on a performance audit his office conducted of the special license plate accounts. The audit revealed that the special license plates are segregated by statute into two funds. One of the funds is divided into designated accounts. Some of the revenue collected

from the special plates is credited to the Highway Fund. This designation of different accounts increases the administrative costs without providing any benefit to the Special Registration Plate Program or the taxpayers.

The audit also revealed that the proceeds of the special license plate fees are distributed in at least four different ways. Before any transfers are made, however, the Expansion Budget Appropriations Act of 1989 requires a certain amount of money from the Personalized Registration Plate Fund to be reserved and allocated for personnel to man Visitor Welcome Centers during the 1989-90 and the 1990-91 fiscal year. Secretary of Transportation, Thomas Harrelson, appeared before the Committee and asked the members to discourage the use of the Fund's revenue for purposes other than those set forth in the statute.

The Committee learned that the Recreation and Natural Heritage Trust Fund receives one-half of the revenue derived from the \$20.00 additional fee charged for personalized plates. Presently, the Heritage Trust Fund does not bear any of the administrative cost associated with collecting and accounting the revenue designated by statute for it. Secretary Harrelson asked the Committee members to consider requiring the Heritage Trust Fund to share in these expenses.

Carol Nemitz, the Director of Motor Vehicle Registration, Division of Motor Vehicles, explained to the Committee members the problems created by the differing fee amounts. Some of the plates are totally free, others have reduced registration fees, and some have regular registration fees but reduced additional fees. She also asked the Committee to consider several technical changes to the statutes.

The Committee recommends that the General Assembly:

- * Consolidate the fourteen special license plate statutes into one statute.
- * Simplify the Special Registration Plate Program by crediting all of the revenue earned from the additional fee charged for special registration plates into one fund, by deducting the costs of the special plates from the fund, by transferring one-half of the revenue remaining in the Fund to the Recreation and Natural Heritage Trust Fund, and by transferring the remaining one-half of the proceeds in the same manner as the proceeds in the Personalized Registration Plate Fund are now distributed.
- * Simplify the Special Registration Plate Program by enacting the following uniform fee schedule for special registration plates:

<u>Type of Special Plate</u>	<u>Fee Amount</u>
Congressional Medal of Honor	Free
Prisoner of War	Free
100% Disabled Veteran	Free
Active National Guard	Registration Fee only
Personalized	Registration Fee plus \$20
All other Special Plates	Registration Fee plus \$10

- * Repeal the Consular and Diplomate special plate, change the phrase "Antique Auto" to "Antique", change the phrase "U.S. Judge" to "U.S. J", and change the phrase "U.S. Coast Guard Auxiliary" to "Coast Guard Auxiliary".
- * Leave the specific design of a special plate to the discretion of the special group and the Division of Motor Vehicles working within guidelines set by the General Assembly.
- * Use the revenue derived from the additional fee charged for special registration plates only for the purposes set forth in the statute.

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IX. TRANSPORTATION

TRANSPORTATION--LONG-RANGE NEEDS

Authorization: Chapter 692, § 1.12, 1989 Session Laws (HB 399)

LRC Member in Charge:

Rep. Joanne W. 'Joni' Bowie
106 Nut Bush Drive, East
Greensboro, NC 27410
(919)294-2587

Members

President Pro Tem's Appointments

Sen. William D. 'Bill' Goldston, Jr.
Co-Chairman
P.O. Box 307
Eden, NC 27288
(919)627-1495

Sen. Marc Basnight
P.O. Box 1025
Manteo, NC 27954
(919)473-3474

Mr. Jack Edmundson
P.O. Box 97
Maury, NC 28554
(919)747-3806

Sen. Kenneth C. Royall, Jr.
LOB, Room 300
Raleigh, NC 27603-5925
(919)733-5870

Hon. Jeffrey B. Turner
Mayor
Pink Hill, NC 28572
(919)568-4048

Sen. Marvin M. Ward
641 Yorkshire Road
Winston-Salem, NC 27106
(919)724-9104

Sen. Constance K. 'Connie' Wilson
726 Lansdowne Road
Charlotte, NC 28226
(704)374-5150

