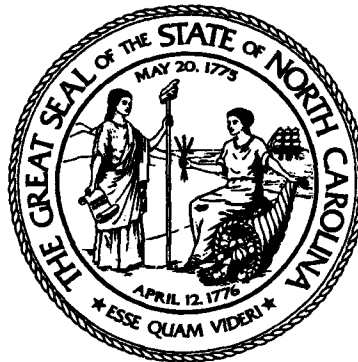


LEGISLATIVE RESEARCH COMMISSION ACTIVITIES

1995 - 1996 FISCAL YEAR



INTERIM REPORT

May 1, 1996

**SUMMARIES PREPARED BY
LEGISLATIVE SERVICES OFFICE
1995 GENERAL ASSEMBLY OF
NORTH CAROLINA**

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May 1, 1996

**TO THE MEMBERS OF THE 1995 GENERAL ASSEMBLY
(1996 REGULAR SESSION):**

The Legislative Research Commission directed its staff to prepare an interim report outlining the work thus far of its committees during the 1995-96 fiscal year. This report contains a brief summary of each committee's progress and describes the number of committee meetings, subjects studied, findings and recommendations. We contemplate publishing an updated report in January just prior to the 1997 General Assembly.

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 any Committee's report. The individual report by the Legislative Research Commission is authoritative. Copies of the Legislative Research Commission's reports may be obtained from the Legislative Library, Room 2126, State Legislative Building, Raleigh, North Carolina 27611. [Telephone: (919) 733-7778].

Yours truly,


Terrence D. Sullivan
Director of Research

tds5-96

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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, under G.S. 120-30.17(9) referred some studies authorized to be conducted by the Commission to other State agencies and existing study commissions. The indication of each study's disposition begins on page .

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.

1995-96

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore

Sen. Marc Basnight, Cochair
2007 State Legislative Building
Raleigh, NC 27601-1096
(919) 733-6854

President Pro Tempore's Appointments

Sen. Frank W. Ballance, Jr.
PO Box 616
Warrenton, NC 27589
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Sen. R.L. "Bob" Martin
PO Box 387
Bethel, NC 27812
(704) 825-4361

Sen. Henry McKoy
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Sen. J.K. Sherron, Jr.
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Sen. Ed N. Warren
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Speaker

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Denton, NC 27239
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Rep. Larry Linney
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Asheville, NC 28802
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Rep. Edd Nye
403 Woodland Drive
Elizabethtown, NC 28337
(910) 862-2420

Rep. Gregory J. Thompson
PO Box 574
Spruce Pine, NC 28777
(704) 765-1992

Rep. Constance K. Wilson
726 Lansdowne Road
Charlotte, NC 28270
(704) 364-2311

Clerk:

Ms. DeAnne Mangum
(919) 733-2578

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.

§ 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 January 15 of the next odd-numbered year. No moneys appropriated to the Legislative Research Commission may be expended for meetings of the Commission, its committees or subcommittees held after January 15 of the next odd-numbered year and before the appointment of the next Legislative Research Commission.

§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.

§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.

§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.

§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.

§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.

§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.

1995 - 1996

TABLE OF AUTHORIZED LEGISLATIVE RESEARCH COMMISSION STUDIES

The following is a list of the topics which were funded by the Legislative Research Commission to be studied and topics referred to another agency or commission for study pursuant to G.S. 120-30.17(9). Except where otherwise indicated, the original bill or resolution which outlines the scope of the particular study is incorporated by reference in House Bill 898, Chapter 542 of the 1995 Session Laws. Footnotes indicate which studies were referred to another agency or commission to be conducted.

Unless otherwise indicated, each Committee may report to the 1996 Session of the 1995 General Assembly or the 1997 General Assembly, or may make an interim report to the 1996 Session of the 1995 General Assembly and a final report to the 1997 General Assembly.

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
Atlantic States Marine Fisheries Compact Withdrawal	Rep Preston	HB 948	EvansStanton	32
Cape Fear River Basin ²	Rep Shaw		Givens	64
Child Day Care Provider ³		HB 230	Carter	65
Chiropractic Care ⁵	Sen Odom	SJR 228	J Jones	66
Consumer Protection Issues:			Watson	23
Consumer Protection	Sen Jordan Rep Thompson	SB 59 HB 196		
Rental Property Rights	Sen Perdue	SB 861		
Criminal Laws, Procedures, and Sentencing	Rep Neely Sen Odom Sen Balance		E Johnson	22

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
Domiciliary Care and Nursing Homes ¹	Rep Clary	HB 686 HB 745	Young	63
Downtown Revitalization	Sen Sherron Rep Brawley		Hovis	56
Education Issues:			R Johnson	26
Ability Grouping and Tracking of Students	Sen W Martin Rep Cunningham	SB 1005 HB 1051		
Choice in Education, including Tuition Tax Credits	Rep Wood Shubert/Linney/ K. Miller	HB 954		
Community College Edu. Improvement Issues (State grants and loans for tuition and fees)	Rep Warner	HB 42		
School Building Disposition	Sen Jordan/ Edwards Rep Wainwright	SB 60 HB 78		
Teacher Tenure, Performance Evaluation, and Incentives	Rep Arnold	HB 210		
Election Laws Reform	Sen Plexico Rep Cansler Rep Miner	SB 981 HB 922 HB 858	Gilkeson	29
Emergency Medical Services ⁵	Sen Speed	SJR 1045	J Jones	66
Energy Conservation	Sen Edwards Rep Brawley	SJR 461 HJR 275	Levenbook	27
Executive Budget Act Rev.	Rep Morgan/ Holmes/Gray		E Johnson	61

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
Financial Institutions Issues:			Reagan	43
Bad Check Fees	Sen Ballance	SB 876		
Consolidation of Regulatory Agencies of Financial Institutions	Rep Tallent	HB 839		
Fire Alarm Installers ⁶	Rep Capps		L Jones	68
Forester Licensing ⁶	Rep Weatherly		L Jones	68
Grandparent Visitation Rights	Sen Forrester/ Kerr/Carpenter Rep Mitchell	SB 841 HJR 872	Marshbanks	36
Guardian Ad Litem Program ¹¹			Watson	37
Illegitimacy ⁹	Sen Basnight		C Johnson	75
Insurance Issues:			Barnes	40
Coastal Insurance Availability and Affordability	Sen Soles/ Parnell	SJR 881		
Long-term Care Insurance	Sen. Parnell Rep Edwards	SB 102 HB 98		
Statewide Flexible Benefits Program and Third-Party Administrator Contracts		Exec Order 66		
Juvenile and Family Law ⁴	Sen Cooper/ Allran/Winner Rep Hensley/ Rogers/Russell Rep Hackney	SJR 381 HJR 251 HJR 274\	Carter	65

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
Lien Laws:			Rose	51
Lien Laws	Sen Hartsell/ Soles/Cooper	SB 434		
Mold Lien Act	Rep McMahan	HB 617		
Occupational and Profess- Regulation ⁶			L Jones	68
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State Personnel Issues, inc. Needed Revisions to the State Personnel Act	Rep Morgan			
Property Issues:			Perry	52
Annexation Laws	Rep Pulley Rep Sherrill	HB 660 HB 539		
Condemnation by Govern- ment Entities, including the Condemnation Process, Fair Market Value for Property, Payment of Condemnees' Attorneys' Fees and Court Costs, and Related Matters	Rep Allred			
Extraterritorial Juris- diction Representation	Rep Ellis	HJR 73		
Property Rights	Rep Nichols	HB 597		
Psychology Practice Act ⁶	Rep Lemmond	HB 451	L Jones	68

<u>Study</u>	<u>Sponsor</u>	<u>Authorization</u>	<u>Staff</u>	<u>Page</u>
Qualified Environmental Professionals ⁶	Rep Wood	HB 880	L Jones	68
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Diesel Fuel Pmt Method	Sen Hoyle Rep Barbee	SB 797 HB 975		
Interstate Tax Agreements.	Sen Webster	SJR 122		
Nonprofit Continuing Care Facilities Property Tax Exemption	Sen Plexico/ Sherron	SB 980		
Qualified Business Investment Tax Credit ¹⁰				
Revenue Laws	Rep Gamble	HB 246		
Tax Expenditures	Rep Gamble/ Luebke	HJR 95		
Taxation of Business Inventory Donated to Nonprofit Organizations	Rep McMahan			
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State Purchasing and Correction Enterprises	Sen Kerr/ Sherron Rep Warner	SB 420 HB 302	Carter	55
Transfer of All State Vehicles to Motor Fleet Management ⁸			Perry	74

Water Issues:			E Johnson	33
Drinking Water Tests	Rep Allred	HB 930		
Water Conservation Measures to Reduce Consumption	Sen Sherron			
Water Issues	Sen Albertson Rep Ives	SB 95 HB 46		
Workers' Compensation:			Gilkeson	48
State and Other Governmental Assistance to Volunteer Fire, Rescue, and Emergency Medical Service Units ¹²				
Workers' Compensation	Sen Kerr	SJR 996		

-
- ¹ Referred to the NC Study Commission on Aging by the LRC.
 - ² Referred to the Environmental Review Commission by the LRC.
 - ³ Incorporated in SL95-507, Sec 23.25(d), and referred to the Commission on the Family by the LRC.
 - ⁴ Referred to the Commission on the Family by the LRC.
 - ⁵ Referred to the NC Health Care Reform Commission.
 - ⁶ Referred to the Legislative Committee on New Licensing Boards by the LRC.
 - ⁷ Referred to the School Capital Construction Study Commission by the LRC.
 - ⁸ Incorporated in SL95-324, Sec 8.2, HB 229 and referred to the Joint Legislative Transportation Oversight Committee by the LRC.
 - ⁹ Referred to the Welfare Reform Study Commission by the LRC.
 - ¹⁰ Incorporated in SL95-491, SB 1049.
 - ¹¹ Incorporated in SL95-324, Sec 21.12, HB 119)
 - ¹² Incorporated in SL95-507, Sec 7.21(m), HB 230.
 - ¹³ Incorporated in SL95-542, Part XXI, HB 898; SL95-324, Sec 8.3, HB 229; and SL95-507, Sec 7.29, HB 230.