Speaker's Appointments

Rep. R. S. 'Sam' Hunt, III
Co-Chairman
1218 W. Davis Street
Burlington, NC 27215
(919)229-5351

Rep. Bobby H. Barbee, Sr.
P.O. Box 656
Locust, NC 28097
(704)888-4423

Rep. Billy J. Creech
P.O. Box 148
Wilson's Mills, NC 27593
(919)934-6586

Rep. Jo Graham Foster
1520 Maryland Avenue
Charlotte, NC 28209
(704)332-8269

Rep. Daniel T. 'Dan' Lilley
P.O. Box 824
Kinston, NC 28502
(919)523-4309

Rep. John B. McLaughlin
P.O. Box 158
Newell, NC 28126
(704)596-0845

Rep. Timothy N. 'Tim' Tallent
230 Palaside Drive, NE
Concord, NC 28025
(704)782-5983

Staff:

* Ken Levenbook
 Bill Drafting Division
 (919)733-6660

Giles Perry
 Research Division
 (919)733-2578

Clerk:

Ann Stancil
 Legislative Building, Room 1323
 O: (919)733-5775
 H: (919)965-8058

Ruth Sappie
 Fiscal Research Division
 (919)7334910

TRANSPORTATION--LONG-RANGE NEEDS

The committee had one meeting on March 15, 1990. The committee decided that the areas that this committee was charged with studying were being adequately considered by other LRC Committees, by independent study committees, and by executive departments. The committee recessed pending any future meetings at the call of the Cochairmen if it is determined by the Cochairmen that there are specific subjects that require study and are not being investigated by other research bodies.

TRANSPORTATION--PUBLIC TRANSPORTATION FINANCING

Authorization: Chapter 740, § 7, 1989 Session Laws (HB 694)

LRC Member in Charge:

Rep. Joanne W. 'Joni' Bowie
 106 Nut Bush Drive, East
 Greensboro, NC 27410
 (919)294-2587

Members**President Pro Tem's Appointments**

Sen. Aaron W. Plyler, Sr.
 Co-Chairman
 2170 Concord Avenue
 Monroe, NC 28110
 (704)289-3541/(704)283-1293

Mr. George Crumbley
 137 Ruth Street
 Fayetteville, NC 28305
 (919)484-2288

Sen. William D. 'Bill' Goldston, Jr.
 P.O. Box 307
 Eden, NC 27288
 (919)627-1495

Sen. James C. 'Jim' Johnson, Jr.
 247 Church Street, NE
 Concord, NC 28025
 (704)784-8404

Speaker's Appointments

Rep. Daniel T. 'Dan' Blue, Jr.
 Co-Chairman
 P.O. Box 1730
 Raleigh, NC 27602
 (919)833-1931

Rep. J. Vernon Abernethy
 P.O. Box 38
 Gastonia, NC 28053
 (704)865-2906

Rep. Roy A. Cooper, III
 P.O. Drawer 4538
 Rocky Mount, NC 27803
 (919)442-3115

Rep. Lawrence E. 'Larry' Diggs
 5001 Matthews - Mint Hill Road
 Charlotte, NC 28212
 (704)545-4966

Sen. David R. Parnell
P.O. Box 100
Parkton, NC 28371
(919)858-3521

Mr. Frank Plummer
29 Church Street
Concord, NC 28025
(704)788-3142

Sen. Daniel R. 'Dan' Simpson
P.O. Drawer 1329
Morganton, NC 28655
(704)437-9744

Staff:
* Giles Perry
Research Division
(919)733-2578

Gerry Cohen
Bill Drafting Division
(919)733-6660

Rep. Albert S. Lineberry, Sr.
'Al'
P.O. Box 630
Greensboro, NC 27402
(919)272-5157/(919)288-1278

Rep. William D. 'Billy' Mills
P.O. Box 820
Jacksonville, NC 28541
(919)347-4741

Rep. J. Arthur 'Art' Pope
3401 Gresham Lake Road
Raleigh, NC 27615
(919)876-6000

Clerk:
Ada Edwards
Legislative Building, Room 2322
O: (919)733-5191
H: (919)872-7880

Ruth Sappie
Fiscal Research Division
(919)733-4910

TRANSPORTATION--PUBLIC TRANSPORTATION FINANCING

The Legislative Research Commission Public Transportation Financing Study Committee, originally established by Section 7 of the 1989 Session Laws, met five times from December 1989 to April 1990, and reported to the 1990 General Assembly. The report to the 1990 General Assembly recommended two funding methods for the Research Triangle Regional Transit Authority, a \$5 regional vehicle registration tax, and a \$10 regional driver's license tax, both of which were introduced but not enacted during the 1990 Session of the General Assembly.