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- B. Consolidation of Regulatory Agencies of Financial Institutions (HB 839 - Tallent)

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PART I. SUMMARIES OF LRC STUDY COMMITTEES

I. BUDGET AND REVENUE GROUPING

REVENUE AND TAX ISSUES COMMITTEE

Authority: SL95-542, HB 898

LRC Member in Charge: Sen. R. L. Martin
126 Nelson Street
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Sen. Roy A. Cooper, III
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Dr. James Crapo
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Mr. Joe Deneke
PO Box 779
Kill Devil Hills, NC 27948

Mr. Leonard Jones
300 North 35th Street
Morehead City, NC 28577-3106

Speaker's Appointments

Rep. Charles B. Neely, Jr., Cochair
3065 Granville Drive
Raleigh, NC 27609
(919) 782-3845

Rep. Daniel T. Blue, Jr.
PO Box 1730
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(919) 833-1931

Rep. Lanier M. Cansler
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Asheville, NC 28803
(704) 298-8514

Rep. J. Russell Capps
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Raleigh, NC 27613
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Rep. Walter G. Church, Sr.
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Revenue Laws

The Legislative Research Commission's Revenue Laws Committee met six times before the 1996 Regular Session of the 1995 General Assembly, once in January, once in February, twice in March, and twice in April. The Committee focused on issues that needed to be resolved before the convening of the 1997 General Assembly and on broad issues of tax policy.

The Committee decided that it should consider all proposed tax changes in light of general principles of tax policy and as part of an examination of the existing State tax structure as a whole. The Committee determined that fairness is the first tax policy to be considered in evaluating a proposed change in the tax law. Taxes should be uniform, applying to a broad base at low rates. Special loopholes and exemptions create a sense of inequity and require higher tax rates to make up the revenue lost due to gaps in the tax base. Fairness can be evaluated by comparing the tax burden to the benefit received or to the ability to pay.

The Committee learned that stability of the State's revenues and their responsiveness to growth in income and population are also vital. Tax neutrality is a general principal that is often ignored: a tax structure serves to raise revenues; it should not interfere unnecessarily with taxpayers' economic decisions. Administrative efficiency -- the cost of collecting a tax relative to revenues produced -- is also important, as are simplicity and ease of compliance. If taxes are overly complex and difficult to comply with, taxpayers must waste time and money on tax paperwork and may become alienated from government and its system for raising revenues.

Based on its consideration of these tax policies, the Committee studied many issues of tax reform and tax relief. As in the past, the Committee also proved to be an excellent forum for taxpayers and tax administrators to propose changes in the revenue laws. A number of taxpayers wrote to or appeared before the Committee to discuss tax problems they felt need to be resolved.

As a result of its study, the Committee recommends fourteen bills as follows:

1. AN ACT TO PROVIDE TAX REFORM AND TAX RELIEF FOR THE CITIZENS OF NORTH CAROLINA. Cost is \$2.73 million for FY96-97 and \$59.37 million for FY97-98.
2. AN ACT TO PROVIDE A GRACE PERIOD FOR MILITARY PERSONNEL TO LIST AND PAY PROPERTY TAXES AFTER DEPLOYMENT IN CONNECTION WITH OPERATION JOINT ENDEAVOR. The fiscal impact is undetermined.
3. AN ACT TO PROHIBIT THE IMPOSITION OF A FAILURE TO PAY PENALTY WHEN ADDITIONAL TAX DUE IS PAID AT THE TIME AN AMENDED RETURN IS FILED OR WITHIN 30 DAYS AFTER THE ADDITIONAL TAX WAS ASSESSED. The fiscal impact is an insignificant gain.
4. AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS. The fiscal impact is insignificant.
5. AN ACT TO INCREASE THE COMPENSATION OF THE MEMBERS OF THE PROPERTY TAX COMMISSION AND TO PROVIDE FOR REGIONAL HEARINGS. This proposal would require an appropriation of \$21,680 annually.
6. AN ACT TO PROVIDE A PROCEDURE FOR LIENHOLDERS ON MANUFACTURED HOMES TO REGISTER FOR NOTIFICATION OF DELINQUENT PROPERTY TAXES ON THE HOMES AND, ONCE REGISTERED, TO BE ABLE TO REPOSSESS A HOME BY PAYING NO MORE THAN TWO YEARS' PROPERTY TAXES. This proposal would have an undetermined fiscal impact on local government.
7. AN ACT TO CLARIFY THE SALES TAX TREATMENT OF ITEMS GIVEN AWAY BY MERCHANTS. The fiscal impact is an insignificant gain.
8. AN ACT TO TRANSFER RESPONSIBILITY FOR COLLECTING THE REMAINDER OF THE GROSS PREMIUMS TAX FROM THE DEPARTMENT OF INSURANCE TO THE DEPARTMENT OF REVENUE AND TO CLARIFY RELATED STATUTES. This provision will require an appropriation of \$134,021.
9. AN ACT TO CLARIFY THE REQUIREMENTS CONCERNING IMPORTS AND EXPORTS OF MOTOR FUEL UNDER THE "TAX AT THE RACK" LAWS AND TO MAKE OTHER ADJUSTMENTS TO THOSE LAWS. There would be no fiscal impact.
10. AN ACT TO DELETE THE REQUIREMENT THAT A COMPANY ADD BACK TO ITS NET WORTH FRANCHISE TAX BASE THE AMOUNT OF ITS LOANS THAT ARE PAYABLE TO AN UNRELATED COMPANY BUT ARE ENDORSED OR GUARANTEED BY A RELATED COMPANY, AS RECOMMENDED BY THE DEPARTMENT OF REVENUE. There would be an insignificant loss.
11. AN ACT TO EXTEND THE CORPORATE INCOME TAX CARRYFORWARD FOR NET ECONOMIC LOSSES FROM FIVE YEARS TO FIFTEEN YEARS. This proposal would cost \$5 to \$10 million annually.
12. AN ACT TO ENHANCE COMPLIANCE AND ENFORCEMENT OF EXISTING TAX LAWS BY APPROPRIATING FUNDS TO EXPAND THE NUMBER OF AUDITORS AND SUPPORT PERSONNEL IN THE INTERSTATE AUDIT DIVISION OF THE DEPARTMENT OF REVENUE. There would be a \$6.2 million gain for FY 96-97 and \$22.5 million gain for 97-98.
13. AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES. There would be no fiscal effect.

14. AN ACT TO REQUIRE LOCAL GOVERNMENTS TO ACCOUNT FOR 911 SURCHARGES IN THEIR ANNUAL FINANCIAL STATEMENTS. There would no fiscal impact.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

II. CIVIL AND CRIMINAL LAW GROUPING

CRIMINAL LAWS, PROCEDURES, AND SENTENCING COMMITTEE

Authority: SL95-542, HB 898

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Criminal Laws, Procedures, and Sentencing

The Legislative Research Commission's Study on Criminal Laws, Procedures, and Sentencing met 6 times during the session. The Committee considered a number of issues including the following: a status report on structured sentencing and its impact to date on the State's prison system; some possible modifications that may be needed to structured sentencing; the controlled substance tax and criminal forfeitures and the distribution of the proceeds obtained under those laws; certain criminal law bills introduced in the 1995 Session that are still pending in the House Judiciary II Committee and considered whether the issues addressed by those bills are incorporated into structured sentencing as amended last session by the 1995 General Assembly; and the need and role of superior court reporters in a well-run court system. The Committee will continue its study and considerations of these and other issues after the 1996 Regular Session.

In its interim report the Committee recommends the following bill: A BILL TO BE ENTITLED AN ACT TO MAKE IT A CLASS F FELONY OFFENSE TO ASSAULT A LAW ENFORCEMENT OFFICER AND INFLICT SERIOUS BODILY INJURY AND TO CREATE A NEW CRIMINAL OFFENSE OF ASSAULTING A FIRE FIGHTER AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S STUDY COMMITTEE ON CRIMINAL LAWS, PROCEDURES, AND SENTENCING. This legislative proposal creates two new criminal offenses as indicated in the title. A fiscal note is required under G.S. 120-36.7 for this legislative proposal. However, no fiscal cost estimate is included in this report.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

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Consumer Protection Issues

The LRC Study Committee on Consumer Protection Issues met four times prior to the 1996 short session. At these meetings the Committee heard presentations on the following: Telephone Consumer Protection Act (Senate Bill 723), installation of unvented gas heaters in manufactured homes, rights of rental property owners, and preneed funeral contract funds. The Committee decided to focus on two of these issues, unvented gas heaters and preneed contract funds, and to make an interim report to the LRC.

Unvented Gas Heaters

The Committee learned that a Department of Insurance ruling prohibited the installation of unvented gas heaters in manufactured homes. During its study the Committee raised concerns with the Department of Insurance about the ruling. The Department ultimately decided to reconsider its ruling in light of information about the improved safety of unvented gas heaters, the certification of these heaters by the American Gas Association for use in manufactured homes, and considering that other states permit these appliances to be installed in manufactured homes under certain circumstances. The Department reported to the Committee that after reconsideration it had decided to permit installation of unvented gas heaters in manufactured homes and to regulate the installation as part of the North Carolina Manufactured Housing Code. Details of the Committees deliberations and the Departments requirements may be found in the Committees interim report to the Legislative Research Commission.

Preneed Funeral Contract Funds

The Committee was asked by a representative of the Funeral Directors Association to recommend that the General Assembly enact legislation currently pending (Senate Bill 593) that would allow the investment of preneed funeral contract funds under an

irrevocable preneed contract in a prearrangement insurance policy, the proceeds of which would be used to fund performance of the contract at the time of the contract purchasers death. The investment would only be authorized with the written consent of the contract purchaser. Prior to its discussion of the proposal, the Committee heard a review of the current preneed funeral contract law and the consumer protection provisions that were added to it when it was rewritten and recodified in 1969.

After reviewing the proposal, the Committee decided that the proposal to authorize investment of irrevocable preneed funeral contract funds offers a reasonable choice to consumers of these contracts provided that the safeguards and conditions contained in the Committees proposed legislation are included in the legislative authorization. The Committee included in its interim report to the Commission a legislative proposal:

A BILL TO BE ENTITLED AN ACT TO AUTHORIZE INVESTMENTS OF IRREVOCABLE PRENEED FUNERAL CONTRACT FUNDS.

The legislative proposal includes authorization for the Board of Mortuary Science to collect a fee for services involved in administering the act. The legislative proposal does not involve a substantial fiscal impact. Details of the Committees consideration, findings, and legislative proposal may be found in its interim report to the Legislative Research Commission.

The Committee will resume its study of consumer protection issues after adjournment sine die of the 1995 legislative session.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

III. EDUCATION AND ENERGY CONSERVATION GROUPING

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Education Issues

The Committee met four times: January 17, 1996; February 16, 1996; March 27, 1996; and April 17, 1996. The focus of the meetings was to develop an understanding of the history of education and education reform in North Carolina and the United States, and to consider a number of current education reform issues. These issues included charter schools, prepaid tuition programs, the State Board of Education's recommended ABC's Plan, purchasing off-contract, alternative certification for teachers, teacher tenure, teacher assistants, and whether to mandate the teaching of phonics. The Committee plans to resume its deliberations after the 1996 Regular Session of the 1995 General Assembly, and to report to the 1997 General Assembly.

ENERGY CONSERVATION COMMITTEE

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Energy Conservation

The Energy Conservation Study Committee met two times. At the first meeting, the Committee reviewed the work of the 1993 and 1995 Energy Conservation Committees. The Committee heard from representatives of the Energy Division of the Department of Commerce who reported on new E.P.A. regulations, that had been released a day before the meeting on the Energy Policy act of 1992 (EPACT), and updated the Committee on the impact of EPACT as on the future purchase of alternative fueled vehicles for North Carolina's Motor Fleet. The Committee also heard a report from the North Carolina Energy Policy Council on the potential savings contained in its Policy Recommendations for State Buildings which will be reported to the Governor. At the second meeting, the Committee heard from the Director of Motor Fleet Management to learn about the State's current compliance and future compliance plans with EPACT and heard from the Air Quality Section of DEHNR on the effect the choices of alternative fueled vehicles are having on air quality. The Committee will continue its work following the 1996 Session of the General Assembly and will report to the 1997 Session of the General Assembly with a budgetary analysis of the costs of complying with EPACT, potential funding sources and procedures, and other relevant recommendations.

IV. ELECTION LAWS REFORM GROUPING

ELECTION LAWS REFORM COMMITTEE

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Election Laws Reform

The LRC Study Committee on Election Laws Reform was appointed in late 1995. Its charge was to study the election laws with a view to rewriting them generally. The full Committee met four times (excluding subcommittee work) and voted to recommend the following bills to the Short Session:

1. A BILL TO BE ENTITLED AN ACT TO ALLOW PERSONS WHO ARE UNABLE TO GO TO THE POLLS BECAUSE OF OBSERVANCE OF A RELIGIOUS HOLIDAY TO CAST AN ABSENTEE BALLOT. This bill would add a justification to the existing ones for receiving an absentee ballot that: Election day falls on a holiday of the voter's religion that the tenets of that religion say should be observed in a way that precludes voting.
2. A BILL TO BE ENTITLED AN ACT TO REPEAL THE SUNSET ON DESIGNATION OF EMPLOYMENT SECURITY COMMISSION OFFICES AS VOTER REGISTRATION AGENCIES AND TO PROVIDE FOR FUNDING. This bill would remove the July 1, 1996 sunset on the designation of ESC offices as voter registration offices. It would authorize ESC to use either its federal funding or money from its Special ESC Administration Fund. Neither would impact the General Fund.
3. A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR HOLDING THE CANVASS FOR PRIMARIES AND ELECTIONS ON THE THIRD RATHER THAN THE SECOND DAY AFTER ELECTION DAY. This bill would mean that the canvass, the official count of the votes by the board of elections, would typically be held on Friday instead of Thursday.
4. A BILL TO BE ENTITLED AN ACT TO TO ALLOW PRECINCT ASSISTANTS TO WORK SPLIT SHIFTS. This bill would allow the county board of elections to let precinct assistants work less than the full day required of the chief judge and the judges.
5. A BILL TO BE ENTITLED AN ACT TO ALLOW THE APPOINTMENT IN CERTAIN CIRCUMSTANCES OF PRECINCT OFFICIALS FOR A PRECINCT WHO ARE NOT REGISTERED VOTERS OF THAT PRECINCT. This bill would allow a county board of elections to appoint a nonresident of a precinct as a chief judge, a judge, or an assistant in a precinct, as long as:
 - * the person is a registered voter in the county;
 - * the county board cannot find sufficient qualified persons who live in the precinct; and
 - * the outsiders do not constitute a majority of either the 3 judges or of the assistants.
6. A BILL TO BE ENTITLED AN ACT TO PROHIBIT THE USE OF INELIGIBLE VOTER'S TESTIMONY ABOUT HOW THE VOTE WAS CAST; TO GIVE THE PERSON PROTESTING AN ELECTION THE RIGHT TO CALL FOR A NEW ELECTION WHEN THE NUMBER OF INELIGIBLE VOTERS EXCEEDS THE MARGIN OF VICTORY; AND TO MAKE RELATED CHANGES. This bill would change the current law, which says that if the number of ineligible voters in an election exceeds the margin of victory, the

person challenging the election must carry the burden of showing that the ineligible voters could have changed the result and may offer as evidence the ineligible voters' testimony as to how they voted.

7. A BILL TO BE ENTITLED AN ACT TO MAKE CORRECTIONS IN THE 1994 LEGISLATION DESIGNED TO BRING NORTH CAROLINA INTO COMPLIANCE WITH THE NATIONAL VOTER REGISTRATION ACT. This bill would correct certain omissions in the 1994 legislation that brought the State into compliance with the NVRA. A previous LRC study committee recommended an identical bill to the 1995 General Assembly and SB 58, containing those contents, was passed by both Senate and House. That bill, however, was held up in conference because of a dispute over an amendment that was added by one house. With this recommendation, this Study Committee is reiterating the recommendation for the cleanup, without taking a position on the amendment that is disputed in conference.
8. A BILL TO BE ENTITLED AN ACT TO CODIFY THE STATE BOARD OF ELECTIONS RULING CONCERNING CONTRIBUTIONS TO STATE CAMPAIGNS BY FEDERAL POLITICAL ACTION COMMITTEES. This bill would codify a State Board of Elections practice that requires a Federal PAC to register with the State and appoint an in-State resident as a deputy or assistant treasurer before that Federal PAC can make contributions to a North Carolina campaign.
9. A BILL TO BE ENTITLED AN ACT TO ADD TO THE MODES OF ELECTION THAT MAY BE CHOSEN LOCALLY FOR CITY AND COUNTY GOVERNMENTS THE FOLLOWING: CUMULATIVE VOTING AND PREFERENCE VOTING. This bill is permissive legislation adding cumulative voting and preference voting to the menu of options that may be locally initiated for modes of election of Boards of County Commissioners or City Councils. Any cost would be borne by the local government where the change was initiated.

Of the nine bills, the Fiscal Research Division has estimated that only Legislative Proposal VI is expected to impact the General Fund. That proposal could potentially result in a greater number of new elections being called because the burden is shifted away from the person calling for the new election. In certain instances that might result in a cost to the State for printing ballots. But an estimated dollar figure is not available.

The Committee considered a number of other issues, including campaign finance regulation, changes in laws affecting the filing of candidacies and ballot access, and a possible general rewrite of the election laws. The cochairs and members indicated their desire to continue the study after the Short Session.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

V. ENVIRONMENT GROUPING

ATLANTIC STATES MARINE FISHERIES COMPACT WITHDRAWAL COMMITTEE

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Atlantic States Marine Fisheries Compact Withdrawal

The Committee met four times: January 23, 1996; February 14, 1996; March 26, 1996; and April 22, 1996. The focus of the meetings was to develop an understanding of the role of the Atlantic States Marine Fisheries Compact ("ASMFC"), the effectiveness of the ASMFC to fisheries management in North Carolina, and whether the Committee should propose legislation to withdraw from the ASMFC. The Committee heard presentations from speakers including commercial and recreational fishermen, members of the Marine Fisheries Commission, the Division of Marine Fisheries, and North Carolina delegates to the ASMFC. In addition, the Committee heard a report from Mr. Dan McLawhorn of the N.C. Department of Justice concerning constitutional issues relating to the ASMFC. The Committee also received written responses from concerned citizens relating to the ASMFC. The Committee prepared written questions for the Director of the ASMFC and heard a presentation in response to those questions from Mr. Jack Dunnigan, Executive Director, at the April meeting.