The 1990 General Assembly reauthorized the committee. Following reauthorization, the committee met three times.

The first meeting of the LRC Public Transportation Financing Study Committee, following reauthorization by the 1990 Session of the General Assembly, was held August 30, 1990. The meeting was organized as a reintroduction to the topic, under the theme "Public transportation's importance to the economy and institutions of the community." The committee heard from Mr. Jack Gilstrap, National Executive Vice President of the American Public Transportation, Mr. Steven Stroud, vice chairman of the Governor's Rail Task Force, Mr. John Brantley, Director of the Raleigh Durham Airport, Mr. Claude McKinney, Special Assistant to the Chancellor, Centennial Campus, NCSU, and Mr. Thomas Rhodes, Deputy Secretary, N. C. Department of Transportation.

The second meeting of the reauthorized LRC Public Transportation Study Committee was held October 10, 1990 in Charlotte, North Carolina. The first speaker was Jerry Blackmun, Mecklenburg County Commissioner. Mr. Blackmun spoke on behalf of the Carolinas Compact, a group of North and South Carolina Counties that is interested in the transit needs of the Charlotte metro area. Following Mr. Blackmun, Mr. Terry Lathrop of the City of Charlotte Transportation Office gave an overview of

the city's transit activities. Committee discussion following these presentations focused on the idea of a parking tax, based on number of parking spaces, as a source of funding for the public transit needs of the states urban areas.

The third and final meeting of the reauthorized LRC Public Transportation Financing Study Committee was held November 13, 1990. The first speaker was Mr. Wendell Cox, a former Los Angeles transportation commissioner, and travel consultant. Following Mr. Cox, the Secretary of the N.C. Department of Transportation, Mr. Thomas Harrelson, presented an outline of a proposed \$20 million statewide public transportation program. Mr. Robert J. Godding, President of the N.C. Public Transportation Association, spoke next, urging the committee to consider a comprehensive \$42 million statewide public transportation funding program. Committee discussion followed these speakers, and concluded with the committee making several findings and recommendations.

The recommendations of the reauthorized LRC Public Transportation Financing Study Committee to the 1991 General Assembly are as follows:

1. The Committee recommends that counties that are organizers of regional public transportation authorities, such as Wake, Durham, and Orange Counties, be authorized to levy, after public hearing, two taxes.
 - a. A rental vehicle surtax of up to \$2 per day, not to exceed \$60 per rental transaction. This proposal is included in the Committee's report as A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COUNTIES THAT ARE ORGANIZERS OF A PUBLIC TRANSPORTATION AUTHORITY TO LEVY A RENTAL VEHICLE TAX.
 - b. A parking privilege tax, not to exceed \$60 per space per year. This proposal is included in the Committee's report as A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COUNTIES THAT ARE ORGANIZERS OF A PUBLIC TRANSPORTATION AUTHORITY TO LEVY A PARKING PRIVILEGE TAX.

Revenues from these taxes would be used to fund the regional public transportation authority.

2. The Committee also recommends that all providers of public transportation services give careful study and consideration to utilizing private providers of public transportation services, if doing so would improve service and reduce cost to the taxpayer.