The Committee plans to resume its deliberations after the 1996 Regular Session of the 1995 General Assembly and to report to the 1997 General assembly.

WATER ISSUES COMMITTEE

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Water Issues

The Legislative Research Commission's Study Committee on Water Issues met 5 times from January 1996 through April 1996. The sole focus of these meetings was the review of the testing requirements and costs under the Safe Drinking Water Act.

At the first meeting, January 18, 1996, the Commission heard presentations on the history of the State drinking water program, the federal Safe Drinking Water Act, the high costs of required drinking water tests, the decision to close the State Laboratory of Public Health, and estimates of testing costs if the State Lab were to perform these tests. Discussion at the second meeting, February 15, 1996, focused on costs of drinking water tests. The Committee learned that the original State lab estimates were too low. Information was also presented on costs of compliance testing at state labs in other states. The Committee heard that water testing costs have decreased dramatically because the State has obtained waivers from EPA that eliminate some tests and reduce the frequency at which other tests are performed. At the third meeting, March 11, 1996, the Committee received the new estimates from the State Lab. The Committee also looked at alternate methods of reducing costs to small water systems. At its fourth meeting, April 1, 1996, the Committee held an extensive discussion on obtaining additional waivers from EPA as an effective means of reducing the testing burden on water systems. The Committee also looked at ways to assist small water systems obtain the susceptibility waivers already available to them. At its final meeting on April 22, the Commission reviewed its draft report to the Legislative Research Commission. The recommendations contained in this report include:

1. AN ACT TO PROVIDE THAT NO STATE RULE REGULATING DRINKING WATER STANDARDS AND TESTING MAY BE MORE RESTRICTIVE THAN THE FEDERAL LAW.
2. AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES TO FUND THE DIVISION OF ENVIRONMENTAL HEALTH TO IMPLEMENT A WAIVER PROGRAM FOR CERTAIN DRINKING WATER TESTS. This bill carries an appropriation of \$425,000 for fiscal year 1996-1997.
3. AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES TO FUND THE DIVISION OF ENVIRONMENTAL HEALTH TO PROVIDE ASSISTANCE TO

SMALL WATER SUPPLY SYSTEMS TO OBTAIN AVAILABLE SUSCEPTIBILITY WAIVERS FROM CERTAIN DRINKING WATER TESTS UNDER THE NORTH CAROLINA DRINKING WATER ACT. This bill carries an appropriation of \$425,000 for fiscal year 1996-1997.

The Committee plans to resume its deliberations after the adjournment of the 1996 Regular Session of the 1995 General Assembly.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

VI. FAMILY AND JUVENILE LAW GROUPING

GRANDPARENT VISITATION RIGHTS COMMITTEE

Authority: SL95-542, HB 898

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GRANDPARENT VISITATION RIGHTS COMMITTEE

The Committee has met five times. It has studied the issue of whether North Carolina laws allowing grandparents to sue for visitation with their grandchildren should be amended, particularly as to whether the state should allow a grandparent to sue where the grandchild lives in an intact family. Members of the public have addressed the Committee at each meeting. Grandparents' rights advocates, child advocates, and mediators have also spoken to the Committee. The Committee has looked at other states' statutory and case law concerning grandparent visitation, particularly the case law examining the constitutionality of statutes allowing grandparent visitation suits in intact family situations.

The Committee will resume meeting after the 1996 Regular Session and will report to the 1997 General Assembly.

GUARDIAN AD LITEM PROGRAM COMMITTEE

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Guardian Ad Litem

The LRC Guardian Ad Litem Study Committee met four times prior to the short session of the 1995 General Assembly: January 5, February 9, March 15, and April 12. At the first meeting the Committee reviewed its charge from the General Assembly (see Sec. 21.12 of Chapter 324 of the 1995 Session Laws) and heard presentations from Judge Jack Cozort, Acting Director of the AOC, and Ilene Nelson, Administrator of the GAL Program, on the GAL program's purpose and mission. Also at the first meeting, committee staff reviewed statutory and budgetary actions taken by the 1995 General Assembly pertaining to the GAL program, and the implementation and effects of those changes on the program. At the second meeting DSS representatives discussed their relationship and involvement with the GAL program.

Over the next three meetings the Committee heard presentations on the following topics:

1. **DSS Role in Abuse and Neglect Cases:** this discussion involved presentations from DSS program administrators in Child Protective Services and Foster Care Services. The presentations covered the legislative mandate to protect children who are alleged to be abused, neglected, or dependent, and the system in place for carrying out that mandate. A county director of social services also gave a presentation on the system from a local perspective.
2. **GAL Program Staffing, Organizational Structure, and Volunteer Training:** this discussion provided information on: number of cases handled by GAL volunteers and attorneys; GAL program personnel grades, compensation, and supervisory duties; training of volunteers; compensation of attorneys; and the impact of reductions in attorney fees and retainers.
3. **Case studies:** A GAL supervisor and DSS supervisor in Alamance county worked together to select and present to the Committee three actual case studies involving children who had been abused and had received protective services from DSS and GAL. Also testifying at this discussion were: a district court judge, two attorneys who represent parents in child abuse cases, and a GAL attorney.
4. **Role of Attorneys in Guardian Ad Litem Proceedings:** Janet Mason, Institute of Government, informed the Committee of the various parties who are usually represented by counsel in child abuse proceedings, the nature of the

representation, and whether the State is required to provide representation to indigent parents and to the child in these proceedings.

5. Court Appointed Special Advocate (CASA) Programs in other states: Michael Piraino, Director of National CASA, gave the Committee an overview of what other states are doing with respect to providing advocates for children in abuse and neglect proceedings.

Some of the concerns raised by the Committee during its study were as follows:

1. What possibilities exist for private funding of GAL programs?
2. What are the perceptions of persons throughout the state who come in contact with the GAL program regarding its effectiveness?
3. Is the training of volunteer GALs adequate?
4. What, if any, areas of the GAL program could survive further funding reductions without harming the purpose and effectiveness of the program?

At its meeting in April, the Committee decided on the focus for the remaining meetings to be held after the short session. It is the Committee's intent that future meetings will involve:

1. Public hearings in at least two areas outside of Raleigh to ascertain how GAL services are perceived at the local level;
2. Analysis of survey results: prior to the Committee's first meeting after the short session, staff will survey specific groups to obtain information on how the NC GAL program is working, and to determine the scope and cost of these type of programs in other states. The groups to be surveyed in North Carolina include: district court judges, county attorneys, social service workers, GAL volunteers and attorneys, and others. Surveys will be conducted on an anonymous basis to promote candidness in survey responses.
3. Cost analysis showing the amount and source of funding for legal services and administration in child abuse and neglect and dependency cases for the Child Protective Services and GAL programs.
4. Other matters raised by the Committee during its study.

Finally, as a result of a situation brought to the Committee's attention, the Committee requested that staff seek a formal opinion from the State Bar or the Attorney General, as appropriate, on the ethical duties of the GAL attorney. The situation arose when an assertion was made by a GAL attorney that in a given case, a local district attorney or county attorney may not speak to a GAL volunteer representing a child without the permission of the GAL attorney. Opinions differ on whether this assertion is a valid one and thus the Committee is seeking a formal opinion.

The Committee will resume its study of Guardian Ad Litem and child protective services programs after the adjournment sine die of the 1995 General Assembly.

VII. INSURANCE LAWS AND FINANCIAL INSTITUTIONS GROUPING

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Insurance and Insurance-Related Issues

Senate Joint Resolution 881 authorized the Insurance and Insurance-Related Issues Committee of the Legislative Research Commission to study the issue of coastal insurance availability and affordability and the operation of the Beach Plan. The Committee met five times to consider insurance and insurance-related issues. During these meetings, the Committee studied and discussed the issue of coastal insurance availability and affordability, including ways to encourage the voluntary market to write policies in the beach area of the State and how to improve the North Carolina Insurance Underwriting Association (Beach Plan). The Committee requested the Department of Insurance and all interested parties to present their concerns and recommendations to the Committee.

The Committee also considered issues related to the establishment of an emergency management trust fund, the assumption of reinsurance, the supervision and liquidation of continuing care facilities, the regulation of insurance company investments, insurance coverage of motor vehicles, and Department recommendations regarding making conforming and clarifying changes to the laws in the areas of Medicare supplement insurance and small employer health benefits.

The Committee will report to the 1996 Regular Session of the 1995 General Assembly. The following is a list of Committee recommendations:

1. A BILL TO BE ENTITLED AN ACT TO DEVELOP A PROPOSAL FOR A RESERVE FUND TO PAY CATASTROPHIC LOSSES AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. The bill directs the North Carolina Insurance Underwriting Association and the Department of Insurance to study the feasibility of and to develop a proposal for a tax-exempt reserve fund for the purpose of paying catastrophic losses incurred by wind risks insured under policies issued by the Association. The Department and the Association are required to report to the Committee on the proposal on or before October 1, 1996, and to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before March 1, 1997. The Department has indicated there will be no cost involved.
2. BILL TO BE ENTITLED AN ACT TO REVISE THE PARTICIPATION FORMULA OF THE NORTH CAROLINA INSURANCE UNDERWRITING ASSOCIATION AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This legislation directs the directors of the North Carolina Insurance Underwriting Association, with the approval of the Commissioner, to revise the participation of and credits to member companies to encourage insurance companies to write voluntary policies in the beach area of the State and to write themselves out of the losses of the Plan. The Department has indicated there will be no cost involved. The Department has indicated there will be not cost involved.

3. A BILL TO BE ENTITLED AN ACT TO PROVIDE ADDITIONAL COVERAGE UNDER THE NORTH CAROLINA BEACH PLAN AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This bill requires the North Carolina Insurance Underwriting Association to offer business income coverage in addition to the other insurance coverages offered by the Plan.
4. A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT INSURERS ARE NOT REQUIRED TO OBTAIN WRITTEN CONSENT TO RATE ON EACH POLICY RENEWAL AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This legislation amends G.S. 58-36-30 and G.S. 58-40-30 to provide that insurance companies do not have to obtain the written consent of an insured each time a policy is renewed.
5. A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT UNINSURED AND UNDERINSURED MOTORIST COVERAGE MAY BE LIMITED OR EXCLUDED UNDER EXCESS OR UMBRELLA POLICIES AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This bill adds a new section to Article 3 of Chapter 58 to provide that insurers may limit uninsured and underinsured motorist coverage under excess or umbrella policies.
6. A BILL TO BE ENTITLED AN ACT TO CONFORM THE LAW GOVERNING SETOFFS WITH THE LAW GOVERNING THE RECOVERY OF PREMIUMS OWED INSURERS AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. G.S. 58-30-160(b)(4) provides that no setoff shall be allowed in favor of a person against an impaired or insolvent insurer if the person is obligated to pay the insurer earned premiums. This bill repeals that provision because G.S. 58-30-160(c) and G.S. 58-30-175 govern setoffs of agents and G.S. 58-30-160(b)(4) is unnecessary.
7. A BILL TO BE ENTITLED AN ACT TO REPEAL THE LAW PROHIBITING LICENSED REINSURERS FROM ASSUMING REINSURANCE FROM NONADMITTED INSURERS AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This bill repeals G.S. 58-43-20, which prohibits licensed reinsurers from purchasing reinsurance from nonadmitted insurers.
8. A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR MORE EFFECTIVE FINANCIAL SUPERVISION, REHABILITATION, AND LIQUIDATION PROCEDURES FOR CONTINUING CARE RETIREMENT CENTERS AND TO PROVIDE THAT CONTINUING CARE AGREEMENTS ARE SUBORDINATE TO THE COST OF ADMINISTRATION IN LIQUIDATION AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This legislation amends Article 30 of Chapter 58 to provide that continuing care retirement centers licensed under Article 64 of Chapter 58 are governed by the provisions of Article 30 and to provide that claims of continuing care agreements shall be subordinate to a liquidator's cost of administration in the event of liquidation. The Department has indicated there will be no cost involved.
9. A BILL TO BE ENTITLED AN ACT TO CONFORM THE LAW GOVERNING SMALL EMPLOYER HEALTH BENEFIT PLANS TO 1995 LEGISLATION AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S

COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This legislation deletes the reference to "group" in G.S. 58-50-130(a)(2), thereby requiring health benefit plans of small employers to credit the time an employee or dependent of an employee was covered under a previous health plan, regardless of the type of plan, when determining whether a preexisting condition provision applies to the person.

10. A BILL TO BE ENTITLED AN ACT TO REVISE THE DEFINITION OF NONFLEET MOTOR VEHICLE TO ALLOW FLEXIBILITY FOR THE NUMBER OF AUTOMOBILES THAT MAY BE WRITTEN UNDER A PERSONAL AUTOMOBILE INSURANCE POLICY AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This bill amends G.S. 58-40-10(2), the definition of "nonfleet" motor vehicle, to provide that a nonfleet motor vehicle is a motor vehicle that is not eligible to be classified as a fleet vehicle because it is one of four or fewer vehicles under contract or owned by the insured and gives the Rate Bureau the authority to adopt rules that specify special circumstances in which more than four vehicles may be covered under a nonfleet policy.
11. A BILL TO BE ENTITLED AN ACT TO AMEND THE MEDICARE SUPPLEMENT INSURANCE LAWS TO COMPLY WITH THE FEDERAL SOCIAL SECURITY AMENDMENTS OF 1994 AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This legislation amends Article 54 of Chapter 58 by adding a new section to the Article that gives the Commissioner of Insurance the authority to adopt rules necessary to conform Medicare supplement policies and certificates to the requirements of federal law and regulations.
12. A BILL TO BE ENTITLED AN ACT TO LESSEN THE REQUIREMENT OF INSURANCE COMPANIES TO MAINTAIN TRUST ACCOUNTS OR OBTAIN LETTERS OF CREDIT OR GUARANTY BONDS AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON INSURANCE AND INSURANCE-RELATED ISSUES. This bill amends G.S. 58-7-162 to provide that, in determining the financial condition of an insurer, allowable assets include assets up to 5% of the surplus as regards policyholders, or the monetary surplus, before the premiums must be placed in a trust account or the agent must obtain a letter of credit or financial guaranty bond.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

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Financial Institutions Issues

The Financial Institutions Issues Committee met five times and a Subcommittee on Monument Contractors Licensing met once, before the Committee made its interim report for the 1996 Regular Session of the 1995 General Assembly.

The Committee held three meetings to consider issues related to the consolidation of the State's financial institutions regulatory agencies. The Committee heard from Hal Lingerfelt, Commissioner of Banks, Stephen Eubanks, Savings Institution Administrator, and Ted Mann, Credit Union Administrator. The Committee also heard presentations on issues related to regulatory agency consolidation by Curtis Stitt, Superintendent of Financial Institutions for the State of Ohio, and Sidney Bailey, Commissioner of Financial Institutions for the State of Virginia.

Additionally, the Committee considered the issues of monument contractor licensing, worthless check problems, financial institutions' holiday problem, and a technical correction to the Reciprocal Interstate Banking Act.

In its interim report, the Financial Institutions Issues Committee found that the consuming public and the state chartered banks would benefit from an amendment to the Reciprocal Interstate Banking Act. This amendment would give to state chartered banks the same authority to appoint a subsidiary bank as an agent for interstate banking purposes as national banks are permitted under the federal Interstate Banking Act. The Committee also found that it would be in the best interest of the consuming public and the state chartered banks, savings and loan associations and savings banks, if the provisions of state law mandating certain financial institution holidays were repealed and the boards of directors of the financial institutions were authorized to establish and adopt the institution holidays.

Considering these findings, the Committee recommended the following two bills to the 1996 Regular Session of the 1995 General Assembly:

1. A BILL TO BE ENTITLED AN ACT TO IMPLEMENT A RECOMMENDATION OF THE LRC'S FINANCIAL INSTITUTIONS ISSUES COMMITTEE TO AMEND THE NORTH CAROLINA RECIPROCAL INTERSTATE BANKING ACT. This bill would permit state chartered banks organized under North Carolina law, that are subsidiaries of bank holding companies, to act as an agent for other banks affiliated with the bank holding company. As an agent, the bank could receive deposits, renew time deposits, close and service loans, and receive payments on other obligations, without becoming a branch of the affiliate bank.
2. A BILL TO BE ENTITLED AN ACT TO IMPLEMENT A RECOMMENDATION OF THE LRC'S FINANCIAL INSTITUTIONS ISSUES COMMITTEE TO AUTHORIZE STATE CHARTERED BANKS, SAVINGS AND LOAN ASSOCIATIONS, AND SAVINGS BANKS, TO OBSERVE HOLIDAYS AS DETERMINED BY THEIR BOARDS OF DIRECTORS. This bill would repeal statutory holidays for state chartered banks, savings and loan associations, and savings banks, and allow these financial institutions to determine their own holidays.

The Committee will resume its deliberations after the 1996 Regular Session. It expects to receive a performance audit report from the State Auditor on the three financial institutions regulatory agencies. The audit is to focus on cost savings and efficiencies, if any, that might arise from the consolidation of two or three of these agencies.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

VIII. LABOR AND PERSONNEL GROUPING

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Personnel Issues

The Committee on Personnel Issues held four meetings as a full committee and established two subcommittees to address the two distinct issues assigned. The Retirees' Tax Subcommittee met once and plans to continue meeting after the Short Session of the General Assembly.

The State Personnel Issues Subcommittee was charged with studying State Personnel issues, including needed revisions to the State Personnel Act. It met five times and identified the following issues and areas for potential review:

1. Question of duplication between the Office of Administrative Hearings and the State Personnel Commission in the contested case hearing process.
2. Changes to the State Personnel Commission.
3. Question of duplication of work between the Office of State Personnel and agency personnel offices particularly in the records processing, classification, equal opportunity, and routine salary administration functions.
4. Delegation of authority from the Office of State Personnel to agency personnel offices.
5. McDaniel Organizational Study of the Office of State Personnel.
6. Ernst and Young Study of the State's classification system.
7. Current grievance procedure for employees who are subject to the State Personnel act.
8. Changes to the State Personnel Act, Chapter 126 of the General Statutes.
9. Review of the Comprehensive Compensation System.
10. Structure and use of Employee Assistance Program.
11. Discrepancies in salaries and use of the newly established in-range increase policy.
12. Use of lapsed salary fund.
13. Establishing credentials requirements for agency personnel directors.