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RAILROADS

Authorization: Chapter 802, §2.1, 1989 Session Laws

LRC Member in Charge:
Rep. Joanne W. 'Joni' Bowie
106 Nut Bush Drive, East
Greensboro, NC 27410
(919)294-2587

Members

President Pro Tem's Appointments

Sen. James E. 'Jim' Ezzell, Jr.
Co-Chairman
P.O. Box 8225
Rocky Mount, NC 27804-1225
(919)443-1505

Sen. Robert L. Martin
P.O. Box 387
Bethel, NC 27812
(919)638-1901

Sen. Franklin L. 'Frank' Block
520 Princess Street
Wilmington, NC 28401
(919)763-3463

Sen. Howard F. Bryan
P.O. Box 1654
Statesville, NC 28677
(704)873-0501

Mr. Tom Harbin
40 Robinhood Road
Asheville, NC 28804
(704)258-9049

Sen. Joseph B. 'Joe' Raynor
345 Winslow Street
Fayetteville, NC 28301
(919)483-5948

Sen. Dennis J. Winner
81-B Central Avenue
Asheville, NC 28801
(704)258-0094

Staff:
Sean Dail
Bill Drafting Division
(919)733-6660

Speaker's Appointments

Rep. J. Vernon Abernethy
Co-Chairman
P.O. Box 38
Gastonia, NC 28053
(704)865-2906

Rep. David G. Balmer
P.O. Box 12391
Charlotte, NC 28220-2391
(704)334-2849

Rep. W. Bruce Ethridge
715 Ann Street
Beaufort, NC 28516
(919)728-2600

Rep. Pryor A. Gibson
Route 2, Box 382
Wadesboro, NC 28170
(919)572-3761

Rep. Daniel T. 'Dan' Lilley
P.O. Box 824
Kinston, NC 28502
(919)523-4309

Rep. Leo Mercer
115 Miller Street
Chadbourn, NC 28431
(919)654-3518

Rep. Frank J. 'Trip' Sizemore, III
P.O. Box 1988
Greensboro, NC 27420
(919)378-1450

Clerk:
Lillie Pearce
Legislative Building, Room 1220
O: (919)733-5746
H: (919)876-3484

RAILROADS

The Committee on Railroads met six times. At its initial meeting, the Committee proposed to study ways of improving the rail transportation system in North Carolina, rather than restrict its study to the lease negotiations of the North Carolina Railroad Company. The Legislative Research Commission later authorized the Committee to expand its study to encompass the future of rail transportation in the State.

At its first three meetings, the Committee heard from various groups about the condition of the rail industry in North Carolina. Representatives of the North Carolina Railroad Company discussed the recent merger of the North Carolina Railroad

Company and the Atlantic and North Carolina Railroad Company. They encouraged the Committee to support rail corridor preservation and to push for a stronger emphasis on railroads within the Department of Transportation. The Department of Transportation kept the Committee up to date on its efforts to reassemble rail corridors throughout the State.

The executive director of the State Ports Authority addressed the condition of rail service to the ports. A representative of CSL Intermodal discussed the reasons for that company's recent suspension of service to the Wilmington port. (An agreement has since been reached to restore limited service to Wilmington.)

The Committee heard from advocates of "rails to trails" preservation efforts, and the President of the North Carolina Railway Association told the Committee of some of the problems facing short line railroads in North Carolina. The Committee was also addressed by a representative of the United Transportation Union, who outlined that group's areas of concern.

At its last three meetings, the Committee worked with the Attorney General's staff, and with the President and staff counsel to the North Carolina Railroad Company, to produce a proposal for a Railroad Advisory Commission. The Commission would advise the State of North Carolina with regard to developments in the lease negotiations of the North Carolina Railroad Company.

The Committee makes the following recommendations to the 1991 Session:

1. **That the General Assembly enact A BILL TO BE ENTITLED AN ACT TO CREATE A RAILROAD ADVISORY COMMISSION, which creates a commission to represent the interests of the State of North Carolina as majority stockholder in the North Carolina Railroad Company. The Commission would study any proposed lease or other transaction involving all or a substantial portion of the assets of the North Carolina Railroad Company and advise the Governor, Council of State, and General Assembly regarding that proposed transaction.**

The Committee finds that the State's interests as the owner of 75% of the stock in the North Carolina Railroad Company necessitate the creation of an advisory body to keep the Governor, Council of State, and General Assembly informed regarding any proposed lease or other transaction involving the assets of that company. With the current leases due to expire at the end of 1994, the Committee finds that such an advisory body should be created and its members appointed no later than September 1, 1991.