Based on that subcommittee's findings and recommendations, the Committee on Personnel Issues recommends the following three bills to the 1996 General Assembly:

1. A BILL TO BE ENTITLED AN ACT TO STREAMLINE THE REVIEW OF GRIEVANCES FILED BY STATE EMPLOYEES AND APPLICANTS FOR STATE GOVERNMENT. This bill would restructure the process by which State employees, former employees, local government employees covered by the State Personnel Act, and applicants present grievances.
2. A BILL TO BE ENTITLED AN ACT TO REDUCE DUPLICATION OF WORK BETWEEN THE OFFICE OF STATE PERSONNEL AND OTHER AGENCIES, DEPARTMENTS, AND INSTITUTIONS BY THE DECENTRALIZATION OF CERTAIN FUNCTIONS FROM THE OFFICE OF STATE PERSONNEL TO THOSE AGENCIES, DEPARTMENTS, AND INSTITUTIONS. This bill would authorize the Office of State Personnel to make provisions for a decentralized system of personnel administration, where such is appropriate, and to do so without additional cost to the State.
3. A BILL TO BE ENTITLED AN ACT TO ESTABLISH QUALIFICATIONS FOR THE POSITIONS OF STATE PERSONNEL DIRECTOR AND HUMAN RESOURCES DIRECTORS OF STATE AGENCIES, DEPARTMENTS, AND INSTITUTIONS. This bill would establish general qualifications for the State Personnel Director position and would require that individuals selected as directors for agency, institution, or university human resources offices meet the position requirements for those positions, as approved by the State Personnel Commission.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

WORKERS' COMPENSATION COMMITTEE

Authority: SL95-542, HB 898

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Workers' Compensation

The LRC Study Committee on Workers' Compensation was appointed in late 1995. Its charge was to study workers' compensation laws in certain ways without undoing the decisions made in the Workers' Compensation Reform Act of 1994. Specifically subject to study were recommendations of the Chair or Advisory Committee of the Industrial Commission and the workers' compensation needs of volunteer fire and rescue workers. The full Committee met five times, excluding subcommittee work. The Committee voted to recommend the following bills to the Short Session:

1. A BILL TO BE ENTITLED AN ACT TO CHANGE THE REQUIREMENT WITH REGARD TO WORKERS' COMPENSATION COVERAGE OF SUBCONTRACTORS. This bill would return the law with regard to workers' compensation for subcontractors without employees to its pre-1987 status (when they were not required to be covered). The bill would leave in place, however, a post-1987 change that makes it possible for subcontractors without employees to receive coverage under the general contractor's policy if they want it. The impetus for this recommendation was the outcry from small business contractors about the effect of a 1995 change removing their right to waive the 1987 coverage requirement.
2. A BILL TO BE ENTITLED AN ACT TO PROVIDE FUNDING FOR WORKERS' COMPENSATION FOR VOLUNTEER FIRE DEPARTMENT, RESCUE SQUAD, AND EMS WORKERS. This bill would appropriate an extra \$3 million in fiscal 1996-97 for the Workers' Compensation Fund of the Fire and Rescue Commission. This would add to \$1.5 million already appropriated for 1996-97. It would go to support workers' compensation for VFD/Rescue/EMS units.
3. A BILL TO BE ENTITLED AN ACT TO CHANGE THE REQUIREMENT FOR HOSPITAL REIMBURSEMENT IN WORKERS' COMPENSATION CASES.

This bill would temporarily modify the DRG (diagnostic related grouping) reimbursement system used for hospitals in workers' compensation cases. From April 1, 1996 to June 30, 1997 no hospital would receive more than 100% of the actual amount of the bill or less than 90%. The hospitals are prohibited from artificially overbilling their workers' compensation accounts. The Fiscal Research Division has determined that there would be a savings to the State for workers' comp costs for teachers and State employees', but no figure is available.

4. A BILL TO BE ENTITLED AN ACT TO REMOVE LANGUAGE REQUIRING AN ATTORNEY'S OPINION AND WRITTEN STATEMENT IN APPEALS BY INDIGENTS FROM THE INDUSTRIAL COMMISSION TO THE NORTH CAROLINA COURT OF APPEALS. This bill would streamline the appeals procedure to conform to the procedure for indigent appeals in other types of cases.
5. A BILL TO BE ENTITLED AN ACT TO CONFORM THE PENALTY FOR WORKERS' COMPENSATION FRAUD TO THE PENALTY FOR INSURANCE FRAUD AND TO RAISE THE PENALTIES FOR CERTAIN OTHER WORKERS COMPENSATION OFFENSES FROM CLASS 1 MISDEMEANORS TO CLASS H FELONIES. This bill conforms the penalties for workers' compensation fraud to the penalties for insurance fraud generally. It affects employees, employers, and health care providers. The report contains a fiscal note that reports there will be no fiscal impact.
6. A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL CORRECTIONS IN THE 1995 WORKERS' COMPENSATION LOSS COSTS RATING LAWS. This bill corrects some outdated citations.

The Committee discussed some other questions, including the use of deductibles in the ratemaking process, the role of drugs in workplace accidents, and the administrative needs of the Industrial Commission. The cochairs and members indicated the desire to continue the study after the Short Session to discuss those and other matters.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

IX. PROPERTY ISSUES GROUPING

LIEN LAWS COMMITTEE

Authority: SL95-542, HB 898

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Lien Laws Study Committee

The Lien Laws Study Committee has met three times and is filing an interim report. The Committee has focused its attention on two specific areas and is making two recommendations in its report.

1. **AN ACT TO PROVIDE FOR LIEN RIGHTS FOR PERSONS WHO FABRICATE DIES, MOLDS, FORMS, OR PATTERNS AND WHO FABRICATE PRODUCTS FROM DIES, MOLDS, FORMS, OR PATTERNS.** This recommendation involves lien rights for persons who fabricate dies, molds, forms, or patterns and who fabricate products from dies, molds, forms, or patterns. The Committee is recommending an amendment to G.S. 44A-2, which deals with possessory liens. The amendment would provide for a lien against the die, mold, form, or pattern, with the amount of the lien being for the unpaid contracted charges due for making the die, mold, form, or pattern, and the unpaid charges due for making whatever products are made from the die, mold, form or pattern. There is no cost for this recommendation.
2. **AN ACT TO PROVIDE LIENS ON REAL PROPERTY FOR THE FURNISHING OF RENTAL EQUIPMENT.** This recommendation of the Committee is to amend several sections of Article 2 of Chapter 44A, which provides for statutory liens on real property for mechanics, laborers and materialmen. The amendments would provide for liens for those who provide rental equipment directly utilized on the real property in making improvements to the real property. Thus, suppliers of this type of rental equipment would be in the same position as suppliers of labor, materials, or professional or skilled services such as architects, engineers, land surveyors, and landscape architects. There is no cost for this recommendation.

The Committee may study further revisions of Chapter 44A of the General Statutes in the interim between the 1996 Regular Session and the beginning of the 1997 Session if the affected parties can agree on further changes.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

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Property Issues

The Committee on Property Issues met five times from February to April 1996. The Committee considered changes to the law governing municipal condemnation, municipal annexation, and municipal zoning and planning powers outside municipal limits in the area known as the "ETJ".

The Committee recommends the following to the 1996 Regular Session of the 1995 General Assembly:

1. A BILL TO BE ENTITLED AN ACT TO AMEND CHAPTER 40A GOVERNING CONDEMNATION TO AUTHORIZE AWARD OF ATTORNEYS FEES AND INTRODUCTION OF ANY EVIDENCE OF PROPERTY VALUE.
2. A BILL TO BE ENTITLED AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH A POPULATION OF 5,000 OR MORE.
3. A BILL TO BE ENTITLED AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH A POPULATION OF LESS THAN 5,000.
4. A BILL TO BE ENTITLED AN ACT TO REQUIRE FIRST CLASS MAIL NOTICE TO ALL PROPERTY OWNERS IN AN AREA PROPOSED FOR ADDITION TO A MUNICIPALITY'S EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION, PROPORTIONAL REPRESENTATION FOR

RESIDENTS OF THE ETJ ON THE PLANNING AGENCY, AND A HEARING BEFORE COUNTY APPOINTMENT OF REPRESENTATION TO THE PLANNING AGENCY.

5. In addition, the Committee recommends that municipalities consider deferring water and sewer assessments until property owners actually hook up to the municipal water and sewer system, as is the policy in some North Carolina cities. The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

X. REGULATION GROUPING

STATE PURCHASING AND CORRECTION ENTERPRISES COMMITTEE

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State Purchasing and Correction Enterprises
The State Purchasing and Correction Enterprises Committee has not met.

DOWNTOWN REVITALIZATION COMMITTEE

Authority: SL95-542, HB 898

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Downtown Revitalization

The Committee on Downtown Revitalization met three times and considered a variety of issues related to the revitalization of downtown areas across the State. The Committee heard presentations from Preservation N.C., the Main Street Program, HyettPalma-a national consulting firm on urban revitalization, the Housing Finance Agency, Citizens for Business and Industry, and the League of Municipalities. The Committee also received reports from a cross-section of large and small municipalities

across the State and held meetings in Dunn, N.C. and Fayetteville, N.C. to view their downtown areas. Issues discussed by the Committee included the importance of downtown areas to economic development and quality of life, building code changes, the use of tax credits to stimulate growth, increased local input in ABC licensing decisions, changes in environmental regulations, and the importance of downtown housing to the revitalization of downtowns. The Committee will continue to examine these and other issues after the 1996 Regular Session and will report to the 1997 General Assembly.

XI. STATE GOVERNMENT REORGANIZATION AND PRIVATIZATION COMMITTEE

Authority: Chapter 542 provided for this to be an independent legislative study; however, it was incorporated by the LRC at its meeting on October 5, 1995, into its plan of studies; SL95-542, Part XXI, HB 898; SL95-324, Sec 8.3, HB 229; SL95-507, Sec 7.29, HB 230

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State Government Reorganization and Privatization

The State Government Reorganization and Privatization Study Committee met six times during the interim. The Committee has reviewed and will continue to review the funding for UNC Hospitals, public school transportation privatization, relevant recommendations of the Government Performance Audit Committee, privatization and quasi-governmental privatization of public health programs, and privatization by the State universities. The Committee has also reviewed and approved legislation from the Reorganization Subcommittee on State printing, the abolition of certain boards and commissions, legislative confirmation of gubernatorial appointees, and the transfer of the rail safety program from the Utilities Commission to the Department of Transportation.

The Committee appointed two subcommittees -- one on Privatization and one on Reorganization -- that also met several times. The Privatization Subcommittee is studying among other matters the privatization of public school transportation, the potential sale of the State's stockholdings in the North Carolina Railroad, the potential privatization of the State Ports, leasing as an alternative to State building construction, equipment leasing, and the implementation of MCNC's program to become self-supporting. The Privatization Subcommittee has additional items it will consider after the short session. The Reorganization Subcommittee has studied inactive boards and commissions, legislative confirmation of appointments, State printing operations, the State's apprenticeship program, and the rail safety program. The Subcommittee will continue looking at boards and commissions and other matters after the short session.

The Committee recommends the following legislation for the 1996 session of the 1995 General Assembly:

1. A BILL TO BE ENTITLED AN ACT TO ENFORCE ECONOMY IN STATE PRINTING COSTS AND TO PROMOTE OPPORTUNITIES FOR INCREASED PRIVATIZATION OF PRINTING. This bill requires agencies to obtain approval to use colors in publications and provides penalties for agency noncompliance with certain printing laws. The bill also allows agencies to ensure that Correction Enterprises' prices for printing and any other services that it provides are substantially in accord with those in the open market.
2. A BILL TO BE ENTITLED AN ACT TO ABOLISH AND MERGE CERTAIN BOARDS AND COMMISSIONS. This bill abolishes or merges thirty boards, commissions, and councils in State government, most of which are inactive.

3. A BILL TO BE ENTITLED AN ACT TO TRANSFER THE RAIL SAFETY SECTION FROM THE UTILITIES COMMISSION TO THE DEPARTMENT OF TRANSPORTATION AND TO DIRECT THE SECRETARY OF TRANSPORTATION TO STUDY THE NEED FOR CONTINUATION OF THE RAIL SAFETY INSPECTION PROGRAM. This bill transfers the rail safety inspection program from the Utilities Commission to the Department of Transportation and directs the Secretary of Transportation to study the continued need for the program.
4. A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR LEGISLATIVE CONFIRMATION OF CERTAIN EXECUTIVE APPOINTMENTS AND TO CHANGE THE COMPOSITION, APPOINTMENTS, AND TERMS OF VARIOUS BOARDS, COMMISSIONS, AND AUTHORITIES WITHIN STATE GOVERNMENT. This bill provides for legislative confirmation of several officers and boards in State government, most of whom are appointed by the Governor, and makes changes to the structure of several other boards. The confirmation provisions would only take effect if the veto referendum is successful.

There are no anticipated fiscal costs for these recommendations.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

XII. EXECUTIVE BUDGET ACT REVISION COMMITTEE

Authority: SL95-542, HB 898

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Executive Budget Act Revision

The Executive Budget Act Study Committee met five times before the convening of the 1996 Session of the 1995 General Assembly.

The Committee met with John Sanders, a former faculty member at the Institute of Government, as well as the State Treasurer, the State Auditor, the State Controller, and the State Budget Officer, to discuss the Executive Budget Act and the budgetary process. After some discussion, the Committee asked Mr. Sanders to begin preparing an editorial revision of the Executive Budget Act that accurately reflects current budgetary procedures and practices. The Committee plans to resume work on this issue after the short session.

The Committee focused most of its attention on its charge to consider the constitutional requirement of separation of powers as it relates to the execution of the budget and the gubernatorial veto.

The Executive Budget Act has been repeatedly amended to protect the integrity of the enacted budget while granting essential flexibility to the Governor. The anticipation of the gubernatorial veto sheds a new light on this issue and promises to alter the balance of power between the legislative and executive branches. The Committee considered many legislative alternatives.

In its interim report, the Committee recommends the following two bills to the 1995 General Assembly for consideration during the 1996 Regular Session:

1. A BILL TO BE ENTITLED AN ACT TO MAKE CERTAIN CHANGES IN THE CONSTITUTION FOR IMPLEMENTING BUDGET ADJUSTMENTS AND ALLOCATIONS. This legislative proposal gives the voters the opportunity to vote on a constitutional amendment that will allow the General Assembly to appoint a commission that may work with the Governor in certain specified instances when the budget enacted by the General Assembly needs to be adjusted. There is no fiscal impact for this legislative proposal.
2. A BILL TO BE ENTITLED AN ACT TO MAKE CONFORMING CHANGES TO IMPLEMENT BUDGET ADJUSTMENTS AND ALLOCATIONS. This legislative proposal provides that some budget authority delegated to the Governor be exercised in conjunction with a legislative committee. The fiscal impact for this legislative proposal is approximately \$35,000.

The LRC at its meeting on May 1, 1996, reviewed this Committee's report and accepted it for transmittal to the 1996 Regular Session of the 1995 General Assembly.

**PART II. SUMMARIES OF REFERRALS TO AGENCIES
AND EXISTING STUDY COMMISSIONS**

A. AGING, NORTH CAROLINA STUDY COMMISSION ON

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Sen. Charlie Dannelly
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Replacing Mr. Tomlinson:
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Domiciliary Care and Nursing Homes

The Study Commission on Aging appointed a subcommittee to review the domiciliary care and nursing homes issues which were referred to the Commission by the Legislative Research Commission.

The subcommittee has held two meetings to gather information and hear testimony on enforcing compliance with State and federal regulations by domiciliary care and nursing homes. The subcommittee has gathered considerable information on penalties and the process for imposing penalties against those homes in noncompliance.

The subcommittee and full Commission will continue the review of these issues after the 1996 Regular Session.

B. ENVIRONMENTAL REVIEW COMMISSION

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Sen. John Gerald Blackmon
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Cape Fear River Basin

The Environmental Review Commission (ERC) received and discussed a report by the Division of Environmental Management, DEHNR, on the Basinwide Water Quality Management Plan at its meeting on 18 January 1996. The report focused on the Neuse River Basin and the Cape Fear River Basin. The ERC will continue to consider issues relating to the Cape Fear River Basin after the 1996 Regular Session. The ERC makes no findings or recommendations at this time.

C. FAMILY, COMMISSION ON THE

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Child Day Care Provider Record Check and Juvenile and Family Law

The Commission on the Family was requested by the Legislative Research Commission to study issues related to child day care provider record checks and juvenile and family law. The Commission has no specific recommendations at this time, but will consider these and other issues when it resumes its deliberations after the 1996 Regular Session. The Commission will report to the 1997 General Assembly.

D. HEALTH CARE REFORM COMMISSION, NORTH CAROLINA

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Chiropractic Care Emergency Medical Services

The LRC requested the North Carolina Health Care Reform Commission to study the issues of chiropractic care and emergency medical services in addition to other matters assigned by statute.

The Commission will report to the 1996 Regular Session. The N.C health Care Reform Commission during its February meeting included the passed three resolutions:

1. **RESOLUTION SUPPORTING IMMUNIZATION PROGRAM.** The Commission recommends that the immunization program and services established under Part 2 of Chapter 130A of the General Statutes be continued as currently administered by the Department of Environment, Health, and Natural Resources and local health departments, and that State funding for the program should continue to be provided at levels sufficient to ensure that the original purposes and intent of the program are accomplished.
2. **RESOLUTION SUPPORTING MSAs.** The Commission supports the concept of Medical Savings Accounts as an alternative source of funding for health care and recommends that legislation be introduced authorizing the establishment of Medical Savings Accounts.

3. **RESOLUTION TO ALLOW THE HEALTH ALLIANCE TO SELL CATASTROPHIC POLICIES.** The Commission recommends that legislation be introduced authorizing Health Purchasing Alliances to make catastrophic insurance coverage available to Alliance members.

At its April meeting, the Commission also voted to recommend legislation to: (1) raise the fee for medical records from the allowable per page charge from fifty cents to seventy-five cents and allowable minimum charge from ten dollars to twelve dollars; and (2) require registration of every physician in North Carolina on an annual basis with no increase in the current registration fee. The purpose of this is to assist the Commission in monitoring health provider shortfalls.

E. NEW LICENSING BOARDS, LEGISLATIVE COMMITTEE ON

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Clerk:

Occupational and Professional Regulation
Fire Alarm Installers
Forester Licensing
Qualified Environmental Professionals
Psychology Practice Act

The Legislative Committee on New Licensing Boards met twice before making its report to the 1996 session.

The Committee had four issues referred to it by the Legislative Research Commission for study: masters-level psychologists, fire alarm installers, environmental professionals, and foresters. The Committee took up no other issues. The Committee functioned in a dual capacity: (1) as a study committee authorized to review issues referred by the Legislative Research Committee and (2) as a screening committee for new licensing proposals, a function it normally performs during the legislative session but is authorized to also perform during the interim. All four bills were considered by the Committee with the understanding that they would be issued assessment reports, which in turn would be included in a study report to the Legislative Research Commission for the 1996 session.