2. **That the General Assembly extend this Study Committee for another two years, in order to allow the Committee to continue considering the issues of rail revitalization, rail corridor preservation, and the future of railroads in North Carolina.**

The Committee finds that the present condition of the rail transportation system in North Carolina is alarming. Essential rail corridors have either been abandoned or face abandonment in the near future, and railroads are finding it increasingly difficult to compete with the trucking industry for business. The Committee was not able to give sufficient time to these issues and other problems that must be addressed if railroads are to play a significant role in the future of this State.

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SALVAGE MOTOR VEHICLE TITLES

Authorization: G. S. 120-30.17

LRC Member in Charge:

Rep. Joanne W. 'Joni' Bowie
106 Nut Bush Drive, East
Greensboro, NC 27410
(919)294-2587

Members

President Pro Tem's Appointments

Sen. William D. 'Bill' Goldston, Jr.
Co-Chairman
P. O. Box 307
Eden, NC 27288
(919)627-1495

Sen. Betsy L. Cochrane
Box 517
Advance, NC 27006
(919)998-8893

Sen. James C. Johnson
29 Church Street
Concord, NC 28025
(704)788-3142

Sen. Howard N. Lee
9 Riggsbee Avenue
Chapel Hill, NC 27514
(919)942-6528

Sen. Wendell H. Murphy
P. O. Box 280
Rose Hill, NC 28458
(919)289-2111

The Hon. Melvin R. Daniels, Jr.
1618 Rochelle Drive
Elizabeth City, NC 27909
(919)338-6939

Mr. Gary Bevell
Wayne Auto Salvage
1911 Hwy. 117 South
Goldsboro, NC 27530
(919)734-3958

Speaker's Appointments

Rep. John Weatherly
Co-Chairman
Route 3, Box 728
Kings Mountain, NC 28086
(704)487-0039

Rep. Roy A. Cooper, III
P. O. Drawer 4538
Rocky Mount, NC 27803
(919)442-3115

Rep. Narvel Jim Crawford
15 Edgemont Road
Asheville, NC 28801
(704)252-6972

Rep. Robert Grady
P. O. Box 5091
Jacksonville, NC 28540
(919)353-3579

Rep. Thomas C. Hardaway
P. O. Box 155
Enfield, NC 27823
(919)445-2371

Rep. John B. McLaughlin
Box 158
Newell, NC 28126
(704)596-0845

Mr. William S. 'Bill' Dove, III
P. O. Box 811
Kannapolis, NC 28081
(704)788-4133

Staff:
Kristin Godette
Research Division
(919)733-2578

Clerk:
Elaine Myers
Room 519
Legislative Office Building
O: (919)733-5856
H: (919)847-1170

SALVAGE MOTOR VEHICLE TITLES

The Committee on Salvage Motor Vehicle Titles met four times. At the first meeting on March 27, 1990, the Committee heard testimony from representatives of the Division of Motor Vehicles, the Attorney General's office, the new and used automobile dealers' associations, rebuilders and salvage dealers, bankers, insurance companies, and automobile auctioneers. At issue is the current state law which requires that titles of salvaged and/or rebuilt vehicles be "branded" as such. The law also restricts the removal of brands from vehicles brought in from other states with branded titles even if those vehicles could have received unbranded titles in North Carolina. The rebuilders and salvage dealers have complained that this law unduly restricts their business by interfering with the purchase of out-of-state vehicles for resale.

At the second meeting, representatives from the Division of Motor Vehicles expressed concern that removal of the restrictions on out-of-state vehicles would make North Carolina a center for "washing" salvage titles and violate the spirit of interstate agreements designed to limit this practice. A representative from the consumer protection section of the Attorney General's office stated his opinion that more disclosure of the repair history of motor vehicles is needed rather than less and any weakening of the current statutes could harm consumers.

At the third meeting, the Committee listened to proposals from interested parties and members. The Committee discussed authorizing a uniform Bill of Sale or other document which would contain disclosures about the repair history of the vehicle in addition to putting these disclosures on the title. At the conclusion of the meeting, the decision was made to not issue a report to the 1990 Session of the General Assembly. However, the Committee decided to hold one more meeting to discuss pending legislation and to look at some proposed amendments.

At the fourth meeting, on May 9, 1990, the Committee voted to endorse the Proposed Senate Committee Substitute for House Bill 1334 which is currently in the House Rules Committee. This endorsement is contingent upon the inclusion of authorization for a disclosure form which would be required to be given to any buyer of a vehicle five years old or less. The damage disclosure form would require the seller to disclose whether the vehicle being sold:

1. Had been damaged in an amount exceeding 25% of its value; or was
2. A flood vehicle;
3. A recovered theft vehicle;
4. A reconstructed vehicle; or
5. A salvage motor vehicle.

This disclosure statement would be included with the odometer disclosure statement. Failure to disclose any of the above information would be a misdemeanor and could result in civil liability.

These provisions were later included in Senate Bill 465 which was ratified July 16, 1990.

The Committee did not meet again.

X. WATER

WATER RESOURCES--GROUNDWATER PROTECTION

Authorization: Chapter 802, §2.1, 1989 Session Laws (HJR 554, SJR 367); and Chapter 1078, §2.1, 1989 Session Laws, 1990 Session Laws (HB 2373)

LRC Member in Charge:

Sen. Lura S. Tally
3100 Tallywood Drive
Fayetteville, NC 28303
(919)484-4868

Members

President Pro Tem's Appointments

Sen. Thomas F. 'Tom' Taft
Co-Chairman
P.O. Box 566
Greenville, NC 27835
(919)752-2000

Sen. Marc Basnight
P.O. Box 1025
Manteo, NC 27954
(919)473-3474

Sen. Franklin L. 'Frank' Block
520 Princess Street
Wilmington, NC 28401
(919)763-3463

Sen. Richard E. Chalk, Jr.
427 Wright Street
High Point, NC 27262
(919)883-0444

Mr. Joe Harwood
Duke Power Company
Design Engineering ECO9H
P.O. Box 33189
Charlotte, NC 28242
(704)373-8494

Sen. Russell G. Walker
1004 Westmont Drive
Asheboro, NC 27203
(919)625-2574

Speaker's Appointments

Rep. Howard J. Hunter, Jr.
Co-Chairman
P.O. Box 506
Murfreesboro, NC 27855
(919)398-5630

Rep. John W. Brown
Route 2, Box 87
Elkin, NC 28621
(919)835-2373

Rep. Howard B. Chapin
212 Smaw Road
Washington, NC 27889
(919)946-3480

Rep. Daniel H. 'Danny' DeVane
P.O. Drawer 500
Raeford, NC 28376-0500
(919)875-2528

Rep. Thomas C. Hardaway
211 Pope Street
P.O. Box 155
Enfield, NC 27823
(919) 445-3121

Rep. Larry T. Justus
P.O. Box 2396
Hendersonville, NC 28793
(704)685-7433

Sen. Dennis J. Winner
81-B Central Avenue
Asheville, NC 28801
(704)258-0094

Staff:

* Sherri Evans-Stanton
Sara Kamprath
Research Division
(919)733-2578

Susan Iddings
Bill Drafting Division
(919)733-6660

Rep. Stephen W. 'Steve' Wood
P.O. Box 5172
High Point, NC 27262
(919)886-4641

Clerk:

Mary Tyson
Room 623
Legislative Office Building
O: (919)733-5953
H: (919)365-3601

WATER RESOURCES--GROUNDWATER PROTECTION

The LRC on the Development of a State Strategy for the Protection of All Groundwater Resources (hereinafter Groundwater Study Committee) met six times during the 1989-90 biennium. The original purpose of the Groundwater Study Committee was to study the existing, fragmented and ambiguous authorities on groundwater resources and to determine whether a comprehensive groundwater protection plan was necessary. Many people testified that there was a problem, but there was disagreement concerning whether a complete recodification was necessary. Due to the recent consolidation of environmental agencies and the pending responsibilities of affected boards and commissions, the Groundwater Study Committee felt that the subject should be studied further.