The Committee heard numerous speakers on both sides of each issue, particularly on the proposals to recognize qualified environmental professionals and masters-level psychologists. The fire alarm installer licensing proposal was eventually withdrawn at the request of the interested parties so that work could continue on it in preparation for the 1997 session. The Committee voted on the other three proposals. The Committee voted unfavorably for the proposal to recognize qualified environmental professionals. The Committee voted favorably for the proposals for masters-psychologists and foresters and recommends in its report to the Legislative Research Commission the following two bills for consideration during the 1996 session:

1. A BILL TO BE ENTITLED AN ACT TO AMEND THE PSYCHOLOGY PRACTICE ACT AND RELATED STATUTES. This bill would allow masters-level psychologists to practice independently after a period of supervision.
2. A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE REGISTRATION REQUIREMENT FOR FORESTERS. This bill would require anyone using the term "forester" as part of their title to be registered by the Board of Registration for Foresters. (Currently, only those using the title "registered forester" must be registered).

F. SCHOOL CAPITAL CONSTRUCTION STUDY COMMISSION

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School Funding

The Legislative Research Commission referred a study of School Funding (Senate Bill 1088) to the independent School Capital Construction Study Commission. The primary charges included a general study of funding issues, including facilities costs, for public schools in North Carolina.

The Commission pursued a rigorous schedule between September 26, 1995, and April 11, 1996, in order to pursue the charges to the Commission by the General Assembly. This undertaking included visits to local schools and public hearings across the State. The Commission visited school units across the State including various school facilities in low-wealth rural, urban, and rapidly growing suburban communities. The Commission also heard from a variety of experts on both local and State finance and school facilities. Representatives of a variety of interest groups and associations spoke before, and participated actively in the work of the Commission.

The Commission heard extensive testimony from a variety of school finance experts on the implications of the current State-Local relationship in the funding of school facilities. A number of factors influencing local ability to pay for school facilities were considered by the Commission in its deliberations.

The Commission conducted, with the assistance of the State Board of Education and the Division of School Planning, Department of Public Instruction, a comprehensive School Facilities Needs Assessment that identified total public school facility needs at over \$6.2 billion over a five year period. This survey included jointly-approved (boards of county commissioners and school boards) reports for 113 of 119 local school units. This comprehensive survey, accomplished under demanding time constraints, reflects exceptional collaboration among the State Board of Education, local school boards and boards of county commissioners.

The Commission deliberated fully the extensive charges made by the General Assembly in its ten business meetings prior to reaching a unanimous vote on the Commission report on April 11, 1996.

The activities of the Commission included: ten Commission business meetings; nine public hearings; nine dinners with regional legislative delegations, county commissioners and members of local school boards; and visits to twenty-one public schools, including fifteen comprehensive school-site visits. The Commission heard from over 225 members of the public at public hearings and discussed public school facilities issues over dinner with hundreds of county commissioners, and members of school boards.

The Commission made its final report, including findings, recommendations and proposed legislation, to the General Assembly April 15, 1996. Commission findings and recommendations relevant to public school funding issues specified in Senate Bill 1088 - School Funding, included the following:

Finance Findings and Recommendations

Finding 1a - In place since 1933, the division of fiscal responsibility between the State and counties has worked well and should not be changed.

Finding 1b - Within the basic division of responsibility, the State has come forward on numerous occasions to provide help to counties in meeting their responsibility.

Finding 1c - The Commission finds that the large backlog of facility needs, combined with the low ability to pay of many rural counties and the lack of discretionary funding ability for all counties, makes it imperative that the State once again step forward with fiscal assistance for counties in meeting their school facility needs.

Finding 1d - The funding package should include bond financing to provide a quick infusion of funds for school facilities.

Recommendation 1 - The General Assembly should authorize a \$950 million State bond issue for public school facilities. The decision of the timing of the vote on the bond by the people of the State should be addressed by the General Assembly. The bonds should be issued by the State Treasurer over a period of not less than three years.

Finding 2 - It is desirable to couple the short-term infusion of facility aid from the recommended bond issue with a stream of dedicated State revenues on which counties can depend.

Recommendation 2 - The General Assembly should earmark the nonrecurring general fund revenue availability that will be freed-up by the capping out of the State's rainy-day fund on June 30, 1996 to start a school facilities trust fund. In addition, the existing earmarking of the State corporate income tax for school facilities should be added to the new trust fund, with the details of the administration and allocation of these monies remaining intact.

Finding 3 - In the past some of the earmarked proceeds of the two one half cent local sales taxes and the State corporate income tax earmarking have been used for school capital items and other capital not directly related to the classroom.

Recommendation 3 - The new State dollars should be used only to fund classroom and related instructional purposes.

Finding 4 - The earmarking of the county portion of the two one-half sales taxes will expire in the next few years. This earmarking is a key component of addressing the backlog of school facility needs.

Recommendation 4 - The General Assembly should extend indefinitely the earmarking of the county portion of the two half cent local sales taxes for school facilities.

Finding 5 - Counties fall into three distinct categories in respect to their school facility funding situations: low-wealth counties; high-growth counties; and all counties.

Recommendation 5 - The proceeds of both the \$950 million of school bonds and the new State dollars going into the school building trust fund shall be allocated under the following formula: average Daily Membership-40%; low-wealth-35%; and high-growth-25%.

Finding 6 - It is important to meet the special needs of small county school systems that do not have sufficient population and ability-to-pay to meet their facility needs from their own resources.

Recommendation 6 - \$30 million of the \$950 million of bond proceeds shall be set aside to meet the special needs of small county school systems.

Finding 7 - It is vital that past and future local effort be included in the allocation mechanism.

Recommendation 7 - Counties should be required to match the proceeds they receive from the "ADM" distribution and the high-growth distribution. No match would be required on the distribution based on low-wealth. The match ratio for local units would be based on ability-to-pay, with the poorest county matching on the basis of three cents per dollar of State funds and the wealthiest county putting up \$3.00 for each dollar of State aid.

Finding 8 - The funding package represents a substantial commitment of the State's future spending availability.

Finding 9 - A major benefit of the proposed finance package is property tax relief for the citizens of North Carolina.

Alternative Finding - The General Assembly should authorize a \$1.8 billion school bond issue.

Alternative Recommendation - The State should authorize a \$1.8 billion school bond issue in lieu of the primary recommendation of a \$950 million bond issue plus additional state pay-as-you-go financing.

Proposed Legislation

1. AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE SCHOOL CAPITAL CONSTRUCTION STUDY COMMISSION TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR GRANTS TO COUNTIES FOR SCHOOL CAPITAL OUTLAY PROJECTS, IN ORDER TO PROMOTE EQUITY IN LOCAL SCHOOL FACILITIES ACROSS THE STATE, AND TO ENABLE LOCAL GOVERNMENTS TO GIVE LOCAL PROPERTY TAX RELIEF (\$950 Million Bond Proposal).
2. AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE SCHOOL CAPITAL CONSTRUCTION STUDY COMMISSION TO ESTABLISH THE SCHOOL FACILITIES TRUST FUND TO PROVIDE FUNDS FOR GRANTS TO COUNTIES FOR PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS, IN ORDER TO PROMOTE EQUITY IN LOCAL SCHOOL FACILITIES ACROSS THE STATE, AND TO REDUCE THE PRESSURE ON THE LOCAL PROPERTY TAX.
3. AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE SCHOOL CAPITAL CONSTRUCTION STUDY COMMISSION TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR GRANTS TO COUNTIES FOR PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS, IN ORDER TO PROMOTE EQUITY IN LOCAL SCHOOL FACILITIES ACROSS THE STATE, AND TO ENABLE LOCAL GOVERNMENTS TO GIVE LOCAL PROPERTY TAX RELIEF (Alternative recommendation - \$1.8 Billion Bond Proposal).
4. AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE SCHOOL CAPITAL CONSTRUCTION STUDY COMMISSION TO MAKE PERMANENT THE REQUIREMENT THAT COUNTIES USE PART OF THE TWO HALF-CENT LOCAL SALES TAX PROCEEDS ONLY FOR PUBLIC SCHOOL BUILDING.

Fiscal Impact

The primary financing package (\$950 million in bonds plus facilities trust fund) would affect the General Fund budget by increasing the debt service requirement by \$1.63 billion over the life of the bonds. This total would include \$678 million of interest (using a conservative interest rate assumption of 6.5%) plus the repayment of the \$950 million in bonds. The average annual debt service requirement would be \$90.4 million.

The other impact of the primary package would be to earmark the freed-up nonrecurring availability that occurs as a result of the capping out of the Savings Reserve Account (rainy-day fund) at \$501 million on June 30, 1996. Once the Account caps out, the State will no longer be required to set aside 25% of the year-end credit

balance. The only required growth in the Account is the amount sufficient to keep up with the budget growth since the 5% cap relates to the size of the prior year's budget. The difference between the 25% earmarking and the growth earmarking is estimated to be \$86 million in 1996-97 terms. On average, this freed-up amount should grow at the same rate as the overall budget.

The alternative recommendation is for a \$1.8 billion bond issue. The primary fiscal impact of this recommendation would be to add \$3.1 billion to the State debt service requirement (includes \$1.3 billion of interest). The average annual impact would be \$170 million.

G. TRANSPORTATION OVERSIGHT COMMITTEE, JOINT LEGISLATIVE

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Transfer of All State Vehicles to Motor Fleet Management

The Transportation Oversight Committee reviewed a 1993 study conducted by the Joint Legislative Commission on Governmental Operations on the transfer of all state vehicles to motor fleet management. After a discussion of the study and an update of its statistical information, the Committee voted to take no further action on conducting another study of this issue.

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Illegitimacy

The Welfare Reform Study Commission has not yet studied illegitimacy as an issue separate from the general welfare reform issues it has been examining in detail. The Commission will examine illegitimacy as a separate issue after the 1996 Session, if the Commission is reauthorized, and will report the results of its study to the Legislative Research Commission in January of 1997.

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