After the 1990 Regular Session, the Legislative Research Commission referred the study on individual and small system water and wastewater needs to the Groundwater Study Committee, which resulted in recommended legislation. In addition, information was presented to the Groundwater Study Committee concerning pesticide contamination of groundwater by agricultural and other operations. The Committee wished to study this further as several studies have not yet been completed. Other issues discussed which affect groundwater resources include: improper and unregulated well construction; leaking underground storage tanks; and improper solid and hazardous waste disposal. Representatives from local and state government, industry, environmental, agricultural, and public interest groups participated in the meetings.

The Groundwater Study Committee recommends the following legislative bills in its report to the 1991 General Assembly:

1. AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY INDIVIDUAL AND SMALL SYSTEM WATER AND WASTEWATER NEEDS.
2. AN ACT TO APROPRIATE FUNDS TO QUALIFIED COUNTIES TO SURVEY, CLEAN UP, AND ELIMINATE ILLEGAL DISCHARGES OF SEWAGE ONTO LAND OR INTO SURFACE WATERS IN VIOLATION OF ARTICLE 11 OF CHAPTER 130A OF THE NORTH CAROLINA GENERAL STATUTES.
3. A JOINT RESOLUTION TO CONTINUE THE LEGISLATIVE RESEARCH COMMISSION STUDY ON THE DEVELOPMENT OF A STATE STRATEGY FOR THE PROTECTION OF ALL GROUNDWATER RESOURCES.

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.

WATER RESOURCES--SURFACE WATER QUALITY/RESOURCES ISSUES

Authorization: Chapter 802, §2.1, 1989 Session Laws (HJR 33, HJR 37, HB 1224, HJR 1399, HB 1945, HB 1955, SB 1182)

LRC Member in Charge:

Sen. Lura S. Tally
3100 Tallywood Drive
Fayetteville, NC 28303
(919)484-4868

Members

President Pro Tem's Appointments

Sen. Franklin L. 'Frank' Block
Co-Chairman
520 Princess Street
Wilmington, NC 28401
(919)763-3463

Sen. Betsy L. Cochrane
Box 517
Advance, NC 27006
(919)998-8893

Mr. Charles 'Charlie' Holt
Holt Oil Company, Inc.
2709 Clinton Road
Fayetteville, NC 28301
(919)483-5137

Sen. Joseph E. 'Joe' Johnson
P.O. Box 31507
Raleigh, NC 27622
(919)787-5200

Dr. David Moreau
City and Regional
Planning Department
UNC - Chapel Hill
Chapel Hill, NC 27514
(919)962-5204

Sen. Kenneth C. Royall, Jr.
LOB, Room 300
Raleigh, NC 27603-5925
(919)733-5870

Sen. J. K. Sherron, Jr.
4208 Six Forks Road, Suite 302
Raleigh, NC 27609
(919)781-8721

Speaker's Appointments

Rep. Harry E. Payne, Jr.
Co-Chairman
P.O. Box 1147
Wilmington, NC 28402
(919)762-5505

Rep. R. D. 'Don' Beard
2918 Skye Drive
Fayetteville, NC 28303
(919)484-9935

Rep. Arlie F. Culp
Route 2, Box 529
Ramseur, NC 27316
(919)824-2218

Rep. Julia C. Howard
203 Magnolia Avenue
Mocksville, NC 27028
(704)634-3538

Mr. Frank Kime
Piedmont Triad Water Authority
2216 W. Meadowview Road
Greensboro, NC 27407

Rep. E. A. 'Alex' Warner, Jr.
3610 Frierson Street
Hope Mills, NC 28348
(919)424-5350

Rep. Peggy Wilson
214 W. Hunter Street
Madison, NC 27025
(919)548-6075

Staff:
Emily Johnson
Bill Drafting Division
(919)733-6660

Clerk:
Janet Puryear
Legislative Building, Room 2009
O: (919)733-5963
H: (919)552-8224

SURFACE WATER

The Legislative Research Commission's Study Committee on Surface Water met six times prior to the 1990 Regular Session of the 1989 General Assembly. The Committee submitted an interim report to the 1989 General Assembly recommending that legislation be enacted to establish a moratorium on new water transfers until July 1, 1991. The recommended legislation with some amendments was enacted by the 1990 General Assembly. (See Chapter 954, 1989 Session Laws, 1990 Regular Session.)

The Committee met three times after the 1990 Regular Session of the 1989 General Assembly to complete its work. Continuing its study of both water resources development issues and interbasin transfer issues, the Committee made the following findings and recommendations.

Water Resources Development Projects

Water resources development projects provide crucial Statewide benefits at a minimum cost to the State as much of the expense is shared by the federal government. In 1986 Congress enacted federal legislation that modified the nonfederal cost sharing requirements for water resources development projects. Current State budgeting procedures do not adequately take into account the modified nonfederal cost sharing requirements.

Funding schedules for water resources development projects at the federal level are projected for a five year period of time. Information on new projects under consideration for federal funding is also available at the federal level. Based on the federal figures and additional information available at the federal level, State budget planners can estimate the matching funds needed for each of the scheduled years and can anticipate those fiscal periods when revenue needs will be greatest. The preparation and annual revision of a State Water Resources Development Plan that documents the needs for an immediate fiscal period and projects the needs for future fiscal periods would be an invaluable tool for legislators faced with numerous budgetary considerations.

The Committee finds that a State water resources development plan should be prepared annually by the Department of Environment, Health, and Natural Resources for a projected period of six years. The plan should be submitted to the Governor for his review and modifications and upon approval by the Governor shall be known as the Water Resources Development Program. The Committee also finds that the Governor should include a line item in the State's continuing operations budget to fund the Water Resources Development Program and that funds appropriated for water resources development projects should not revert at the end of the fiscal period.

The Committee recommends two bills to implement these findings. Those bills are entitled "A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES PREPARE A WATER RESOURCES DEVELOPMENT PROJECTS PLAN AND TO PROVIDE THAT THE DIRECTOR OF THE BUDGET REVIEW THE PLAN AND ADOPT A WATER RESOURCES DEVELOPMENT PROGRAM" and "A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE CURRENT OPERATIONS APPROPRIATIONS BILL INCLUDE THE FUNDS NEEDED FOR EACH FISCAL YEAR COVERED BY THAT BILL TO FUND THE WATER RESOURCES DEVELOPMENT PROGRAM."

Interbasin Transfers

The Committee finds that current law in North Carolina regarding the regulation of water transfers is inconsistent. G.S. 153A-285 prohibits the diversion of water from one stream or river to another by a joint authority or by a city or county acting jointly with another unless the diversion is authorized by the Environmental Management Commission. There is no parallel provision regulating a city or county that acts alone to divert water.

The current law also fails to address adequately the critical economic and environmental issues raised by water transfers. Many water transfers now occurring did not require authorization from the Environmental Management Commission as provided by G.S. 153A-285 because they were diversions by cities or counties acting alone rather than jointly. While some water transfers not covered under G.S. 153A-285 are subjected to environmental review because of other State environmental protection laws, there is no comprehensive statutory scheme that specifically recognizes and addresses the types of concerns regarding water transfers that were expressed to the Committee. Future water needs will only increase as the State grows. It is better to implement a regulatory scheme now that adequately safeguards water resources and averts future potential conflicts over water rights.

The Committee finds that North Carolina needs a comprehensive water transfer law that ensures equitable treatment of all water users and that adequately addresses economic and environmental concerns. Such a statutory scheme will also allow municipalities and counties to have planned growth and not be subjected to unanticipated costly improvements to protect water supplies at a later date.

The Committee recommends one bill to implement these findings. That bill is entitled "A BILL TO BE ENTITLED AN ACT TO REQUIRE REGISTRATION OF ALL WATER TRANSFERS AND TO REQUIRE A PERMIT FOR THE TRANSFER OF ONE MILLION GALLONS OR MORE OF WATER PER DAY FROM ONE RIVER BASIN TO ANOTHER."

Surface Water Study Continued

In the course of this study, new issues affecting surface water were raised. Consumptive water uses and impoundments are two topics that the Committee felt merited consideration but due to time and financial constraints were unable to address. The Committee finds that the Legislative Research Commission should continue to study surface water issues and recommends a fourth bill entitled "A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY SURFACE WATER."

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